

The Standing Commission on Constitution and Canons

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*Bishop-elect of South Dakota

Bishop Dennis and Mr. Allen are authorized by the Commission to receive non-substantive amendments to the matters contained in this report in the House of Bishops and the House of Deputies, respectively.

INTRODUCTION

The Standing Commission on Constitution and Canons met three times during the triennium: at the Duncan Conference Center in Delray Beach, Florida, in April, 1992; at St. John's Cathedral in Knoxville, Tennessee, in May, 1993; and, in Covington, Kentucky in November, 1993. The sub-committee on Title IV matters (*Allen, Davison and Royce*) met on other occasions. At its organizational meeting the Commission elected officers and addressed referrals from the General Convention. In subsequent meetings additional referrals were reviewed and additional actions taken. Successive drafts of the proposed revisions and rewrite of Title IV were reviewed, amended, modified and adopted for presentation to the General Convention.

The Commission continues to refrain from judicial interpretation of the body of Church law in accord with the limitations expressed in its authority and duties as assigned by the General Convention [Canon I.1.2(n)(2)].

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FINANCIAL REPORT

Income through February 1, 1994

	<u>1992</u>	<u>1993</u>	<u>1994</u>
From General Convention	\$19,019	\$27,420	\$4,904
Expenses Through February 1, 1994			
Meetings, Printing, etc.	\$8,501	\$13,535	-0-

RESOLUTIONS OF THE COMMISSION

Amendments to the Constitution, Second Reading

The following Amendments to the Constitution were adopted on first reading by the 70th General Convention meeting in Phoenix, Arizona. 1991 Journal references are given as page numbers following each proposed amendment.

Resolution #A013

1 *Resolved*, the House of _____ concurring, **That Article I, Section 4, of the Constitution**
2 **be amended as follows:**

3 (Section 4, line 2) "**... with the General Convention, each Area Mission**
4 **established as provided by Article IV herein, and the Convocation ..."**

5 (Section 4, line 9) "**... Each Diocese, Area Mission, and the ..."**

6 [Journal, 1991, pg 770-771]

Resolution #A014

1 *Resolved*, the House of _____ concurring, **That Article I, Section 7, of the Constitution**
2 **be amended to read as follows:**

3 **Sec. 7. The General Convention shall meet not less than once in each**
4 **three years, at a ~~time and~~ place appointed by a preceding Convention;**
5 **but if there shall appear to the Presiding Bishop and the President of the**
6 **House of Deputies, acting with the advice and consent of the Executive**
7 **Council of the Church or of a successor canonical body having**
8 **substantially the powers now vested in the Executive Council, sufficient**
9 **cause for changing the place ~~or date~~ so appointed ~~he they~~, with the**
10 **advice and consent of such body, shall appoint another place ~~or date, or~~**
11 **both, for such meeting. Determination of the dates of commencement and**
12 **ending for the next succeeding General Convention and Special meetings**
13 **may be provided for by Canon.**

14 [Journal, 1991, pg 302]

Resolution #A015

1 *Resolved*, the House of _____ concurring, **That Article II of the Constitution be**
2 **amended by adding a new section 10 to read as follows:**

3 ~~*In the election of a Bishop of a Diocese or Missionary Diocese, whether*~~
4 ~~*as Ordinary or Coadjutor, the right to nominate candidates from the*~~
5 ~~*floor shall never not be abridged or denied Any rule abridging or*~~
6 ~~*denying this right shall be null and void;*~~ and be it further

7 *Resolved*, **That the first sentence of section 1 of Article II of the Constitution be**
8 **amended to read:**

9 **In every Diocese the Bishop or the Bishop Coadjutor shall be chosen**
10 **agreeably to rules prescribed by the Convention of that Diocese *except***
11 ***as otherwise provided herein.***

12 [Journal, 1991, pg 784]

[NOTE: Article II, Section 1, of the Constitution is proposed for further amendment in a following Resolution for First Reading.]

Resolution #A016

1 *Resolved*, the House of _____ concurring **That the second paragraph of Article X of the**
2 **Constitution be amended by adding the following sub-paragraph (c):**

3 *(c) Provide for limited use for other forms of worship on an experimental*
4 *basis for such periods of time and upon such terms and conditions as the*
5 *General Convention may provide.*

6 [Journal, 1991, pg 405]

Amendment to the Constitution, First Reading

The following two Resolutions to amend the Constitution, First Reading, are to accommodate the canonical changes proposed for Title III in a later following Resolution.

Resolution #A017

1 *Resolved*, the House of _____ concurring, **That Article II, Section 1, of the Constitution**
2 **be amended as follows:**

3 ~~**Sec 1. In every Diocese the Bishop, or the Bishop Coadjutor or**~~
4 ~~**Suffragan Bishop shall be chosen agreeably to rules prescribed by the**~~
5 ~~**Convention of that Diocese. Bishops of Missionary Dioceses shall be**~~

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1 ~~chosen in accordance with the Canons of the General Convention.~~
2 ~~elected in accordance with the Constitution and Canons of the Diocese~~
3 ~~and the provisions of the Constitution and Canons of this Church.~~

Resolution #A018

1 *Resolved*, the House of _____ concurring, **That Article II, Section 4, of the Constitution**
2 **be amended as follows:**

3 **Sec 4. It shall be lawful for a Diocese, with consent at the request of the**
4 **Bishop of that Diocese, to elect one or more not more than two Suffragan**
5 **Bishops, without right of succession ***.**

Amendments to Canons

Title IV Revision

Recognizing the need for examination and possible revision/rewriting of Title IV, (Ecclesiastical Discipline), the 70th General Convention adopted the following resolution:

(A033) That the Standing Commission on Constitution and Canons, in consultation with the Council for the Development of Ministry and such other consultants as it deems appropriate, study and review Title IV of the Canons for report to the 71st General Convention.

[Journal, 1991, pg 626]

Such study, review and consultation reveals that the whole of Title IV requires rewriting and submission of canonical amendments to replace the whole of Title IV. Therefore, this commission respectfully so reports to the 71st General Convention, and submits the following resolution for change.

PREFACE TO THE REVISION OF TITLE IV

At the 1991 General Convention in Phoenix, Resolution A033 was adopted as follows:

Resolved, ... , That the Standing Commission on Constitution and Canons, in consultation with the Council for the Development of Ministry and such other consultants as it deems appropriate, study and review Title IV of the Canons for report to the 71st General Convention.

The Standing Commission on Constitution and Canons (SCCC) interpreted this Resolution to mean that the General Convention desired not merely a study but rather a substantive Revision from SCCC for legislative action at the 1994 General Convention.

In drafting the Revision, SCCC was guided to the extent possible by several underlying principles: (i) plain language was favored over "legalese"; (ii) inclusive language was to be used throughout; (iii) the present structural organization of Title IV was to be maintained as closely as possible so as to continue the utility of resource materials such as *White & Dykman*, 1982, which are keyed to the present organization of Title IV; (iv) the Revision has favored intentional redundancies with subject matter being consolidated in one Canon rather than being spread out among several Canons so that a single process such as a Trial would be essentially self-contained in that Canon; (v) cross referencing by Sections and clauses was eliminated wherever possible; (vi) the Church's polity and sense of order were to be retained and expressed in a clear and coherent fashion; (vii) due process and pastoral consideration are to be accorded all concerned; (viii) wherever possible procedures were to be streamlined and simplified; and (ix) consistency and uniformity throughout the Church were to be preferred.

During the triennium, SCCC shared drafts of the evolving Revision with Bishops, Chancellors and numerous interested persons and groups throughout the Church. Members of SCCC made presentations of these drafts at conferences and meetings. All responses, suggestions and criticisms were carefully considered and many found their way into the final Report.

The Revision is a philosophical departure from the present Title IV, which left much of the implementation to diocesan canons, to a proposed system of much greater uniformity, consistency and guidance to the Church. SCCC was greatly encouraged to try this approach by interested and experienced parties throughout the Church. Thus, there will be uniformity in Charges, Presentments, Trials and Appeals, where none had previously existed.

The disciplinary system of a hierarchical body where the participants have ongoing vocational and professional relationships of authority and control is rather different from a system that has an independent judiciary. The Church does not have subpoena or contempt powers over witnesses or many of the parties and is not able to compel testimony, so participation and adjustments must be made in the Church's disciplinary system to account for these realities.

The Church's discipline involves persons who have voluntarily sought ordination, have been set apart by ordination and have subjected themselves to this Church's system of discipline. Thus, not all aspects of what might be generally considered due process or constitutional protection are applicable to Members of the Clergy.

Flexibility has been built into the Canons to accommodate smaller dioceses which might have difficulty constituting a Trial Court in some instances and to deal with those situations where there is no diocesan Bishop of a Diocese.

A Commentary to the Canons, often on a section by section basis, has been prepared in an attempt identify the sources of and derivations from the present Canons and the rationale behind the revision.

While the Canons do permit SCCC to propose a repeal of the whole of Title IV and substitute the text of a new Title, SCCC believes that presenting the Revision in this legislative drafting format will provide the Deputies and Bishops with a clear idea of what and how existing provisions are being revised. It is hoped that this will also aid in future interpretations of the Canons. However, no such indication is given where there is merely a capitalization of a word that is now a defined term or a change in punctuation. Where a

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section or clause is essentially new matter but has been adapted from existing concepts or language, this is noted in the Comment to that matter as having been adapted but generally is shown as new matter being added.

STUDY GUIDE

This "Study Guide" is prepared with the hope that it will be of some assistance to those who are interested in getting to the meat of the Title IV Revision in the easiest and most efficient manner.

Start with Canon 15

Canon 15 is a new Canon devoted to definitions of words, terms and phrases that are used throughout Title IV. The use of defined terms, identifiable in the text of the Title by capitalization, provides consistency and clarity that was notably absent from the present Title IV.

These definitions have been drawn from many sources, including historical works on the discipline of this Church, and are an attempt to create words of art that will be used and applied on a uniform and understandable basis throughout the Title. Further, they are also an attempt to preserve and maintain the polity of the Church in a recognizable form that does not become totally dominated by legal necessities or procedures.

Move on to Canon 14

Canon 14 deals with General Provisions that are applicable to Title IV. This is the heart of the new policies that are being proposed for adoption and former policies that are being clarified and revised. This Canon adds substantive and interpretative concepts that will come to bear throughout the entire disciplinary process.

Now go to Canon 1

Canon 1 deals with Offenses and Inhibitions. Offenses are spelled out in a more coherent fashion and are also now defined terms. Inhibitions, a source of much confusion and frustration over the years, have been clarified.

A new concept of Temporary Inhibitions has been added to deal with those matters where the Church must move quickly and decisively, while still maintaining some due process and concern for the Member of the Clergy.

Move on to Canon 2

A new procedure for Voluntary Submission to Discipline has been added as an outgrowth of the frustrations that have been experienced in trying to deal with uncontested disciplinary problems. In the past, one had to torture the Canons to resolve these cases. Now, a simplified, cogent and coherent procedure is put in place which is fair to all concerned and which may be invoked at any time in the disciplinary process.

If the Problem is not Resolved under Canon 2, move along to Canon 3

Canon 3 adopts a system of Charges, investigations and Presentments, focused on the Standing Committee, which will be applicable uniformly throughout the Church. The Canon provides for support for both the Complainant and the Accused. The lead Commentary will get you into the picture quickly.

Canon 4 - Trials and Appeals of Priests and Deacons

Canon 4 adopts a uniform process for Trial and Appellate Courts and for the Trials and Appeals themselves and provides an essentially self-contained handbook for those charged with their implementation. This was deemed to be especially important for Standing Committees and Ecclesiastical Trial and Appellate Courts as they come to grips with their responsibilities.

**Canon 5 - Court for and Trial of a Bishop
and**

Canon 6 - Court of Review for a Bishop

Both Canons have been revised for clarity, consistency and coherence.

Move along to Canon 12 - Sentences

Canon 12 clarifies and codifies both the Sentences and the sentencing procedures and corrects ambiguities and seemingly inconsistent provisions.

Also, a new sentence of Admonition is proposed where a lesser Sentence calling for public censure and reprimand is required and where Suspension or Deposition may be inappropriate.

All the Rest

Revisions have also been made as to misconduct in other dioceses (Canon 7), the "Renunciation Canon" (Canon 8) now allocated between Titles III (no, there is no misconduct) and IV (where misconduct is present), "Abandonment of Communion Canons" (Canons 9 and 10) and secular employment and abandonment of ministry (Canon 11).

Subcommittee for the Revision of Title IV
Samuel M. Allen, Esq.
Burns H. Davison II, Esq.
Robert C. Royce, Esq., Reporter

Resolution #A019

Resolved, the House of _____ concurring, **That the whole of Title IV, The Canons, be amended to read:**

1 **TITLE IV**

2 **ECCLESIASTICAL DISCIPLINE**

3 **CANON 1.**

- 4 Of Offenses for Which Bishops, ~~Presbyters~~ Priests, or Deacons May Be Presented and
5 Tried, and Of Inhibitions

Comment: This Canon has been revised primarily to clarify the present provisions as to Offenses, to provide for a new concept of Temporary Inhibitions

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and to state independently and more clearly when and how Inhibitions may be issued.

1 Sec. 1. A Bishop, ~~Presbyter~~ *Priest*, or Deacon of this Church shall be liable to Presentment
2 and Trial for the following Offenses, viz.:

3 (1a). ~~Crime or immorality.~~

4 (2b). *Immorality.*

Comment: This amendment is offered to make clear that Crime and Immorality, now defined terms, are separate Offenses and need not be coupled to constitute an Offense.

5 (2c). Holding and teaching publicly or privately, and advisedly, any doctrine contrary
6 to that held by this Church.

7 (3d). Violation of the Rubrics of the Book of Common Prayer.

8 (4e). Violation of the Constitution or Canons of the General Convention.

9 (5f). Violation of the Constitution or Canons of the Diocese in which the person is
10 canonically resident.

11 (g). *Violation of the Constitution or Canons of a Diocese of this Church wherein the*
12 *person may have been located temporarily.*

Comment: This is a new provision intended to close a possible loophole in light of the extended mobility of the clergy and the evolving shapes of ministry.

13 (6h). Any act which involves a violation of Ordination vows.

14 (1). If a ~~presentment~~ Charge against a ~~Presbyter~~ *Priest* or Deacon alleges an act
15 or acts which involve a violation of ordination vows and specifies as the act that the
16 ~~Presbyter~~ *Priest* or Deacon has disobeyed or disregarded a Pastoral Direction of the Bishop
17 having authority over such person, the ~~presentment or~~ Charge upon which the Presentment
18 ~~is based~~ must be made by the Bishop giving the Pastoral Direction and shall set out the
19 Pastoral Direction alleged to have been disregarded or disobeyed and wherein the disregard
20 or failure to obey constitutes a violation of ordination vows. Unless the *Charge by the*
21 *Bishop and the Presentment by the Standing Committee* ~~complies~~ *comply* with the
22 foregoing provisions, no finding or judgment of guilt ~~may be made of the Offense specified~~
23 ~~in Section 1(6) on the basis of~~ *based on* an act of disregarding a Pastoral Direction of or
24 failing to obey the Bishop having authority over ~~such person.~~ *the person charged may be*
25 *made.*

Comment: This clause was formerly the first paragraph of Section 2. It more appropriately belongs within and directly related to the stated Offense. Now that the Presentment process is proposed to be uniform and Presentments made by the Standing Committee only, the language of this clause has been amended to make this clarification.

26 (2). In order for the disregard or disobedience of a Pastoral Direction to
27 constitute a violation of ordination vows the Pastoral Direction must have been a solemn
28 warning to the ~~Presbyter~~ *Priest* or Deacon; it must have been in writing and set forth clearly
29 the reasons for the Pastoral Direction; it must have been given in the capacity of the pastor,
30 teacher and canonical overseer of the ~~Presbyter~~ *Priest* or Deacon; it must have been neither
31 capricious nor arbitrary in nature nor in any way contrary to the Constitution and Canons of
32 the Church, both national and diocesan; and it must have been directed to some matter

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1 which concerns the Doctrine, Discipline or Worship of this Church or the manner of life
2 and behavior of the ~~Presbyter Priest~~ or Deacon concerned. Upon Trial under any such
3 Presentment the question of whether the disregard or disobedience of the Pastoral Direction
4 specified constitutes a violation of ordination vows is a matter of ultimate fact upon which
5 testimony may be offered. ~~The term "pastoral direction" shall be deemed to include,~~
6 ~~without limitation, "godly admonition."~~

Comment: This clause was formerly the second paragraph of Section 2. It more appropriately belongs within and directly associated with the stated Offense.

The last sentence is deleted as this is now included in the definition of "Pastoral Direction" in Canon IV.15.

7 (7i). Habitual neglect of the exercise of the Ministerial Office, without cause; or
8 habitual neglect of Public Worship, and of the Holy Communion, according to the order
9 and use of this Church.

10 (8j). Conduct Unbecoming a Member of the Clergy; Provided, however, that in the
11 case of a ~~Presbyter Priest~~ or Deacon charged with this Offense, before proceeding to a
12 Presentment, the consent of three-fourths of all the members of the Standing Committee of
13 the Diocese in which the ~~Presbyter Priest~~ or Deacon is canonically resident shall be
14 required. *If the provisions of Canon IV.7.1 apply, the consent of three-fourths of all the*
15 *members of the Standing Committee of the Diocese in which the Offense is alleged to have*
16 *occurred must be obtained.*

Comment: This revision is intended to resolve the ambiguity that now exists between Canons IV.1. and IV.7.

17 ~~Upon a Presbyter or Deacon being found guilty, such Presbyter or Deacon shall be~~
18 ~~admonished, or, shall be suspended or deposed from the Sacred Ministry, as shall be~~
19 ~~adjudged by the Trial Court except as provided in Canon IV.12.4.~~

Comment: This language is now incorporated in the provisions of Canon IV.12 and is now surplusage.

20 ~~Sec. 2. If a presentment against a Presbyter or Deacon alleges an act or acts which involve~~
21 ~~a violation of ordination vows and specifies as the act that the Presbyter or Deacon has~~
22 ~~disobeyed or disregarded a pastoral direction of the Bishop having authority over such~~
23 ~~person, the presentment or charge upon which the presentment is based must be made by~~
24 ~~the Bishop giving pastoral direction and shall set out the pastoral direction alleged to have~~
25 ~~been disregarded or disobeyed and wherein the disregard or failure to obey constitutes a~~
26 ~~violation of ordination vows. Unless the presentment complies with the foregoing~~
27 ~~provisions no finding or judgment of guilt may be made of the offense specified in Section~~
28 ~~1(6) on the basis of an act of disregarding a pastoral direction of or failing to obey the~~
29 ~~Bishop having authority over such person.~~

30 ~~In order for the disregard or disobedience of a pastoral direction to constitute a violation of~~
31 ~~ordination vows the pastoral direction must have been a solemn warning to the Presbyter or~~
32 ~~Deacon; it must have been in writing and set forth clearly the reasons for the pastoral~~
33 ~~direction; it must have been given in the capacity of the pastor, teacher and canonical~~
34 ~~overseer of the Presbyter or Deacon; it must have been neither capricious nor arbitrary in~~
35 ~~nature nor in any way contrary to the Constitution and Canons of the Church, both national~~
36 ~~and diocesan; and it must have been directed to some matter which concerns the Doctrine,~~

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1 ~~Discipline or Worship of this Church or the manner of life and behavior of the Presbyter or~~
2 ~~Deacon concerned. Upon trial under any such presentment the question of whether the~~
3 ~~disregard or disobedience of the pastoral direction specified constitutes a violation of~~
4 ~~ordination vows is a matter of ultimate fact upon which testimony may be offered. The~~
5 ~~term "pastoral direction" shall be deemed to include, without limitation, "godly~~
6 ~~admonition."~~

Comment: A new Section 2 providing for Temporary Inhibition is proposed. This new concept and provision attempts to balance the needs of the Church to move swiftly and decisively in serious matters of clergy misconduct against the rights of Members of the Clergy to be treated fairly, with justice and some semblance of due process and with their reputations left intact, as far as possible, and with their capacities to function otherwise not impaired. There is no presumption of guilt attached to a Temporary Inhibition.

A Temporary Inhibition should not be the broad Inhibition as elsewhere contemplated by this Title, but should be crafted to meet only the exact, limited and immediate needs of the matter. Some examples might be: (1) in a case of false teaching, the Temporary Inhibition could be limited to preaching and public and private statements on the doctrinal issue, (2) in a case of alleged sexual misconduct or alleged Immorality, the Inhibition might be to refrain from counselling, or not to be privately in the company of such person or persons, or (3) in a case where there is an alleged crime, the Temporary Inhibition might be to refrain from public ministration only, leaving all other aspects of ministry open to the Priest or Deacon.

In short, this limited, temporary and preliminary remedy should be carefully tailored to meet a serious and identifiable problem.

The Standing Committee will act as the check and balance against any impetuosity or abuse of the issuance of a Temporary Inhibition.

7 *Sec. 2 (a). If a Priest or Deacon is charged with an Offense or Offenses or serious acts are*
8 *complained of to the Bishop that are credible and would constitute the grounds for a*
9 *Charge of an Offense and, in the opinion of the Bishop, upon the advice and consent of a*
10 *majority of a quorum of the Standing Committee at a meeting duly called and held at which*
11 *the quorum is acting throughout, the Charge is supported by sufficient, specific facts*
12 *showing that immediate injury or damage may result to any person or to the good order*
13 *and reputation of this Church, upon request of the Bishop the Standing Committee may*
14 *authorize a Temporary Inhibition and the Bishop shall pronounce it.*

15 *(b). Any Temporary Inhibition shall: (i) be in writing, (ii) set forth the reasons for its*
16 *issuance, (iii) be specific in its terms, (iv) define the Offense or Offenses charged or alleged*
17 *and the injury or damage that may result, (v) describe in reasonable detail, and not by*
18 *reference to any Charge or other document, the act or acts to be inhibited, (vi) be limited in*
19 *application to deal only with those acts of which complaint has been made, and (vii) be*
20 *immediately served upon the Priest or Deacon to be inhibited.*

21 *(c). A Temporary Inhibition may be issued without prior written or oral notice to the*
22 *Priest or Deacon.*

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1 (d). Any Priest or Deacon against whom a Temporary Inhibition has been issued may
2 request a hearing concerning the Temporary Inhibition before the Standing Committee,
3 which shall hear the same at the earliest possible time, but not later than fourteen days
4 after the date of receipt of the request. A majority of a quorum of the Standing Committee
5 may recommend to the Bishop that the Bishop dissolve, modify or continue the Temporary
6 Inhibition as issued.

7 (e). At any time, a Bishop may dissolve or reduce the terms of a Temporary Inhibition
8 or, with the advice and consent of a majority of a quorum of the Standing Committee,
9 enlarge the Temporary Inhibition.

10 (f). A Temporary Inhibition shall continue in force and effect until (i) the issuance of
11 an Inhibition as otherwise permitted by this Title, (ii) the withdrawal of the Charge or the
12 allegations, (iii) the refusal of the Standing Committee to make a Presentment on the
13 Charges alleged, (iv) a determination by the Bishop that there is no longer a need for the
14 Temporary Inhibition, (v) a Sentence is imposed following a voluntary submission to
15 discipline under Canon IV.2., or (vi) a period of ninety days measured from the date of the
16 Temporary Inhibition; provided, however, the ninety-day period may be extended by the
17 Bishop upon the advice and consent of a majority of all the members of the Standing
18 Committee for additional thirty-day periods upon good cause.

19 (g). The principles of confidentiality stated in Canon IV.3(18) shall apply to any
20 Temporary Inhibition. Provided, however, any persons who may be subject to any
21 immediate injury or damage shall be advised of the issuance of the Temporary Inhibition
22 and of its general terms, after having been cautioned as to the confidential nature of the
23 matter.

24 ~~Sec. 3. In the case of a Bishop, Presbyter, or Deacon convicted in a Court of Record of any~~
25 ~~crime or misdemeanor involving Immorality, or against whom a judgment has been entered~~
26 ~~in a Court of Record in a cause involving Immorality, it shall be the duty of the Presiding~~
27 ~~Bishop, in the case of a Bishop, and in the case of a Presbyter or Deacon, of the Standing~~
28 ~~Committee of the Diocese in which the Presbyter or Deacon is canonically resident, to~~
29 ~~institute an inquiry into the matter. If in the judgment of either there is sufficient reason for~~
30 ~~further proceedings, it shall be their duty to present, or cause to be presented for trial, the~~
31 ~~Bishop, Presbyter or Deacon.~~

Comment: Section 3 has been deleted and is now found in the several Presentment Canons as Canon IV.3.9 as to Priests and Deacons and Canon IV.3.23, as to Bishops.

32 ~~Sec. 4. No presentment shall be made or conviction had for any offense, unless the offense~~
33 ~~shall have been committed within five years immediately preceding the time of~~
34 ~~presentment, except that in a case of a conviction in a Court of Record exercising criminal~~
35 ~~jurisdiction as aforesaid, a presentment may be made at any time within one year after such~~
36 ~~conviction, notwithstanding five years may have elapsed since the commission of the~~
37 ~~offense.~~

Comment: Section 4. is now incorporated in the proposed Canon IV.14.4.

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1 Sec. 5 3. If a Presentment ~~shall have~~ has been made by the Standing Committee against a
2 ~~Presbyter Priest~~ or Deacon, or if a ~~in the case of a Presbyter Priest~~ or Deacon has been
3 convicted in a criminal Court of Record of any crime or of a misdemeanor in a cause
4 involving Immorality, or ~~against whom~~ if a judgment has been entered against a Priest or
5 Deacon in a civil Court of Record in a cause involving Immorality, ~~or in the case of the~~
6 ~~abandonment of the communion of this Church by a Presbyter or Deacon~~, the Bishop in
7 whose jurisdiction the ~~Presbyter Priest~~ or Deacon is canonically resident or of the
8 jurisdiction wherein the conviction or judgment has been entered ~~may, upon probable~~
9 ~~cause, inhibit~~ may issue an Inhibition to the ~~Presbyter Priest~~ or Deacon from officiating in
10 said jurisdiction until after the judgment of the Ecclesiastical Trial Court becomes final, ~~or~~
11 ~~Sentence has been pronounced under Canon IV.8.~~

Comment: This amendment is for clarity and for conformity with the proposed Canon concerning Presentments.

Further, this provision expands the capacity to issue an Inhibition to the Bishop in whose jurisdiction the secular proceedings were held, if different from the diocese of canonical residence.

Reference to the "Abandonment of Communion Canon" is deleted as that issue is self-contained in Canon IV.10.

Reference to the "Renunciation Canon" is deleted as that issue is self-contained in Canon IV.8 and inasmuch as Inhibition would not be properly available in the application of that Canon.

12 Sec. 4. No Bishop shall issue an Inhibition or Temporary Inhibition except as expressly
13 permitted by this Title.

Comment: This provision is added to state affirmatively the polity of this Church as expressed by the present Canons.

14 CANON 2

15 Of Amenability, Citation, and Attendance

Comment: The provisions of former Canon IV.2 are now found in Canon IV.14. as Sections 17, 18 and 19.

16 CANON 2

17 Of Voluntary Submission to Discipline

Comment: This is a new Canon intended to provide an effective way with which to deal with clergy discipline. At present, in cases where the Member of the Clergy wishes to submit to the discipline of the Church, especially in cases of personal misconduct, the Canons just do not contain a coherent process to accomplish the same. Under the present Canons, the parties have to torture the literal language of the Canons to try to combine some sort of renunciation of ministry with a confession and waiver with no one being comfortable with the outcome.

This Canon will permit the Church to move decisively and expeditiously, but does provide for due process and representation for the Member of the Clergy at a time of great stress.

1 *Sec. 1. If allegations of the commission of an Offense have been made to the Ecclesiastical*
2 *Authority, or if Charges of an Offense have been filed, or if a Presentment has been issued*
3 *against a Member of the Clergy, the Member of the Clergy may voluntarily submit to the*
4 *discipline of the Church at any time before Conviction by an Ecclesiastical Trial Court,*
5 *without admitting or denying the truth of the allegations, Charges or Presentment, and*
6 *wave all rights to formal Charges, Presentment, Trial and further opportunity to offer*
7 *matters in excuse or mitigation, as applicable, and accept a Sentence imposed and*
8 *pronounced by the Bishop.*

Comment: This Section replaces the former Canon IV.12.4(d) and eliminates any requirement for a confession, substituting therefor a no contest approach.

9 *Sec. 2. The Waiver and Voluntary Submission shall be evidenced by a written instrument,*
10 *which shall contain: (i) the name of the Member of the Clergy, (ii) a reference to the Canon*
11 *specifying the Offense, (iii) general information sufficient to identify the Offense, and (iv) a*
12 *statement that the Member of the Clergy is aware of the Sentence to be imposed and the*
13 *effect thereof, and shall be signed and Acknowledged by the Member of the Clergy, after*
14 *opportunity to consult with and obtain advice from independent legal counsel of the*
15 *Member of the Clergy's choosing. If the Member of the Clergy has so consulted with legal*
16 *counsel, that counsel shall also be identified in the Waiver and Voluntary Submission.*
17 *Legal counsel shall not be a Chancellor, a Vice Chancellor, the Church Advocate or a Lay*
18 *Assessor. The Waiver and Voluntary Submission shall be effective three days from the date*
19 *of execution.*

20 *Sec. 3. If there be no Bishop of the Diocese and if the Ecclesiastical Authority be not a*
21 *bishop, the Ecclesiastical Authority shall designate a Bishop of a Diocese of the Province*
22 *to accept the Waiver and Voluntary Submission to discipline and to impose and pronounce*
23 *the Sentence.*

24 *Sec. 4. Except as otherwise provided in this Canon, the Sentence so imposed and*
25 *pronounced shall be as if it were imposed and pronounced after Conviction by an*
26 *Ecclesiastical Trial Court and as if all time provided for all required notices and the right*
27 *of the Member of the Clergy to offer matters of excuse and mitigation had been given and*
28 *expired.*

29 *Sec. 5. No Member of the Clergy shall have the right to appeal the Sentence imposed and*
30 *pronounced under this Canon to a Court of Review for the Trial of a Priest or Deacon, and*
31 *the Sentence shall be final for all purposes.*

32 *Sec. 6. Where a Sentence is to be adjudged and pronounced, as a condition of the*
33 *acceptance of the Waiver and Voluntary Submission to discipline, the Ecclesiastical*
34 *Authority may require the resignation of the Member of the Clergy from ecclesiastical and*

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1 *related secular offices, and in the case of a Sentence of Deposition from a Rectorship, held*
2 *by that Member of the Clergy, upon such terms and conditions as the Ecclesiastical*
3 *Authority may deem to be just and proper.*

4 *Sec. 7. Prior to Presentment, a Priest or Deacon may voluntarily submit to discipline to*
5 *the Bishop of the Diocese in which that person is canonically resident or the Bishop of the*
6 *Diocese wherein the commission of the Offense was alleged to have occurred. Subsequent*
7 *to Presentment, the Priest or Deacon shall voluntarily submit to discipline in the Diocese*
8 *wherein the Presentment has issued.*

Comment: This Section recognizes both the geographical mobility of Members of the Clergy and the need to move expeditiously in these matters and expands such voluntary submission beyond the traditional forum of canonical residence.

9 *Sec. 8. In the event that a Sentence is imposed and pronounced by a bishop other than the*
10 *Bishop of the Diocese wherein the Member of the Clergy is canonically resident, the Bishop*
11 *pronouncing Sentence shall immediately so advise the Ecclesiastical Authority of the*
12 *Diocese.*

13 *Sec. 9. A bishop of this Church may voluntarily submit to discipline under the provisions*
14 *of this Canon, doing so to the Presiding Bishop, or if there then be none to the then*
15 *Presiding Officer of the House of Bishops, who shall impose and pronounce Sentence. To*
16 *the extent applicable, the procedural provisions of this Canon shall apply to Bishops.*

17 **CANON 3**

18 *Of Presentments*

Comment: This Canon is new material. Previously, the mode of Presentment of a Priest or Deacon was to be provided by the Canons of the several dioceses. Accordingly, diocesan canons have run the gamut from incredibly complex rules of procedure and due process to the most rudimentary of procedures. The mobility of the clergy of this Church, the increasingly litigious nature of our society, the need for a commonly understood standard of "due process" for the Accused, Complainants, and the Church and for clear guidance for Church authorities is recognized by this Canon.

This Canon has been renumbered from Canon 4 to Canon 3 to more accurately reflect the usual sequence of events.

General Principles:

1. Access to the disciplinary process must be reasonably open to all concerned, but at the same time this access must be responsible. The discipline of Priests and Deacons by the Church is a grave issue and ought not to be available for petty harassment or personal slights or vendettas.

2. Charges must be presented in a form that permits due care and diligence in their consideration and investigation. If a matter is serious enough to invoke the

disciplinary powers of the Church, it is not an undue burden upon any complainant to clearly and specifically initiate a Charge through a written and sworn statement.

