

Ecclesiastical Discipline, 1914.

ECCLESIASTICAL DISCIPLINE ORDINANCE, 1914.

1914. No. 11.

Preamble.

Whereas it is expedient to establish a Tribunal for the trial of Clergymen licensed by the Bishop within the Diocese of Grafton for certain offences in accordance with the Constitutions contained in the Schedule to the Church of England Constitutions Act 1902: Be it therefore ordained by the Synod of the said Diocese as follows:—

Offences Cognisable under Ordinances.

1. The following shall be deemed to be ecclesiastical offences cognisable under the provisions of this Ordinance:—

- (i.) Heresy, false doctrine, breach of ritual or schism.
- (ii.) Unchastity.
- (iii.) Drunkenness.
- (iv.) Habitual and wilful neglect of ministerial duty after special admonition in writing by the Bishop with reference thereto.
- (v.) Bankruptcy or failure or inability to pay just debts without sufficient reason or excuse for such bankruptcy failure or inability.
- (vi.) Any offence punishable in law being sinful in itself.
- (vii.) Conduct disgraceful to a Clergyman and productive of scandal and evil report.
- (viii.) Breaches of discipline.

Synod to elect Panel of Triers.

2. At the first session of every Synod twelve Clergymen and twelve Laymen being respectively members of Synod shall be elected by the Synod to be a Panel of Triers for the purposes of this Ordinance and such Panel shall continue in existence until a fresh Panel shall be elected. Provided that in the event of a vacancy or vacancies arising in the Panel of Triers the Bishop-in-Council shall appoint to such vacancy or vacancies until the next Session of Synod.

Advocate to be appointed.

3. For the proper direction and conduct of trials of Clergymen charged with ecclesiastical offences there shall be an officer to be called the Advocate of the Diocese. Such Advocate shall be appointed by the Bishop-in-Council who shall have power to

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remove him from his office and to appoint to any vacancy occurring in the said office.

Charge may be Preferred by Bishop or other Persons.

Complaints of Heresy, etc.

4. Charges against Clergymen under this Ordinance may be preferred either by the Bishop of his own motion or by any three adult persons being members of the Church of England. In the latter case the complainants shall send to the Bishop the form set forth in the Schedule hereunto annexed signed by the complainants and setting forth the ground of complaint together with a list of witnesses known to complainants and of the documentary evidence connected with such charge in complainants' possession. Provided that in the event of the charge being for heresy false doctrine breach of ritual or schism the complaint must be preferred by six communicants of full age resident in the Parish or Parochial District in which the said Clergyman is licensed.

Copy of Charge to be served on Accused.

5. If in the opinion of the Bishop there is sufficient prima facie ground for such charge and the matter is of sufficient importance to warrant such proceeding or if the charge is brought by the Bishop himself the Bishop shall within one month of the receipt or making of the charge cause to be served on the accused or sent through the ordinary course of post in registered packet addressed to him at his last known place of abode a copy of such charge and shall request him in writing to reply thereto in writing within fourteen days.

Where the Accused submits.

6. If the accused shall admit the charge and thereupon submit himself without any further proceedings to such judgment and sentence as the Bishop shall think fit to pronounce the Bishop shall deal with the case accordingly.

Where the Accused does not submit.

7. If the accused shall not submit himself as hereinbefore mentioned then the Bishop shall cause to be issued and served upon the accused or sent through the ordinary course of post in registered package addressed to him at his last known place of abode a citation in writing under the Episcopal Seal calling upon him to appear before the Tribunal constituted in conformity with this Ordinance to try the matter charged against him on a day not less than twenty-one days after the issue of such citation and at a place and hour to be specified in such citation and such time and place shall be notified to the complainant or complainants at the time of issue of such citation.

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And the Bishop may at any time after such charge shall have been made and pending the trial of the accused suspend the accused from the exercise of his functions or any of them without however depriving him of any emolument attached to the exercise of such functions.

Complaint or Charge may be amended.

8. The Bishop may at any time before trial permit or direct the complaint or charge to be amended as he may think fit and necessary for the purposes of justice provided that the substance of the complaint or charge be not varied by such amendment and that notice of such amendment be forthwith served upon the accused.

Constitution of Tribunal.