3. Recognizing that Victims of Crimes, Immorality or other clergy misconduct may not be familiar with the Church's disciplinary procedures and that such Victims might not be gifted in framing legal allegations and Charges, provision has been made for the appointment of an Ombudsman, clergy or lay as appropriate, to counsel the Victim. It is hoped that this procedure will not only insure justice for Victim and clergy alike, but will also evidence the Church's concern for the Victim. This process should keep Victims from seemingly being less regarded in favor of the clergy, while at the same time keep the Bishop from undue pastoral involvement at this early stage. The Ombudsman can be a conduit of information to the Bishop without forcing a Bishop to choose prematurely between the cause of the Victim and pastoral concern for the Member of the Clergy.

4. Further, the Ombudsman could provide or arrange for pastoral and spiritual attention for the alleged Victim.

5. The Standing Committee of the Diocese is to be the focal point for the receipt of Charges, investigation of these Charges and the issuance of Presentments.

6. The Standing Committee acts as a form of "grand jury." Its role is not to convict, but to see that a Presentment issues only upon reasonable cause that an Offense has occurred and that the Accused has committed the Offense. It is the intent of this Canon that a Presentment not merely be passed along because a credible Complainant has made the Charge or with the hope that an Ecclesiastical Court will sort out the mess on Trial. As the elected clergy and lay representatives of the diocese, the Standing Committee is expected to exercise independent judgment on behalf of all of the people of the diocese.

7. Diocesan Bishops are to be removed as far as possible from actual participation in the formal disciplinary process. First, it must be always remembered that the Bishop is the Priest's or Deacon's chief pastor and responsible for that person's spiritual health. A Bishop who instigates or presses Charges when there are other valid Complainants available or when others are the truly aggrieved or injured parties, or a Bishop who intrudes on the Presentment and Trial process is *de facto* cut off from any pastoral relationship with the Member of the Clergy. A Bishop who is counseling or lobbying a Standing Committee, directly or indirectly, could taint the due process to be accorded the Accused. It is the Bishop who must pronounce the Sentence adjudged by the Trial Court after Conviction and after a chance to offer excuse and mitigation for the Offense and who can reduce the Sentence so adjudged, and it is the Bishop who would initiate Remission and Restoration procedures. Thus, fairness and justice requires that a Bishop not be involved with the process of determining any more than to the minimum extent necessary.

8. Notwithstanding the prior Comment, the proposed Canon 2, Of Voluntary Submission to Discipline, always allows and permits the Bishop to resolve the

matter upon Waiver and Voluntary Submission to discipline at any time prior to Conviction.

9. Confidentiality at this stage is expected so as to preserve the rights and reputations of not only the Accused but also the Complainant and the Church and its procedures. As each step in the process is to have its own integrity, the Canon attempts to avoid influencing each subsequent step through the status and reputations of the persons previously involved in the process.

1 (a). Of a ~~Presbyter~~ Priest or Deacon

2 ~~Sec. 1. The mode of presentment of a Presbyter or Deacon shall be provided by the~~
3 ~~Canons of the Diocese wherein the accused is canonically resident.~~

4 *Sec. 1. A Presentment to the Ecclesiastical Trial Court may be issued only by the Standing*
5 *Committee as provided in this Canon.*

Comment: This Section is intended to make it clear that Presentments of Priests and Deacons are issued only by Standing Committees.

6 *Sec. 2. A Charge against a Priest or Deacon shall be in writing, Verified and addressed to*
7 *the Standing Committee of the Diocese wherein the Priest or Deacon is canonically*
8 *resident, except as otherwise expressly provided in this Title. It shall concisely and clearly*
9 *inform as to the nature of and facts surrounding each alleged Offense and the*
10 *specifications of each Offense.*

11 *Sec. 3. A Charge may be made:*

12 (a) *by a majority of the lay Members of the Vestry of the Parish of which the Accused*
13 *is the Rector;*

14 (b) *by any three Priests canonically resident in the Diocese wherein the Accused is*
15 *canonically resident or canonically resident in the Diocese wherein the Accused is alleged*
16 *to have committed the Offense;*

17 (c) *by any five confirmed adult communicants in good standing in the Diocese*
18 *wherein the Accused is canonically resident or in the Diocese wherein the Accused is*
19 *alleged to have committed the Offense;*

20 (d) *in a case where the alleged Offense is the violation of Ordination vows involving*
21 *the disregard or disobedience of a Pastoral Direction issued by a Bishop, only by that*
22 *Bishop;*

23 (e) *in a case where the Offense alleged is a Charge specifying the Offenses of Crime,*
24 *Immorality or Conduct Unbecoming a Member of the Clergy, by any adult who is (i) the*
25 *alleged Victim, or (ii) a parent or guardian of an alleged minor Victim or of an alleged*
26 *Victim who is under a disability;*

27 (f) *in a case where the Offense alleged is that of holding and teaching publicly or*
28 *privately any doctrine contrary to that held by this Church, by a majority of the clerical*
29 *members of the Standing Committee of the Diocese in which the Member of the Clergy is*
30 *canonically resident or of the Diocese wherein the Accused is alleged to have committed*
31 *the Offense;*

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1 (g) by a majority of the Standing Committee of the Diocese in which the Member of
2 the Clergy is canonically resident or of the Diocese wherein the Accused is alleged to have
3 committed the Offense whenever the Standing Committee shall have good and sufficient
4 reason to believe that any Priest or Deacon has committed the Offense; or

5 (h) the Ecclesiastical Authority of the Diocese in which the Accused is alleged to have
6 committed the Offense, if different from the diocese of canonical residence.

7 Sec. 4. If a complaint or accusation is brought to the Bishop by a person claiming to be the
8 alleged Victim, or the spouse of an alleged Victim, or by the parent or guardian of an
9 alleged Victim who is a minor or is under a disability, of an Offense of Crime, Immorality
10 or Conduct Unbecoming a Member of the Clergy, the Bishop, after consultation with the
11 alleged Victim, the alleged Victim's spouse, or the alleged Victim's parent or guardian, may
12 appoint an Ombudsman to assist those persons in understanding the disciplinary processes
13 of the Church, formulating and submitting an appropriate Charge and to assist those
14 persons in spiritual matters, if the alleged Victim, parents or guardian so choose.

15 Sec. 5. Whenever the Bishop has sufficient reason to believe that any Priest or Deacon
16 canonically resident in that Diocese has committed an Offense and the interests and good
17 order and discipline of the Church require investigation by the Standing Committee, the
18 Bishop shall concisely and clearly inform the Standing Committee in writing as to the
19 nature and facts surrounding each alleged Offense and the specifications of each Offense
20 but without judgment or comment upon the allegations or guilt, and the Standing
21 Committee shall proceed as if a Charge had been filed.

22 Sec. 6. Except as expressly provided in this Canon, no Bishop of the Diocese shall prefer a
23 Charge against a Priest or Deacon canonically resident in that Diocese.

24 Sec. 7. Any Charge against a Priest or Deacon shall be promptly filed with the President
25 of the Standing Committee.

26 Sec. 8. Upon the filing of a Charge with the Standing Committee, the Standing Committee
27 shall promptly communicate the same to the Bishop and the Accused.

28 Sec. 9. In the case of a ~~Bishop, Presbyter~~ Priest, or Deacon convicted in a criminal Court
29 of Record of any crime or misdemeanor in a cause involving Immorality, or against whom
30 a judgment has been entered in a civil Court of Record in a cause involving Immorality, it
31 shall be the duty of the ~~Presiding Bishop, in the case of a Bishop, and in the case of a~~
32 ~~Presbyter or Deacon, of the Standing Committee of the Diocese in which the Presbyter~~
33 Priest or Deacon is canonically resident, to institute an inquiry into the matter. ~~If in the~~
34 judgment of either there is sufficient reason for further proceedings, it shall be their duty to
35 present, or cause to be presented for trial, the Bishop, ~~Presbyter or Deacon.~~ If the conviction
36 or judgment be established, the Standing Committee shall issue a Presentment against the
37 Priest or Deacon for Trial.

Comment: Former Canon IV.1.3 as revised.

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1 *Sec. 10. Within thirty days after the filing of a Charge, other than a Charge alleging a*
2 *Conviction in a criminal Court of Record in a cause involving Immorality or alleging the*
3 *entry of a judgment in a civil Court of Record in a cause involving Immorality, the*
4 *Standing Committee shall convene to consider the Charge. If after such consideration the*
5 *Standing Committee determines that an Offense may have occurred if the facts alleged be*
6 *true, the Standing Committee shall prepare a written general statement of the Charge and*
7 *the facts alleged to support the Charge and transmit the same to the Church Advocate.*

Comment: The powers granted to the Standing Committee would not prohibit the activities of a diocesan response team as to either Victims or the Accused so long as such activity does not prejudice the Accused.

8 *Sec. 11. The Church Advocate shall forthwith and with all due and deliberate speed make*
9 *such thorough and impartial investigation of the matters set forth in the general statement*
10 *as the Church Advocate shall deem appropriate under the circumstances.*

11 *Sec. 12. Within sixty days after receipt of the statement from the Standing Committee,*
12 *unless delayed for good and sufficient cause stated, the Church Advocate shall render a*
13 *confidential Report to the Standing Committee of the findings of that investigation and as*
14 *to whether or not an Offense may have been committed if the facts disclosed by the*
15 *investigation be found to be true upon Trial, and with a recommendation as to the matter in*
16 *the interest of justice and the good order and discipline of this Church and based upon*
17 *such other matters as shall be pertinent. The Report of the Church Advocate shall be*
18 *confidential for all purposes as between the Church Advocate and the Standing Committee.*
19 *Provided, however, the Standing Committee, in its discretion, may share the Report of the*
20 *Church Advocate with the Bishop of the Diocese.*

Comment: In fairness to the Accused, the Report of the Church Advocate, which is based upon an investigation that lacks subpoena and contempt powers and may not be based upon sworn testimony, should be confidential as between the Church Advocate and the Standing Committee. However, if the Standing Committee deems it appropriate, the Report could be shared with the Bishop, who could act thereon such as through the issuance of a Temporary Inhibition, if appropriate, or by taking such other canonical action as the Bishop may determine.

21 *Sec. 13(a). Within thirty days after the receipt of the Report of the Church Advocate, upon*
22 *not less than fifteen days' notice in writing the Standing Committee shall convene to*
23 *consider the Report and whether or not a Presentment shall issue.*
24 *(b). In its deliberations, the Standing Committee may consider responsible writings or*
25 *sworn statements pertaining to the matter, including expert's statement, whether or not*
26 *submitted by the Church Advocate.*
27 *(c). The Standing Committee shall issue a Presentment for an Offense when competent and*
28 *admissible evidence before it, if proved at Trial, provides Reasonable Cause to believe that*
29 *(i) an Offense was committed, and (ii) the Accused committed the Offense.*

1 *Sec. 14(a). The vote of a majority of all the members of the Standing Committee shall be*
2 *required to issue a Presentment. Provided, however, that in the case of a Priest or Deacon*
3 *charged with the Offense of Crime, of Immorality or of Conduct Unbecoming a Member of*
4 *the Clergy, a three-fourths vote of all the members of the Standing Committee shall be*
5 *required to issue a Presentment for this Offense. The ballot thereon shall be in secret and*
6 *no member shall disclose his or her vote.*

7 *(b). In the event that, due to members who have been excused or vacancies in office, the*
8 *Standing Committee does not have sufficient voting members to meet the requirements of*
9 *Sec. (a), the action of the Standing Committee shall be postponed until such time as there*
10 *are sufficient members in office to fulfill the voting requirements of this Section.*

11 *Sec. 15. If a Presentment be issued, it shall be in writing, dated, and signed by the*
12 *President or the Secretary of the Standing Committee on behalf of the Standing Committee,*
13 *whether or not that officer voted in favor of the Presentment. In the event that there be no*
14 *President or Secretary, or they be absent, a member of the Standing Committee appointed*
15 *for that purpose shall sign the Presentment. The Presentment also shall contain (i) a*
16 *separate accusation addressed to each Offense, if there be more than one, and (ii) a plain*
17 *and concise factual statement in each separate accusation which, without specific*
18 *allegations of an evidentiary nature, asserts facts supporting every element of the Offense*
19 *charged and the Accused's commission thereof with sufficient precision to clearly apprise*
20 *the Accused of the conduct which is the subject of the Presentment.*

21 *Sec. 16. Promptly after the issuance of a Presentment, the Standing Committee shall cause*
22 *the original to be filed with the President of the Ecclesiastical Trial Court with a true copy*
23 *thereof served upon the Bishop, the Accused, the Church Advocate and each Complainant.*

24 *Sec. 17. If the Standing Committee votes not to issue a Presentment, then that decision*
25 *shall be in writing, which need not include explanation, and a true copy thereof shall be*
26 *served upon the Bishop who shall file it with the Secretary of the Convention of the*
27 *Diocese, the Accused, the Church Advocate and each Complainant. Provided, however, for*
28 *good cause and by a majority vote of all the members of the Standing Committee, the*
29 *decision may be sealed and filed with the Secretary of the Convention and the above*
30 *persons advised only that the Standing Committee has voted not to issue a Presentment.*

31 *Sec. 18(a). Until the issuance of a Presentment or a vote not to issue a Presentment, as the*
32 *case may be, the matter shall be confidential in all respects and the Bishop, Standing*
33 *Committee, Church Advocate and Accused shall refrain from any public or non-privileged*
34 *comment on the matter and shall not disclose any information pertaining to the matter,*
35 *except as required by applicable secular law. The name of the Complainant and the matter*
36 *under investigation may be disclosed to the Accused and to any persons whose services or*
37 *testimony are reasonably necessary in connection with the proceedings, after cautioning*
38 *such persons as to the confidential nature of the matter.*

39 *(b). When a Charge or the investigation of a Charge concerns a matter which has become*
40 *generally disseminated to the public or a segment thereof, which affects the good order,*
41 *discipline or reputation of the Church or its proceedings or ministry, and in which*
42 *confidence in the Church is involved, the Standing Committee, with the advice of the*

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1 *Church Advocate, if possible, may release to the public the fact that a Charge has been*
2 *made and a proceeding is being conducted in accordance with the Canons of the Church,*
3 *and may explain the procedural aspects of the matter and its current status. No comment*
4 *shall be made on any question of guilt or innocence or the facts applicable to the matter.*

5 *Sec. 19. Upon the issuance of a Presentment or the determination that a Presentment will*
6 *not issue, all further proceedings of the Standing Committee in the matter shall cease and*
7 *terminate.*

8 *Sec. 20. Non-compliance with time limits set forth in this Canon shall not be grounds for*
9 *the dismissal of a Presentment unless such non-compliance shall cause material and*
10 *substantial injustice to be done or seriously prejudice the rights of an Accused as*
11 *determined by the Trial Court on motion and hearing.*

12 (b). Of a Bishop

13 *Sec. 21. A ~~presentment of any~~ bishop may be charged under Canon IV.1.1(c), for holding*
14 *and teaching publicly or privately, and advisedly, any doctrine contrary to that held by this*
15 *Church, ~~shall be had presented only upon the presentment a written Charge of signed by~~*
16 *any ten bishops exercising jurisdiction in this Church. ~~Every such presentment~~ The Charge*
17 *shall be filed with the Presiding Bishop, together with a brief in support thereof. The*
18 *Presiding Bishop shall thereupon serve a copy of the Charge upon the ~~person~~ bishop*
19 *charged, together with a copy of the supporting brief. The Presiding Bishop shall fix a date*
20 *for the filing of an answer, and brief in support thereof, ~~at least~~ within three months from*
21 *the date of service, and may, using discretion and for good cause, extend the time for*
22 *answering ~~for not more than two additional months~~. Upon the filing of an answer and*
23 *supporting brief, if any, or upon the expiration of the time fixed for an answer, if none be*
24 *filed, the Presiding Bishop shall forthwith transmit copies of the ~~presentment~~ Charge,*
25 *answer, and briefs to each member of the House of Bishops. The written consent of*
26 *one-fourth of the bishops qualified to vote in the House of Bishops shall be required before*
27 *the proceeding may continue ~~as provided by Canon~~. In case one-fourth of all the bishops*
28 *entitled ~~so to act in the premises~~ shall do not consent within the period of ~~three~~ two months*
29 *from the date of the notification to them by the Presiding Bishop ~~of the proceeding~~, the*
30 *Presiding Bishop shall declare the ~~presentment~~ Charge dismissed and no further*
31 *proceedings may be had thereon.*

<p>Comment: The revisions are for clarity and to distinguish between a Charge of an Offense and a Presentment to a Court for the Trial of a Bishop by a Board of Inquiry.</p>
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<p>Time frames have been shortened to reflect the reality of modern communications and to bring the matter more quickly to decision.</p>
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32 *Sec. 22. In the case of a bishop, ~~Presbyter, or Deacon~~ convicted in a *criminal* Court of*
33 *Record of any crime or misdemeanor in a cause involving Immorality, or against whom a*
34 *judgment has been entered in a *civil* Court of Record in a cause involving Immorality, it*
35 *shall be the duty of the Presiding Bishop, ~~in the case of a Bishop, and in the case of a~~*

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~~1 Presbyter or Deacon, of the Standing Committee of the Diocese in which the Presbyter or
2 Deacon is canonically resident, to institute an inquiry into the matter. If in the judgment of
3 either there is sufficient reason for further proceedings, it shall be their duty to present, or
4 cause to be presented for trial, the Bishop, Presbyter or Deacon. If the conviction or
5 judgment be established, the Presiding Bishop shall cause the Chancellor to the Presiding
6 Bishop to prepare a Presentment, which the Presiding Bishop shall sign and issue against
7 the Bishop for Trial.~~

Comment: Former Canon IV.1.3 as revised.

This new provision obviates the need for a panel of Bishops and/or a Board of Inquiry in such cases.

8 *Sec. 23.* A bishop may be charged with any one or more of the Offenses specified in
9 Canon IV.1, other than that of holding and teaching doctrine contrary to that held by this
10 Church, *and in the case of a bishop convicted in a criminal Court of Record in a cause
11 involving Immorality or against whom a judgment has been entered in a civil Court of
12 Record in a cause involving Immorality,* by three bishops or ten or more confirmed adult
13 communicants of this Church in good standing, of whom at least two shall be ~~Presbyters~~
14 *Priests.* One ~~Presbyter Priest~~ and not less than six Lay Persons shall be of the Diocese of
15 *which the Accused is canonically resident,* or, in case the Accused has no jurisdiction, of
16 the Diocese in which the Accused ~~has domicile~~ *is Canonically resident.* Such Charges
17 shall be in writing, signed by all the Complainants, ~~sworn to~~ *Verified* by two or more of
18 them, and ~~shall be presented to~~ *filed with* the Presiding Bishop of the Church. ~~The grounds
19 of accusation must be set forth with reasonable certainty of time, place, and circumstance.
20 The Charge shall concisely and clearly inform as to the nature of and facts surrounding
21 each alleged offense and the specifications of the Offense.~~

Comment: The revisions are for clarity and consistency.

22 ~~*Sec. 4.* A Bishop who shall have reason to believe that there are in circulation rumors,
23 reports, or allegations affecting such Bishop's personal or official character, may, acting in
24 conformity with the written advice and consent of any two Bishops of this Church, demand
25 in writing of the Presiding Bishop that investigation of said rumors, reports, and allegations
26 be made.~~

Comment: This provision has been deleted as being an archaic and confusing concept inappropriate to this portion of the Canon.

27 *Sec. 24.* The Presiding Bishop, upon the receipt of ~~such the written Charge or such written
28 demand or the consent of one-fourth of the bishops, as the case may be,~~ shall summon not
29 less than ~~three~~ *five* nor more than seven bishops to review and consider the Charge, ~~and,
30 unless~~ *If a majority of them determine that the Charge, if proved, would constitute no
31 Offense, they shall so advise the Presiding Bishop and the Charge shall be dismissed by the
32 Presiding Bishop, who shall thereupon notify the Accused and the Complainants. If a
33 majority of them shall determine that such the Charge, if proved, would constitute no
34 canonical an Offense, they shall select a Board of Inquiry of five Presbyters Priests and
35 five Lay Persons lay confirmed adult communicants in good standing of this Church, none*

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1 of whom shall belong to the Diocese of the ~~Aecused~~ *Accused's canonical residence*, of
2 whom eight shall form a quorum.

Comment: Former first paragraph of Canon IV.4.5. as revised.

3 *Sec. 26. The Board of Inquiry shall elect from its own membership a Presiding Officer,*
4 *who shall hold office until the Board of Inquiry shall complete its duties.*

Comment: New provision.

5 *Sec. 27. The death, disability rendering the person unable to act, resignation or*
6 *declination to serve as a member of a Board of Inquiry shall constitute a vacancy on the*
7 *Board.*

Comment: New provision.

8 *Sec. 28. Notice of resignations or declinations to serve shall be given by members of the*
9 *Board in writing to the Presiding Officer.*

Comment: New provision.

10 *Sec. 29. If any Priest appointed to a Board of Inquiry is elected a bishop, or if any lay*
11 *person elected to a Board of Inquiry is ordained to the ministry prior to the commencement*
12 *of an Inquiry, that person shall immediately cease to be a member of the Board. If either*
13 *event occurs following the commencement of an Inquiry, the person shall continue to serve*
14 *until the completion of the Inquiry and the rendering of a judgment thereon.*

Comment: New provision.

15 *Sec. 30. Vacancies occurring in a Board of Inquiry shall be filled by a majority of the*
16 *original selecting bishops.*

Comment: New provision.

17 *Sec. 31. The Church Advocate for the proceedings before the Board of Inquiry shall be the*
18 *Church Advocate appointed by the Court for the Trial of a Bishop pursuant to Canon IV.5.*

Comment: The Church Advocate for the Board of Inquiry would be the same person as appointed by the Court for the Trial of a Bishop.

19 *Sec. 32. The Board of Inquiry shall appoint a Clerk and, if necessary, Assistant Clerks,*
20 *who shall be Members of the Clergy or adult confirmed communicants of this Church, to*
21 *serve during the pleasure of the Board.*

Comment: New provision.

22 *Sec. 33. The Board of Inquiry may appoint not more than three Lay Assessors. Lay*
23 *Assessors shall have no vote. It shall be their duty to give the Board an opinion on any*
24 *question of law, procedure or evidence, but not a question of doctrine, upon which the*
25 *Board or any member thereof shall desire an opinion. If a question shall arise as to*

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1 *whether a question is a matter of doctrine, it shall be decided by the Board by a majority*
2 *vote.*

Comment: New provision.

3 *Sec. 34. The members of the Board of Inquiry may not be challenged by the Accused.*

Comment: New provision as to make explicit that there is no right to voir dire and challenge for cause at this stage.

4 *Sec. 35. The Board of Inquiry may adopt rules of procedure not inconsistent with the*
5 *Constitution and Canons of this Church, with the power to alter or rescind the same from*
6 *time to time.*

Comment: Adapted from last paragraph of former Canon IV.3.20.(c) as revised.

7 *Sec. 36. In the conduct of this inquiry, the Board of Inquiry shall be governed by The*
8 *Federal Rules of Evidence.*

Comment: Adapted from first paragraph of former Canon IV.3.21. as revised.

9 *Sec. 37. The Board of Inquiry shall appoint a Reporter who shall insure that the*
10 *proceedings are recorded as prescribed by the Board of Inquiry, to serve during the*
11 *pleasure of the Board. The testimony record shall be stenographically reported, and shall*
12 *be preserved in the custody of the Presiding Bishop or in the archives of the House of*
13 *Bishops.*

Comment: First sentence is a new provision. The second sentence is the first sentence of the third paragraph of Canon IV.4.5 as revised.

14 *Sec. 38. The proceedings of the Board of Inquiry shall be private.*

Comment: Last sentence of third paragraph of former Canon IV.4.5.

15 *Sec. 39. The Board of Inquiry shall permit the Accused to be heard in person and by*
16 *counsel of the Accused's own selection, provided every such counsel shall be a confirmed*
17 *adult communicant in good standing of this Church, but the Board of Inquiry may regulate*
18 *the number of counsel who may address the Board or examine witnesses.*

Comment: Adapted from first paragraph of former Canon IV.3.22 as revised.

19 *Sec. 40. Within sixty days of their selection, ~~The~~ the Board of Inquiry shall investigate such*
20 *the Charges, or the said rumors or reports, as the case may be. In conducting the*
21 *investigation, the Board shall hear the accusations Charges and such proof as the*
22 *Complainants may produce, and shall determine whether, upon matters of law and of fact,*
23 *as presented to them, there is sufficient ground to put the Accused Bishop on Trial.*

Comment: Former second paragraph of Canon IV.4.5. as revised.

24 *Sec. 6 41. ~~If, in the judgment of the majority of the whole~~ When a majority of the Board of*
25 *Inquiry, ~~there is sufficient ground to put the said Bishop upon Trial~~ finds competent and*

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1 *admissible evidence before it, which provides Reasonable Cause to believe that (i) an*
2 *Offense was committed and (ii) the Accused committed the Offense, it shall issue a*
3 *Presentment for an Offense and they it shall cause the Church Advocate to prepare a*
4 *Presentment, which shall be signed by such of the Board as shall agree thereto, and which*
5 *shall be transmitted with the certificate of the determination of the Board to the Presiding*
6 *Bishop.*

Comment: This revision is intended to provide the standards under which the Board of Inquiry is to proceed, which follows those established for Standing Committees.

7 *Sec. 42. If a Presentment be issued, it shall be in writing, dated, and signed by the*
8 *members of the Board who agree thereto. The Presentment also shall contain (i) a separate*
9 *accusation addressed to each Offense, if there be more than one, and (ii) a plain and*
10 *concise factual statement in each separate accusation which, without specific allegations of*
11 *an evidentiary nature, asserts facts supporting every element of each Offense charged and*
12 *the Accused's commission thereof with sufficient precision to clearly apprise the Accused of*
13 *the conduct which is the subject of the Presentment.*

Comment: This revision follows the procedures established for Standing Committees.

14 ~~*Sec. 6. If a majority of the whole Board shall determine that there is not sufficient ground*~~
15 ~~*to present the accused Bishop for trial, it shall forward the charges and a certificate of the*~~
16 ~~*finding thereon to the Presiding Bishop. He shall send the same to the Secretary of the*~~
17 ~~*House of Bishops, by him to be deposited in the Secretary of the House of Bishops, by him*~~
18 ~~*to be deposited in the archives of the House; and a true copy of these papers shall be given*~~
19 ~~*to the accused Bishop. No further proceeding shall be had by way of presentment on such*~~
20 ~~*charges, except that any confirmed adult communicant of this Church in good standing may*~~
21 ~~*make and present to the Presiding Bishop his affidavit alleging the discovery of new*~~
22 ~~*evidence as to the facts charged and setting forth what such evidence is; and upon the*~~
23 ~~*receipt thereof the Presiding Bishop shall decide whether the affidavit does or does not*~~
24 ~~*state grounds which in his opinion are sufficient for reopening the case. If the Presiding*~~
25 ~~*Bishop shall be of opinion that the affidavit states grounds sufficient to justify reopening*~~
26 ~~*the case, he shall reconvene the Board, which shall determine, first, whether as a matter of*~~
27 ~~*fact the evidence set forth in such affidavit is really new evidence and not merely*~~
28 ~~*cumulative; and if the Board shall find that the evidence so tendered is new, it shall proceed*~~
29 ~~*to receive and to consider such evidence, and any further evidence that it may deem proper*~~
30 ~~*to receive; and in the light of all the evidence the Board shall determine whether there are*~~
31 ~~*sufficient grounds for presentment. If the Board, by a majority of its members, shall decide*~~
32 ~~*that there is any such sufficient ground, it shall certify its decision as in this Canon*~~
33 ~~*heretofore provided.*~~

Comment: This rather convoluted provision of former Canon IV.4.6 is deleted in favor of separate Sections covering the subject matter.

Since the process for the Presentment of a Bishop has sufficient opportunities for any interested party to put evidence before a Board of Inquiry

allowing the reopening of a Board of Inquiry's decision could lead to a form of double jeopardy and harassment of the Bishop.

1 ~~Sec. 7. In case a Majority of the whole Board shall fail to find either that there is, or that~~
2 ~~there is not, sufficient ground to present the accused Bishop for trial, it shall certify that fact~~
3 ~~of its inability to agree upon any such finding to the Presiding Bishop, who, at the request~~
4 ~~of the accused Bishop, may select a new Board in the manner provided in Section 5, who~~
5 ~~shall consider the case de novo.~~

Comment: This confusing Section is to be deleted. As to an accused Bishop, the Board of Inquiry either presents or refuses to present. A Bishop no longer has the opportunity to demand an inquiry.

6 *Sec. 43. If the Board of Inquiry votes not to issue a Presentment, then that decision shall*
7 *be in writing, which need not include explanation, and the original thereof shall be filed*
8 *with the Presiding Bishop with a true copy thereof served upon the Accused and the*
9 *Complainant or Complainants. Provided, however, for good cause and by majority vote of*
10 *all the members of the Board of Inquiry, the decision may be sealed and filed with the*
11 *Secretary of the House of Bishops and the above persons be only advised that the Board of*
12 *Inquiry has voted not to issue a Presentment.*

Comment: New provision with adaptation from second paragraph of former Canon IV.4.6.

13 *Sec. 44. Promptly after the issuance of a Presentment, the Board of Inquiry shall cause the*
14 *original to be filed with the Presiding Bishop with a true copy thereof served upon the*
15 *Accused and the Complainants.*

16 ~~Sec. 45. In case any When a Presentment shall be made to is filed with the Presiding~~
17 ~~Bishop as hereinbefore provided, the Presiding Bishop shall at once transmit any the~~
18 ~~Presentment duly received to the President Presiding Judge of the Court for the Trial of a~~
19 ~~Bishop, and shall cause a true copy of the presentment to be served upon the accused~~
20 ~~Bishop, in the manner provided in Canon IV.2.~~

Comment: Former Canon IV.4.8 as revised.

21 ~~Sec. 46. In case If the Presiding Bishop shall be either an accuser is a Complainant, except~~
22 ~~in a case of a bishop convicted in a criminal Court of Record in a cause involving~~
23 ~~Immorality or against whom a judgment has been entered in a civil Court of Record in a~~
24 ~~cause involving Immorality, or if the Accused, or shall is otherwise be disabled, the duties~~
25 ~~of the Presiding Bishop under this Canon shall be performed by the Bishop who, according~~
26 ~~to the rules of the House of Bishops, becomes its Presiding Officer in case of the disability~~
27 ~~of the Presiding Bishop of the Church presiding officer of the House of Bishops. If the~~
28 ~~presiding officer is similarly unable to act, such duties shall be performed by the Secretary~~
29 ~~of the House of Bishops.~~

Comment: Former Canon IV.4.9 as revised.

The Rules of Order of the House of Bishops do not accommodate the directions of the former Canon.

- 1
2 *Sec. 47. Non-compliance with time limits set forth in this Canon shall not be grounds for*
3 *the dismissal of a Presentment unless the non-compliance shall cause material and*
4 *substantial injustice to be done or seriously prejudice the rights of an Accused as*
5 *determined by the Trial Court on motion and hearing.*

Comment: New provision.

6 **CANON 3 4**

- 7 *Of Diocesan Courts, and Courts of Review of the Trial of a Priest or Deacon, Their*
8 *Membership and Procedure*

Comment: This was formerly Canon 3 and has been renumbered to more accurately reflect the canonical sequence of events.

Provisions previously intended to be common to all Courts and Boards have been broken out, customized and restructured under each Court for ease of reference, understanding and guidance.

Former provisions dealing with a Court for the Trial of a Bishop and the Court of Review of the Trial of a Bishop have been consolidated in Canons 5 and 6, respectively.

- 9 (a) *Diocesan Courts for the Trial of a ~~Priest~~ **Presbyter** Priest or Deacon*

Comment: Previously, the establishment of a Diocesan Trial Court and the mode of conducting trials were left exclusively to diocesan canons. However, the former Canon 3 had numerous directions, procedural provisions and requirements generally applicable to such trials, which were scattered throughout, almost hidden and difficult to find and apply.

The proposed revision establishes certain requirements that will be common to all diocesan trial courts, adds new procedural provisions and draws together, organizes and clarifies existing canonical provisions.

In addition, the revision has attempted to add appropriate generic standards and requirements that will provide for uniformity throughout the Church on key issues of due process and procedure.

- 10 *Sec. 1. In each Diocese there shall be an Ecclesiastical Court for the Trial of any ~~Priest~~ **Presbyter***
11 *Priest or Deacon ~~thereof~~ *subject to its jurisdiction*, and it shall be the duty of each Diocese*
12 *to provide by Canon for the establishment of ~~such~~ *the* Court and the mode of conducting*
13 *Trials of the same, *provided, however, that the provisions of this Canon shall be included**
14 *therein.*

Comment: Former Canon IV.3.1. as revised.

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1 *Sec. 2. The Canons of a Diocese establishing an Ecclesiastical Trial Court shall provide*
2 *that the Court shall: (i) be elected by the Convention of the Diocese, (ii) include lay*
3 *persons and Priests or Deacons, the majority of the Court to be Priests or Deacons (iii)*
4 *annually elect from its members a Presiding Judge within two months following the*
5 *Diocesan Convention, and (iv) annually appoint a Church Advocate within three months*
6 *following the Diocesan convention.*

Comment: New section. This section requires that a trial court be organized and always in place so that there is no possibility of a Court being created for a particular trial and mandates participation by lay and clergy.

There is no requirement as to the number of members of the Court or the division between lay and clergy members so long as a majority of the Court are clergy.

7 *Sec. 3. The provisions of Canon IV.14. shall apply to each Diocesan Ecclesiastical Trial*
8 *Court.*

Comment: New section.

9 *Sec. 4. The death, permanent disability rendering a person unable to act, resignation or*
10 *refusal to serve declination to serve as a member of an Ecclesiastical Trial Court shall*
11 *constitute a vacancy on the Court.*

Comment: Former Canon IV.3.18(b) as revised.

12 *Sec. 5. Notice of resignations or refusals declinations to serve shall be given as follows by*
13 *members of the Court in writing to the Presiding Judge of the Court.*

Comment: Former Canon IV.3.18(b)(3) as revised.

14 *Sec. 6. If any Priest elected to an Ecclesiastical Trial Court is elected a bishop, or if any*
15 *lay person elected to an Ecclesiastical Trial Court is ordained prior to the commencement*
16 *of a Trial, that person shall immediately cease to be a member of the Ecclesiastical Trial*
17 *Court. If either event occurs following the commencement of a Trial, the person shall*
18 *continue to serve until the completion of the Trial and the rendering of a Verdict thereon.*

Comment: Former Canon IV.3.18(c) rewritten to try to avoid delay in a Trial.

19 *Sec. 7. Vacancies, other than for cause under Section 8 of this Canon, occurring in any*
20 *Ecclesiastical Trial Court shall be filled as provided by Diocesan Canon.*

Comment: New provision to affirm that it is left to diocesan Canon to provide for vacancies.

21 *Sec. 8. The canons of each Diocese may provide a system of challenge as to the members*
22 *of the Ecclesiastical Trial Court and the filling of vacancies arising therefrom. If the*
23 *canons of a Diocese make no provision for Challenge, the members of the Ecclesiastical*
24 *Trial Court may be challenged by either the Accused or the Church Advocate for cause*
25 *stated to the Court. The Court shall determine the relevancy and validity of challenges for*
26 *cause by secret written ballot. Vacancies caused by challenges determined by the Court*

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- 1 shall be filled by majority vote of the Court from persons otherwise qualified for election
2 under the diocesan canons. Vacancies filled by the Court shall be from the same order as
3 the person challenged was when first elected to the Court.

Comment: New provision as to explicit right to challenge for cause. Former Canon IV.3.19(1) rewritten and incorporated.

- 4 Sec. 9. An Ecclesiastical Trial Court shall be governed by the portion of The Federal
5 Rules of Civil Procedure set forth in Appendix A to these Canons.

Comment: Former Canon IV.3.20(a) as substantially revised to adopt The Federal Rules of Civil Procedure to provide for harmony and uniformity throughout the Church.

- 6 Sec. 10. The Ecclesiastical Trial Court shall be governed by The Federal Rules of
7 Evidence in the conduct of the Trial.

Comment: Former Canon IV.3.21 as substantially revised to adopt The Federal Rules of Evidence instead of the rules of evidence of the civil jurisdiction of the place of Trial.

- 8 Sec. 11. Each Ecclesiastical Trial Court shall appoint a Clerk and, if necessary, Assistant
9 Clerks who shall be ~~Presbyters~~ Priests or Deacons or adult confirmed communicants in
10 good standing of this Church ~~to and who shall serve during~~ at the pleasure of the Court.

Comment: Former Canon IV.3.20(c) as revised.

- 11 Sec. 12. Each Ecclesiastical Trial Court shall appoint a Reporter who shall provide for the
12 recording of the proceedings and who shall serve at the pleasure of the Court.

- 13 Sec. 13. Each Ecclesiastical Trial Court shall appoint ~~at least one but no not less than two~~
14 ~~nor more than three lay persons who are confirmed adult communicants of this Church in~~
15 ~~good standing, who are admitted to the~~ as Lay Assessors. Lay Assessors shall have no
16 vote. It shall be their duty to give the Ecclesiastical Trial Court an opinion on any question
17 of law, procedure or evidence, but not ~~theological~~ on any question of doctrine, upon which
18 the Court or any member thereof, or either party, shall desire an opinion. ~~If a~~ Any question
19 of ~~shall arise as to~~ whether a question is ~~theological~~ a matter of doctrine, it shall be decided
20 by the Court by a majority vote.

Comment: Former Canon IV.3.20(c) as revised.

- 21 Sec. 14. ~~The several Courts shall keep a record of all their proceedings. The Ecclesiastical~~
22 ~~Trial Court shall keep a record of the proceedings in each case brought before it and the~~
23 ~~record shall be certified by the Presiding Judge of the Court. If the record cannot be~~
24 ~~authenticated by the Presiding Judge by reason of the Presiding Judge's death, disability~~
25 ~~or absence, it shall be authenticated by a member of the Court designated for that purpose~~
26 ~~by majority vote of the Court.~~

Comment: Former Canon IV.3.21 as revised to provide for authentication of the record.

1 ~~Sec. 15. The various Courts~~ *The Ecclesiastical Trial Court shall permit the Accused to be*
2 *heard in person and by counsel of the Accused's own selection, provided every such*
3 *counsel shall be a communicant of this Church. but in every trial or investigation the*
4 ~~several Courts~~ *In every Trial the Court may regulate the number of such counsel who may*
5 *address the Court or examine witnesses.*

Comment: Former Canon IV.3.22 as revised. It is deemed appropriate so as to provide due process to the Accused that the Accused not be limited to communicants of this Church as counsel to the Accused.

6 *Sec. 16. The Accused shall then be called upon by the Court to plead to the Presentment*
7 *and the plea shall be duly recorded; and on neglect or refusal of the Accused to plead, the*
8 *plea of not guilty shall be entered for the Accused, and the Trial shall proceed; Provided,*
9 *that for sufficient cause the Court may adjourn from time to time; and Provided, also, that*
10 *the Accused shall, at all times during the Trial, have liberty to be present, and in due time*
11 *and order to produce testimony and to make a defense.*

12 ~~Sec. 17. In all trials and upon all appeals the several Courts may appoint a Church~~
13 ~~Advocate with or without assistants, all of whom shall be of the profession of the law, and~~
14 ~~communicants of the Church, to appear in behalf of the Church upon such trial or appeal.~~
15 ~~The Church Advocate shall then be considered the party on one side, and the accused the~~
16 ~~party on the other. In all Ecclesiastical Trials, the Church Advocate appointed pursuant to~~
17 ~~Section 2 of this Canon shall appear on behalf of the Standing Committee which shall then~~
18 ~~be considered the party on one side and the Accused the party on the other.~~

Comment: Former Canon IV.3.23, second paragraph, as revised.

19 *Sec. 18. Before a vote is taken on the findings and in the presence of the Accused and*
20 *counsel, counsel for the parties may submit requested proposed instructions. The Presiding*
21 *Judge of the Ecclesiastical Trial Court, after consultation with the Lay Assessors, shall*
22 *declare which of the proposed instructions shall be issued and also instruct the members of*
23 *the Court as to the elements of the Offense and charge them (i) that the Accused must be*
24 *presumed to be innocent until the Accused's guilt is established by legal and competent*
25 *clear and convincing evidence, and unless such standard of proof be met the Accused must*
26 *be acquitted, and (ii) that the burden of proof to establish the guilt of the Accused is upon*
27 *the Church Advocate.*

Comment: New section.

28 *Sec. 19. A separate vote shall be taken first upon the findings as to the guilt of the*
29 *Accused.*

Comment: New section.

30 *Sec. 20. Voting by members of an Ecclesiastical Trial Court on the findings shall be by*
31 *secret written ballot.*

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Comment: New section. As opposed to an independent judiciary, the members of the Court are part of ongoing relationships, both vocational and professional. Therefore, a secret ballot is proposed to permit the members of the Court to discharge their obligations without fear of subsequent reaction to their determinations.

- 1 *Sec. 21(a). For a Conviction on an Offense involving Crime, Immorality or Conduct*
2 *Unbecoming a Member of the Clergy, the affirmative vote of two-thirds of the members of*
3 *the Ecclesiastical Trial court shall be necessary.*
4 *(b). For a Conviction on any other Offense not involving Crime, Immorality or*
5 *Conduct Unbecoming a Member of the Clergy, the affirmative vote of a majority of the*
6 *members of the Ecclesiastical Trial Court shall be necessary.*

Comment: Inasmuch as Trials of Priests and Deacons previously had been left to diocesan canons, no uniform standard for the votes necessary to convict had been established.

Much discussion has been had over the standard of proof required to be met in order to sustain a Conviction. (Please see the Comment to Canon IV.14.14.) As it is proposed that a standard less onerous than the criminal standard be adopted, it is proposed here to require a vote greater than a simple majority as to those Offenses dealing with personal misconduct. As to the more technical Offenses not dealing with personal misconduct, a simple majority for Conviction is proposed.

- 7 *Sec. 22. The Presiding Judge shall cause the Accused and the Church Advocate to be*
8 *advised as to the findings of the Court.*

Comment: New section.

- 9 *Sec. 23. No vote shall be taken on the Sentence to be adjudged until thirty days from the*
10 *date the Accused was advised of the Conviction during which period the Accused shall*
11 *have a reasonable opportunity to offer to the Court matters in excuse or mitigation.*

Comment: New section. Just as it is appropriate for one convicted to have the right to offer matters of excuse and mitigation to the Bishop pronouncing Sentence, who may reduce the Sentence, it is appropriate for the Accused to be able to make such offers before a Sentence is adjudged by the Trial Court.

- 12 *Sec. 24. During the same period, the Court, in its sole discretion, may provide an*
13 *opportunity for statements from Complainants or Victims to the Court pertaining to the*
14 *Sentence to be adjudged and imposed.*

Comment: New section.

- 15 *Sec. 25. During the same period, the Church Advocate may make a recommendation to the*
16 *Court as to the Sentence to be adjudged. The members of the Court shall vote upon the*
17 *Sentence to be adjudged by secret ballot.*

Comment: New section.

1 *Sec. 26. The concurrence of two-thirds of the members of the Ecclesiastical Trial Court in*
2 *the secret ballot shall be necessary to adjudge and impose a Sentence upon an Accused*
3 *found guilty by the Court.*

Comment: New section.

4 *Sec. 27. The Conviction or acquittal and any Sentence adjudged on a Conviction shall be*
5 *communicated immediately to the Bishop of the Diocese wherein the Trial was held, the*
6 *Ecclesiastical Authority, if there be no Bishop, the Standing Committee, the Ecclesiastical*
7 *Authority of the Diocese in which the Accused is canonically resident, the Accused and the*
8 *Complainant.*

Comment: New section.

9 (b). *Appeals to Courts of Review of the Trial of a ~~Presbyter~~ Priest or Deacon*

10 *Sec. 28. The ~~Bishop~~ Ecclesiastical Authority of the jurisdiction within which a Trial was*
11 *held, or (in case of the Bishop's inability to act) the ~~Standing Committee~~, shall cause*
12 *written notice to be served on the Accused, against whom an adverse decision has been*
13 *made by the Trial Court of (i) the Conviction, (ii) the Sentence adjudged and (iii) the*
14 *Sentence to be pronounced by the Bishop, written notice thereof. Within thirty days after*
15 *the service of such that notice the Accused may appeal to the Court of Review by serving a*
16 *written notice of appeal on the ~~Bishop or Standing Committee~~ Ecclesiastical Authority of*
17 *said that jurisdiction and a duplicate copy on the ~~President~~ Presiding Judge of the*
18 *Ecclesiastical Trial Court and the Presiding Judge of the Court of Review. ~~Such~~ The*
19 *notice shall be ~~subscribed~~ signed by the Accused or the Accused's counsel and shall briefly*
20 *set forth the decision from which the appeal is taken and the grounds of the appeal.*

Comment: Former fourth and fifth sentences of Canon IV.3.6 as revised.

21 *Sec. 29. ~~In case of~~ After Conviction by the an Ecclesiastical Trial Court, the Bishop shall*
22 *not ~~proceed to pronounce~~ Sentence on the Accused before the expiration of thirty days after*
23 *the Accused shall have been served as set forth in Section 28 with the notice of the decision*
24 *of the Court and the Sentence adjudged ~~in the manner specified in Canon IV.2.3~~, nor, in*
25 *case an appeal is taken, shall Sentence be pronounced pending the hearing and final*
26 *determination thereof.*

Comment: Adapted from former Canon IV.3.2. as revised to make clear that the thirty day period starts when the Bishop serves the Accused with both the decision and the adjudged sentence.

27 *Sec. 30. In each of the Provinces there shall be a Court of Review of the Trial of a*
28 *~~Presbyter~~ Priest or Deacon, which shall be composed of a Bishop ~~therein~~ of the Province,*
29 *three ~~Presbyters~~ Priests canonically resident in ~~one or other of the~~ Dioceses within the*
30 *Province, and three Lay Persons who are confirmed adult communicants of this Church in*

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1 good standing, having domicile in the Province; at least two of ~~said the~~ Lay Persons ~~to~~
2 ~~shall be learned in the law.~~

Comment: Former Canon IV.3.3 as revised.

3 ~~Sec. 31. Each Provincial Synod~~ Once during the period between General Conventions,
4 ~~each Provincial Synod~~ shall elect the Judges of the Court of Review in the Province. The
5 Synod shall prescribe the time and the manner in which such Judges shall be elected. The
6 persons so elected, except in case of death, resignation, declination to serve, shall continue
7 to be members of the Court for such terms as the Synod may set and until their successors
8 shall be elected. The Bishop elected by the Synod shall be the Presiding Officer of the
9 Court.

Comment: Former Canon IV.3.4 as revised.

10 ~~Sec. 32(a). No person shall sit as a member of any a Court of Review who is a presenter of~~
11 ~~charges or is related to the accused or either of them by affinity or consanguinity excused~~
12 ~~pursuant to Canon IV.14.11; nor shall any Bishop, nor any Presbyter Priest, nor any or Lay~~
13 ~~Member of the Diocese in which the Ecclesiastical Trial was had be competent to sit on an~~
14 ~~appeal from the decision on such Trial; nor shall any Bishop, Presbyter Priest, or Lay~~
15 ~~Member who for any reason upon objection made by either party appellant or appellee is~~
16 ~~deemed by the other members of the Court to be disqualified.~~

Comment: Former Canon IV.3.18(a) as revised.

17 (b). The death, ~~permanent~~ disability ~~rendering the person unable to act,~~ resignation,
18 or ~~refusal~~ declination to serve as a member of ~~any a Court of Review or Board of Inquiry~~
19 shall constitute a vacancy in the Court of Review ~~Board of Inquiry.~~

Comment: Former Canon IV.3.18(b) as revised.

20 (c). Notices of resignations or ~~refusals~~ declinations to serve shall be given as follows:
21 (21). By the ~~President~~ Presiding Judge of the Court of Review of the Trial of a
22 ~~Presbyter Priest or Deacon;~~ by written notice sent to the President of the Provincial Synod.
23 (32). By a ~~Bishop, Presbyter Priest or Lay Member of such the Court;~~ by written
24 notice sent to the ~~President~~ Presiding Judge of ~~said the~~ Court.

Comment: Former Canon IV.3.18(c)(2) and (3) as revised.

25 — (d). If any ~~Presbyter~~ appointed to a Board of Inquiry or to any of the Courts shall
26 ~~become a Bishop, or any Lay Member appointed to a Board of Inquiry or to any of the~~
27 ~~Courts shall become a Presbyter, before the final disposition of the charge, he shall thereby~~
28 ~~vacate his place as a member of the Board or Court.~~

29 (d). If any ~~Priest~~ appointed to the Court of Review is elected a Bishop, or if any Lay
30 ~~Member appointed to the Court of Review is ordained to the ministry prior to the hearing~~
31 ~~of the appeal, the person shall immediately cease to be a member of the Court of Review. If~~
32 ~~either event occurs following the hearing of the appeal, the person shall continue to serve~~
33 ~~until the completion of the appeal and the rendering of a decision by the Court of Review.~~

Comment: Revised to try to avoid delay in the determination of an appeal.

1 *Sec. 33. Vacancies occurring in ~~any of the Courts or Boards~~ the Court of Review ~~may~~ shall*
2 *be filled as follows:*

3 *(1). In the case of ~~death, permanent disability, resignation, or refusal to serve, or the~~*
4 *~~removal from the Province~~ a vacancy in the office of the Bishop appointed as a member of*
5 *the Court of Review of ~~the Trial of a Presbyter or Deacon~~, the President of the Provincial*
6 *Synod shall give written notice thereof to the Bishop with jurisdiction senior by*
7 *consecration in the Province. Thereupon the Bishop so notified shall become a member of*
8 *the Court until a new appointment ~~shall be~~ is made. If in a particular case the Bishop so*
9 *appointed is unable or unwilling to serve as a member of the Court, notification shall be*
10 *given by the Bishop to the President of the Provincial Synod of this fact, who shall*
11 *thereupon appoint the Bishop with jurisdiction next senior by consecration in that Province.*

Comment: Former Canon IV.3.19(3) as revised.

12 *(2). In case any vacancy shall exist in the membership of the Court of Review in ~~any~~*
13 *~~Province~~ among the ~~Clerical Priests or Deacons~~ or Lay Members, ~~originally chosen, or in~~*
14 *~~case any of them shall be disqualified or unable to sit in a particular case, the President~~*
15 *~~remaining Judges~~ of the Court shall appoint ~~other Presbyters or Lay Members residing~~*
16 *~~another person similarly domiciled or Canonically resident in the Province from the same~~*
17 *order to fill such vacancy and to sit as ~~Members~~ a Member of ~~said~~ the Court.*

Comment: Former Canon IV.3.19(4) as revised. This Section now incorporates the revised Canon and former Canon IV.3.19(1).

18 *Sec. 34. The several Courts of Review are vested with jurisdiction to hear and determine*
19 *appeals from decisions of *Ecclesiastical* Trial Courts in Dioceses *within that Province* ~~on~~ *in**
20 *~~the trial~~ *Ecclesiastical Trials* of a ~~Presbyter~~ *Priests or Deacons.**

Comment: Former Canon IV.3.5 as revised.

21 *Sec. 35. The Accused may take an ~~An~~ appeal to the Court of Review of the Province within*
22 *which a ~~trial~~ *an Ecclesiastical Trial* was ~~had held~~ ~~may be taken by the Accused~~ from a*
23 *~~Conviction.~~ *decision of the Trial Court* which sustains in whole or in part of a charge of any*
24 *~~canonical Offense.~~ *The right of appeal is solely that of the Accused, except as provided in**
25 *Section 36 of this Canon.*

Comment: Substance of former first sentence of Canon IV.3.6 as revised to clarify that the jurisdictional basis of the decision is the Presentment and not the Charge and who may appeal a decision of the Trial Court.

26 *Sec. 36(a). Upon the written request of at least two Bishops of other jurisdictions within*
27 *the Province, the ~~Bishop or the Standing Committee~~ *Ecclesiastical Authority* of the Diocese*
28 *within which a Trial was had shall appeal from a decision of the *Ecclesiastical* Trial Court*
29 *acquitting the Accused of a ~~charge~~ *an Offense* involving a question of Doctrine, Faith, or*
30 *Worship; provided, however, that such appeal shall be on the question of the Church's*
31 *Doctrine, Faith, or Worship only, and that the decision of the Court of Review shall not be*
32 *held to reverse the acquittal of the Accused on other Charges ~~than these.~~ *But such an An**
33 *appeal by the Standing Committee can be taken only when there is a vacancy in the office*
34 *of Bishop or in case the Bishop is unable to act.*

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Comment: Former second and third sentences of Canon IV.3.6 as revised.

1 (b). An appeal by the ~~Bishop or Standing Committee~~ under this Section may be taken
2 by the service by the appellant of a written notice of appeal upon the Accused, and also
3 upon the ~~President Presiding Judge~~ of the Ecclesiastical Trial Court and the Presiding
4 Judge of the Court of Review, within thirty days after the decision from which the appeal is
5 taken.

Comment: Former last sentence of first paragraph of Canon IV.3.6.

6 Sec. 37. If the Ecclesiastical Trial was held in a Diocese not specified in Canon I.9.1, the
7 appeal shall lie to the Court of Review of the Province which is geographically closest to
8 such that Diocese or is otherwise most appropriate as determined by the Presiding Bishop.

Comment: Former last paragraph of Canon IV.3.6. as revised. The revision
permits some flexibility in choosing a Court of Review that might be more
appropriate due to language, jurisprudence, etc.

9 Sec. 38(a). An appeal shall be heard upon the ~~record~~ Record on Appeal of the
10 Ecclesiastical Trial Court. When an appeal shall have been taken, the Bishop, or in
11 case of his inability to act, the Standing Committee the Ecclesiastical Authority of the
12 Diocese wherein the Ecclesiastical Trial was had held, within thirty days after receiving
13 notice of the appeal, shall transmit to the ~~President Presiding Judge~~ of the Court of Review
14 of the Province a full and correct transcript of the ~~record~~ Record on Appeal, proceedings,
15 and decision of the Trial Court, including all the evidence taken upon the Ecclesiastical
16 Trial, duly certified by the Presiding Judge or Clerk of such the Court, with a copy of the
17 same to the Accused, within thirty days after receiving notice of the appeal. Except for the
18 purpose of correcting the ~~record~~ Record on Appeal, if defective, no new evidence shall be
19 taken by the Court of Review.

Comment: Former Canon IV.3.7 as revised.

20 (b). The Accused and the Church Advocate may agree by written stipulation filed with
21 the Court of Review that designated parts of the proceedings shall be retained by the
22 Ecclesiastical Trial Court unless thereafter the Court of Review shall request their
23 transmittal. The parts thus designated shall nevertheless be a part of the Record on Appeal
24 for all purposes.

Comment: This provision is new and intended to permit the parties to agree to a
lesser Record on Appeal so as to expedite the proceedings and save time and
expense.

25 Sec. 39. The ~~President Presiding Judge~~ of the Court of Review of the Province having
26 jurisdiction, within ninety days but not less than sixty days after having received the ~~record~~
27 Record on Appeal, shall appoint a time and place within such the Province for the hearing
28 of the appeal. At least thirty days prior to the day appointed, the Presiding Judge shall give
29 written notice of such time and place to the other members of the Court, and also to the
30 Accused, and to the Bishop and Standing Committee of the Diocese in which the
31 Ecclesiastical Trial was had. ~~When the appeal is from the decision of a Trial Court in any~~
32 ~~Missionary Diocese, such notice shall be served at least three months prior to the day~~

1 appointed for the hearing, and the appellant shall have four months after the appeal is taken
2 within which to serve and deliver copies of the record.

Comment: Former Canon IV.3.8 as revised.

In this modern era of communications and reproduction facilities, a differentiation between the domestic an Missionary Dioceses is no longer deemed to be necessary.

3 *Sec. 40.* It shall be the duty of the appellant to procure a certified copy of the record to
4 reproduce copies of the Record on Appeal of the Ecclesiastical Trial as transmitted,
5 including the charges evidence, decision, or judgment, together with the notice of appeal, to
6 be printed or otherwise reproduced as shall be permitted by the Presiding Judge of the
7 Court of Review. Within sixty thirty days after the appeal shall have been taken receiving
8 the copy of the Record on Appeal, the appellant shall serve two printed copies of the record
9 Record on Appeal, and the notice of appeal and the appellant's brief, if any, upon the
10 opposite party, and shall deliver seven printed copies of each to the President Presiding
11 Judge of the Court for the use of the Judges.

Comment: Former first paragraph of Canon IV.3.9 as revised.

12 *The appellee shall serve the appellee's brief, if any, on the appellant with seven copies to*
13 *the Presiding Judge of the Court of Review not later than thirty days following the service*
14 *upon the respondent of the record, notice of appeal and appellant's brief.*
15 *Any reply brief shall be served likewise within ten days following service of the prior brief*
16 *upon the party.*

Comment: New provision to provide for the timing and service of opposing briefs.

17 *Sec. 41.* For reasons deemed sufficient by the President Presiding Judge, the printing of
18 the record, or of any portion thereof may be dispensed with.

Comment: Former last sentence of the first paragraph of Canon IV.3.9 as revised.

19 *Sec. 42.* The Church Advocate Standing Committee of the Diocese in which the Trial was
20 held shall be deemed to be the opposite party for the purpose of this and the succeeding
21 Canons appeal.

Comment: Former last paragraph of Canon IV.3.9 as revised.

22 *Sec. 43.* At the time and place appointed, the Court shall organize, and proceed to hear the
23 appeal; provided, however, that at least six Judges, of whom the President Presiding Judge
24 of the Court shall be one, shall participate in the hearing. But the members present, if less
25 than that number, may adjourn the Court from time to time, until the attendance of the
26 requisite number shall be secured.

Comment: Former Canon IV.3.10.

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1 *Sec. 44. The ~~several Courts~~ Court of Review shall appoint ~~Clerks a Clerk~~ and, if necessary,*
2 *Assistant Clerks, who shall be ~~Presbyters~~ Priests canonically resident in a Diocese of that*
3 *Province or confirmed adult communicants in good standing of this Church residing in the*
4 *Province, to serve ~~during~~ at the pleasure of the Court.*

Comment: Former Canon IV.3.20(c) as revised.

5 *Sec. 45. The ~~several Courts may~~ Court of Review shall appoint at least one but no not less*
6 *than two nor more than three ~~Lay Persons who are confirmed adult communicants of this~~*
7 *Church in good standing, learned in the law, as Lay Assessors. ~~They~~ Lay Assessors shall*
8 *have no vote. It shall be their duty to give the Court an opinion on any question of law,*
9 *procedure or evidence, but not on any matter of doctrine, upon which the Court or any*
10 *member thereof, or either party, shall desire an opinion. ~~If a~~ Any question shall arise as to*
11 *of whether any question is ~~theological~~ a matter of doctrine, it shall be decided by the Court*
12 *by a majority vote.*

Comment: Former second paragraph of Canon IV.3.20(c) as revised.

13 *Sec. 46. The ~~several Courts~~ Court of Review may adopt rules of procedure not inconsistent*
14 *with the Constitution and Canons of this Church, with the power to alter or rescind the*
15 *same from time to time, ~~provided the same shall provide due process to the parties.~~*

Comment: Former third paragraph Canon IV.3.20(c) as revised.

16 *Sec. 47. The ~~various Courts~~ Court of Review shall permit the Accused to be heard in*
17 *person ~~or~~ and by counsel of the Accused's own selection, ~~provided every such counsel shall~~*
18 *be a communicant of this Church, but in every trial or investigation the several Courts but*
19 *may regulate the number of counsel who may address the Court ~~or examine witnesses.~~*

Comment: Former first paragraph of Canon IV.3.22 as revised.

20 *Sec. 48. The ~~several Courts~~ Court of Review shall keep a record of all ~~their~~ proceedings.*

Comment: Former last paragraph of Canon IV.3.21 as revised.

21 *Sec. 49. No determination or judgment of any Ecclesiastical Trial Court shall be disturbed*
22 *for technical errors not going to the merits of the cause.*

Comment: Former second paragraph of Canon IV.3.21 as revised.

23 *Sec. 50. The Court may reverse or affirm in whole or in part the decision of the*
24 *Ecclesiastical Trial Court, or, if in its opinion justice shall so require, may grant a new trial.*
25 *If after having been duly notified, the appellant fails to appear, and no sufficient excuse be*
26 *shown, the Court, in its discretion, may dismiss the appeal for want of prosecution, or may*
27 *proceed to hear and determine the appeal in the appellant's absence.*

Comment: Former Canon IV.3.11.

28 *Sec. 51. The concurrence of ~~two-thirds of the five~~ members of a Court of Review present*
29 *shall be necessary to pronounce a judgment. The judgment or decision of the Court shall*
30 *be in writing, signed by the members of the Court ~~uniting~~ concurring therein, and shall*

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1 distinctly specify the grounds of the decision and shall be attached to the record. If the
2 concurrence of ~~two-thirds~~ *five* of the members cannot be obtained ~~as provided~~, that fact
3 shall be stated in the record, and the decision of the Trial Court shall stand as affirmed
4 *except as to any reversal in part in which there has been concurrence*. Immediately after
5 the determination of the appeal, the ~~President~~ *Presiding Judge* of the Court shall give
6 notice thereof in writing to the ~~accused~~ *appellant and appellee* and to the Bishop and the
7 Standing Committee of the Diocese in which the Trial was had. Upon the determination of
8 the appeal, the original record upon which the appeal was heard, together with the record of
9 the Court of Review, certified by the ~~President~~ *Presiding Judge* and the Secretary or Clerk,
10 shall be remitted to the Bishop or the Standing Committee of the jurisdiction in which the
11 trial was had *and to the archives of The Episcopal Church*. All records remitted as herein
12 provided shall be deposited and be preserved among the Archives of the jurisdiction to
13 which they are sent.

Comment: Former Canon IV.3.12 as revised.

14 ~~Sec. 52. The Court of Review for the Trial of a Presbyter or Deacon shall not pronounce~~
15 ~~Sentence on the affirmation of a Conviction. When the appeal is so finally determined, if~~
16 ~~the decision of the Ecclesiastical Trial Court be affirmed in whole or in part, upon receipt~~
17 ~~of the record and the judgment or decision of the court of Review by the Bishop or~~
18 ~~Standing Committee Ecclesiastical Authority of the jurisdiction of the Trial Court, the~~
19 ~~Accused shall be sentenced in accordance with Canon IV.12, the provisions of which shall~~
20 ~~be complied with.~~

Comment: Former Canon IV.3.13 as revised.

21 ~~Sec. 53. The necessary charges and expenses of the Court of Review of the Trial of a~~
22 ~~Presbyter or Deacon, including the necessary expenses of the members of the Court, Lay~~
23 ~~Assessors, Reporters and Clerks including and the reasonable and necessary out-of-pocket~~
24 ~~disbursements and expenses, except the cost of printing any records or briefs, of the~~
25 ~~Church Advocate and Lay Assessors, shall be a charge upon the Province and shall be paid~~
26 ~~by the Treasurer of the Synod of such that Province upon the order of the President of the~~
27 ~~Synod. Any legal fees and other disbursements of the Church Advocate shall be the~~
28 ~~responsibility of the Diocese in which the Trial was held, unless the Trial was held as a~~
29 ~~service or convenience to a Diocese from which the Presentment issued, in which case the~~
30 ~~responsibility therefor shall be that of the Diocese from which the Presentment was issued.~~

Comment: Former first paragraph of Canon IV.3.24 as revised.

31 CANON 5

32 Of the Court for and the Trial of a Bishop

Comment: The provisions for the Court for the Trial of a Bishop previously in
Canon IV.3.(c)14 and the provisions for the Trial applicable thereto in Canon
IV.3 have been consolidated in this Canon for clarity and ease of reference.

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1 *Sec. 1.* The Court for the Trial of a Bishop is vested with jurisdiction to try a bishop who is
2 duly ~~charged with~~ *Presented* for any one or more of the Offenses specified in Canon IV.1.

Comment: Former Canon IV.3.14(b).

3 *Sec. 2.* There shall be a Court for the Trial of a Bishop, consisting of nine bishops *of this*
4 *Church.* ~~As the terms of the incumbent members expire, three~~ *Three* bishops shall be
5 elected by the House of Bishops at each regular meeting of General Convention, to serve
6 until the adjournment of the third succeeding regular meeting of General Convention. All
7 judges shall serve until their successors are elected and qualify; provided, however, there
8 shall be no change in composition of a Court ~~while~~ *as to* a proceeding is pending *before it,*
9 ~~while that proceeding is unresolved, before the Court.~~

Comment: Former Canon IV.3.14(a) as revised.

10 *Sec. 3(a).* No bishop shall sit as a member of a Court for the Trial of a Bishop who is a
11 Complainant, ~~or~~ is related to the Accused or *Complainant* ~~either of them~~ by affinity or
12 consanguinity, or ~~who~~ is excused pursuant to Canon IV.14.11; nor shall any bishop sit;
13 who, ~~for any reason~~ upon objection made by either party *for any reason,* is deemed by the
14 other members of the Court to be disqualified.

Comment: Adapted from former Canon IV.3.18(a).

15 *(b).* The death, permanent disability *rendering the person unable to act,* resignation,
16 ~~or refusal~~ *declination* to serve *or removal by challenge* as a member of Court for the Trial
17 of a Bishop shall constitute a vacancy in the Court.

Comment: Adapted from former Canon IV.3.18(b).

18 *(c).* Notices of resignations or ~~refusals~~ *declinations* to serve shall be given by any
19 bishop chosen to serve as a member of the Court for the Trial of a Bishop by written notice
20 sent to the Presiding Bishop.

Comment: Adapted from Former Canon IV.3.18.(b)(1).