9. The Tribunal before which the accused shall be cited to appear as hereinbefore mentioned shall be constituted of a President who shall be the Chancellor of the Diocese or a Commissary specially appointed by him in writing being a barrister-at-law or a solicitor and four Triers (two Clergymen and two Laymen) who shall be selected in the manner following, that is to say:—Immediately after the citation shall have been issued as hereinbefore mentioned and before service upon or sending of the same to the accused the Bishop-in-Council shall elect by ballot from the Panel of Triers hereinbefore referred to four Clergymen and four Laymen. Two of each order shall then be selected by lot and the four persons so selected shall be and shall act as Triers and the names of the Triers so selected shall be notified to the complainant or complainants and the accused. Provided always that if one or more of the four Triers so selected as members of the Tribunal shall fail to be in attendance the remaining members of the Tribunal shall in the place of such person or persons select from the Panel another person or persons of the same order to be a member of the said Tribunal. And the President shall postpone or adjourn the trial as occasion shall in the opinion of the Tribunal or a majority thereof require.

Court open to the Public.

10. The Court shall be open to the Public unless the President with the concurrence of the majority of the Triers shall deem it expedient to close it.

Right of Bishop to be present.

11. In all proceedings under this Ordinance the Bishop shall have the right to be present and he and all parties may be represented by counsel or solicitor.

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Cause may be Determined in absence of Accused.

12. Should the accused refuse or neglect to appear either in person or by counsel solicitor or agent in obedience to the citation issued and served upon or sent to him as hereinbefore mentioned the Tribunal after due proof of service of the citation may proceed to hear and determine the cause in his absence.

President to notify result to Bishop.

13. The President shall without delay notify to the Bishop and to the parties to the trial the decision of the Tribunal.

Bishop to give decision or announce sentence.

14. As soon as may be after the expiration of six weeks from the date of such notification the Bishop shall give notice to the parties to the trial and to each member of the Tribunal of the time and place when and where he proposes to announce the decision and if need so require pronounce the sentence and shall permit any other persons to be present thereat and if the decision be adverse to the accused shall after having heard such observations as the accused may desire to offer in arrest of judgment or in mitigation thereof then and there pronounce sentence of suspension or deprivation of license or office and of the rights and emoluments thereto appertaining. Provided always that if a new trial shall in the meantime have been applied for and such application shall not have been heard or shall have been heard and granted the Bishop shall postpone all further proceedings in the matter until further notice.

Application for new trial.

15. Within two weeks after notification of the decision any party may apply to the President for a new trial and if the President shall be satisfied that justice requires it he may within one week thereafter order a new trial and thereupon a fresh Tribunal shall be constituted for the purpose of such new trial in the same manner as hereinbefore prescribed for the constitution of the first Tribunal and the trial shall be conducted as beforementioned and the record of the previous trial and the documents and writings used in such case or copies thereof may be put in and received as evidence.

Appeal.

16. No appeal to the Appellate Tribunal as allowed under Determination No. 2 of the General Synod Session 1872 against the decision of the Tribunal shall be allowed unless such appeal be made within four calendar months of the time of the declaration of such decision and notice be given to the Registrar of the Diocese not less than fourteen days before an appeal is made.

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Form in which Charge to be made.

17. No charge shall be entertained under or in pursuance of this Ordinance against any person for or in respect of any offence committed or alleged to have been committed by such person unless a copy of such charge or complaint in the form provided for in the Schedule hereto shall have been served upon him within twelve calendar months after the commission of the alleged offence. Provided always that whenever any such charge shall be made against a person in respect of any offence for which a conviction shall have been obtained against him in any court of competent jurisdiction such charge may be entertained if a copy of the charge shall have been served as aforesaid at any time within six calendar months after such conviction although more than six calendar months shall have elapsed since commission of the offence in respect of which such charge shall be made.

Records to be preserved.

18. The Registrar of the Diocese shall make up and preserve in the Registry a record or abstract of the proceedings held in every case investigated by the Tribunal and shall append thereto the evidence and documents and writings used in such case or copies thereof or sufficient extracts therefrom and he shall on the request of either of the parties in the case furnish copies of the whole or any part thereof on payment by the person desiring the same of scrivener's charges.

Objection to form of Citation.

19. No objection shall be taken to the form of citation referred to in section 8 of this Ordinance so long as it sets forth the substance of the charge or charges.

Short Title.

20. This Ordinance may be cited as the "Ecclesiastical Discipline Ordinance 1914."

Schedule.

SCHEDULE A.

Declaration of Complainants.

We A. B. of
C. D. of
astical Offence of the kind hereinafter set forth that is to say

do hereby charge the Rev.
that he has committed the Ecclesi-

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that he has within (here state time in accordance with the provisions of Section 17) been guilty of (here state the offence charged) and we herewith send in support of such charges a list of witnesses now known to us and such documentary evidence as we now possess on which charge we desire that the said C.D. be duly brought to trial and we the said A.B. do solemnly and sincerely declare that we do not make this charge from any private ill-will towards the said C.D. or from any improper motive and we further in like manner declare that we believe the charges laid to be substantially true.

I assent to above Ordinance
22nd June, 1914.

CECIL H. GRAFTON.