21 *Sec. 4.* The Court for the Trial of a Bishop shall from time to time elect from its own
22 membership a Presiding Judge, who shall hold office until the expiration of the term for
23 which chosen. If in any proceeding before ~~said~~ *the* Court the Presiding Judge is
24 disqualified or is for any cause unable to act, the Court shall elect *from its members* a
25 ~~Bishop~~ as Presiding Judge *pro tempore.*

Comment: Adapted from former Canon IV.3.20(b) and as revised.

26 *Sec. 5.* When the ~~several Courts are~~ *Court* is not in session, if there is a vacancy in the
27 office of the ~~President~~ *Presiding Judge,* the bishop who is senior by consecration shall
28 perform the duties of the office of ~~President~~ *Presiding Judge.*

Comment: Former third paragraph of Canon IV.3.22.

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1 *Sec. 6.* Vacancies occurring in the Court for the Trial of a Bishop shall be filled as follows:

2 (1). In the case of a vacancy due to the disqualification of any Judge, the remaining
3 Judges of the said Court shall appoint a Judge to take the place of the one so disqualified in
4 that particular case.

5 (2). In the case of a vacancy in the Court for the Trial of a Bishop, the remaining
6 Judges thereafter shall have power to fill such vacancy until the next General Convention,
7 when the House of Bishops shall choose a bishop to fill such vacancy. The bishop so
8 chosen shall serve during the remainder of the term.

Comment: Adapted from former Canon IV.3.19.(1) and (2).

9 *Sec. 7.* Not less than six of said the Judges shall constitute a quorum, but any less number
10 may adjourn the Court from time to time.

Comment: Former Canon IV.3.14(c).

11 *Sec. 8(a).* Upon receiving a Presentment, the ~~President~~ *Presiding Judge* of the Court for
12 the Trial of a Bishop shall call the Court to meet at a certain time and place, ~~said time not~~
13 be not less than two nor more than ~~six~~ four calendar months from the day of mailing ~~such~~
14 the notice, and at a place within the Diocese of the accused Bishop, unless the same be of
15 such difficult access, in the judgment of the ~~President~~ *Presiding Judge* of the Court, that
16 reasonable convenience requires the appointment of another place; and in case the Accused
17 have no jurisdiction, at a place within the Diocese in which the Accused is *Canonically*
18 *resident domiciled*. With ~~said this~~ notice, the ~~President~~ *Presiding Judge* shall send to each
19 member of the Court a copy of the Presentment.

20 (b). The ~~President~~ *Presiding Judge* of the Court shall also summon the Accused to
21 appear at the same time and place to answer the ~~said~~ Presentment, and shall also give notice
22 of the ~~said~~ time and place to the Church Advocate.

23 *Sec. 9.* Within three months following each regular meeting of General Convention, the
24 Court shall appoint a Church Advocate to serve until the next regular meeting of General
25 Convention until a successor is duly appointed and qualified, and from time to time for
26 good cause and upon the request of the Church Advocate, appoint one or more assistant
27 Church Advocates to act for and in the place of the Church Advocate.

Comment: New provision to establish in advance of any proceeding a Church Advocate. In recognition of the realities of professional availability, possible conflicts, the geographical location of a proceeding and other variables, provision is made for assistant Church Advocates who could assume the duties of the Church Advocate.

28 *Sec. 10.* The ~~several Courts~~ Court shall appoint a Clerk and, if necessary, Assistant Clerks,
29 who shall be ~~Presbyters~~ *Members of the Clergy or adult confirmed communicants in good*
30 *standing* of this Church, to serve during at the pleasure of the Court.

Comment: Adapted from former Canon IV.3.20(c) as revised.

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1 *Sec. 11. The Court shall appoint a Reporter who shall provide for the recording of the*
2 *proceedings and serve at the pleasure of the Court.*

Comment: New provision.

3 *Sec. 12. The ~~several Courts may~~ Court shall appoint ~~not less than two nor at least one but~~*
4 *~~no more than three Lay Persons who are confirmed adult communicants of this Church in~~*
5 *~~good standing, learned in the law,~~ as Lay Assessors. ~~They~~ Lay Assessors shall have no*
6 *vote. It shall be their duty to give the Court an opinion on any question of law, procedure*
7 *or evidence but not on any question of doctrine, ~~not theological,~~ upon which the Court or*
8 *any member thereof, or either party, shall desire an opinion. ~~If a~~ Any doubt question shall*
9 *~~arise as to~~ of whether any question is ~~theological~~ a matter of doctrine, it shall be decided by*
10 *the Court by a majority of the votes.*

Comment: Former second paragraph of Canon IV.3.20(c) as revised.

11 *Sec. 13. Where a Presentment of a Bishop for holding and teaching publicly or privately,*
12 *and advisedly, any doctrine contrary to that held by this Church is made by any ten*
13 *Bishops of this Church exercising jurisdiction, they may select a Church Advocate as legal*
14 *adviser.*

Comment: Former Canon IV.3.23 as revised and clarified.

15 *Sec. 14. ~~In all trials and upon all appeals the several Courts may appoint a Church~~*
16 *~~Advocate with or without assistants, all of whom shall be of the profession of the law, and~~*
17 *~~communicants of the Church, to~~ In all cases, the Church Advocate, or the assistants to the*
18 *Church Advocate shall appear in behalf of the Church ~~upon such trial or appeal.~~ The*
19 *Church Advocate shall then be considered the party on one side, and the Accused the party*
20 *on the other.*

Comment: Former second paragraph of Canon IV.3.23 as revised.

21 *Sec. 15. The rules of procedure in a Court for the Trial of a Bishop shall be governed by*
22 *The Federal Rules of Civil Procedure as set forth in Appendix A to these Canons.*

Comment: This is a new provision patterned after the last paragraph of former Canon IV.3.20(c) and the first paragraph of former Canon IV.3.21 as revised to provide for a common standard for the Church and for all participants.

23 *Sec. 16. The Court shall be governed by The Federal Rules of Evidence.*

Comment: Adapted from former Canon IV.3.21 as revised.

24 *Sec. 17. The ~~various Courts~~ Court shall permit the Accused to be heard in person or by*
25 *counsel of the Accused's own selection, ~~provided every such counsel shall be a~~*
26 *~~communicant of this Church,~~ but in every trial or investigation the ~~several Courts~~ the Court*
27 *may regulate the number of counsel who may address the Court or examine witnesses.*

Comment: Former Canon IV.3.22 as revised.

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1 *Sec. 18(a).* At the time and place appointed, a quorum of the Court being present, the
2 ~~President~~ *Presiding Judge* shall declare the Court open for hearing the case; and when thus
3 open, shall direct the Clerk to call the names of the Church Advocate and the Accused; and
4 if both appear, shall then cause the Clerk to read the Presentment.

Comment: Former Canon IV.5.2(a) as revised.

5 (b). The Accused shall then be called upon by the Court to plead to the Presentment
6 and the plea shall be duly recorded; and on neglect or refusal of the Accused to plead, the
7 plea of not guilty shall be entered for the Accused, and the Trial shall proceed; Provided,
8 that for sufficient cause the Court may adjourn from time to time; and Provided, also, that
9 the Accused shall, at all times during the Trial, have liberty to be present, and in due time
10 and order to produce testimony and to make a defense.

Comment: Former Canon IV.5.2(b).

11 (c). If the Accused fails or refuses to appear in person, according to the notice served
12 as aforesaid, except for reasonable cause to be allowed by the Court, the Accused shall be
13 pronounced in Contumacy, and given notice that Sentence of Suspension or Deposition
14 will be *adjudged and* pronounced by the Court at the expiration of ~~three months~~ *thirty days*
15 unless at that time, *or at such convenient time thereafter as the Court shall determine*, the
16 Accused shall appear and ~~take stand~~ Trial upon the Presentment. If the Accused does not
17 so appear, Sentence of Suspension, or of Deposition from the Ordained Ministry, may be
18 *adjudged and* pronounced by the Court.

Comment: Former Canon IV.5.2(c) as revised.

19 *Sec. 19.* The Accused being present, ~~and the Trial shall proceed in accordance with this~~
20 ~~Canon. proceeding, it shall be conducted in accordance with Secs. 20, 21, and 22 of Canon~~
21 ~~IV-3.~~ The Accused shall in all cases have the right to be a defense witness, subject to
22 cross-examination in the same manner as any other witness. No testimony shall be received
23 at the Trial except from witnesses who have signed a declaration in the following words, to
24 be read aloud before the witness testifies and to be filed with the records of the Court.

25 **"I, A.B., a witness on the Trial of a Presentment against the Right**
26 **Reverend, a Bishop of the Episcopal Church, now pending, do most**
27 **solemnly call God to witness that the evidence I am about to give shall**
28 **be the truth, the whole truth, and nothing but the truth, so help me**
29 **God."**

Comment: Former Canon IV.5.3 as revised.

30 *Sec. 20.* Before a vote is taken on the findings and in the presence of the Accused and
31 counsel, counsel for the parties may submit requested proposed instructions. The Presiding
32 Judge of the Court, after consultation with the Lay Assessors also shall instruct the
33 members of the Court as to the elements of the Offense and charge them (i) that the
34 Accused must be presumed to be innocent until the Accused's guilt is established by legal
35 and competent evidence of clear and convincing proof, and unless the standard of proof be

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1 *met the Accused must be acquitted and (ii) that the burden of proof to establish the guilt of*
2 *the Accused is upon the Church Advocate.*

Comment: New section.

3 *Sec. 21. Separate and distinct votes shall be taken first upon the findings as to the guilt of*
4 *the Accused, and, if the Accused be found to be guilty, then upon the Sentence to be*
5 *imposed.*

Comment: New section.

6 *Sec. 22. The Court, having fully heard the allegations and proofs of the parties, and having*
7 *deliberately considered the same after the parties have withdrawn, every member of the*
8 *Court sitting in the cause shall declare an opinion about whether the Accused is guilty or*
9 *not guilty, and with respect to each particular Charge and Specification contained in the*
10 *Presentment; and the Accused shall be deemed not guilty upon every Charge and*
11 *specification upon which no opinion of guilty shall be pronounced by a majority of the*
12 *members of the Court sitting in the cause.*

Comment: Former Canon IV.5.4 as revised.

13 *Sec. 23(a). For a Conviction on an Offense involving Crime, Immorality or Conduct*
14 *Unbecoming a Member of the Clergy, the concurrence of two-thirds of the members of the*
15 *Ecclesiastical Trial court shall be necessary.*

16 *(b). For a Conviction on any other Offense not involving Crime, Immorality or*
17 *Conduct Unbecoming a Member of the Clergy, the concurrence of a majority of the*
18 *members of the Ecclesiastical Trial Court shall be necessary.*

Comment: New provisions.

These provisions mirror those for the Conviction of a Priest or Deacon.

As it is proposed that a standard less onerous than the criminal standard be adopted, it is proposed here to require a vote greater than a simple majority as to those Offenses dealing with personal misconduct. As to the more technical Offenses not dealing with personal misconduct, a simple majority for Conviction is proposed.

19 *Sec. 24. The decision of the Court as to all the Charges and Specifications shall be reduced*
20 *to writing, and signed by those who assent to it.*

Comment: First clause of former Canon IV.5.5.

21 *Sec. 25. No vote shall be taken on the Sentence to be imposed until such time as the*
22 *Accused has been informed of the Conviction and the Accused has had a reasonable*
23 *opportunity to offer matters in excuse or mitigation.*

Comment: New section.

24 *Sec. 26. ; and the Court shall also, if the Accused is found guilty of any Charge or*
25 *Specification, determine and embody in the written decision the penalty which it shall*

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1 ~~adjudge should be imposed upon the Accused; The Court shall then vote upon a Sentence~~
2 ~~to be adjudged and imposed upon the Accused and the decision so signed shall be recorded~~
3 ~~as the judgment of the Court. , and shall be judgment nisi until it becomes final as~~
4 ~~hereinafter stated.~~

Comment: Second clause of former Canon IV.5.5. as revised.

5 *Sec. 27(a). The Conviction and Sentence adjudged shall be communicated immediately to*
6 *the Accused, the Complainant, the Presiding Bishop and the Standing Committee of the*
7 *diocese in which the Accused is canonically resident.*

8 (b). Any Accused who shall be found guilty of any Charge or Specification may file a
9 motion for a new trial and for a modification of penalty Sentence. Any such motion or
10 motions shall be filed within 30 days from the date of the filing of the decision, and the
11 motion shall set forth all the reasons therefor, and no other shall be relied on at the hearing
12 of the motion without the consent of the Court. The President Presiding Judge of the Court
13 shall set a place and time for hearing the motion and shall reconvene the Court to hear and
14 determine the same.

Comment: Former first paragraph of Canon IV.5.6 as revised. A motion for a new Trial is deemed in appropriate given the safeguards in the Presentment process and the Trial itself and the right to a review by the Court of Review of a Trial of a Bishop.

15 (c). The Court may in the interest of justice grant a new trial or modify the penalty
16 Sentence. ~~If the motion for a new trial is granted, the President of the Court shall set a time~~
17 ~~and place for the new trial, and notify the parties and the members of the Court of such time~~
18 ~~and place. If the motion for a new trial is overruled, Upon determination of the motion to~~
19 ~~modify, the judgment nisi as to the guilt of the Accused shall become final. ,but the Court~~
20 ~~in the exercise of its discretion may modify or change the penalty, and shall be in writing~~
21 ~~signed by a majority of the Court and direct what penalty is to be incorporated in the final~~
22 ~~judgment to be recorded by the Clerk. If no motion for a new trial or for modification of~~
23 ~~Sentence shall be filed within the time limited for filing such that motions, the Clerk of the~~
24 ~~Court shall on the next secular business day enter, as final, the judgment rendered by the~~
25 ~~Court. An appeal from a final judgment of a Court for the Trial of a Bishop to the Court of~~
26 ~~Review of the Trial of a Bishop, as provided in Canon IV.6, may be taken within sixty~~
27 ~~thirty days from the entry of such the judgment.~~

Comment: Former second paragraph of Canon IV.5.6 as revised.

28 (d). *The final judgment shall be in writing signed by a majority of the Court and*
29 *direct what Sentence is to be incorporated in the final judgment to be recorded by the*
30 *Clerk.*

31 (e). After the entry of final judgment, the President Presiding Judge of the Court shall
32 appoint a time and place not less than ~~60~~ sixty days thereafter for pronouncing the Sentence
33 adjudged. At the time and place appointed, if the Accused shall not have an appeal
34 pending in the Court of Review of the Trial of a Bishop, or the action of the Court of
35 Review has not made it unnecessary for the Trial Court to proceed to pronounce Sentence,
36 the President Presiding Judge of the Court, or a member thereof designated in writing by a
37 majority of the members thereof to do so, shall in the presence of the Accused, if the
38 Accused shall see fit to attend, pronounce the Sentence which has been adjudged by the

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1 Court, and direct the same to be recorded by the Clerk; and *Provided, further, that*
2 *Sentence shall not be imposed upon a bishop found guilty of holding and teaching doctrine*
3 *contrary to that held by this Church unless and until the said finding shall have been*
4 *approved by a vote of two-thirds majority of all the bishops canonically assembled in said*
5 *the House present and entitled to vote.*

Comment: Former last paragraph of Canon IV.5.6. as revised.

The last clause is former Canon IV.6.5 as revised.

6 *Sec. 28(a).* The ~~several Courts~~ Court shall keep a record of all ~~their~~ proceedings.

Comment: Former last paragraph of Canon IV.3.21 as revised.

7 (b). ~~Such~~ The record shall be kept by the Clerk, ~~and~~ inserted in a book ~~to~~ and be
8 attested by the signature of the ~~President~~ *Presiding Judge* and Clerk. The record shall be in
9 the custody of the Clerk and kept in the depository of the Registrar of the General
10 Convention, and shall be open to the inspection of every member of this Church.

Comment: Former Canon IV.5.7(b).

11 ~~Sec. 7(a).~~ ~~During the trial, exceptions in writing may be taken by either side to the~~
12 ~~admission or exclusion of evidence, or to any ruling of the Court, and such exceptions shall~~
13 ~~form part of the record of the case.~~

Comment: Former Canon IV.5.7(a) is deleted as these matters are now governed
by the adopted Federal Rules of Civil Procedure set out in Appendix A.

14 *Sec. 29.* The necessary expenses of the ~~Court~~ ~~Boards of Inquiry or Commissions~~ ~~appointed~~
15 ~~under the Canons of this Church to make preliminary investigation and to report upon~~
16 ~~charges presented,~~ including therein the necessary expenses of the Church Advocates,
17 *Clerks, Reporters and Lay Assessors* appointed to assist such ~~Boards or Commissions~~ ~~the~~
18 ~~Court,~~ shall be a charge upon the General Convention, ~~or upon the Province, or the~~
19 ~~Diocese, as the case may be. They~~ and shall be paid by the ~~respective Treasurers~~ *Treasurer*
20 of General Convention of the ~~Synod or Province, or of the Diocese,~~ upon the order of the
21 ~~President Presiding Judge of the several Courts~~ *Court.*

Comment: Last paragraph of former Canon IV.3.24 as revised.

22 CANON 6

23 Of Appeals to the Court of Review of the Trial of a Bishop

24 *Sec. 1.* A bishop found guilty of any Offense shall have the right to appeal from the
25 judgment of the Trial Court to the Court of Review of the Trial of a Bishop; and in the case
26 of a bishop Presented for holding and teaching doctrine contrary to that held by this
27 Church, the Church Advocate shall have a right to appeal.

Comment: Former Canon IV.6.1.

28 *Sec. 2.* The Court of Review *of the Trial of a Bishop* is vested with jurisdiction to hear and
29 determine appeals from the determination of the Court for the Trial of a Bishop.

Comment: Former Canon IV.3.16. as revised.

1 Sec. 3. There shall be a Court of Review of the Trial of a Bishop, consisting of nine
2 bishops. ~~As the terms of the incumbent members expire, three~~ Three bishops shall be
3 elected by the House of Bishops at each regular meeting of General Convention, to serve
4 until the adjournment of the third succeeding regular meeting of General Convention. All
5 Judges shall serve until their successors are elected and qualify, provided, however, there
6 shall be no change in composition of a Court *following the hearing and* while a proceeding
7 is pending, unresolved, before the Court.

Comment: Former Canon IV.3.15. as revised.

8 Sec. 4(a). No bishop shall sit as a member of this Court who is ~~an~~ a Complainant, ~~or~~ is
9 related to the Accused or *Complainant* ~~either of them~~ by affinity or consanguinity, or who
10 is excused pursuant to Canon IV.14.11; nor shall any bishop sit who, ~~for any reason~~ upon
11 objection made by either party *for any reason*, is deemed by the other members of the
12 Court to be disqualified.

Comment: Adapted from former Canon IV.3.18(a).

13 (b). The death, permanent disability, resignation, or ~~refusal~~ *declination* to serve as a
14 member of this Court shall constitute a vacancy in the Court.

Comment: Adapted from former Canon IV.3.18(b).

15 (c). Notices of resignations or ~~refusals~~ *declinations* to serve shall be given by ~~any~~
16 ~~Bishop chosen to serve as a member of this Court~~ by written notice sent to the Presiding
17 Bishop.

Comment: Adapted from Former Canon IV.3.18.(b)(1).

18 Sec. 5. The Court shall from time to time elect from its own membership a Presiding
19 Judge, who shall hold office until the expiration of the term for which chosen. If in any
20 proceeding before ~~said~~ the Court the Presiding Judge is disqualified or is for any cause
21 unable to act, the Court shall elect *from its members* a ~~Bishop~~ as Presiding Judge *pro*
22 *tempore*.

Comment: Adapted from former Canon IV.3.20(b) and as revised.

23 Sec. 6. When the ~~several Courts are~~ Court is not in session, if there is a vacancy in the
24 office of the ~~President~~ *Presiding Judge*, the bishop who is senior by consecration shall
25 perform the duties of the office of ~~President~~ *Presiding Judge*.

Comment: Former third paragraph of Canon IV.3.22 as revised.

26 Sec. 7. *Vacancies occurring in this Court shall be filled as follows:*

27 (a). *In the case of disqualification of any Judge, the remaining Judges of the Court*
28 *shall appoint a Judge to take the place of the one disqualified in that particular case.*

29 (b). *In the case of a vacancy in the Court, the remaining Judges shall have power to*
30 *fill the vacancy until the next General Convention, when the House of Bishops shall choose*
31 *a bishop to fill the vacancy. The bishop so chosen shall serve during the remainder of the*
32 *term.*

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Comment: Adapted from former Canon IV.3.19.(1) and (2)

1 *Sec. 8.* Not less than six Judges shall constitute a quorum and the concurrence of six
2 Judges shall be necessary to pronounce a judgment, but *if less than a quorum is present*
3 *they any less number* may adjourn the Court from time to time.

Comment: Former Canon IV.3.17.

4 *Sec. 9.* The ~~several Courts~~ Court shall appoint a Clerk and, if necessary, Assistant Clerks
5 who shall be ~~Presbyters~~ *Members of the Clergy or adult confirmed communicants in good*
6 *standing* of this Church, to serve during the pleasure of the Court.

Comment: Adapted from former Canon IV.3.20(c) as revised.

7 *Sec. 10.* *The Court shall appoint a Reporter who shall provide for the recording of the*
8 *proceedings and serve during the pleasure of the Court.*

Comment: New provision.

9 *Sec. 11.* The ~~several Courts~~ Court ~~may shall appoint not less than two nor at least one but~~
10 ~~no more than three Lay Persons who are confirmed adult communicants of this Church in~~
11 ~~good standing, learned in the law, as Lay Assessors. They Lay Assessors shall have no~~
12 ~~vote. It shall be their duty to give the Court an opinion on any question of law, procedure~~
13 ~~or evidence, but not a question of doctrine, not theological, upon which the Court or any~~
14 ~~member thereof, or either party, shall desire an opinion. If a question doubt shall arise as to~~
15 ~~whether any question is theological a matter of doctrine, it shall be decided by the Court by~~
16 ~~a majority vote.~~

Comment: Former second paragraph of Canon IV.3.20(c) as revised.

17 *Sec. 12.* *The rules of procedure in the Court shall be The Federal Rules of Civil Procedure*
18 *set forth in Appendix A to these Canons.*

Comment: This is a new provision patterned after the last paragraph of former Canon IV.3.20(c) and the first paragraph of former Canon IV.3.21 as revised to provide for a common standard for the Church and for all participants.

19 *Sec. 13.* The ~~various Courts~~ Court shall permit the Accused to be heard in person ~~or and~~
20 ~~by counsel of the Accused's own selection, provided every such counsel shall be a~~
21 ~~communicant of this Church, but in every trial or investigation the several Courts the Court~~
22 ~~may regulate the number of counsel who may address the Court or examine witnesses.~~

Comment: Former Canon IV.3.22 as revised.

23 *Sec. 14(a).* Unless within ~~sixty~~ *thirty* days from the date of entry of judgment in the Trial
24 Court the appellant ~~shall have~~ *has* given notice of the appeal in writing to ~~said court the~~
25 ~~Trial Court,~~ to the party against whom the appeal is taken, and to the ~~President~~ *Presiding*
26 *Judge* of the Court of Review of the Trial of a Bishop, assigning in ~~said the~~ notice the
27 reasons of appeal, the appellant shall be held to have waived the right of appeal although in

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1 its discretion the Court of Review of the Trial of a Bishop may entertain and hear an appeal
2 not taken within ~~such~~ *the* prescribed period.

Comment: Former first paragraph of Canon IV.6.2 as revised.

3 (b). The ~~President Presiding Judge~~ of the Court of Review upon receiving the notice
4 of appeal shall appoint a time within 60 days thereafter for hearing the appeal and fix the
5 place of the hearing. At least 30 days prior to the day appointed, the ~~President Presiding~~
6 ~~Judge~~ shall give written notice of ~~such~~ *the* time and place to the other members of the Court
7 and also the appellant and appellee.

Comment: Former second paragraph of Canon IV.6.2 as revised.

8 *Sec. 15.* Upon notice of appeal being given, the Clerk of the Trial Court shall send to the
9 Clerk of the Court of Review of the Trial of a Bishop a transcript of the record, including
10 all the evidence, certified by the ~~President Presiding Judge~~ and Clerk of the ~~said Trial~~
11 Court, and the Clerk shall lay the same before the Court of *Review* at its next session.

Comment: Former Canon IV.6.3 as revised.

12 *Sec. 16.* No oral testimony shall be heard by ~~said~~ *the* Court of Review. ~~, nor, except by~~
13 ~~permission of the said Court, shall any new evidence be introduced in said hearing.~~

Comment: Former Canon IV.6.4. as revised.

14 *Sec. 17.* The Court of Review of the Trial of a Bishop may affirm or reverse any judgment
15 brought before it on appeal, and may enter final judgment in the case; or may ~~remit~~
16 ~~remand~~ the same to the Trial Court for a new Trial or for such further proceedings as the
17 interests of justice may require; provided, however, that if the Accused ~~shall have~~ *has* been
18 found not guilty by the Trial Court upon any of the Charges ~~and Specifications~~ upon which
19 tried other than that of holding and teaching doctrine contrary to that held by this Church,
20 the Court of Review of the Trial of a Bishop shall have no power to reverse ~~said these~~
21 findings; ~~and provided, further, that Sentence shall not be imposed upon a Bishop found~~
22 ~~guilty of holding and teaching doctrine contrary to that held by this Church unless and until~~
23 ~~the said finding shall have been approved by a vote of two-thirds of all the Bishops~~
24 ~~canonically assembled in said House, and entitled to vote.~~

Comment: Former Canon IV.6.5 as revised. The last clause is now included in proposed Canon IV.5.27.

25 *Sec. 18(a).* If the Court of Review of the Trial of a Bishop ~~shall~~ enters final judgment in
26 the case, and if by ~~said~~ *that* judgment the Accused ~~shall be~~ *is* found guilty of any of the
27 Charges ~~or Specifications~~ upon which tried, the Court of Review of the Trial of a Bishop
28 ~~shall determine the sentence~~ *may review the Sentence adjudged by the Trial Court and may*
29 *adjudge a lesser Sentence than that adjudged by the Trial Court.* Before *final* Sentence is
30 ~~passed~~ *adjudged by the Court of Review* the Accused shall have the opportunity to make a
31 statement to the Court in excuse or mitigation.

Comment: Former first and second sentences of Canon IV.6.6 as revised.

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1 (b). The final Sentence adjudged shall be pronounced by the Presiding Bishop, or
2 such other Bishop as the Presiding Bishop shall designate, who shall thereupon give
3 pursuant to Canon IV.27 and the notices thereof required by Canon IV.12 shall be given.

Comment: Former last sentence of Canon IV.6.6 as revised.

4 Sec. 19. In case of appeal, all proceedings in the Trial Court and the pronouncement of
5 Sentence shall be stayed until such the appeal be is dismissed by the Court of Review of the
6 Trial of a Bishop, or the said case be remitted remanded by the said Court to the Trial
7 Court for further proceedings, or until final judgment has been adjudged by the Court of
8 Review, as the case may be.

Comment: Former first sentence of the first paragraph of Canon IV.6.7. as revised.

9 Sec. 20. Should the appellant fail to prosecute an appeal before the said Court of Review at
10 the first session thereof after the entry of the appeal at which the same it could be heard, the
11 appeal may be dismissed for want of prosecution. In case the said Court dismisses the
12 appeal, the Clerk of the Court shall immediately give notice of such the dismissal to the
13 Trial Court.

Comment: Former second sentence of the first paragraph of Canon IV.6.7.

14 Sec. 21. The appellant may waive discontinue the appeal at any time before a hearing
15 thereof has begun before the Court of Review of the Trial of a Bishop. After said the
16 hearing has begun, the appellant may waive discontinue the appeal only with the consent of
17 the Court. In case the appeal is waived or dismissed, If the appeal is discontinued, the Trial
18 Court shall proceed as if no appeal had been taken.

Comment: Former last paragraph of Canon IV.6.7 as revised.

19 CANON 7.

20 Of a Member of the Clergy Priest or Deacon in Any Diocese Chargeable with Offense in
21 Another

22 Sec. 1. If a Member of the Clergy Priest or Deacon belonging to any canonically resident
23 in a Diocese shall have acted in any other Diocese in such a way as to be liable to
24 Presentment under the provisions of Canon IV.1, the Ecclesiastical Authority thereof shall
25 give notice of the same to the Ecclesiastical Authority where the Member of the Clergy
26 Priest or Deacon is canonically resident, exhibiting, with the information given, reasonable
27 ground for presuming its truth. If the Ecclesiastical Authority, after due notice given, shall
28 omit, for the space of three months, to proceed against the offending Member of the Clergy
29 Priest or Deacon, or shall request the Ecclesiastical Authority of the Diocese in which the
30 Offense or Offenses are alleged to have been committed to proceed against that Member of
31 the Clergy Priest or Deacon, it shall be within the power of the Ecclesiastical Authority of
32 the Diocese, within which the Offense or Offenses are alleged to have been committed, to

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1 institute proceedings according to the mode provided by the said Diocese pursuant to this
2 Title.

3 Sec. 2. If a ~~Member of the Clergy~~ Priest or Deacon shall come temporarily into any
4 Diocese, under the imputation of having elsewhere ~~been guilty of committed~~ any of the
5 Offenses within the provisions of Canon IV.1, or if any ~~Minister~~ Priest or Deacon, while
6 ~~sojourning temporarily~~ in any Diocese, shall so offend, the Bishop of that Diocese, upon
7 probable cause, may Admonish ~~and~~ or Inhibit such ~~Member of the Clergy~~ the Priest or
8 Deacon from officiating in said that Diocese. And if, after such Inhibition, the said
9 ~~Member of the Clergy~~ Priest or Deacon so officiate, the Bishop shall give notice to all the
10 Clergy and Congregations in said that Diocese that the officiating of said ~~Member of the~~
11 ~~Clergy~~ the Priest or Deacon is inhibited; and like notice shall be given to the Ecclesiastical
12 Authority of the Diocese ~~to which the said Minister belongs in which the Priest or Deacon~~
13 ~~is canonically resident~~, and to the Recorder. ~~And such~~ The Inhibition shall continue in
14 force until the soonest of (i) the Bishop of the first-named Diocese ~~be~~ is satisfied of the
15 innocence of the ~~said Member of the Clergy~~ Priest or Deacon, (ii) the Standing Committee
16 ~~assuming jurisdiction thereover votes not to issue a Presentment~~ or (iii) if presented, the
17 ~~until Member of the Clergy~~ Priest or Deacon ~~be~~ is acquitted on Trial.

Comment: The revisions are for clarity and to add a reference to the failure to issue a Presentment as a determining event.

18 Sec. 3. The provisions of ~~the last~~ Section 2 shall apply to Clergy ordained in foreign lands
19 by bishops in communion with this Church; but in such case notice of the Inhibition shall
20 be given to the Bishop from whose jurisdiction the ~~Member of the Clergy~~ Priest or Deacon
21 shall appear to have come, and also to all the Bishops exercising jurisdiction in this Church,
22 and to the Recorder.

23 CANON 8.

24 Of Renunciation of the Ministry by *Members of the Clergy Amenable for an Offense*

Comment: The provision for renunciation where no irregularity or misconduct exists has been transferred to Title III as Canon III.18 in recognition of the fact that such renunciation is not a disciplinary matter but one of the administration of the ordained ministry of this Church.

The present Canon IV.8 makes no express provision for the renunciation of the ministry by a Bishop of this Church. Recent history indicates that such a provision is desirable.

With the proposal for the voluntary submission to discipline of Canon IV.2. now available, it is presumed that this Canon will be little used in matters involving Crime, Immorality or personal misconduct.

However, circumstances may exist where the Offense is not one of Crime, Immorality or personal misconduct and could be accompanied by questions of Doctrine, Worship crisis of faith, etc. where there would be some companion relationship between the desire to renounce and the Offenses alleged, i.e. "false

teaching", violation of Rubrics, etc. In such cases, Renunciation of the ministry would be an appropriate resolution of the problem.

In cases involving Crime, Immorality or Conduct Unbecoming a Member of the Clergy renunciation would not be possible. The only avenues available in such cases would be voluntary submission to discipline under Canon IV.2. or proceeding through the Trial process.

In all other cases, renunciation would be possible with the Consent of the Standing Committee even if there were other unresolved Offenses outstanding.

1 *Sec. 1. If any Member of the Clergy Priest or Deacon (i) Amenable for Presentment for an*
2 *Offense of Crime, of Immorality or of Conduct Unbecoming a Member of the Clergy or (ii)*
3 *not under Presentment therefor but Amenable for or subject to a Presentment for any other*
4 *Offense, shall declare in writing to the Ecclesiastical Authority of the Diocese in which the*
5 *Member of the Clergy that person is canonically resident a renunciation of the Ministry of*
6 *this Church and a desire to be removed therefrom, it shall be the duty of the Ecclesiastical*
7 *Authority to record the declaration and request so made. The Bishop, being satisfied that*
8 *the person so declaring is not amenable for any canonical offense, and that his renunciation*
9 *of the Ministry is not occasioned by foregoing misconduct or irregularity, but is voluntary*
10 *and for causes, assigned or known, which do not affect his moral character, shall lay the*
11 *matter before the clerical members of the Standing Committee, and with their advice and*
12 *consent he may pronounce that such renunciation is accepted, and that the Minister is*
13 *released from the obligations of the Ministerial office, and that he is deprived of the right to*
14 *exercise the gifts and spiritual authority as a Minister of God's Word and Sacraments*
15 *conferred on him in his Ordination. He shall also declare in pronouncing and recording*
16 *such action that it was for causes which do not affect the person's moral character, and*
17 *shall, if desired, give a certificate to this effect to the person so removed from the Ministry.*
18 *In all other cases of Renunciation of the Ministry, where there may be a question of*
19 *foregoing misconduct or irregularity, the Ecclesiastical Authority if it be a bishop Bishop,*
20 *or if the Ecclesiastical Authority not be a bishop, a bishop acting for the Ecclesiastical*
21 *Authority, may not accept the renunciation and shall not pronounce Sentence of Deposition*
22 *save with the consent of a majority of all the members of the Standing Committee of the*
23 *Diocese. Upon receiving the consent of the Standing Committee, the Bishop or the bishop*
24 *acting for the Ecclesiastical Authority may proceed to impose a Sentence of Deposition in*
25 *accordance with Canon IV.12.4(c). The Bishop shall give due notice of every such removal*
26 *or deposition from the Ministry, in the form in which the same is recorded, and in*
27 *accordance with the provisions of Canon IV.12.4(b).*

28 *Sec. 2. If any bishop not Amenable for an Offense of Crime, Immorality or Conduct*
29 *Unbecoming a Member of the Clergy or not under Presentment therefor but Amenable for*
30 *or subject to a Presentment for any other Offense shall declare in writing to the Presiding*
31 *Bishop, or if there then be none to the presiding officer of the House of Bishops, a*
32 *renunciation of the Ministry of this Church and a desire to be removed therefrom, the*
33 *Presiding Bishop or the presiding officer may not accept the renunciation and shall not*
34 *pronounce Sentence of Deposition save with the consent of a majority of all the members of*
35 *the Advisory Committee to the Presiding Bishop. Upon receiving the consent of the*

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1 *Advisory Committee, the Presiding Bishop or the presiding officer of the House of Bishops*
2 *may proceed to impose a Sentence of Deposition in accordance with Canon IV.12.*

Comment: New Provision for renunciation by bishops.

3 *Sec. 2 3. If a Member of the Clergy making the aforesaid a declaration of renunciation of*
4 *the Ministry be charged with, or under Presentment for any canonical Offense involving*
5 *Crime, Immorality or Conduct Unbecoming a Member of the Clergy, or shall have been*
6 *placed on Trial for the same, the Ecclesiastical Authority to whom such the declaration is*
7 *made shall not consider be considered or act acted upon such declaration until after the said*
8 *Presentment shall have has been dismissed or the said Trial shall have has been concluded*
9 *and Sentence, if any, pronounced adjudged. If the Ecclesiastical Authority to whom such*
10 *declaration is made shall have ground to suppose that the person making the same is liable*
11 *to presentment for any canonical offense, such person may, in the discretion of the said*
12 *Ecclesiastical Authority, be placed upon trial for such offense, notwithstanding such*
13 *declaration of renunciation of the Ministry. Thereafter, unless the renunciation be revoked*
14 *by the Member of the Clergy, the Bishop may accept the renunciation and impose and*
15 *pronounce a Sentence of Deposition.*

Comment: Former Canon IV.8.2 as revised.

If a Member of the Clergy were to be acquitted, the renunciation process could continue under this Canon without the need to start a new process under proposed Canon III.18.

With the new provisions for voluntary submission to discipline contained in Canon IV.2, the uniform process for Presentment contained in Canon IV.3, and the prohibition against self-incrimination established by Canon IV.14, it is deemed inappropriate for an attempt at a voluntary renunciation to be the grounds for a Presentment.

16 *Sec. 4. No declaration of renunciation of the ministry of this Church under this Canon*
17 *shall become effective until it has been accepted by the governing authority and Sentence*
18 *has been pronounced.*

Comment: This new provision is intended to clarify the fact that no Member of the Clergy may use an attempt to renounce as an impediment to Presentment and trial nor to avoid any other obligations of the ordained ministry prior to the imposition of the sentence.

Renunciation of the ministry may only be made within the Diocese wherein the Member of the Clergy is canonically resident.

19 **CANON 9.**

20 **Of Abandonment of the Communion of This Church by a Bishop**

21 *Sec. 1. If a bishop abandons the communion of this Church, either (a) by an open*
22 *renunciation of the Doctrine, Discipline, or Worship of this Church, or (b) by formal*
23 *admission into any religious body not in communion with the same, or (c) by exercising*

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1 episcopal acts in and for a religious body other than this Church *or another Church in*
2 *communion with this Church*, so as to extend to such body Holy Orders as this Church
3 holds ~~the same~~ *them*, or to administer on behalf of such religious body Confirmation
4 without the express consent and commission of the proper authority in this Church: it shall
5 be the duty of the Advisory Committee to the Presiding Bishop, as provided for by the
6 Rules of Order of the House of Bishops, *by a majority vote thereof*, to certify the fact to the
7 Presiding Bishop, *or if there be none, to the presiding officer of the House of Bishops*, and
8 with ~~such~~ *the* certificate to send a statement of the acts or declarations which show ~~such~~
9 abandonment, which certificate and statement shall be recorded by the Presiding Bishop *or*
10 *the presiding officer*. The Presiding Bishop, *or the presiding officer*, with the consent of
11 the three senior bishops having jurisdiction in ~~the United States this Church~~, shall then
12 ~~suspend inhibit~~ the said bishop ~~from the exercise of the Bishop's Office and Ministry~~ until
13 such time as the House of Bishops shall investigate the matter *and act thereon*. *During the*
14 *period of Inhibition, the bishop shall not perform any episcopal, ministerial or canonical*
15 *functions, except as relate to the administration of the temporal affairs of the Diocese of*
16 *which the bishop holds jurisdiction or in which the bishop is then serving.*

Comment: The revision to (c) is intended to clarify that properly acting as, say, a co-consecrator for the ordination of a Bishop in another Province of the Anglican Communion would not be an abandonment of communion.

The revisions to the next to last sentence and the addition of the last sentence are intended to clarify the effects of such a suspension and mirror the effect of an interim suspension of a Bishop under Canon IV.12.12.

17 Sec. 2. The Presiding Bishop, *or the presiding officer*, shall forthwith give notice to the
18 said bishop of ~~such the certification and suspension~~ *Inhibition*. Unless the ~~suspended~~
19 ~~inhibited~~ bishop shall, within ~~six~~ two months, makes declaration *by a Verified written*
20 *statement to the Presiding Bishop, or the presiding officer*, that the facts alleged in ~~said the~~
21 certificate are false, ~~and shall demand a Trial~~, *or utilize the provisions of Canon IV.8. or*
22 *Canon III.18, as applicable*, the bishop will be liable to Deposition ~~from the Ministry~~. *If*
23 *the Presiding Bishop, or the presiding officer*, is reasonably satisfied that ~~such the~~
24 statement (i) constitutes a good faith retraction of ~~such the~~ declarations or acts relied upon
25 in the certification to the Presiding Bishop or (ii) a good faith denial that the bishop made
26 the declarations or committed the acts relied upon in the certificate, upon the advice and
27 consent of a majority of the Advisory Committee, the Presiding Bishop may withdraw ~~such~~
28 ~~the~~ notice and, with the consent of a majority of the three senior bishops consenting to ~~such~~
29 ~~suspension Inhibition~~, may terminate ~~such the suspension Inhibition~~. ~~And if such~~
30 ~~declaration be not made within six months, as aforesaid~~, *Otherwise*, it shall be the duty of
31 the Presiding Bishop to ~~convene~~ *present the matter* to the House of Bishops *at the next*
32 *regular or special meeting of the House* to consider the case; ~~and if~~ *If* the said House, by a
33 majority of the whole number of bishops entitled to vote, shall give ~~their~~ *its* consent, the
34 Presiding Bishop shall depose the said bishop from the Ministry, and pronounce and record
35 in the presence of two or more bishops that the bishop has been so deposed.

Comment: In this modern era of communication and with the reasonable certainty that the bishop would receive such a notice, and, given the gravity of the matter, two months is deemed sufficient time for a response.

Provision has now been made explicitly for a bishop to renounce ministry under Canon IV.8.

This revision makes the process somewhat similar to that affecting Priests and Deacons in that it provides due process for the bishop, while at the same time allows the Church to move forward in any such serious matter.

The revision also avoids having to convene a special meeting of the House with the attendant expense solely to consider such a matter. With the House of Bishops meeting almost annually on balance any added delay for the inhibited bishop would be nominal in nature. Further, the inhibited bishop has the capacity to retract in the interim.

1 **CANON 10.**

2 Of Abandonment of the Communion of This Church by a ~~Presbyter~~ Priest or Deacon

3 Sec. 1. If it is reported to the Standing Committee of the Diocese in which a ~~Presbyter~~
4 Priest or Deacon is canonically resident that ~~such the~~ ~~Presbyter~~ Priest or Deacon, without
5 using the provisions of Canon IV.8, has abandoned the Communion of this Church, then
6 the Standing Committee shall ascertain and consider the facts, and if it shall determine by a
7 vote of three-fourths of *all* its members that ~~such the~~ ~~Presbyter~~ Priest or Deacon has
8 abandoned the Communion of this Church by an open renunciation of the doctrine,
9 Discipline, or Worship of this Church, or by a formal admission into any religious body not
10 in communion with ~~the same~~ *this Church*, or in any other way, it shall be the duty of the
11 Standing Committee of ~~such the~~ Diocese to transmit in writing to the Bishop of such
12 Diocese, or if there be no such Bishop, to the bishop of an adjacent Diocese, its
13 determination, together with a statement setting out in reasonable detail the acts or
14 declarations relied upon in making its determination. If the Bishop affirms ~~such the~~
15 determination, the Bishop shall then inhibit the ~~Presbyter~~ Priest or Deacon from officiating
16 in the Diocese for six months and shall send to ~~such the~~ ~~Presbyter~~ Priest or Deacon a copy
17 of ~~such the~~ determination and statement, together with a notice that ~~such the~~ ~~Presbyter~~
18 Priest or Deacon has the rights specified in Section 2, and that at the end of the six-months
19 period the Bishop will consider deposing ~~such the~~ ~~Presbyter~~ Priest or Deacon in accordance
20 with the provisions of Section 2.

21 Sec. 2. Prior to the expiration of the six month period of Inhibition, the Bishop may permit
22 ~~such the~~ ~~Presbyter~~ Priest or Deacon to utilize the provisions of Canon IV.8 *or Canon*
23 *III.18, as applicable*. If within ~~such the~~ six month period the ~~Presbyter~~ Priest or Deacon
24 shall transmit to the Bishop a statement in writing signed by ~~such the~~ ~~Presbyter~~ Priest or
25 Deacon which the Bishop is reasonably satisfied constitutes a good faith retraction of such
26 declarations or acts relied upon in the determination or a *bona fide good faith* denial that
27 the ~~Presbyter~~ Priest or Deacon committed the acts or made the declarations relied upon in
28 the determination, the Bishop shall withdraw ~~such the~~ notice and the Inhibition shall expire.
29 If, however, within ~~such the~~ six month period, the Bishop does not pronounce acceptance
30 of the renunciation of ~~such the~~ ~~Presbyter~~ Priest or Deacon in accordance with Canon IV.8
31 *or Canon III.18, as applicable*, or ~~such the~~ ~~Presbyter~~ Priest or Deacon does not make

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1 retraction or denial as provided above, then it shall be the duty of the Bishop either (i) to
2 depose ~~such the~~ *Presbyter Priest* or Deacon as provided in Canon IV.12, or (ii) if the
3 Bishop is satisfied that no ~~foregoing~~ *previous* irregularity or misconduct is involved, with
4 the advice and consent of the Standing Committee to pronounce and record in the presence
5 of two or more *Presbyters Priests* that ~~such the~~ *Presbyter Priest* or Deacon is released from
6 the obligations of *Presbyter Priest* or Deacon and that (for causes which do not affect the
7 person's moral character) ~~he~~ is deprived of the right to exercise the gifts and spiritual
8 authority conferred in Ordination.

9 CANON 11.

10 Of a ~~Member of the Clergy~~ *Priest or Deacon Engaging in Secular Employment without*
11 *Consent, Being Absent from the Diocese, or Abandoning the Work of the Ministry*

12 ~~Sec. 1. If a Priest or Deacon Member of the Clergy has been absent for more than two~~
13 ~~years from the Diocese in which canonically resident without having given reasons~~
14 ~~satisfactory to the Bishop thereof, and if that Member of the Clergy has engaged in any~~
15 ~~secular calling or business without the consent of such the Bishop of the Diocese in which~~
16 ~~the Priest or Deacon is canonically resident as provided in Canon III.15, and refuses to~~
17 ~~engage in the work of the Ministry at the call of such Bishop, coupled with reasonable~~
18 ~~provision for the Member of the Clergy's support, it shall be the duty of the Standing~~
19 ~~Committee of the Diocese, or of any two Presbyters of the same jurisdiction, upon the case~~
20 ~~being brought to their attention by the written statement of the Bishop, to institute an~~
21 ~~inquiry into the matter. If in the judgment of the Standing Committee there is sufficient~~
22 ~~reason for further proceedings, it shall be the duty of the Standing Committee to present the~~
23 ~~offending Member of the Clergy Priest or Deacon for trial for violation of Ordination vows~~
24 ~~and these Canons.~~

<p>Comment: This Section deals solely with a Priest or Deacon who has entered into secular employment without the Bishop's consent.</p>
<p>This provision does not address the question of the conduct of Clergy in secular employment with the canonical consent of the Bishop, who thereafter fail to comply with the conditions of Canon III.15. In such cases, Canon III.15.4 establishes an abandonment of communion situation subject to Canon IV.10.</p>
<p>It is suggested that the former provision as to failure to heed a Bishop's call coupled with reasonable provision for support, as a companion requirement for disciplinary action is unworkable in the Church today.</p>

25 *Sec. 2. If a Priest or Deacon has substantially and materially abandoned the work of the*
26 *ministry of this Church and the exercise of the office to which ordained without having*
27 *given reasons satisfactory to the Bishop of the Diocese wherein the Priest or Deacon is*
28 *canonically resident, or without renouncing the ministry as provided in Canon III.18 or*
29 *without seeking to be released from the obligations of the office pursuant to Canon*
30 *III.14.4(c), it shall be the duty of the Standing Committee of the Diocese, upon the case*
31 *being brought to their attention by the written statement of the Bishop, to institute an*
32 *inquiry into the matter. If in the judgment of the Standing Committee there is sufficient*

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1 *reason for further proceedings, it shall be the duty of the Standing Committee to present*
2 *the offending Priest or Deacon for trial for violation of Ordination vows and these Canons.*

Comment: This is a new provision to address the problem of Priests or Deacons who may not be absent from the Diocese, or who have not entered into secular employment without the Bishop's consent, but who have just ceased to function in the office to which ordained, without good reason and without having availed themselves of renunciation or seeking release.

The requirement of "substantially and materially" is meant to address the situation where a Priest or Deacon might exercise a *de minimis* ministry such as one house mass annually or an occasional baptism, wedding, "trade" funeral, etc.

3 Sec. 23(a). Whenever a ~~Member of the Clergy~~ *Priest or Deacon* of this Church shall have
4 been absent from the Diocese for a period of more than two years and has failed to make
5 the annual report *required by Canon I.6.1, and whose whereabouts are unknown, or who,*
6 ~~being a Member of the Clergy in secular employment, has omitted for a period of two years~~
7 ~~to comply with the provisions of Canon III.15.2(a), the Bishop may shall send the name of~~
8 ~~such Member of the Clergy to the Secretary of the House of Bishops of this Church, who~~
9 ~~shall keep a list of such Clergy, noting in each instance the date when each such name was~~
10 ~~added to the List or (ii) bring the case to the attention of the Standing Committee by written~~
11 ~~statement, whereupon the Standing Committee may institute an inquiry into the matter. If~~
12 ~~in the judgment of the Standing Committee there is sufficient reason for further~~
13 ~~proceedings, the Standing Committee shall present the offending Priest or Deacon for trial~~
14 ~~for violation of Ordination vows and these Canons.~~

Comment: Neither "whereabouts" nor "secular employment" would be additional prerequisites or conditions precedent to action under this Canon.

Further, this provision would now allow the Bishop to commence disciplinary proceedings in such cases as an alternate to the former Special List as a matter of discretion.

As to clergy who are not absent, but who fail to make an Annual Report, this can be dealt with directly by the Bishop and failure to so report would be a violation of the Canons and thus an Offense.

15 (b). On application either by the Bishop or ~~Member of the Clergy~~ *Priest or Deacon,*
16 or at the discretion of the Presiding Bishop, *with the approval of the Bishop of that*
17 *jurisdiction, such Member of the Clergy a Priest or Deacon now on the Special List of*
18 *Clergy maintained by the Secretary of the House of Bishops may be placed again on a*
19 *Diocesan Clergy Roll, with the approval of the Bishop of said jurisdiction.*

20 (c). A ~~Member of the Clergy~~ *Priest or Deacon* whose name remains upon the List of
21 the Secretary of the House of Bishops shall not be considered as canonically ~~connected~~
22 ~~with resident in a Diocese.~~

23 (d). Any ~~Member of the Clergy~~ *Priest or Deacon* whose name ~~shall have been added~~
24 ~~to the said is on the~~ List, as aforesaid, and who has not made an annual report on the
25 ~~Member of the Clergy's~~ *Priest or Deacon's* exercise of office to the Presiding Bishop for a
26 period of ~~ten~~ *five* years, may be considered to have abandoned the Ordained Ministry of
27 this Church. The Presiding Bishop may, in the exercise of discretion, *upon notice in*

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1 *accordance with Canon IV.14, in the presence of two Presbyters, pronounce Sentence of*
2 *Deposition upon ~~such Member of the Clergy the Priest or Deacon,~~ and authorize the*
3 *Secretary of the House of Bishops to strike the name from the List and to give notice of the*
4 *fact to the Priest or Deacon and as provided in Canon IV.12.4**(b)**.*

5 *(e). A Priest or Deacon whose name remains upon the List of the Secretary of the*
6 *House of Bishops shall be Amenable for an Offense in either the Diocese wherein the*
7 *Offense has occurred or the Diocese in which the Priest or Deacon was canonically*
8 *resident immediate prior to being added to the List.*

Comment: Section (e) covers a loophole in the present Canons wherein there may be a theoretical failure of jurisdiction available for Presentment and trial.

9 **CANON 12.**

10 Of Sentences

11 Sec. 1(a). ~~There shall be~~ *The three sentences which may be adjudged by a Trial Court and*
12 *imposed; namely, are Admonition, Suspension, or Deposition.*

Comment: The last sentence of former Canon IV.1.1. has been incorporated here.

13 *(b). A Sentence of Admonition may be imposed (i) after the filing of a Waiver and*
14 *Voluntary Submission under Canon IV.2, or (ii) after final Conviction by a Trial Court.*
15 *This Sentence shall be a public Reprimand of the Member of the Clergy for the acts of*
16 *which convicted after Trial or as set forth in the filing of the Waiver and Voluntary*
17 *Submission.*

Comment: This is a new provision. As clergy conduct comes under greater scrutiny and is being subject to ever more formal resort to discipline, it is proposed that a Sentence which publicly deals with the reprimand and censure of a Member of the Clergy who has offended be added. A singular event may have taken place requiring ecclesiastical discipline, but which, on balance, is not so egregious in light of that person's total ministry as to warrant a lengthy Suspension (a hardship on a congregation) or Deposition from the sacred ministry.

Further, this provision harmonizes Article IX of the Constitution with this Title.

18 *(c)(1). A Sentence of Suspension may be imposed (a) after ~~filing the acceptance of a~~*
19 *Waiver and Voluntary Submission under Canon ~~IV.12.4(d)~~ IV.2, or (ii) after final*
20 *Conviction by a Trial Court, ~~or (b) by the filing of a waiver under Canon IV.12.4(d).~~*

21 *(2). Whenever the ~~penalty~~ Sentence of Suspension shall be ~~inflicted~~ adjudged and*
22 *imposed on a Member of the Clergy, ~~Bishop, Presbyter, or Deacon, in this Church,~~ the*
23 *Sentence shall specify on what terms and on what conditions and at what time the ~~penalty~~*
24 *Suspension shall cease.*

25 *(3). Where a Sentence is to be adjudged and pronounced, as a condition of the*
26 *acceptance discipline under a Waiver and Voluntary Submission, the Ecclesiastical*
27 *Authority may require the resignation of the Priest or Deacon from ecclesiastical and*

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1 *related secular offices held by that Priest or Deacon upon such terms and conditions as the*
2 *Ecclesiastical Authority may deem to be appropriate, just and proper.*

Comment: Suspension after Voluntary Submission to Discipline under Canon IV.2. has been added.

The second paragraph of clause (c) was formerly IV.12.2 and conforms to the requirements of Article IX of the Constitution.

3 *(4). The Suspension of a Member of the Clergy from the exercise of the Sacred*
4 *Ministry shall not terminate the rights and privileges of the Member of the Clergy so*
5 *suspended as Rector of a Parish nor shall such Suspension terminate any rectorship.*
6 *Provided, however, religious services and sacramental ministrations shall be provided for*
7 *that Parish as though a vacancy exists in the office of the Rector. This Section shall not*
8 *prohibit the application of Canon III.21.*

Comment: This provision has been added to state the historic position of the Church on the effect of suspension of Rectors.

However, this provision does not prohibit the application of the Canon on the Dissolution of the Pastoral Relationship.

9 *(d)(1). A Sentence of Deposition may be imposed (ai) after filing the acceptance of a*
10 *Waiver and Voluntary Submission under Canon IV.12.4(d) IV.2, (ii) after final Conviction*
11 *by a Trial Court, (b) after the filing of a waiver under Section 4(d) of Canon IV.12, (eiii)*
12 *when there has been a renunciation under Canon IV.8 in cases where there may be a*
13 *question of a foregoing misconduct or irregularity on the part of the Member of the Clergy,*
14 *or (div) upon the abandonment of the communion of the Church as set forth in Canons IV.9*
15 *and IV.10, or (v) by the Presiding Bishop pursuant to Canon IV.11.3(d).*

Comment: Deposition after Voluntary Submission to Discipline under Canon IV.2. has been added. In addition, Abandonment of Communion by a Bishop has been included for consistency as has the authority of the Presiding Bishop as to clergy on the "special list".

16 *(2). Upon the pronouncement of a Sentence of Deposition, after Trial or after the*
17 *acceptance of a Waiver and Voluntary Submission to discipline, all ecclesiastical offices*
18 *held by the Member of the Clergy deposed, including a rectorship and all ecclesiastical*
19 *and related secular offices, shall be immediately terminated and vacated.*

Comment: This provision has been added to state the historic position of the Church on the effect of the Deposition of a Member of the Clergy. The Deposition from Holy Orders is sufficient to disqualify the Member of the Clergy from all offices held based upon ordination.

Also, this provision is intended to clarify any ambiguity as to whether or not additional canonical action such as a Dissolution of the Pastoral Relation under the Canons or a civil action under state statute to discharge a corporate officer is required.

20 *(3). A Member of the Clergy deposed from the Sacred Ministry is deposed therefrom*
21 *entirely from the Sacred Ministry, and not from a higher to a lower Order in the same.*

Comment: This is present Canon IV.12.3 as revised.

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1 *Sec. 2. A Sentence after final Conviction by a Trial Court shall be adjudged by the Trial*
2 *Court.*

Comment: This provision is drawn from former Canons IV.1.1. and IV.12.4(a) and set apart so as to clearly state that it is the Trial Court which adjudges the Sentence after Trial. Thereafter, it is the Bishop who pronounces the Sentence adjudged or a lesser Sentence.

3 *Sec. 3. The Bishop shall both adjudge and pronounce Sentence upon a Priest or Deacon*
4 *(i) after the acceptance of a Waiver and Voluntary Submission under Canon IV.2, (ii) when*
5 *there has been a renunciation under Canon IV.8, or, (iii) upon the abandonment of the*
6 *communion of the Church as set forth in Canon IV.10.*

Comment: This section is new and is intended to clarify the situation where there is no Verdict by a Trial Court. In such cases, the Bishop both adjudges and pronounces Sentence.

7 *Sec. 4(a). If a ~~Presbyter~~ Priest or Deacon is liable to Sentence upon Conviction by a Trial*
8 *Court or upon affirmance of ~~such~~ the Conviction by a Court of Review, Sentence shall be*
9 *imposed by the Bishop of the ~~jurisdiction~~ Diocese in which the original trial of the Accused*
10 *was had, or in case ~~such~~ that Bishop is disqualified or there be no Bishop of that*
11 *jurisdiction, by another Bishop ~~by~~ at the request of ~~its~~ the Standing Committee of that*
12 *Diocese.*

Comment: This provision is the first portion of former Canon IV.12.4(a) as revised.

13 *(b). If a Priest or Deacon is liable to Sentence upon voluntary submission to*
14 *discipline under Canon IV.2, Sentence shall be imposed by the Bishop to whom the*
15 *submission was made.*

Comment: This provision is new and completes the process of voluntary submission to discipline.

16 *(c). If a Priest or Deacon is liable to Sentence upon renunciation of the ministry of*
17 *this Church under Canon IV.8, Sentence shall be imposed by the Bishop of the Diocese in*
18 *which the Accused is canonically resident, or in case there be no Bishop of that*
19 *jurisdiction, by another bishop at the request of the Standing Committee of the Diocese.*

Comment: This provision is patterned after present Canon IV.12.4(b), added to clarify which bishop is to Sentence after renunciation and expresses the polity of the Church.

20 *(d). If a Priest or Deacon is liable to Sentence upon abandonment of the communion*
21 *of this Church under Canon IV.10, Sentence shall be imposed by the Bishop of the Diocese*
22 *in which the Accused is canonically resident, or in case there be no Bishop of that*
23 *jurisdiction, by another bishop at the request of the Standing Committee of the Diocese.*

Comment: This provision is patterned after present Canon IV.12.4(b), added to clarify which bishop is to Sentence after abandonment and expresses the polity of the Church.

1 Sec. 5. No Sentence shall be pronounced by a Bishop upon a Priest or Deacon after final
2 Conviction by a Trial Court until an opportunity has been given to the Accused, either on
3 conviction or on confession to show cause, if any, why Sentence should not be pronounced
4 and to offer any matter in excuse or palliation mitigation for the consideration of the
5 Bishop to pronounce sentence.

Comment: This is former IV.12.5 as revised for clarification.

Further, now that Canon IV.2. controls the voluntary submission to discipline, the confession and Waiver and Voluntary Submission of present Canon IV.12.4(d) is incorporated therein. It is to be presumed that excuse and mitigation would be all a part of the submission to discipline process and that further opportunity for the same should not be required as a matter of right.

Nothing in the Canon prevents a Bishop from considering any new information prior to sentencing and the Bishop has the right to pronounce a lesser Sentence up to the pronouncement of the sentence.

6 Sec. 6. It shall be lawful for the Bishop of the jurisdiction or for such other Bishop to
7 pronounce a lesser Sentence upon a Priest or Deacon than that adjudged by the Trial
8 Court, if that the Bishop so choose.

Comment: This is the last portion of the first sentence of present Canon IV.12.4(a) as revised.

9 Sec. 7. The Bishop who is to ~~aet~~ pronounce Sentence upon a Priest or Deacon after final
10 Conviction by a Trial Court shall appoint a time and place for pronouncing such the
11 Sentence and shall cause notice thereof in writing to be served upon the Accused in the
12 manner provided in Canon IV.14.17 ~~at least thirty days before the time appointed.~~

Comment: This is the last sentence of present Canon IV.12.4(a) as amended for clarity and consistency.

13 Sec. 8. ~~Sec. 4(b). In the case of renunciation of the Ministry by a Minister as provided in~~
14 ~~Canon IV.8, and in the case of abandonment of the communion of this Church by a~~
15 ~~Presbyter or Deacon as provided in Canon IV.10, sentence of removal or Sentence of~~
16 ~~Deposition imposed on a Priest or Deacon shall be pronounced in the presence of two or~~
17 ~~more Presbyters Priests, and shall be entered in the official records of the Diocese in which~~
18 ~~the Presbyter or Deacon being removed or deposed is canonically resident. The Bishop~~
19 ~~who pronounces sentence of removal or Deposition as provided in Canon IV.8 or IV.10~~
20 ~~shall give notice thereof in writing to the Presiding Bishop, the Recorder, the Secretary of~~
21 ~~the House of Deputies, and The Church Pension Fund. In giving such notice the Bishop~~
22 ~~who pronounces sentence of removal or Deposition may request, while stating the reasons,~~
23 ~~that the sentence be held in confidence until the regular date of the next ensuing publication~~
24 ~~of the List of ordained Clergy of this Church. Unless the Presiding Bishop shall disapprove~~
25 ~~in writing, within thirty days, of the granting of the request that the sentence be held in~~
26 ~~confidence, those notified as above provided of the sentence of removal or Deposition shall~~
27 ~~not publish or give notice of the same, but shall record the sentence in confidence in the~~
28 ~~official records kept by each of those to whom notice is sent as above provided.~~

Comment: This amendment to the present Canon IV.12.4(b) states the formality of the act of Deposition.

References to "removal" have been deleted as this is now covered in Title III as renunciation without misconduct is an administrative matter and not one of discipline and the concern for confidentiality in such a case is considered there.

The notification process has been combined in the proposed revised new Section 9.

- 1 ~~Sec. 4 (c). If the sentence to be pronounced upon a Presbyter or Deacon be deposition, the~~
2 ~~Bishop acting in the matter shall pronounce and record the same in the presence of two or~~
3 ~~more Presbyters.~~

Comment: This section is now included generically in proposed Canon IV.12.8. and is surplusage.

- 4 ~~Sec. 4(d). In case an accused Presbyter or Deacon confesses the truth of the charges made~~
5 ~~against him, and in writing waives the right to a trial and submits himself to disciplinary~~
6 ~~action, the Bishop may in his discretion proceed at once to pronounce sentence.~~

Comment: This section is now included in the concept of voluntary submission to discipline in proposed Canon IV.2.

- 7 ~~Sec. 9. (e). After a Presbyter or Deacon shall have been convicted by a Trial Court of a~~
8 ~~crime or immorality rendering him liable to canonical sentence, the Bishop of the Diocese~~
9 ~~shall have the right to inhibit him from all public ministration. Such inhibition shall~~
10 ~~continue until a final judgment upon the case. When the Sentence is pronounced is of a~~
11 ~~Suspension or Deposition, the Bishop who pronounces the same it shall without delay give~~
12 ~~notice thereof without delay in writing to every Member of the Clergy, and each Vestry~~
13 ~~and the Secretary of the Convention and the Standing Committee in of the Diocese in which~~
14 ~~the accused person so sentenced was canonically resident and in which the Sentence is~~
15 ~~pronounced, which shall be added to the official records of each Diocese; to the Presiding~~
16 ~~Bishop, to all the other bishops of the this Church, and where there is no Bishop, to the~~
17 ~~Standing Committee of the Diocese to the Ecclesiastical Authority of each Diocese of this~~
18 ~~Church; to the Recorder; and to the Secretary of the House of Bishops, who shall deposit~~
19 ~~and preserve such the notice among the archives of the House. The notice shall specify~~
20 ~~under what Canon the said Member of the Clergy Priest or Deacon has been suspended or~~
21 ~~deposed.~~

Comment: This is former Canon IV.12.4(e) as revised for clarification and combines the notification provisions of present Canon IV.12.4(b).

The first sentence is deleted as this matter is now covered in proposed Canon IV.1.4.

As to clergy suspended or deposed for offenses or for abandonment of communion, no need is seen for the confidentiality mandated by the previous Canons. Rather, the Church and persons dealing with the Church and its ministry are better served by the Church authorities having prompt knowledge

that such clergy no longer act with the authority of this Church or with the trust imposed in them by their ordinations.

1 Sec. 6 10. When a bishop is liable to Sentence under a judgment of a Trial Court or under
 2 a judgment of a Court of Review of the Trial of a Bishop on an appeal to ~~said~~ the Court of
 3 Review, the Sentence to be imposed *shall be one of the Sentences specified in Canon*
 4 *IV.12.1, the Presiding Bishop to pronounce ~~the same~~ it, and the procedure to be followed in*
 5 *imposing Sentence shall be as provided in the several Canons governing the procedure of*
 6 *~~said~~ those Courts.*

7 Sec. 7 11. In the case of the Suspension or Deposition of a Bishop, it shall be the duty of
 8 the Presiding Bishop to give notice of the ~~same~~ *Sentence* to the Ecclesiastical Authority of
 9 every Diocese of this Church, ~~and~~ to the Recorder and the Secretary of the House of
 10 Bishops, ~~and~~ to all Archbishops and Metropolitans, and *to* all Presiding Bishops of
 11 Churches in communion with this Church.

12 Sec. 8 12. A bishop: (i) *convicted in a criminal Court of Record of a Crime involving*
 13 *Immorality, (ii) against whom a judgment has been entered in a civil Court of Record in a*
 14 *cause involving Immorality, or (iii) found guilty upon a Presentment for a Crime, ~~or~~ for*
 15 *Immorality, for holding and teaching publicly or privately, and advisedly, any doctrine*
 16 *contrary to that held by this Church, or for Conduct Unbecoming a Member of the Clergy*
 17 *shall not, on the Conviction, the rendering of ~~such~~ the judgment or the finding of guilty, and*
 18 *while the ~~same~~ Conviction or judgment continues unreversed, perform any episcopal, ~~or~~*
 19 *ministerial or canonical functions, except ~~such as~~ those that relate to the administration of*
 20 *the temporal affairs of ~~that Bishop's~~ the Diocese in which the bishop holds jurisdiction or in*
 21 *which the bishop is then serving.*

Comment: This amendment expands the matters which mandate that a bishop cease episcopal and ministerial activity pending final disciplinary proceedings to include other and equally weighty Offenses and situations. Under present Canon, a Bishop convicted in a secular court of a heinous Crime, would not have to cease the episcopal ministry until after Conviction and review by the Church Court, which is a long and drawn out process.

Inasmuch as the prior language implies that this Section might only apply to a Diocesan Bishop, language has been added to include in the purview of this Section Coadjutor Bishops, Suffragan Bishops, Assistant Bishops and assisting Bishops.

Given the multiplicity of diocesan and civil jurisdictions represented in this Church, wherein diocesan bishops hold many offices of a temporal nature by virtue of their office, it would not be prudent to attempt to provide for a blanket restriction on the performance of temporal affairs.

22 Sec. 13. *The Suspension of a bishop from the exercise of the Sacred Ministry shall not*
 23 *terminate any episcopal office held by that bishop but may by its terms suspend episcopal,*
 24 *ministerial or canonical functions, except as relate to the administration of the temporal*
 25 *affairs of the Diocese of which the bishop holds jurisdiction or in which the bishop is then*

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1 *servng. The application of this Canon shall not affect the right to terminate the term of an*
2 *assistant bishop.*

Comment: New provision. This provision is to clarify the effect of a Sentence of Suspension on a Bishop and provides that a sentence of Suspension could be crafted to respond to the unique circumstances in each case.

Further, this provision makes clear that the termination of the office of an assistant bishop who could be otherwise terminated is not barred by this provision.

3 CANON 13.

4 Of the Remission or Modification of ~~Judicial~~ Sentences

Comment: The proposed revisions are primarily for clarity and are not intended to effect material changes in substance.

5 Sec. 1. The House of Bishops may remit and terminate any judicial Sentence which may
6 have been imposed upon a bishop, or modify the same so far as to designate a precise
7 period of time, or other specific contingency, on the occurrence of which ~~such~~ *the* Sentence
8 shall utterly cease, and be of no further force or effect; provided, that no such Remission or
9 modification shall be made except at a meeting of the House of Bishops, during the session
10 of some General Convention, or at a special meeting of the House of Bishops, which shall
11 be convened by the Presiding Bishop on the application of any five bishops, *after* three
12 months' notice in writing of the time, place, and object of the meeting being given to each
13 bishop; provided, also, that ~~such~~ *the* Remission or modification be assented to by not less
14 than a majority of the bishops; and provided, that nothing herein shall be construed to
15 repeal or alter the provisions of Canon IV.12.

16 Sec. 2(a). A Bishop ~~of the Church~~ who deems the reasons sufficient may, ~~and~~ with the
17 advice and consent of two-thirds of all the members of the Standing Committee, remit and
18 terminate a Sentence of Suspension pronounced in that Bishop's jurisdiction upon a
19 ~~Member of the Clergy Priest or Deacon.~~

20 (b). A Bishop who deems the reasons sufficient may also remit and terminate any
21 Sentence of ~~removal or~~ Deposition pronounced in the Bishop's jurisdiction upon a ~~Member~~
22 ~~of the Clergy Priest or Deacon,~~ but shall exercise this power ~~in the case of the Removal or~~
23 ~~Deposition~~ only upon the following conditions:

24 (1). That the ~~aet~~ *Remission* shall be done with the advice and consent of two-thirds of
25 all the members of the Standing Committee;

26 (2). That the proposed ~~action~~ *Remission*, with the reasons therefor, shall be submitted
27 to the judgment of five of the bishops of this Church whose Dioceses are nearest to the
28 Bishop's own, and *the Bishop* shall receive in writing from at least four of the ~~said~~ bishops,
29 their approval of the ~~said~~ *Remission*, and their consent thereto.

30 (3). That before ~~remitting such Sentence~~ *such Remission*, the Bishop shall require the
31 person so Removed or Deposed, who desires to be restored to the Ordained Ministry, to
32 subscribe to the declaration required in Article VIII. of the Constitution.

1 Sec. 3. In case ~~such~~ the person was Deposed for abandoning the communion of this
2 Church, or ~~having been~~ was Deposed or Removed by reason of his renunciation of or
3 release from the exercise of the Office of ~~Presbyter~~ Priest or Deacon, or for other causes,
4 ~~such~~ the person also having also abandoned its communion, the Bishop before granting
5 ~~such~~ the Remission, shall be satisfied that ~~such a~~ the person has lived in lay communion
6 with this Church for *not less than* one year next preceding application for ~~such~~ the
7 Remission.

8 Sec. 4. In case the person applying for ~~such~~ Remission shall be ~~domiciled beyond~~ residing
9 *other than in* the Diocese in which Removed or Deposed, the Bishop to whom application
10 *has been made*, before granting ~~such~~ the Remission, shall be furnished with written
11 evidence of the approval of ~~such~~ the application with the reasons therefor ~~by~~ from the
12 Bishop of the Diocese in which ~~such~~ the person is ~~domiciled~~ then residing.

13 Sec. 5. A Bishop who shall ~~remit and terminate~~ grant Remission for any Sentence of
14 Removal or Deposition shall, without delay, give due notice thereof under the Bishop's
15 own hand, sending ~~said~~ the notice in a sealed envelope to every Member of the Clergy, each
16 Vestry, the Secretary of the Convention and the Standing Committee of the Diocese, which
17 shall be added to the official records of the Diocese; to the Presiding Bishop, to all other
18 Bishops of the this Church, and where there is no Bishop, to the Ecclesiastical Authority of
19 each Diocese of this Church; to the Recorder; and to the Secretary of the House of Bishops
20 and Secretary of the House of Deputies, who shall deposit and preserve the notice among
21 the archives of those Houses ~~the Ecclesiastical Authority of every Diocese of this Church,~~
22 ~~and to the Recorder~~, giving, with the full name of the person restored, the date of the
23 Removal or Deposition, and the Order of the Ministry to which that Member of the Clergy
24 person is restored.

25 **CANON 14**

26 *Of General provisions Applicable to this Title*

<p>Comment: This is a new Canon which is designed to organize in one place within the Title the general principles and rules that shall apply to matters of ecclesiastical discipline. The revision attempts to set forth the Church's understanding of its polity as well as the relationship of Holy Orders and the right of an Accused to some fair and reasonable degree of due process in such matters.</p>

27 *Sec. 1. Ecclesiastical Nature. Disciplinary proceedings under this Title are neither civil*
28 *nor criminal, but ecclesiastical in nature and represent determinations by this Church of*
29 *who shall serve as Members of the Clergy of this Church and further represent the polity*
30 *and order of this hierarchical Church. Clergy who have voluntarily sought and accepted*
31 *ordination in this Church have given their express consent and subjected themselves to the*
32 *discipline of this Church and may not claim in proceedings under this Title constitutional*
33 *guarantees afforded to citizens in other contexts.*

Comment: New section. This section is intended to state conclusively the independent and ecclesiastical nature of the disciplinary Canons and incorporates the constitutional bar to inquiry by secular courts.

1 *Sec. 2. Resort to secular courts. No Member of the Clergy of this Church may resort to*
2 *the secular courts for the purpose of delaying, hindering or reviewing any proceeding*
3 *under this Title.*

Comment: New section.

4 *Sec. 3. Review of proceedings by secular courts. No secular court shall have authority to*
5 *review, annul, reverse, restrain or otherwise delay any proceeding under this Title.*

Comment: New section. This section states the Church's position as to the involvement of secular courts in ecclesiastical disciplinary affairs.

6 *Sec. 4. Limitations of Actions. (a) No Presentment shall be made for any Offense specified*
7 *in Canon IV.1.1 that constitutes (a) Crime, (b) Immorality or (j) Conduct Unbecoming a*
8 *Member of the Clergy, unless the Offense was committed within, or continued up to, five*
9 *years immediately preceding the time of receipt of a Charge by the Standing Committee or*
10 *the Presiding Bishop except: (i) in the case of a conviction of the Accused in a criminal*
11 *Court of Record or a judgment in a civil Court of Record in a cause involving Immorality,*
12 *a Presentment may be made at any time within one year after the conviction or judgment*
13 *becomes final; (ii) in a case where the alleged Victim was a minor at the time of the*
14 *Offense, a Charge may be made at any time prior to the alleged Victim's attaining the age*
15 *of twenty-three years; or (iii) if a alleged Victim entitled to bring a Charge is otherwise*
16 *under a disability at the time the Offense occurs, or (iv) if the Offense is not discovered or*
17 *its effects realized during the five years immediately following the date of the Offense, the*
18 *time within which the Charge shall be received by the Standing Committee shall be*
19 *extended to two years after the disability ceases or the alleged Victim discovers or realizes*
20 *the effects of the occurrence of the Offense, provided, however, in the case of clauses (iii)*
21 *or (iv) above, the time within which the Charge shall be received by the Standing*
22 *Committee shall not be extended beyond ten years from the date the Offense was committed*
23 *or continued.*

Comment: Former Canon IV.1.4. with extensive revision. The text is shown as new matter and not in legislative form. Prior to this revision an absolute five year limitation from the date of the event was in effect.

New provisions have been added to extend the time limitation where the Victim was a minor at the time of the Offense to the age of twenty-three years; for those under a disability for two years after the disability ceases; and for two years after the discovery or realization of the Offense. Thus, these Victims have a reasonable opportunity to instigate a Charge for an Offense that might have occurred during minority.

A ten-year period from the Offense is provided in cases of cessation of disability or discovery as a fair trade off to the due process to be accorded the clergy and as a recognition of the fact that this Church has neither subpoena nor

contempt powers to assist its Courts in the fair administration of the Church's discipline.

Where there are criminal or civil proceedings actively ongoing before secular courts, which have powers to enforce testimony, hold parties in contempt and an established enforcement process, Members of the Clergy are not subjected to prejudice if the Church awaits the outcome of such proceedings.

The age of twenty-three years was arbitrarily selected inasmuch as there is a wide disparity between the several states as to when a minor reaches majority and is relieved of the legal disability to bring suit, etc.

1 (b). *No Presentment shall issue for any Offense specified in Canon IV.1.1. (c), (d), (e),*
2 *(f), (g), (h) or (i) unless the Offense was committed within, or continued up to, two years*
3 *immediately preceding the time of the Charge is filed with the Standing Committee.*

Comment: New section. This is a new provision to reduce the limitation to two years for Offenses that are not based upon Crime, Immorality or misconduct.

4 (c). *Periods in which the Accused is in the custody of secular authorities shall be*
5 *excluded in computing the period of limitation prescribed in this Canon, if that custody*
6 *would prevent the Accused from participating in an Ecclesiastical Trial.*

Comment: New section. This new provision extends the statute limitations so that a balance can be struck between an Accused right to participate at the trial and the Church's need to discipline its clergy.

7 *Sec. 5. Materiality. In order for the Offenses specified in Canon IV.1.1. (d), (e), (f) and (g)*
8 *to be considered for Presentment, the Offense complained of must be intentional, material*
9 *and meaningful as determined by the Standing Committee.*

Comment: New section. This provision is intended to clearly establish that these Offenses, which do not contemplate Crime, Immorality or misconduct, must not be trivial but be important enough for the Church to invoke the grave remedy of its discipline.

10 *Sec. 6. Time. (a). Computation. In computing any period of time the day of the act or*
11 *event from which the designated period of time begins to run shall not be included. The*
12 *last day of the period shall be included, unless it is a Saturday, a Sunday or a legal holiday*
13 *in that jurisdiction, in which event the period runs until the end of the next day which is not*
14 *a Saturday, a Sunday or a legal holiday in that jurisdiction.*

15 (b). *Additional Time after Service by Mail. Whenever a party has the right or is*
16 *required to do an act within a prescribed period after the service of a notice or other*
17 *paper, if service is served by mail, three days shall be added to the prescribed period.*

Comment: New section.

18 *Sec. 7. Quorum. In all cases in this Title where a Canon directs a duty to be performed or*
19 *a power to be exercised, by the Standing Committee or by the Clerical members thereof, by*
20 *a Trial Court or by any other body consisting of several members, a majority of the*
21 *members, the whole having been duly cited to meet, shall be a quorum; and a majority of*

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1 *the quorum so convened shall be competent to act, unless otherwise expressly required by*
2 *Canon.*

Comment: This Section is patterned after Canon I.12.2.

3 *Sec. 8. Influencing proceedings. No person subject to the authority of this Church may*
4 *attempt to coerce or by any other means influence, directly or indirectly, the actions of the*
5 *Standing Committee, an Ecclesiastical Trial Court, any other Court or Board of Inquiry*
6 *provided for in these Canons, or any member thereof or any person involved in such*
7 *proceedings in reaching the issuance of any Presentment or the findings, Verdict or*
8 *Sentence of any Trial Court or any review thereof. The foregoing provisions shall not*
9 *apply with respect to (i) statements and instructions given by the Church Advocate, the*
10 *Accused, or counsel for an Accused to the Standing Committee prior to Presentment or to*
11 *the Ecclesiastical Trial Court, or by Lay Assessors of any Court, (ii) sworn instruments*
12 *submitted by witnesses or experts during the course of any disciplinary proceedings, or (iii)*
13 *written statements submitted and offered in excuse or mitigation.*

Comment: New section. This provision is intended to make absolutely clear the need to avoid any undue influence on participants in a disciplinary proceeding so that the Accused receives fair and impartial treatment throughout.

14 *Sec. 9. Involuntary Statements. (a). No person proceeding under the authority of this Title*
15 *may interrogate, or request a statement from, an Accused or a person suspected of an*
16 *Offense without first informing that person of the nature of the accusation and advising*
17 *that person that no statement need be made regarding the Offense of which the Accused is*
18 *accused or suspected and that any statement so made may be used in evidence against that*
19 *person in any Ecclesiastical Trial.*

20 *(b). No Accused or a person suspected of an Offense may be compelled to incriminate*
21 *himself or herself or respond to any question the answer to which may tend to incriminate*
22 *him or her or to testify against himself or herself in any proceedings under this Title.*

23 *(c) No statement obtained from any person in violation of this Canon, or through the*
24 *use of coercion, undue influence or improper inducement may be received in evidence*
25 *against that person in a Trial under this Title.*

Comment: New section. This provision extends the protection against self-incrimination to Church discipline.

26 *Sec. 10. Former jeopardy. No Member of the Clergy may be Presented or tried a second*
27 *time under this Title for the same Offense, or after Waiver and Voluntary Submission to*
28 *discipline, without the Member of the Clergy's consent.*

Comment: New section. This provision extends the protection against double jeopardy to Church discipline.

29 *Sec. 11. Relationship to parties. Any member of any Board of Inquiry or any Court*
30 *provided for in this Title (i) who is related to the Accused by blood or marriage, (ii) who*
31 *has knowledge of essential facts involved in the matter, (iii) who has a close personal or*
32 *professional relationship with the Accused, any alleged Victim, or any witness in the*

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1 matter, or (iv) who reasonably believes himself or herself unable to render a fair and
2 independent judgment, shall be disqualified and excused from service in connection with
3 the matter.

Comment: Former Canon IV.3.18(a) as revised.

4 *Sec. 12. Presumption of Innocence. An Accused must be presumed innocent until the guilt*
5 *of the Accused is established.*

Comment: New section.

6 *Sec. 13. Standard of Proof. The standard of proof required to convict an Accused by an*
7 *Ecclesiastical Trial Court of the Offenses specified in Canon IV.1 shall be that of Clear*
8 *and Convincing evidence.*

Comment: New section. This establishes as a matter of Canon law the standards of proof required to be met for a Conviction. Previously, the standard of proof had heretofore been inferred from decisions of trial courts and Courts of Review and that adopted for all cases had been the highest standard of beyond a reasonable doubt.

The "criminal" standard of proof of beyond a reasonable doubt is rejected by this revision in favor of a more lenient standard of clear and convincing proof.

Without the power to subpoena witnesses and documentary evidence and lacking the contempt power, the criminal standard is deemed no longer appropriate.

The less rigorous standard of clear and convincing proof is proposed for all Offenses.

9 *Sec. 14. Burden of Proof. The burden of proof to establish the guilt of an Accused is*
10 *upon the Church Advocate.*

11 *Sec. 15. Roles of Chancellors, Vice Chancellors, etc. The Chancellors and Vice*
12 *Chancellors of the Dioceses are legal advisors to Bishops or other Ecclesiastical*
13 *Authorities (except Standing Committees during a Presentment proceeding). Once a*
14 *Charge has been filed with a Standing Committee, Chancellors and Vice Chancellors shall*
15 *have no further or other role in the investigation, hearing or determination of the Charges,*
16 *the issuance of Presentments or the conduct of Trials on the Presentments, until the*
17 *Presentment proceedings or Trials are terminated in accordance with these Canons. The*
18 *Chancellors and Vice Chancellors may participate in any of these proceedings as*
19 *witnesses, may advise Bishops on matters involving Waiver and Voluntary Submission to*
20 *Discipline arising out of the Charges or Presentments, may investigate and advise on*
21 *matters concerning Accuseds as to other acts or conduct not contained in the Charges or*
22 *Presentments then under prosecution, and at all times may provide advice to the Bishop as*
23 *to all such proceedings.*

Comment: New section. Just as the Bishops should remain far from the disciplinary process, it is intended that the Chancellors should not have any

adversarial interest in the Presentment and Trial proceedings so that the Chancellor's advice to the Bishop should be impartial at all times.

The intention is that Chancellors not be involved in the formal Presentment and Trial proceedings, except as witnesses, as provision has been made for legal assistance to Standing Committees and Trial Courts through the offices of Church Advocates and Lay Assessors. Chancellors are not limited in their advisory and investigative roles as to other matters that may affect the same Accused which are not the subject of the pending Charges or Presentments.

1 *Sec. 16. Amenability.* Bishops, ~~Presbyters~~ Priests, and Deacons are Amenable for Offenses
2 committed by them; a Bishop to a Court of Bishops, and a ~~Presbyter~~ Priest or Deacon to
3 the Ecclesiastical Authority of the jurisdiction in which the Priest or Deacon is canonically
4 resident at the time the Charge is made *or in which the Offense occurred.*

Comment: Former Canon IV.2.1 as revised.

5 *Sec. 17. Service of Notices and Citations.* (a). A notice or Citation required by any law
6 of this Church to any ~~Bishop, Presbyter, or Deacon~~ Member of the Clergy to appear, at a
7 certain time and place for the Trial of an Offense, shall be deemed to be duly served ~~upon~~
8 ~~him~~ if a copy thereof be ~~given personally delivered to the person to be served, or be left at~~
9 ~~the person's usual place of abode within the United States as to persons Canonically~~
10 ~~resident in the United States, or as to persons Canonically resident in countries or~~
11 ~~territories other than the United States at the person's usual place of abode within the~~
12 ~~country or territory of residence with a person of suitable age and discretion, or be mailed~~
13 ~~by certified mail return receipt requested to the person's usual place of abode within the~~
14 ~~United States or by similar mail service if mailed in a country other than the United States,~~
15 ~~at least sixty days before the day of appearance named therein, and in case such the Bishop,~~
16 ~~Presbyter, or Deacon~~ Member of the Clergy has departed from the United States or ~~other~~
17 ~~country or territory of Canonical Residence and has not been duly served, if a copy of such~~
18 ~~the Citation be also published once a week for six four successive weeks in such newspaper~~
19 ~~printed in the jurisdiction in which the Bishop, Presbyter, or Deacon~~ Member of the Clergy
20 is cited to appear as the Ecclesiastical Authority shall designate, the last publication to be
21 ~~six three~~ months before the ~~said~~ day of appearance. Acceptance of service will render
22 unnecessary any further process of Citation.

Comment: This is former Canon IV.2.2 as revised.

23 (b). A notice or Citation, other than those above mentioned, required by any law of
24 this Church, when no other mode of service is provided, may be served personally, or by
25 ~~registered mail certified mail return receipt requested~~, addressed to the person to be served,
26 at the person's last known place of residence, or by leaving a copy at the person's last usual
27 place of abode within the United States *as to persons who are Canonically resident in the*
28 *United States, or at the person's last known usual place of abode in a country or territory*
29 *other than the United States where the person is Canonically resident, with a person of*
30 *suitable age and discretion.*

Comment: This is former Canon IV.2.3 as revised.

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1 *Sec. 18. Duty to Attend and Give Evidence. It is hereby declared to be Except as otherwise*
2 *expressly provided by this Title, it is the duty of all members of this Church to attend and*
3 *give evidence, when duly cited in any Ecclesiastical Trial or investigation conducted under*
4 *the authority of this Church.*

Comment: Former Canon IV.2.4 as revised.

Of course, this provision does not in any way revoke or modify the Rubrics of the *Book of Common Prayer* as to the secret nature of the Rite of The Reconciliation of a Penitent.

5 *Sec. 19. Alternate Ecclesiastical Trial Court. In the event that a Diocese cannot convene*
6 *an Ecclesiastical Trial Court due to vacancies, declinations to act, absences, resignations,*
7 *challenges or otherwise, the Ecclesiastical Authority shall arrange for the Trial to be held*
8 *by an Ecclesiastical Trial Court of another diocese of that Province reasonably convenient*
9 *for the parties. The reasonable expenses of the Alternate Ecclesiastical Trial Court shall*
10 *be the responsibility of the Diocese from which the Presentment has issued.*

Comment: New provision.

11 *Sec. 20. Expenses of Parties and Costs of Proceedings. Except as expressly provided in*
12 *this Title, all costs and expenses of the several parties shall be the obligation of the party*
13 *incurring them. The record of proceedings of a Diocesan Ecclesiastical Trial Court shall*
14 *be the expense of the Diocese. The record of proceedings of a Court of Review of a Trial of*
15 *a Priest or Deacon shall be the expense of the Province. The record of proceedings of a*
16 *Board of Inquiry, the Court for the Trial of a Bishop and the Court of Review of a Trial of*
17 *a Bishop shall be the expense of the General Convention.*

18 *Sec. 21. Absence, etc. of Presiding Bishop. If the Presiding Bishop should be absent,*
19 *under a disability rendering the Presiding Bishop unable to act, or otherwise disqualified,*
20 *except as expressly otherwise provided in this Title duties assigned to the Presiding Bishop*
21 *under this Title shall be performed by that Bishop who would be the next qualified*
22 *Presiding Officer of the House of Bishop.*

23 *Sec. 22. Effect of the Suspension of a Bishop. If the Bishop of a Diocese shall be subject to*
24 *a Sentence of Suspension, the body or person who would be the Ecclesiastical Authority of*
25 *that Diocese if there were no Bishop shall have authority to request episcopal assistance*
26 *and Episcopal Acts from another bishop of this Church.*

27 *Sec. 23. Privileged Communications. No Privileged Communication shall be allowed to*
28 *be disclosed unless the person making and claiming the Privileged Communication waives*
29 *the privilege. Further, the secrecy of a confession is morally absolute for the confessor,*
30 *and must under no circumstances be broken.*

31 *Sec. 26. Non-compliance with time limits set forth in this Title shall not be grounds for the*
32 *dismissal of any proceeding unless the non-compliance shall cause material and*
33 *substantial injustice to be done or seriously prejudice the rights of an Accused as*
34 *determined by the Court on motion and hearing.*

1 *Sec. 27. Former Sentence of Removal. Solely for the purposes of the application of these*
2 *Canons to persons who have received the pronouncement of the former sentence of*
3 *removal, the former sentence of removal shall be deemed to have been a Sentence of*
4 *deposition.*

Comment: Inasmuch as there may be persons upon whom a sentence of Removal has been pronounced under the former Canons, the Section is intended to help in interpreting that situation, especially in the event that the person should seek Remission of Sentence and Restoration to Holy Orders.

5 **CANON 15**

6 *Of Terminology used in this Title*

Comment: During the work on this Revision, it became quite apparent that words of art and terminology representing the polity of this Church were being used loosely, without definition, inconsistently or in a confusing manner. In an attempt to remedy this problem, this Canon providing for definitions and meanings is offered.

7 *Sec. 1. Except as otherwise expressly provided or unless the context otherwise requires, as*
8 *used in this Title the following terms and phrases shall have the following meanings:*

9 *"Acknowledged" shall mean the execution of an instrument in form sufficient to record a*
10 *deed in the jurisdiction wherein the instrument has been executed.*

11 *"Accused" shall mean a Member of the Clergy charged with an Offense.*

12 *"Admonish" shall mean to caution, advise or counsel against wrong practices or to warn*
13 *against the danger of an Offense.*

14 *"Admonition" shall mean after a Conviction, a censure or reprimand which is a public and*
15 *formal reproof of the conduct of a Member of the Clergy.*

16 *"All the members" shall mean the total number of members of the body provided for by*
17 *Constitution or Canon without regard to absences, excused members, abstentions or*
18 *vacancies.*

19 *"Amenable" shall mean subject, accountable, and responsible to the discipline of this*
20 *Church.*

21 *"Bishop" shall mean the bishop holding jurisdiction in that Diocese pursuant to Article II*
22 *of the Constitution of this Church and shall include a Bishop Coadjutor if specific*
23 *jurisdiction for matters contemplated by this Title have been assigned to the Bishop*
24 *Coadjutor pursuant to Canon III.22.2(a).*

25 *"Board of Inquiry" shall mean that body established under Canon IV.3(b) to investigate a*
26 *Charge against a bishop and, if warranted, to issue a Presentment.*

27 *"Canonically resident" shall mean the canonical residence or domicile of a Member of the*
28 *Clergy of this Church established by ordination or letters dimissory.*

29 *"Chancellor" shall mean a person appointed or elected to that office in a diocese, under its*
30 *Canons or otherwise by the Ecclesiastical Authority, and shall include Vice Chancellors or*
31 *similar legal officers.*

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1 *"Charge" shall mean a formal and Verified accusation against a Member of the Clergy that*
2 *the Member of the Clergy is guilty of an Offense specified in Canon IV.1.1.*

3 *"Church Advocate" shall mean (i) as to proceedings concerning Priests and Deacons, a*
4 *confirmed adult communicant of this Church in good standing, admitted to practice law*
5 *before the courts of the state in which the diocese is located and learned in Canon law,*
6 *appointed to investigate matters of ecclesiastical discipline on behalf of the Standing*
7 *Committee, to represent the Church in the prosecution of Presentments against Priests and*
8 *Deacons and to represent the Church in an appeal to the Court of Review of a Trial of a*
9 *Priest or Deacon; (ii) as to proceedings concerning bishops, a confirmed adult*
10 *communicant of this Church in good standing, admitted to practice before the courts of one*
11 *of the United States and learned in Canon law, appointed to investigate matters of*
12 *ecclesiastical discipline on behalf of a Board of Inquiry, to represent the Church in the*
13 *prosecution of Presentments against Bishops and to represent the Church in an appeal to*
14 *the Court of Review of a Trial of a Bishop. The Church Advocate shall not be*
15 *professionally related to a Chancellor or to the Chancellor to the Presiding Bishop or to a*
16 *Lay Assessor.*

17 *"Citation" shall mean a written direction from an Ecclesiastical Court to a member of this*
18 *Church or person subject to the jurisdiction of this Church to appear and give testimony*
19 *before that Ecclesiastical Court.*

20 *"Clear and Convincing" shall mean proof sufficient to convince ordinarily prudent people*
21 *that there is a high probability that what is claimed actually happened. More than a*
22 *preponderance of the evidence is required but not proof beyond a reasonable doubt.*

23 *"Clerk of the Court" shall mean that person appointed by an Ecclesiastical Court to keep*
24 *the account of proceedings of the Court.*

25 *"Complainant" shall mean the person or body by whom a Charge is made.*

26 *"Conduct Unbecoming a Member of the Clergy" shall mean any disorder or neglect that*
27 *prejudices the reputation, good order and discipline of the Church, or any conduct of a*
28 *nature to bring material discredit upon the Church or the Holy Orders conferred by the*
29 *Church.*

30 *"Contumacy" shall mean the refusal or intentional omission of a Member of the Clergy who*
31 *has been duly cited to appear and defend a Presentment issued against him, or, if the*
32 *Member of the Clergy is duly before the Court, to obey some lawful order or direction*
33 *made by the Court in the matter.*

34 *"Convention" shall mean the governing body or assembly of a diocese by whatever name it*
35 *is styled in that diocese.*

36 *"Conviction" shall mean the judgment by a Trial Court of the guilt of the Accused as to the*
37 *Offense for which presented.*

38 *"Court of Record" shall mean a secular civil or criminal court of the national government,*
39 *a state, territory or other jurisdiction wherein the Diocese is located which keeps a*
40 *separate record of a trial or issues its Verdict or judgment in writing sufficient on its face*
41 *to state an Offense under this Title and as to be able to be certified or Verified by the judge,*
42 *justice, clerk or other appropriate officer of that court.*

43 *"Court Reporter" shall mean a qualified legal stenographer who shall record the*
44 *proceedings of and testimony taken before an Ecclesiastical court.*

45 *"Crime" shall mean a positive or negative act in violation of a penal law which embraces*
46 *acts immoral or wrong in and of themselves. As used in this Title, "Crime" does not*

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- 1 embrace acts or conduct prohibited by statute to which no moral turpitude attaches and
2 constituting Crimes only because they are so prohibited.
- 3 "Deposition" shall mean a Sentence by which a Member of the Clergy is deprived of holy
4 orders, the gifts conferred by ordination and the Sacred Ministry and which prevents the
5 Member of the Clergy from so acting in the future.
- 6 "Ecclesiastical Authority" shall mean the Bishop of the diocese or, if there be none, the
7 Standing Committee or such other ecclesiastical authority established by the Constitution
8 and Canons of the diocese.
- 9 "Ecclesiastical Court" shall mean a court established under this Title.
- 10 "Ecclesiastical Trial Court" shall mean a Diocesan Court for the Trial of a Priest or
11 Deacon established pursuant to Canon IV.4(a).
- 12 "Federal Rules of Evidence" shall mean The Federal Rules of Evidence for United States
13 District Courts and Magistrates as amended from time to time.
- 14 "Federal Rules of Civil Procedure" shall mean The Federal Rules of Civil Procedure for
15 the United States District Courts, Title 28 U.S. Code, as amended from time to time and as
16 further set out in Appendix A to these Canons, except as otherwise modified by express
17 provisions of this Title.
- 18 "Godly Admonition" : see Pastoral Direction.
- 19 "Immorality" shall mean conduct contrary and inimical to the teachings, rules, principles
20 and welfare of this Church according to the standards of the Church as a community of
21 faith, including but not limited to conduct that is morally evil, impure, unprincipled, vicious
22 or dissolute.
- 23 "Inhibition" shall mean a written command from a Bishop that a Priest or Deacon shall
24 cease from exercising the gifts of ordination in the sacred ministry as specified in the
25 Inhibition. When an Inhibition is issued to a bishop it may also command the bishop to
26 cease all episcopal acts.
- 27 "Lay Assessor" shall mean a confirmed adult communicant of this Church in good standing
28 duly admitted to practice law in the applicable jurisdiction and learned in Canon law to
29 advise in matters of law affecting a Court or Board of Inquiry in their proceedings.
- 30 "Limitations of Actions" shall mean the time within which a Charge must be filed with a
31 Standing Committee in a matter concerning a Priest or Deacon or filed with the Presiding
32 Bishop in a matter concerning a bishop as provided for in Canon IV.14.4.
- 33 "Member of the Clergy" shall mean Bishops, Priests and Deacons of this Church unless the
34 context shall exclude a Bishop.
- 35 "Minor" shall mean a person under the age of twenty-one years of age.
- 36 "Offense" shall mean any conduct or acts proscribed in Canon IV.1.1.
- 37 "Ombudsman" shall mean a person, lay or clergy, assigned by the Ecclesiastical Authority
38 to support and assist a Complainant or an alleged Victim in any proceedings contemplated
39 by this Title.
- 40 "Pastoral Direction" shall mean a written solemn warning from a Bishop to a Priest or
41 Deacon setting forth clearly the reasons for the Pastoral Direction given in the capacity of
42 pastor, teacher and canonical overseer, which is neither capricious or arbitrary in nature
43 nor in any way contrary to the Constitution and Canons of the Church, national or
44 diocesan, and directed to some matter which concerns the Doctrine, Discipline or worship
45 of this Church or manner of life and behavior of the Priest or Deacon addressed, and shall
46 be deemed to include without limitation "Admonition" and "Godly Admonition".

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- 1 *"Presentment" shall mean the writing of a Standing Committee or a Board of Inquiry to an*
2 *Ecclesiastical Trial Court that an offense has been committed which is triable and that*
3 *there are reasonable grounds to believe that the person named therein has committed it.*
4 *"Presiding Bishop" shall mean the Presiding Bishop of this Church or, if there be none or*
5 *the then Presiding Bishop be absent or disabled, the presiding officer of the House of*
6 *Bishops.*
7 *"Privileged Communications" shall mean (i) disclosures in confidence made by a person to*
8 *a Member of the Clergy with the purpose of seeking religious counsel, advice, solace,*
9 *absolution or ministration wherein the Member of the Clergy is acting in the capacity of*
10 *spiritual advisor to the person, and where the person making the disclosures has a*
11 *reasonable expectation that the communication will be kept in confidence and (ii) such*
12 *other communications as defined under The Federal Rules of Evidence.*
13 *"Reasonable Cause" shall mean grounds sufficiently strong to warrant reasonable persons*
14 *to believe that the Charge is true.*
15 *"Record on Appeal" shall mean the Presentment, original papers and exhibits filed in the*
16 *Trial Court, the transcript of proceedings, the Decision of the Trial Court and the Sentence*
17 *adjudged and to be imposed.*
18 *"Remission" shall mean the forgiveness and termination of a Sentence imposed.*
19 *"Reporter" shall mean that person charged with the responsibility of taking the recording*
20 *of the proceedings.*
21 *"Restored" or "Restoration" shall mean the act of a Bishop or the Presiding Bishop*
22 *remitting and terminating a Sentence imposed and returning a Member of the Clergy to*
23 *good standing in the order to which the Member of the Clergy was ordained.*
24 *"Sentence" shall mean the sentence adjudged by an Ecclesiastical Court after a finding of*
25 *guilty or the lesser Sentence to be pronounced by a Bishop or the Presiding Bishop, as the*
26 *case may be.*
27 *"Standard of Proof" shall mean that nature of proof required for a Conviction by an*
28 *Ecclesiastical Court.*
29 *"Suspension" shall mean a Sentence by which the Member of the Clergy is directed to*
30 *refrain temporarily from the exercise of the gifts of ministry conferred by ordination.*
31 *"Temporary Inhibition" shall mean that Inhibition authorized by Canon IV.1.*
32 *"Trial" shall mean an evidentiary proceeding before an Ecclesiastical Court pursuant to*
33 *this Title.*
34 *"Verdict" shall mean the determination of an Ecclesiastical Court.*
35 *"Verification" shall mean a signature under oath before a person authorized to administer*
36 *oaths that the signer has personal knowledge or has investigated the matters set forth in the*
37 *document and that they are true to the best of the signer's knowledge and belief.*
38 *"Verified" shall mean that an instrument contains a Verification.*
39 *"Victim" shall mean a person who has been or is or is alleged to be the object of acts of the*
40 *Accused.*
41 *"Waiver and Voluntary Submission" shall mean a written instrument containing the*
42 *information required by this Title and Acknowledged by the person executing the same in*
43 *accordance with Canon IV.2.*

APPENDIX "A"

[Federal Rules of Civil Procedure as modified and adopted for use in the administration of Title IV, The Canons of the Protestant Episcopal Church in the United States.]

RULE 4. Summons

(a). *Form.* The summons shall be signed by the clerk, identify the court and the parties, be directed to the accused and state the name and address of the Church Advocate. It shall state the time within which the accused must appear and defend, and notify the accused that failure to do so will result in a judgment of guilt and place the accused at risk for a sentence to be pronounced at a later date. The court may allow a summons to be amended.

(c). *Service with Complaint (Presentment); by Whom Made.*

- (1). *A summons shall be served together with a copy of the Presentment.*
- (2). *Service may be made by an person who is not a direct named party and who is at least 18 years of age.*

(d). *Waiver of Service; Duty to Save Costs of Service; Request to Waive.*

[The provisions of FRCP 4(d) shall apply noting that the "Plaintiff" shall be the Church as represented by the Church Advocate; the "Defendant" shall be the accused; and, the "Complaint" shall be the Presentment.]

(e). *Service Upon Individuals Within a Judicial District of the United States.*

[The provisions of FRCP 4(e) shall apply noting that service made be made upon individuals in any territorial area wherein episcopal jurisdiction of this Church is recognized.]

(l). *Proof of Service.* If service is not waived, the person effecting service shall make proof thereof by affidavit or sworn statement to the court.

RULE 5. Service and filing of Pleadings and Other Papers. [FRCP 5, as written.]

RULE 6. Time. [FRCP 6, as written.]

RULE 8. General Rule of Pleading. [FRCP 8, as written.]

RULE 10. Form of Pleadings. [FRCP 10, as written, deleting the file number and its designation.]

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RULE 11. Signing of Pleadings, Motions and Other Papers; Sanctions [FRCP 11, as written deleting all references to sanctions.]

RULE 12. Defenses and Objections - When and How Presented - By Pleading or Motion-Motion for Judgment on the Pleadings.

(a). When presented. Unless a different time is prescribed, and accused shall serve and answer.

(A). within 20 days after being served a Summons and Presentment, or

(B). if service of the summons has been timely waived on request under Rule 4(d), within 60 days after the date when the request for waiver was sent.

(b). How presented. [as written.]

(d). Preliminary Hearings. [as written.]

(e). Motion for More Definite Statement. [as written.]

RULE 15. Amended and Supplemental Pleadings. [FRCP 15, as written, deleting all reference to the "United States" as a party.]

RULE 29. Stipulations Regarding Discovery. [FRCP 29, as written, adding the following:]

The court, upon application, may order Discovery in all or any forms to take place, under such terms and conditions as the court may prescribe.

RULE 32. Use of Depositions in Court Proceedings. [FRCP 32, as written.]

RULE 33. Interrogatories to Parties. [FRCP 33, as written.]

RULE 34. Production of Document, etc. [FRCP 34, as written.]

RULE 36. Requests for Admissions. [FRCP 36, as written.]

RULE 43. Taking of Testimony. [FRCP 43, as written.]

RULE 61. Harmless Error. [FRCP 61, as written.]

Resolution #A020

1 *Resolved*, the House of ____ concurring, **That Canon I.1.2.(n)(2) [Standing Commission**
2 **on Constitution and Canons] be amended to read as follows:**

3 (iii) *The Commission shall from time to time revise and promulgate such amendments to*
4 *Appendix A to these Canons as the Commission shall deem appropriate and desirable for*
5 *the effective implementation of Title IV.*

Resolution #A021

1 *Resolved*, the House of ____ concurring, **That Canon III.14.4(c) be amended to read as**
2 **follows:**

3 **Sec. 4(c).** Any Member of the Clergy ~~not under presentment~~ who would be permitted
4 under Canon ~~IV-8 III.18~~ to renounce the exercise of ordained office, who desires to enter
5 into other than ecclesiastical employment, may declare in writing to the Ecclesiastical
6 Authority of the Diocese in which the Member of the Clergy is canonically resident a desire
7 to be ~~relieved~~ *released* from the exercise of the office to which ordained. Upon receipt of
8 such a declaration, the Ecclesiastical Authority shall proceed in the same manner as if the
9 declaration were one of renunciation *of the ministry under Canon III.18.*

Comment: This amendment is intended to conform this Section to the new canonical proposal to transfer renunciation of ministry where there is no question of misconduct from Title IV to Title III.

Resolution #A022

1 *Resolved*, the House of ____ concurring, **That Canon III.15.4 be amended to read as**
2 **follows:**

3 Sec. 4. If the Deacon or Priest fails to comply with these conditions, the Bishop of the
4 Diocese of canonical residence may proceed in accordance with Canon IV.40 //.

Comment: The 1991 Revision to Title III cited the Abandonment of Communion, Canon IV.10. It is suggested the Canon IV.11, as proposed to be revised, and particularly Sec. 2 thereof is the more appropriate reference.

Resolution #A023

Resolved, the House of _____ concurring, **That Canon III.18 be amended to read as follows:**

1 CANON 18.

2 Of Renunciation of the Ministry

3 Sec. 1. If any Member of the Clergy of this Church not ~~under presentment~~ *subject to the*
4 *provisions of Canon IV.8* shall declare, in writing, to the Ecclesiastical Authority of the
5 Diocese in which such Member of the Clergy is canonically resident, a renunciation of the
6 Ministry of this Church, and a desire to be removed therefrom, it shall be the duty of the
7 Ecclesiastical Authority to record the declaration and request so made. The Bishop, being
8 satisfied that the person so declaring is not ~~amenable for any canonical offense, and that~~
9 ~~this renunciation of the Ministry is not occasioned by foregoing misconduct or irregularity,~~
10 *subject to the provisions of Canon IV.8* but is voluntary and for causes, assigned or known,
11 which do not affect the Member of the Clergy's moral character, shall lay the matter before
12 the clerical members of the Standing Committee, and with ~~their~~ *the* advice and consent of a
13 *majority of such members* the Bishop may pronounce that such renunciation is accepted,
14 and that the Member of the Clergy is released from the obligations of the Ministerial office,
15 and is deprived of the right to exercise the gifts and spiritual authority as a Minister of
16 God's Word and Sacraments conferred in Ordination. The Bishop shall also declare in
17 pronouncing and recording such action that it was for causes which do not affect the
18 person's moral character, and shall, if desired, give a certificate to this effect to the person
19 so removed from the Ministry.

Comment: This new Canon transfers a portion of the former Canon IV.8 to Title III with amendments.

20 Sec. 2. If a Member of the Clergy making the aforesaid declaration of renunciation of the
21 Ministry be under Presentment for any canonical offense, or shall have been placed on trial
22 for the same, the Ecclesiastical Authority to whom such declaration is made shall not
23 consider or act upon such declaration until after the said Presentment shall have been
24 dismissed, or the said trial shall have been concluded and *the Member of the Clergy*
25 *acquitted. sentence, if any, pronounced.* ~~If the Ecclesiastical Authority to whom such~~
26 ~~declaration is made shall have ground to suppose that the person making the same is liable~~
27 ~~to presentment for any canonical offense, such person may, in the discretion of the said~~
28 ~~Ecclesiastical Authority, be placed upon trial for such offense, notwithstanding such~~
29 ~~declaration of renunciation of the Ministry.~~

Comment: This provision holds the acceptance of a declaration of renunciation in abeyance until the person is no longer subject to Presentment or is acquitted.

30 **Sec. 3.** In the case of *the* renunciation of the Ministry by a Member of the Clergy as
31 provided in *this* Canon IV.8, ~~and in the case of abandonment of the communion of this~~

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~~1 Church by a Presbyter or Deacon as provided in Canon IV.10, a declaration sentence of
2 removal or deposition shall be pronounced by the Bishop in the presence of two or more
3 Presbyters Priests, and shall be entered in the official records of the Diocese in which the
4 Presbyter Priest or Deacon being removed or deposed is canonically resident. The Bishop
5 who pronounces sentence the declaration of removal or deposition as provided in this
6 Canon IV.8 or IV.10 shall give notice thereof in writing to every Member of the Clergy,
7 each Vestry, the Secretary of the Convention and the Standing Committee of the Diocese in
8 which the Member of the Clergy was canonically resident; to all Bishops of this Church;
9 the Ecclesiastical Authority of each Diocese of this Church; the Presiding Bishop, the
10 Recorder, the Secretary of the House of Bishops, the Secretary of the House of Deputies,
11 and The Church Pension Fund. In giving such notice the Bishop who pronounces sentence
12 the declaration of removal or deposition may request, while stating the reasons, that the
13 sentence declaration of removal be held in confidence until the regular date of the next
14 ensuing publication of the List of Ordained Clergy of this Church. Unless the Presiding
15 Bishop shall disapprove in writing, within thirty days, of the granting of the request that the
16 sentence be held in confidence, those notified as above provided of the sentence declaration
17 of removal or deposition shall not publish or give notice of the same, but shall record the
18 sentence in confidence in the official records kept by each of those to whom notice is sent
19 as above provided.~~

Comment: This is present Canon IV.12.4(b) with amendment.
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Inasmuch as renunciations are to be totally disassociated from disciplinary situations, it is deemed appropriate to give notice to those concerned with the ordained ministry. Further, in this day and age of civil liability, the Church runs the risk of liability which might arise from members of the clergy who have "confidentially" renounced for non-disciplinary reasons subsequently running amuck and holding themselves out as clergy in good standing with the resultant risk to the Church.

20 (b). *Of Bishops*

21 *Sec. 4. If any Bishop of this Church not subject to the provisions of Canon IV.8 shall
22 declare, in writing, to the Presiding Bishop a renunciation of the Ministry of this Church,
23 and a desire to be removed therefrom, it shall be the duty of the Presiding Bishop to record
24 the declaration and request so made. The Presiding Bishop, being satisfied that the person
25 so declaring is not subject to the provisions of Canon IV.8 but is voluntary and for causes,
26 assigned or known, which do not affect the person's moral character, shall lay the matter
27 before the Advisory Council to the Presiding Bishop, and with the advice and consent of a
28 majority of the members of the Advisory Council the Presiding Bishop may pronounce that
29 such renunciation is accepted, and that the Bishop is released from the obligations of all
30 Ministerial offices, and is deprived of the right to exercise the gifts and spiritual authority
31 as a Minister of God's Word and Sacraments conferred in Ordinations. The Presiding
32 Bishop shall also declare in pronouncing and recording such action that it was for causes
33 which do not affect the person's moral character, and shall, if desired, give a certificate to
34 this effect to the person so removed.*

Comment: This new Canon addresses the situation where a Bishop may wish to renounce the ministry of this Church.

1 *Sec. 5. If a Bishop making the aforesaid declaration of renunciation of the Ministry be*
2 *under Presentment for any canonical offense, or shall have been placed on Trial for the*
3 *same, the Presiding Bishop shall not consider or act upon such declaration until after the*
4 *Presentment shall have been dismissed, or the said Trial shall have been concluded and*
5 *Bishop acquitted.*

Comment: This provision holds the acceptance of a declaration of renunciation in abeyance until the person is no longer subject to Presentment or is acquitted after Trial.

6 *Sec. 6. In the case of such renunciation by a Bishop as provided in this Canon, a*
7 *declaration of removal shall be pronounced by the Presiding Bishop in the presence of two*
8 *or more Bishops, and shall be entered in the official records of the House of Bishops and of*
9 *Diocese in which the Bishop being removed is canonically resident. The Presiding Bishop*
10 *shall give notice thereof in writing to the Secretary of the Convention and the Ecclesiastical*
11 *Authority and the Standing Committee of the Diocese in which the Bishop was canonically*
12 *resident, to all Bishops of this Church, the Ecclesiastical Authority of each Diocese of this*
13 *Church, the Recorder, the Secretary of the House of Bishops, the Secretary of the General*
14 *Convention and The Church Pension Fund.*

Title III Revision

The Council for the Development of Ministry proposed amendments to the episcopal canons in Title III to the 1991 General Convention in Resolution A131 (1991 Blue Book). The Convention referred the amendments back to CDM and SCCC for further revisions (1991 Journal, pp. 325-41). The resolution presented here reflects the further revisions made by SCCC for form and consistency. The intention has been to bring together provisions scattered among the canons that relate to each type of bishop and to eliminate redundancies by collecting generally applicable canons under one section. In the course of its review, SCCC concluded that two constitutional amendments needed to be considered to reflect current practice in this Church. Those amendments are presented as Resolutions #A017 and #A018.

This Commission, in cooperation with The Council for the Development of Ministry, submits for both interim bodies the following:

Resolution #A024

Resolved, the House of _____ concurring, **That the indicated following portions of Title III, The Canons, be amended to read:**

1 **CANON 22.**

2 **Of the Election and Ordination and Consecration of Bishops**

3 *Sec. 1 (a). The election of a person to be a Bishop in a Diocese shall be held in accordance*
4 *with the rules prescribed by the Convention of the Diocese and pursuant to the provisions*
5 *of the Constitution and Canons of this Church.*

Patterned on present Canon III.23.1(a). Art.II, Sec. 1 of the Constitution requires that episcopal elections for diocesan and coadjutor bishops be conducted under rules set by the diocesan *convention*. At the present time, the rules could be set by a constitutional or canonical provision adopted by the convention or by rules adopted specifically for each election. SCCC is recommending an amendment to Art.II, Sec. 1 to require that the election rules be set out in the constitution and canons of each diocese. See #A017. If this amendment passes in 1994 and 1997, a further amendment to this canon will be proposed.

6 *(b). The Convention of a Diocese may request that an election be made on its behalf by the*
7 *House of Bishops of the Province of which the Diocese is a part, subject to confirmation by*
8 *the Provincial Synod, or it may request that an election be made on its behalf by the House*
9 *of Bishops of the Episcopal Church.*

Patterned on present Canon III.23.1(b).

10 *(c). If either option in Sec. 1 (b) is chosen, a special Joint Nominating Committee shall be*
11 *appointed unless the diocesan convention has otherwise provided for the nominating*
12 *process. The Committee shall be composed of three persons from the diocese, appointed by*
13 *its Standing Committee, and three members of the electoral body, appointed by the*
14 *President of that body. The Joint Nominating Committee shall elect its own officers and*
15 *shall nominate three persons whose names it shall communicate to the Presiding Officer of*
16 *the electoral body. The Presiding Officer shall communicate the names of the nominees to*
17 *the electoral body at least three weeks before the election when the names shall be formally*
18 *placed in nomination. Opportunity for nominations from the floor shall be given.*

Patterned on House of Bishops Rules of Order, Missionary Bishops, III.1 and 3, since present Canon III.23 does not provide for a nomination process that would include members from the electing diocese. If the constitution is amended by the passage of #A017, further amendment of this canon will be recommended to refer to diocesan constitution and canons instead of diocesan convention.

1 (d). If either option in Sec.1(b) is chosen, the evidence of the election shall be a certificate
2 signed by the presiding officer of the electoral body and by its Secretary, with a testimonial
3 signed by a constitutional majority of the body, in the form required in Canon III.22.3,
4 which shall be sent to the Standing Committee of the Diocese on whose behalf the election
5 was held. the Standing Committee shall thereupon proceed as set forth in Canon III.22.3
6 or 4.

Patterned on Canon III.23.1(c) and 2(c).

7 (e). The Secretary of the body electing a Bishop, Bishop Coadjutor, or Suffragan Bishop,
8 shall inform the Presiding Bishop promptly of the name of the person elected. The Bishop-
9 elect shall notify the Presiding Bishop of acceptance or refusal of the election, at the same
10 time as the Bishop-elect notifies the electing Diocese.

Present Canon III.22.1(e).

11 Sec. 32. It shall be lawful, within six months prior to the effective date of the resignation or
12 retirement of a *Diocesan* Bishop ~~from his jurisdiction~~, for the said Bishop, with the advice
13 and consent of the Standing Committee, to call a special meeting of the Convention of the
14 Diocese to elect a successor; Provided, that if the Convention is to meet in regular session
15 meanwhile, it may hold the election during *the such* regular session. The proceedings
16 incident to preparation for the ordination ~~and consecration~~ of ~~such~~ *the* successor shall be as
17 provided in ~~Sec.1~~ of this Canon; but the Presiding Bishop shall not take order for the
18 ~~consecration~~ *ordination* to be on any date prior to that upon which the resignation is to
19 become effective.

20 Sec. 4 3(a). When ~~Whenever the Church in any~~ a Diocese shall desires the ordination and
21 ~~consecration~~ of a Bishop-elect, if the *date of the election shall have taken place* occurs
22 within three months before a meeting of the General Convention, the Standing Committee
23 of the ~~said~~ Diocese shall, by ~~their~~ *its* President, or by some person or persons specially
24 appointed, forward to the Secretary of the House of Deputies evidence of the election of the
25 Bishop-elect by the Convention of the Diocese, together with evidence ~~of his that the~~
26 *Bishop-elect has having* been duly ordered Deacon and Priest, *evidence of acceptance of*
27 *election*, and ~~also~~ a testimonial signed by a constitutional majority of ~~such~~ the Convention,
28 in the following words, *viz:*

29 **We, whose names are hereunder written, fully sensible of how important it is**
30 **that the Sacred Order and Office of a Bishop should not be unworthily**
31 **conferred, and firmly persuaded that it is our duty to bear testimony on this**
32 **solemn occasion without partiality or affection, do, in the presence of Almighty**
33 **God, testify that we know of no impediment on account of which the Reverend**
34 **A.B. ought not to be ordained and consecrated to that Holy Office. We do,**
35 **moreover, jointly and severally declare that we believe the Reverend A.B. to have**
36 **been duly and lawfully elected and to be of such sufficiency in good learning, of**
37 **such soundness in the Faith, and of such virtuous and pure manners and godly**

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1 **conversation character as to be able to exercise the Office of a Bishop to the honor**
2 **of God and the edifying of His the Church, and to be a wholesome example to the**
3 **flock of Christ.**

4 (Date) _____ (Signed) _____

5 The Secretary of ~~such the~~ Convention shall certify upon this testimonial that it has been
6 signed by a constitutional majority ~~thereof of the~~ Convention.

7 ~~(b). There~~ The Secretary of the Convention shall also ~~be forwarded to the Secretary of the~~
8 ~~House of Deputies,~~ with the testimonial and other documents, certificates from ~~two~~
9 recognized and licensed professionals, appointed by the Ecclesiastical Authority of the
10 Diocese with the approval of the Presiding Bishop, that they have thoroughly examined the
11 Bishop-elect as to ~~such that~~ person's ~~physical and mental~~ medical, psychological and
12 psychiatric conditions and have not discovered any reason why it would not be ~~wise fitting~~
13 for ~~such the~~ person to undertake the work for ~~such which~~ the person has been chosen. The
14 forms for medical, ~~and~~ ~~psychological and~~ psychiatric reports prepared by The Church
15 Pension Fund shall be used for this purpose.

Since reports on "physical and mental conditions" have been replaced with reports on "medical, psychological and psychiatric condition," it is no longer appropriate to specify "two" professionals. The three conditions to be addressed will most often each require examinations by professionals with different qualifications.

16 (c). The Secretary of the House of Deputies shall ~~lay present~~ the said testimonials ~~before to~~
17 the House, and if the House ~~shall~~ consents to the consecration ordination of the Bishop-
18 elect, notice of ~~said its~~ consent, certified by the President and ~~the~~ Secretary of ~~said the~~
19 House, ~~together with the testimonials,~~ shall be sent to the House of Bishops, ~~together with~~
20 the testimonials aforesaid.

21 (b d) (1). If a majority of the ~~House of~~ Bishops of this Church ~~exercising jurisdiction~~
22 consents to the consecration ordination, the Presiding Bishop shall, without delay, notify
23 ~~such consent to~~ the Standing Committee of the Diocese electing and ~~to~~ the Bishop-elect of
24 the consent; ~~and upon notice of the acceptance by the Bishop-elect of his election, the~~
25 Presiding Bishop shall take order for the consecration of the said Bishop-elect either by
26 himself or the President of the Province of which the Diocese electing is part, and two
27 other Bishops of this Church, or by any three Bishops of the Church to whom he may
28 communicate the testimonials.

Art. II, Sec. 2 of the Constitution requires the consent of a majority of the bishops exercising jurisdiction, while the House of Bishops includes not only diocesan and coadjutor bishops, but suffragan, retired and resigned bishops who do not exercise jurisdiction. The second half of this subsection has been made a separate section (III.22.5) because it applies to all elections, not just those occurring within 3 months of General Convention.

1 ~~(e)Sec. 4(a).~~ If the *date of the election of a Bishop shall have taken place occurs* more than
2 three months before the meeting of the General Convention, the Standing Committee of the
3 Diocese electing shall by ~~their its~~ President, or by some person or persons specially
4 appointed, immediately send to the Standing Committees of the several Dioceses a
5 certificate of the election by the Secretary of Convention of the Diocese, bearing a
6 statement that evidence of the Bishop-elect's having been duly ordered Deacon and Priest
7 and the certificates as to ~~mental and physical~~ *the Bishop-elect's medical, psychological and*
8 *psychiatric* examination as required in Sec. ~~4(a) 2(b)~~ of this Canon have been received and
9 that a testimonial in the form set out in Sec. ~~4 2(a)~~ of this Canon has been signed by a
10 constitutional majority of the Convention; ~~and if~~ a majority of the Standing Committees
11 of all the Dioceses shall consents to the ~~consecration~~ *ordination* of the Bishop-elect, the
12 Standing Committee of the Diocese electing shall then forward the evidence of ~~said the~~
13 consent, with the other necessary documents described in Sec. ~~4 2 (a) and (b)~~ of this
14 Canon, to the Presiding Bishop, who shall immediately communicate ~~them the same~~ to
15 every Bishop of this Church ~~exercising having~~ jurisdiction; ~~and if~~ a majority of ~~such~~
16 ~~those~~ Bishops shall consents to the ~~consecration~~ *ordination*, the Presiding Bishop shall,
17 without delay, notify ~~such consent~~ to the Standing Committee of the Diocese electing and
18 ~~to the Bishop-elect of the consent.~~ ~~and upon notice of his acceptance of the election,~~ the
19 ~~Presiding Bishop shall take order for the consecration of the Bishop-elect either by himself~~
20 ~~or the President of the Province of which the Diocese electing is a part and two other~~
21 ~~Bishops of this Church, or by any three Bishops of this Church to whom he may~~
22 ~~communicate the testimonials provision according to Sec. 2 (d) (1) of this Canon.~~

23 (b). ~~The~~ Evidence of the consent of ~~the several~~ *each* Standing Committees shall be a
24 testimonial in the following words, signed by a majority of ~~the Standing~~ *all the members of*
25 ~~the Committees of all the Dioceses:~~

26 **We, being a majority of all the members of the Standing Committee of**
27 **, and having been duly convened at _____, fully sensible how important it is**
28 **that the Sacred Order and Office of a Bishop should not be unworthily conferred,**
29 **and firmly persuaded that it is our duty to bear testimony on this solemn**
30 **occasion without partiality or affection, do, in the presence of Almighty God,**
31 **testify that we know of no impediment on account of which the Reverend A.B.**
32 **ought not to be ordained and consecrated to the that Holy Office Order. In**
33 **witness whereof, we have hereunto set our hands this _____ day of _____ in the**
34 **year of our Lord _____.**
35 **(Signed) _____.**

36 ~~If the Presiding Bishop shall not have received the consent of a majority of the Bishops~~
37 ~~within three months from the date of notice to them, he shall then give notice of such~~
38 ~~failure to the Standing Committee of the Diocese electing.~~

39 ~~Sec.5 and~~ ~~u~~Upon notice receipt of the consents and *assurance* of the acceptance of the
40 *election* by the Bishop-elect of his ~~election~~, the Presiding Bishop shall take order for the
41 ~~consecration~~ *ordination* of the ~~said~~ Bishop-elect either by ~~himself~~ *the Presiding Bishop* or

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1 the President of the *House of Bishops of the Province* of which the Diocese electing is part,
2 and two other Bishops of this Church, or by any three Bishops of the Church to whom he
3 the *Presiding Bishop* may communicate the testimonials.

Revision for form of language moved out of III.22.1(b) and (c).

4 Sec. 6 5(d). In case a majority of all the Standing Committees of the several Dioceses shall
5 do not consent to the ~~consecration~~ ordination of a the Bishop-elect within ~~the period of six~~
6 ~~three~~ months from the date of the notification of the election by the Standing Committee of
7 the Diocese electing, or in case a majority of all the Bishops entitled to act in the premises
8 ~~exercising jurisdiction~~ shall do not consent within ~~the period of~~ three months from the date
9 of notification to them by the Presiding Bishop of the election, the Presiding Bishop shall
10 declare the election null and void and shall give notice to the *Standing Committee of the*
11 *Diocese electing and to the Bishop-elect.* †The Convention of the Diocese may then
12 proceed to a new election.

Current III.22.1(d).

13 ~~(e). It shall be the duty of the Secretary of the Convention electing a Bishop, Bishop~~
14 ~~Coadjutor, or Suffragan Bishop, to inform the Presiding Bishop promptly of the name of~~
15 ~~the person elected. It shall be the duty of the Bishop-elect to notify the Presiding Bishop of~~
16 ~~his acceptance or declination of the election, at the same time as he notifies the electing~~
17 ~~Diocese.~~

18 Sec. 2 (a). When a Bishop of a Diocese is unable, by reason of age, or other permanent
19 cause of infirmity, or, except in a Missionary Diocese, by reason of the extent of Diocesan
20 work, fully to discharge the duties of his office, a Bishop Coadjutor may be elected by and
21 for said Diocese, who shall have the right of succession; Provided, that before the election
22 of a Bishop Coadjutor for the reason of extent of Diocesan work, the consent of the General
23 Convention, or during the recess thereof, the consent of a majority of the Bishops having
24 jurisdiction and of the several Standing Committees, must be had and obtained. Before any
25 election of a Bishop Coadjutor, the Bishop of the Diocese shall read, or cause to be read, to
26 the Convention thereof, his written consent to such election, and in such consent he shall
27 state the duties which he thereby assigns to the Bishop Coadjutor, when duly ordained and
28 consecrated, and such consent shall form part of the proceedings of the Convention. The
29 duties assigned by the Bishop to the Bishop Coadjutor in any Diocese may be enlarged by
30 mutual consent whenever the Bishop of the Diocese may desire to assign such additional
31 duties to the Bishop Coadjutor. In case of the inability of the Bishop of the Diocese to
32 issue the aforesaid consent, the Standing Committee of the Diocese may request the
33 Convention to act without such consent, and such request shall be accompanied by
34 certificates of medical persons as to the inability of the Bishop of the Diocese to issue his
35 written consent.

36 (d). There shall not be in any Diocese at the same time more than one Bishop Coadjutor;
37 Provided, if it is certified to the Ecclesiastical Authority of a Diocese by three competent
38 physicians selected by that Authority that the Bishop Coadjutor in such Diocese is
39 permanently unable, by reason of physical or mental condition, to carry out the duties as

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1 ~~Bishop Coadjutor, the Ecclesiastical Authority, upon advice of three Bishops of three~~
2 ~~neighboring Dioceses, may declare that the right of succession of such Bishop Coadjutor is~~
3 ~~terminated and in such event a new Bishop Coadjutor may be elected for such Diocese as~~
4 ~~provided in paragraph (a) of this Sec. 2.~~

5 *Sec. 7* In all particulars the service at the ~~consecration~~ *ordination* of a Bishop shall be under
6 the direction of the Bishop presiding at ~~such consecration~~ *the ordination*.

Current III.22.1(b).

7 ~~Sec. 4~~ 8 No ~~one~~ *person* shall be ordained and ~~consecrated~~ Bishop unless ~~he~~ *the person* shall
8 at the time, *and in the presence of the ordaining Bishops and congregation*, subscribe, *in*
9 ~~the presence of the ordaining and consecrating Bishops, to and make~~ the declaration
10 required in Article VIII of the Constitution.

11 *Sec. 59 (a)* Within ten days after the election of a Bishop, a Bishop Coadjutor, or a
12 Suffragan Bishop by a Diocesan Convention, delegates constituting no less than 10% of the
13 number of delegates casting votes on the final ballot may file with the Secretary of the
14 Convention written objections to the election process, setting forth in detail all alleged
15 irregularities. Within ten days after receipt thereof, the Secretary of the Convention shall
16 forward copies of the same to the Bishop, the Chancellor and Standing Committee of the
17 Diocese, and to the Presiding Bishop, who shall request the Court of Review of the
18 Province in which the Diocese is located to investigate the complaint. The Court of Review
19 may invite response by the Bishop, the Chancellor, the Standing Committee and any other
20 persons within the electing Diocese. Within thirty days after receipt of the request, the
21 Court of Review shall send a written report of its findings to the Presiding Bishop, a copy
22 of which report the Presiding Bishop, within fifteen days, shall cause to be sent to the
23 Bishop, the Chancellor, the Standing Committee and the Secretary of the Convention of the
24 electing Diocese. *The Secretary shall send a copy of the report to each of the delegates*
25 *who filed objection to the election process.*

The last sentence was moved from Subsection (c) since it should apply regardless
of when the election takes place.

26 (b) If ~~such the election shall have~~ *has* taken place within three months before a meeting of
27 the General Convention, the report shall be sent with the evidence of election and
28 testimonials as provided in Section 43(a) of this Canon.

29 (c) If ~~such the election shall have~~ *has* taken place more than three months before the
30 meeting of the General Convention, the report of the Court of Review shall be sent to the
31 Standing Committees of the several Dioceses, with the Certificate of the Secretary of the
32 electing Convention relating to consent to consecrate. Likewise, the Presiding Bishop shall
33 include ~~such the report~~ in the communication to the Bishops *having exercising* jurisdiction.
34 ~~The Secretary also shall send a copy of the report to each of the delegates who filed~~
35 ~~objection to the election process.~~

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1 CANON 23

2 Of Missionary Bishops

Delete in its entirety since there are no missionary dioceses or missionary bishops. Canons for the election of bishops for area missions should be developed as needed to fit present-day missionary strategy rather than depending on outdated models reflective of westward expansion or late nineteenth or early twentieth century American colonialism.

3 CANON 2723.

4 Of Bishops and their Duties

5 *Sec. 1. Each Bishop shall keep a record of all official acts, which record shall be the*
6 *property of the Diocese and shall be transmitted to the Bishop's successor.*

7 *Sec. 2. No Bishop shall perform episcopal acts nor, for more than two months, officiate by*
8 *preaching, ministering the Sacraments, or holding any public service in a Diocese other*
9 *than that in which the Bishop is canonically resident, without permission or a license to*
10 *perform occasional public services from the Ecclesiastical Authority of the Diocese in*
11 *which the Bishop desires to officiate.*

This section combines the Art.II, Sec.2 restriction on the exercise of episcopal acts with the Canon III.16.2 restriction on officiating outside one's diocese of canonical residence.

12 ~~Sec. 4 3 (a). It shall be the duty of every Bishop having jurisdiction in a Diocese of this~~
13 ~~Church, to reside within the limits of his jurisdiction; Each bishop elected to serve in a~~
14 ~~Diocese shall reside in that Diocese.~~

15 ~~(b). nor shall he~~ *The Diocesan Bishop shall not be absent himself therefrom from the*
16 *Diocese for a period of more than three consecutive months without the consent of the*
17 *Convention or the Standing Committee of the Diocese.*

18 *(c). A Diocesan Bishop, whenever leaving the Diocese for six consecutive months, shall*
19 *authorize in writing, under hand and seal, the Bishop Coadjutor, the Suffragan Bishop if*
20 *the Constitution and Canons of the Diocese so provide, or, should there be none, the*
21 *Standing Committee of the Diocese, to act as the Ecclesiastical Authority thereof during the*
22 *absence. The Bishop Coadjutor or, if there be none, the Standing Committee may at any*
23 *time become the Ecclesiastical Authority upon the written request of the Bishop and*
24 *continue to act as such until the request is revoked by the Bishop in writing.*

Art.II, Sec.5 requires a diocesan provision before a suffragan bishop may be made the Ecclesiastical Authority.

CONSTITUTION AND CANONS

1 Sec. 2 4 (a). ~~Every~~ Each Diocesan Bishop shall visit the Congregations within his
2 jurisdiction the Diocese at least once in three years. *Interim visits may be delegated to*
3 *another Bishop of this Church.*

4 (b). *At every visitation the visiting Bishop shall preside at the Holy Eucharist and at the*
5 *Initiatory Rites, as required, preach the Word, ~~for the purposes of examining their~~*
6 *condition, inspecting the behavior of the Clergy, administering Confirmation, preaching the*
7 *Word, and at his discretion celebrating the Sacrament of the Lord's Supper. At every*
8 *visitation it shall be the duty of the Bishop to examine the records of the Congregation*
9 *required by Canon III.14.3, and examine the life and ministry of the Clergy and*
10 *Congregation according to Canon III.14.2(e).*

11 (b c). ~~If a Diocesan Bishop shall for three years have~~ has declined to visit a Parish or
12 Congregation for three years, the Member of the Clergy *in charge* and Vestry (or the
13 Corporation), or the Bishop, may apply to the Presiding Bishop to appoint the five
14 Diocesan Bishops ~~in charge of neighboring Dioceses who live nearest to the Diocese in~~
15 ~~which such Congregation may be situated~~ as a Council of Conciliation, who shall amicably
16 determine all matters of difference between the parties, and each party shall conform to the
17 decision of the Council. ~~in the premises~~; Provided, that, in case of any subsequent trial of
18 either party for failure to conform to such the decision, any constitutional or canonical right
19 of the defendant *Accused under the Constitutions and Canons of this Church or of the*
20 *Diocese holding the trial in the premises* may be pleaded and established as a sufficient
21 defense, notwithstanding such the former decision. ; ~~and Provided, further, that, in any~~
22 ~~case, the Bishop may at any time apply for such Council of Conciliation.~~

Revised to be consistent with the language in the proposed revision of Title IV.

23 ~~(c). Every Bishop shall keep a record of all his official acts, which record shall be the~~
24 ~~property of the Diocese, and shall be transmitted to his successor.~~

25 Sec. 35. ~~The Diocesan~~ Every Bishop shall *may* deliver, from time to time ~~at his discretion,~~
26 a Charge to the Clergy of his jurisdiction, ~~and may, from time to time, address the Diocese~~
27 ~~and a Pastoral Letter to the people of his jurisdiction~~ Pastoral Letters ~~on points of~~
28 ~~Christian doctrine, worship, or manners, which he the Diocese on points of doctrine,~~
29 ~~discipline, or worship. The Bishop may require the Clergy to read the Pastoral Letter to~~
30 ~~their Congregations.~~

31 Sec. 4 6. ~~At every each Annual Meeting of the Diocesan Convention the Diocesan~~ Bishop
32 shall make a ~~statement~~ report of the affairs *State* of the Diocese since the last Annual
33 ~~Meeting of the Convention; including the names of the Churches which he has~~
34 ~~Congregations~~ visited; the number of persons confirmed *and received*; the names of those
35 who have been ~~received~~ admitted as Postulants and Candidates for Holy Orders, ~~and of~~
36 ~~those who have been~~ ordained, and of those ~~who have been by him~~ suspended or deposed
37 from Holy Orders; the changes by death, removal, or otherwise, which have taken place
38 among the Clergy; and ~~all other matters the Bishop desires to present to the Convention;~~

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1 tending to throw light upon the affairs of the Diocese; which statement shall be inserted in
2 the Journal.

3 ~~Sec. 5. It shall be the duty of a Bishop, whenever leaving his Diocese for the space of six
4 calendar months, to authorize, by writing, under his hand and seal, the Bishop Coadjutor,
5 or, should there be none, the Standing Committee of the Diocese, to act as the Ecclesiastical
6 Authority thereof during his absence. The Bishop Coadjutor, or, should there be none, the
7 Standing Committee, may become at any time the Ecclesiastical Authority upon the written
8 request of the Bishop, and continue to act as such until the request be revoked by him in
9 writing.~~

10 ~~Sec. 6 (a). Any Bishop of this Church may, on the invitation of the Convention or of the
11 Standing Committee of any Diocese where there is no Bishop, or where the Bishop is for
12 the time under a disability to perform episcopal offices by reason of a judicial sentence,
13 visit and perform episcopal offices in that Diocese, or in any part thereof; and this
14 invitation may be for a stated period, and may be at any time revoked.~~

15 **CANON 24**

16 ***Of Bishops Coadjutor***

17 *Sec. 1 (a). When the Diocesan Bishop is unable, by reason of age, by permanent cause of
18 infirmity, or by reason of the extent of Diocesan work, fully to discharge the duties of the
19 office, a Bishop Coadjutor, who shall have the right of succession, may be elected by and
20 for the Diocese, in accordance with Canon III.22.*

21 *(b). Before the election of a Bishop Coadjutor based on the extent of Diocesan work, the
22 consent of the General Convention or, if General Convention is not in session, the consent
23 of a majority of the Bishops exercising jurisdiction and of the several Standing Committees
24 must be obtained.*

25 *(c). Before an election of a Bishop Coadjutor, the Diocesan Bishop shall read, or cause to
26 be read, to the Convention the Bishop's written consent to the election. The consent shall
27 state the duties to be assigned to the Bishop Coadjutor when ordained. The consent shall
28 form part of the proceedings of the Convention. The duties assigned by the Diocesan
29 Bishop to the Bishop Coadjutor may be enlarged by mutual consent.*

30 *(d). In the case of the inability of the Diocesan Bishop to issue the required consent, the
31 Standing Committee of the Diocese may request the Convention to act without the consent.
32 The request shall be accompanied by certificates of medical, psychological or psychiatric
33 professionals as to the inability of the Bishop to issue the written consent.*

34 ~~(be). In the case of a Bishop Coadjutor, the grounds for the his election of a Bishop
35 Coadjutor, as stated in the record of the Convention, shall be communicated, with the other
36 required testimonials, to the General Convention, or to the Standing Committees and the
37 Presiding Bishop.~~

CONSTITUTION AND CANONS

1 ~~(ef). In the case of application for the~~ *When a Diocese desires the ordination and*
2 ~~consecration~~ of a Bishop Coadjutor, the Standing Committee shall forward to the Presiding
3 Bishop, in addition to the evidence and testimonials required by ~~the preceding Section~~
4 *Canon III.22*, a certificate of the Presiding Officer and Secretary of the Convention that
5 every requirement of this Section has been complied with.

6 *Sec. 2. There shall be only one Bishop Coadjutor in any Diocese. Provided, if it is certified*
7 *to the Ecclesiastical Authority of a Diocese by three competent physicians selected by the*
8 *Ecclesiastical Authority, that the Bishop Coadjutor in the Diocese is permanently unable,*
9 *by reason of medical, psychological or psychiatric condition, to carry out the duties of*
10 *Bishop Coadjutor, the Ecclesiastical Authority, upon the advice of three Bishops of three*
11 *neighboring Dioceses, may declare that the right of succession of the Bishop Coadjutor is*
12 *terminated and a new Bishop Coadjutor may then be elected as provided in Canon*
13 *III.22.1.*

Present Canon III.22.2(a),(b),(c), (d) revised for form and consistency.

14 CANON 2425

15 Of Suffragan Bishops

16 *Sec. 1 (a). With the consent of the Diocesan Bishop, a* A Suffragan Bishop shall be elected
17 in accordance with *Canon III.22.1.* ~~the Canons enacted in each Diocese for the election of a~~
18 ~~Bishop. But the initiative shall always be taken by the Bishop of the Diocese asking for the~~
19 ~~assistance of a Suffragan.~~

Art.II, Sec. 4 of the Constitution requires only the consent of the Diocesan Bishop and does not set any requirements for the election process. The Canons cannot be more restrictive. The proposed amendments to the Constitution, Resolutions #A017 and #A018, express the practice of the Church that has evolved.

20 ~~Sec. 2(a)(b).~~ Before the election of a Suffragan Bishop in a Diocese, the consent of the
21 General Convention; or, *if General Convention is not in session, during the recess thereof*
22 the consent of a majority of the Bishops ~~having~~ *exercising* jurisdiction and of the several
23 Standing Committees; must be ~~had and~~ obtained.

24 ~~(b) Whenever the Church in any Diocese shall desire the ordination and consecration of a~~
25 ~~Suffragan Bishop elect, subsequent proceedings in accordance with the provisions of~~
26 ~~Canon III. 21.1 shall be taken.~~

27 ~~(c).~~ If the consents required by Canon III. 21.1 are not received as therein prescribed, or if
28 the Suffragan Bishop elect decline his election, the Convention of the Diocese may then
29 proceed to a new election.

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~~1 Sec. 3. There shall not at any time be more than two Suffragan Bishops holding office in
2 and for any Diocese, save by special consent of the General Convention previously
3 obtained.~~

Art. II, Sec. 4 of the Constitution permits the election of one or more suffragans.
Resolution #A018 would establish this restriction constitutionally.

~~4 Sec. 4. A Suffragan Bishop may be elected and consecrated for any Missionary Diocese in
5 accordance with the provisions of Sec. 2 of
6 this Canon, and subject to all the provisions thereof.~~

~~7 Sec. 52. A Suffragan Bishop shall act, in all respects, as *an* the assistant of *to and under the*
8 *direction of the Diocesan Bishop of the Diocese, and under his direction.*~~

~~9 Sec. 6(a). Every Suffragan Bishop, upon attaining the age of seventy two years, shall
10 forthwith tender his resignation from his position by sending it to the Presiding Bishop,
11 who shall immediately communicate the same to every Bishop of this Church having
12 jurisdiction and shall declare the said Bishop's resignation accepted, effective at a
13 designated date not later than three months from the date of such resignation. — (b). The
14 Presiding Bishop shall communicate to the resigning Bishop the fact of the acceptance of
15 his resignation and the termination of his position effective as of the date fixed; and, in the
16 case of a Suffragan of a Diocese, shall certify the same to the Ecclesiastical Authority of the
17 Diocese concerned. He shall also order the Secretary of the House of Bishops to record the
18 same effective as of the date fixed, to be incorporated in the Journal of the House.~~

~~19 At each meeting of the General Convention, it shall be the duty of the Presiding Officer of
20 the House of Bishops to communicate to the House of Deputies, when in session, a list of
21 such resignations which have been accepted since the preceding meeting of the General
22 Convention.~~

~~23 (c). If any Suffragan Bishop should for any reason fail to submit his resignation upon
24 attaining the age of seventy two years, as provided in Clause (a) above, the Presiding
25 Bishop shall certify that fact to the House of Bishops. The House of Bishops shall then
26 declare the said Bishop's position terminated, effective at a date not later than three months
27 from the date of such declaration; and shall order the Presiding Bishop's certificate and its
28 own declaration and action to be recorded in its Journal. It shall then be the duty of the
29 Presiding Officer of the House of Bishops to pronounce such position terminated, and to
30 communicate the fact to the House of Deputies, if in session, and to the Ecclesiastical
31 Authority of each Diocese.~~

~~32 (d). Sec. 3. The tenure of office of a Suffragan Bishop shall not be *determined by the tenure*
33 *of office of the Diocesan Bishop.* terminated on the death or removal of the Bishop of the
34 Diocese. A Suffragan Bishop may, at any time, resign his position as Suffragan of a
35 Diocese with the consent of a majority of the Bishops of this Church having jurisdiction
36 under the procedure set out in Canon III. 26.8 so far as it applies.~~

The second sentence is deleted because resignations of suffragans is covered by new Canon 27.

1 A Suffragan Bishop whose resignation has been accepted shall exercise episcopal functions
2 only as he may be authorized by the Ecclesiastical Authority of a Diocese or of an Area
3 Mission.

4 ~~Sec. 7 (a). Whenever a Suffragan Bishop shall be elected Bishop or Bishop Coadjutor of a~~
5 ~~Diocese, if such election shall have taken place within three months before a meeting of the~~
6 ~~General Convention, evidence thereof shall be laid before each House of the General~~
7 ~~Convention and the concurrence of each House and its express consent shall be necessary~~
8 ~~to the validity of said election, and shall complete the same, so that the Bishop thus elected~~
9 ~~shall be thereafter the Bishop or Bishop Coadjutor of the Diocese which has elected him.~~

10 ~~(b). If the said election has taken place more than three months before a meeting of the~~
11 ~~General Convention, the above process may be adopted, or the following instead thereof~~
12 ~~viz.:~~

13 ~~The Standing Committee of the Diocese electing, or the Secretary of the House of Bishops,~~
14 ~~as the case may be, shall give duly certified evidence of the election to every Bishop of this~~
15 ~~Church having jurisdiction and to the Standing Committee of every Diocese.~~

16 ~~On receiving notice of the concurrence of a majority of the Bishops and of the Standing~~
17 ~~Committees in the election, and their express consent thereto, the Standing Committee of~~
18 ~~the Diocese concerned or the Secretary of the House of Bishops, as the case may be, shall~~
19 ~~transmit notice thereof to the Presiding Bishop and to the Ecclesiastical Authority of every~~
20 ~~Diocese; which notice shall state what Bishops and what Standing Committees have~~
21 ~~consented to the election. On receiving this notice the Presiding Bishop shall certify to the~~
22 ~~Secretary of the House of Bishops the altered status and style of the Bishop elected.~~

23 ~~If the Presiding Bishop shall not have received the consent of a majority of the Bishops~~
24 ~~within three months from the date of his notice to them, he shall then give notice of such~~
25 ~~failure to the Standing Committee of the Diocese electing.~~

26 Sec. 84. No Suffragan Bishop, while acting as such, shall be Rector or settled Member of
27 the Clergy in charge of a Parish or Congregation.

28 **CANON 2526**

29 **Of Assistant Bishops**

30 Sec. 1. ~~Whenever any~~ When a Diocese shall, in the opinion of its Bishop, requires
31 additional episcopal services, the said Bishop may, with the consent of the Standing
32 Committee of the Diocese, ~~in lieu of requesting the election of a Coadjutor or Suffragan~~
33 ~~Bishop,~~ ask the *Diocesan Convention of the Diocese* to approve the creation of the position
34 of Assistant Bishop, and to authorize the Bishop to appoint a Bishop for ~~such~~ *the* position,
35 with the consent of the Standing Committee of the Diocese, and under such conditions as
36 the Bishop may determine.

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1 Sec. 2. ~~Such~~ An Assistant Bishop may be appointed from among the following:

2 (a). ~~Diocesan Bishops now exercising jurisdiction, Coadjutor Bishops, or serving as~~
3 ~~Suffragan Bishops, who under the Constitution and Canons of this Church, and subject to~~
4 ~~their provisions, would be eligible for election in that Diocese; Provided, that before at the~~
5 ~~time of accepting any such appointment a Diocesan Bishop, exercising jurisdiction as the~~
6 ~~Ordinary or as the Bishop Coadjutor or Suffragan Bishop shall resign that office;~~
7 ~~jurisdiction, or the right of succession, as the case may be;~~

8 (b). Bishops of this Church who, having resigned their previous responsibilities, are
9 qualified to perform episcopal acts in this Church; and

10 (c). Bishops of a Church in communion with this Church, in good standing therein, if they:

11 (1). have previously resigned their former responsibilities;

12 (2). have received approval, by a competent authority within the Church of their
13 consecration, of their appointment to the position of Assistant Bishop;

14 (3). have exhibited satisfactory evidence of moral and godly character and theological
15 requirements; and

16 (4). ~~shall~~ have promised in a writing submitted to the Bishop making the appointment to
17 submit in all things to the Doctrine, Discipline and Worship of this Church; and

18 (5) ~~also shall~~ have submitted to and satisfactorily passed a thorough examination covering
19 ~~both physical and mental~~ their medical, psychological and psychiatric condition by
20 recognized and licensed professionals appointed by the Ecclesiastical Authority of the
21 Diocese with the approval of the Presiding Bishop. The forms of ~~medical and physical~~ for
22 ~~medical, psychological and psychiatric~~ reports prepared by The Church Pension Fund shall
23 be used for these purposes;

24 (d). ~~Provided, that b~~Before the appointment of a Bishop who is not otherwise a member of
25 the House of Bishops as; an Assistant Bishop in a Diocese under the provisions of
26 subparagraphs (b) or (c); Secs. 2(b) or 2(c) of this Canon, who is not otherwise a member
27 of the House of Bishops, the consent of the House of Bishops or, if such the appointment is
28 to be made more than three months prior to a meeting of the House of Bishops, the consent
29 of a majority of the Bishops ~~having exercising~~ jurisdiction is ~~essential~~ and must be
30 obtained.

31 Sec. 3. An Assistant Bishop so appointed shall serve at the discretion of, and be under the
32 control and direction of, the Bishop having jurisdiction.

33 Sec. ~~4~~ 3. No person may serve as an Assistant Bishop beyond the termination of the
34 jurisdiction of the appointing Bishop or after attaining the age of 72 years.

35 Sec. 4. An Assistant Bishop shall serve at the discretion of, and under the control and
36 direction of, the Diocesan Bishop.

1 *CANON 27*

2 *Of the Incapacity, Resignation, and Retirement of Bishops*

3 *Sec. 1. When it is certified to the Presiding Bishop, by at least three competent physicians*
4 *who have examined the case, that a Diocesan Bishop is incapable of authorizing the*
5 *Bishop Coadjutor, if there is one, or a Suffragan Bishop, if there is one, or the Standing*
6 *Committee to act as the Ecclesiastical Authority, then, upon the advice of five Bishops of*
7 *neighboring Dioceses selected by the Presiding Bishop, the Presiding Bishop shall declare*
8 *the Bishop Coadjutor, or a Suffragan Bishop, if the Constitution and Canons of the*
9 *Diocese so provide, or the Standing Committee to be the Ecclesiastical Authority for all*
10 *purposes set forth in these Canons and to retain such authority until the Presiding Bishop,*
11 *acting upon a like certificate, declares the Diocesan Bishop competent to resume official*
12 *duties.*

Current III.27.10 revised for form and clarity.

13 ~~Sec. 72(a). Every Each Bishop and every Bishop Coadjutor and every Missionary Bishop,~~
14 ~~upon attaining the age of seventy-two years, shall forthwith tender his resignation from his~~
15 ~~jurisdiction, as required by Sec. 9 of Article II. Sec. 9 of the Constitution, by sending it~~
16 ~~The resignation shall be sent to the Presiding Bishop, who shall immediately communicate~~
17 ~~it the same to every Bishop of this Church having exercising jurisdiction and shall declare~~
18 ~~the said Bishop's resignation accepted, effective at a designated date not later than three~~
19 ~~months from the date of such the resignation was tendered.~~

20 (b). The Presiding Bishop shall communicate to the resigning Bishop the ~~fact of the~~
21 ~~acceptance of his the resignation and the termination of his jurisdiction~~ effective as of the
22 ~~date fixed; and, in the case of a Diocesan Bishop or Bishop Coadjutor of a Diocese, the~~
23 ~~Presiding Bishop shall certify the same resignation to the Standing Committee of the~~
24 ~~Diocese concerned, and in the case of other Bishops, to the Ecclesiastical Authority of the~~
25 ~~Diocese concerned. The Presiding Bishop He shall also order the Secretary of the House of~~
26 ~~Bishops to record the same resignation, effective as of the date fixed, to be incorporated in~~
27 ~~the Journal of the House.~~

28 (c). If any Bishop, ~~should~~ for any reason, fails to ~~submit his resignation~~ upon attaining the
29 ~~age of seventy-two years, as provided in Clause (a) above Sec. 2 of this Canon, the~~
30 ~~Presiding Bishop shall certify that fact to the House of Bishops. The House of Bishops~~
31 ~~shall then declare the said Bishop's jurisdiction position terminated, effective at a date not~~
32 ~~later than three months from the date of declaration; and shall order the Presiding Bishop's~~
33 ~~certificate and its own declaration and action to be recorded in its Journal. It shall then be~~
34 ~~the duty of the Presiding Bishop Officer of the House of Bishops to shall then pronounce~~
35 ~~such jurisdiction the position terminated, effective as of the date fixed, and to shall~~
36 ~~communicate the fact to the House of Deputies, if in session, and to the Ecclesiastical~~
37 ~~Authority Diocesan Bishop and Standing Committee of each Diocese.~~

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1 Sec. 83(a). ~~If the Any Bishop of a Diocese, or a Bishop Coadjutor, shall who desires~~
2 ~~to resign his jurisdiction, he shall send in writing to the Presiding Bishop his the resignation~~
3 ~~with the reasons therefor in writing to the Presiding Bishop. This communication shall be~~
4 ~~sent at least thirty days before the date set for a regular or special meeting of the House of~~
5 ~~Bishops. The Presiding Bishop shall notify without delay send a copy of the~~
6 ~~communication to every Bishop of this Church having ecclesiastical jurisdiction, and also~~
7 ~~to the Standing Committee of the Diocese of the Bishop desiring to resign, in order that the~~
8 ~~Standing Committee may on behalf of the Diocese be heard on behalf of the Diocese, either~~
9 ~~in person or by correspondence, upon the subject. The House during its session shall~~
10 ~~investigate the whole case, and by a majority of those present accept or refuse the~~
11 ~~resignation by a majority of those present.~~

12 (b). ~~If said a resignation shall have has been tendered more than three months before a~~
13 ~~regular or special meeting of the House of Bishops, the Presiding Bishop shall~~
14 ~~communicate the same it, together with any statement from the Standing Committee of the~~
15 ~~Diocese concerned, to every Bishop of this Church. having jurisdiction, and if a majority~~
16 ~~of such the Bishops shall consents to the resignation, the Presiding Bishop shall, without~~
17 ~~delay, shall notify the resigning Bishop and the Standing Committee of the Diocese~~
18 ~~concerned of the acceptance of such the resignation and the termination of said Bishop's~~
19 ~~jurisdiction, effective as of the date fixed. He The Presiding Bishop shall also order the~~
20 ~~Secretary of the House of Bishops to record the same-resignation, effective as of the date~~
21 ~~fixed, to be incorporated in the Journal of the House.~~

Amendments to (a) and (b) reflect the constitutional requirement of consent by the House of Bishops to a resignation. See Art.II Sec. 6. Although the Constitution does not expressly extend to resignations of suffragans, the canons have previously required approval of their resignations too. See current III.6(d).

22 ~~(c). The House of Bishops may accept the resignation of a Missionary Bishop at any~~
23 ~~session of the House by a vote of a majority of those present; Provided, that, in case the~~
24 ~~resignation be sent to the Presiding Bishop more than three months before a regular or~~
25 ~~special meeting of the House of Bishops, the Presiding Bishop shall follow the procedure~~
26 ~~set out in Clause (b) above so far as it applies.~~

27 (dc). ~~At each meeting of the General Convention, it shall be the duty of the Presiding~~
28 ~~Officer of the House of Bishops to shall communicate to the House of Deputies, when in~~
29 ~~session, a list of the resignations which have been accepted since the preceding meeting of~~
30 ~~the General Convention.~~

31 (e). ~~Every Missionary Bishop whose resignation for cause of age or disability has been~~
32 ~~accepted may receive from the Executive Council an annual retirement or disability~~
33 ~~supplement to be paid by the Treasurer of the Executive Council in an amount to be fixed~~
34 ~~by the Executive Council. Any such supplement would be in addition to his regular pension~~
35 ~~received from The Church Pension Fund, and may be revised whenever such Retired~~
36 ~~Bishop shall receive a regular stipend from an ecclesiastical employment.~~

CONSTITUTION AND CANONS

1 ~~(f). Every Missionary Bishop, and every Bishop holding an office created by the General~~
2 ~~Convention, whose salary is paid by the Executive Council, whose resignation for reasons~~
3 ~~of policy or strategy, or for reasons beyond his control, has been accepted, and who has~~
4 ~~reached retirement age, or who has suffered total disability, shall receive from the~~
5 ~~Executive Council a retiring allowance to be paid by the Treasurer of the Executive~~
6 ~~Council in an amount to be fixed by the Executive Council.~~

7 *Sec. 4 (a). A resigned or retired Bishop shall be subject in all matters to the Constitution*
8 *and Canons of this Church and to the authority of the General Convention.*

Current Canon III.27.9(b) revised.

9 ~~(b). Sec. 9 (a). A resigned or retired Bishop whose resignation has been accepted by the~~
10 ~~House of Bishops may perform any episcopal act, at the request of any Diocesan Bishop of~~
11 ~~this Church, within the limits of the said that Bishop's jurisdiction Diocese. He A resigned~~
12 ~~or retired Bishop may also, by vote of the Convention of any Diocese, and with the consent~~
13 ~~of the Bishop of the that Diocese, be given an honorary seat in the Convention, with voice~~
14 ~~but without vote, or such be given an honorary seat in the Cathedral of any Diocese, by and~~
15 ~~subject to the authority competent to act in the premises grant such seat. He The resigned~~
16 ~~or retired Bishop shall report all official acts to the Diocesan Bishop and to the Diocese in~~
17 ~~which such the acts are performed. The foregoing These provisions of this paragraph shall~~
18 ~~also be applicable to a resigned Bishop of another Church in communion with this Church,~~
19 ~~subject to the approval of competent authority within such the other Church, where such~~
20 ~~approval may be required.~~

Revised to clarify that these provisions apply to retired Bishops as well as those who have resigned prior to age 72.

21 ~~(b). A Bishop who ceases to have episcopal charge shall still be subject in all matters to the~~
22 ~~Canons and Authority of the General Convention.~~

23 ~~(c). A resigned Bishop whose resignation has been accepted may, at the discretion of the~~
24 ~~Bishop of the Diocese in which he the resigned Bishop chooses to resides, and upon the~~
25 ~~presentation of Letters Dimissory from the Ecclesiastical Authority of the Diocese in which~~
26 ~~he the resigned Bishop has had canonical residence most recently, be enrolled among the~~
27 ~~Clergy of that the new Diocese, and become subject to its Constitution and eCanons and~~
28 ~~regulations; including and may being given accorded a seat and vote in the Diocesan~~
29 ~~Convention, in accordance with its canonical provisions for qualification of Presbyters;~~
30 ~~clergy members.~~

31 ~~(d). but if he shall When a resigned Bishop accepts a pastoral charge or other ministerial~~
32 ~~post within the a Diocese, as hereinafter provided, he the Diocesan Bishop shall process~~
33 ~~such the Letters Dimissory, and the resigned Bishop shall be enrolled among the Clergy of~~
34 ~~the Diocese, and be given seat and vote in the Diocesan Convention in accordance with the~~
35 ~~canonical provisions of the Diocese for qualification of clergy members, and subject to the~~
36 ~~provisions of paragraph (gh) of this section.~~

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1 (d e). Such A resigned Bishop may, with the approval of the Bishop of the Diocese in
2 which ~~he chooses to the resigned Bishop~~ resides, accept a pastoral charge in ~~said that~~
3 Diocese, and, subject to ~~the Diocese's~~ its canonical provisions for the filling of vacancies,
4 may accept election as the Rector of a Parish therein.

5 (e f). Such A resigned Bishop may, with the approval of the Bishop of the Diocese in which
6 ~~he chooses to the resigned Bishop~~ resides, accept any position created under the authority
7 of the Diocesan Convention, including that of Assistant Bishop. ~~He and~~ may, at the same
8 time, occupy a pastoral charge.

9 (f g). Enrollment among the Clergy of, or acceptance of any position within, a Diocese
10 shall not deprive a resigned Bishop of the seat and vote in the House of Bishops to which
11 ~~he the Bishop~~ may be entitled under Article I. Sec. 2 of the Constitution.

12 (g h). The provisions of ~~the foregoing paragraphs~~ of this section shall be applicable to a
13 resigned Bishop who continues to reside within the limits of the ~~jurisdiction he previously~~
14 ~~served as Bishop,~~ *resigned Bishop's former Diocese*, except that ~~he the resigned Bishop~~
15 shall not have the right to vote in the Diocesan Convention, unless the Canons of the
16 Diocese so specifically so provide.

17 Sec. 10. When it is certified to the Presiding Bishop, by at least three competent physicians
18 who shall have examined the case, that the Bishop of any Diocese is incapable of
19 authorizing the Bishop Coadjutor, if there be one, or a Suffragan Bishop, if there be one, or
20 the Standing Committee, to act as the Ecclesiastical Authority, then, upon the advice of five
21 Bishops of neighboring Dioceses, to be selected by the Presiding Bishop, the Bishop
22 Coadjutor, if there be one, or a Suffragan Bishop, if there be one, and if the Constitution
23 and Canons of the Diocese so provide, or the Standing Committee, shall be declared by the
24 Presiding Bishop to be the Ecclesiastical Authority for all purposes set forth in these
25 Canons, and shall retain such authority until such time as, acting upon a like certificate, the
26 Presiding Bishop shall declare the said Bishop competent to perform official duties.

27 CANON 2728

28 *Of Dioceses without Bishops*

29 Sec. 61(b). A Diocese without a Bishop, or of which the Bishop is for the time under a
30 disability by reason of a judicial sentence, may, by *an act* of its Convention, and in
31 consultation with the Presiding Bishop, be placed under the provisional charge and
32 authority of the *a* Bishop or Bishop Coadjutor of another Diocese or of a resigned Bishop,
33 who shall by that act be authorized to perform *exercise* all the duties and offices of the
34 Bishop of the Diocese so vacant or whose Bishop is under disability, until, in the case of a
35 vacant Diocese, a Bishop *be duly* is elected and *consecrated ordained for that Diocese or*
36 *until* for the same; or, in the case of a Diocese whose Bishop is disabled, until the
37 *disqualification be removed;* or until, in either case, the said act of the Convention *be is*
38 revoked.

CONSTITUTION AND CANONS

1 *Sec. 2. Any Bishop may, on the invitation of the Convention or of the Standing Committee*
2 *of any Diocese where there is no Bishop, visit and exercise episcopal offices in that*
3 *Diocese, or any part of it. This invitation shall be for a stated period and may be revoked*
4 *at any time.*

5 *Sec. 3. (e) A Diocese, while under the provisional charge of a Bishop, shall not invite any*
6 *other Bishop to ~~perform any visit and exercise episcopal duty or exercise acts or authority~~*
7 *without the consent of the Bishop in charge.*

RECOMMENDATION OF THE COMMISSION

The Commission respectfully recommends that the assets of the Church be directed to the translation and publication of the Constitution and Canons of the Church in the Spanish language.

PROPOSED BUDGET FOR 1995-1997

	<u>1995</u>	<u>1996</u>	<u>1997</u>
Meetings	\$16,230	\$18,640	\$13,685
Printing, White & Dykman	4,000		
Supplies and Misc.	<u>450</u>	<u>850</u>	<u>675</u>
	\$20,680	\$19,490	\$14,360

Resolution #A025

1 *Resolved*, the House of _____ concurring, **That the sum of \$54,530.00 be**
2 **appropriated for the work of the Standing Commission on Constitution**
3 **and Canons during the next triennium.**