

## TABLE OF CONTENTS

### ARTICLES

ARTICLE I	ON DEFINITIONS .....	1
ARTICLE II	ON THE EXTENT OF THE CHURCH.....	5
ARTICLE III	ON DOCTRINE AND WORSHIP .....	5
ARTICLE IV	ON THE VALUE AND DIGNITY OF MAN .....	7
ARTICLE V	ON THE LITURGY OF THE CHURCH .....	7
ARTICLE VI	ON THE MINISTRY .....	8
ARTICLE VII	ON THE ELECTION OF THE ARCHBISHOP.....	14
ARTICLE VIII	ON THE FUNCTIONS OF THE ARCHBISHOP .....	16
ARTICLE IX	ON THE ARCHBISHOP'S JURIDICTION AS METROPOLITAN.....	17
ARTICLE X	ON THE DEAN OF THE PROVINCE .....	17
ARTICLE X I	ON THE ELECTION OF BISHOPS .....	18
ARTICLE XII	ON BISHOPS COADJUTOR, SUFFRAGAN AND ASSISTANT.....	21
ARTICLE XIII	ON THE PROVINCIAL OFFICERS .....	24
ARTICLE XIV	ON PROVINCIAL, DEPUTY PROVINCIAL AND DIOCESAN CHANCELLOR .....	24
ARTICLE XV	ON DIOCESAN ADMINISTRATIVE SECRETARIES.....	24
ARTICLE XVI	ON VICARS GENERAL .....	26
ARTICLE XVII	ON TRUSTEES.....	26
ARTICLE XVIII	ON THE PROVINCIAL SYNOD .....	27
ARTICLE XIX	ON THE HOUSE OF BISHOPS .....	29
ARTICLE XX	ON THE HOUSE OF CLERGY .....	30
ARTICLE XXI	ON THE HOUSE OF LAITY.....	30
ARTICLE XXII	ON THE EPISCOPAL SYNOD.....	30
ARTICLE XXIII	ON THE COMMITTEE OF REFERENCE.....	31
ARTICLE XXIV	ON THE PROVINCIAL BOARDS .....	32
	1 Provincial Board of Finance.....	33
	2 Provincial Board of Theological Education and Training.....	33
	3 Provincial Board of Mission.....	34
	4 Provincial Board of Social Services.....	34
ARTICLE XXV	ON TRIBUNALS.....	34
ARTICLE XXVI	ON THE DISCIPLINE OF THE CHURCH .....	34
ARTICLE XXVII	ON THE RELATIONS BETWEEN THE CHURCH AND THE DIOCESE .....	38
ARTICLE XXVIII	ON DIOCESAN CONSTITUTIONS.....	39
ARTICLE XXIX	ON CATHEDRALS AND CHAPTERS .....	39
ARTICLE XXX	ON THE ERECTION OF CHURCHES .....	39
ARTICLE XXX I	ON THE MAKING OF CHURCH CANONS, RULES, REGULATIONS STANDING ORDERS AND BY-LAWS.....	40

ARTICLE XXXII	ON THE AMENDMENT OF ARTICLES .....	40
ARTICLE XXXIII	ON TRANSITIONAL PROVISIONS .....	41

## CANONS

CANON I	OF THE DIVISION OF A DIOCESE AND RELATED MATTERS. ....	46
CANON II	OF UNION WITH OTHER CHRISTIANS.....	49
CANON III	OF EXCHANGE OF WORKERS BETWEEN THE ANGLICAN CHURCH OF KENYA AND OTHER CHURCHES OR CHRISTIAN BODIES. ....	51
CANON IV	OF THE ELECTION OF THE ARCHBISHOP AND BISHOP OF ALL SAINTS CATHEDRAL DIOCESE .....	53
CANON V	OF THE ELECTION OF DIOCESAN BISHOPS .....	56
CANON VI	OF THE ARCHBISHOP'S VISITATIONS .....	58
CANON VII	OF THE SERVICE OF BISHOPS IN THE CHURCH .....	58
	Part I    General.....	58
	Part II   Of Resignation or Retirement .....	60
	Part III  Of the Compulsory Retirement of the Archbishop .....	61
CANON VIII	OF THE RELINQUISHMENT OF EPISCOPAL JURISDICTION .....	62
CANON IX	OF ARCHDEACONS .....	62
CANON X	OF CHANCELLORS PROVINCIAL AND DIOCESAN .....	64
CANON XI	OF THE LICENSING OF CLERGY OF THE CHURCH.....	67
CANON XII	OF THE APPOINTMENT AND FUNCTIONS OF THE CHURCH REGISTRAR, THE PROVINCIAL SECRETARY, THE TREASURER AND THE CLERICAL AND LAY SECRETARIES OF THE PROVINCIAL SYNOD. ....	69
CANON XIII	OF THE CONSTITUTION OF THE HOUSES OF BISHOPS, CLERGY AND LAITY AND OF THE STANDING COMMITTEE OF SYNOD. ....	70
CANON XIV	OF THE POWERS ETC. OF TRUSTEES.....	71
CANON XV	OF THE TRIBUNALS OF THE CHURCH.....	71
CANON XVI	OF DISCIPLINARY PROCEEDINGS WITHIN THE CHURCH .....	73
CANON XVII	OF THE TRIAL OF ARCHBISHOP AND BISHOPS .....	76
CANON XVIII	OF THE TRIAL OF PRIESTS AND DEACONS .....	78
CANON XVIX	OF THE DISCIPLINE OF THE LAITY .....	79
CANON XX	OF SENTENCES.....	79
CANON XXI	OF APPEALS.....	85
CANON XXII	OF BAPTISM AND CONFIRMATION .....	86
	1 Of Holy Baptism .....	86
	2 Of God Father and Godmothers .....	87
	3 Of Infant Baptism.....	87
	4 Of the Baptism of Children of Parents of Whom one alone is a Christian.....	88
	5 Of Baptism in Emergency.....	89

6	Of Catechumenate.....	89
7	Of the Baptism of such as are of riper years .....	89
8	Of the Baptism of Polygamists .....	90
9	Of the Registration of Baptisms .....	90
10	Of Fees .....	91
11	Of the sign of the Cross in Baptism .....	91
12	Of Christian Instruction if Children and young people .....	91
13	Of Confirmation .....	91
14	Of the Registration of Confirmations.....	92
CANON XXIII OF MARRIAGE.....		93
CANON XXIII A OF HOLY MATRIMONY .....		93
CANON XXIII B OF THE RITES OF CHURCH RELATING TO CHRISTIAN MARRIAGES.....		93
CANON XXIII C OF NULLITY AND MARRIAGE AFTER DECLARATION OF NULLITY .....		94
CANON XXIII D OF DIVORCE AND THE MARRIAGE OF DIVORCED PERSON ..		94
	Regulations under the Canon Law of Marriage Relating to the Bishops' Court.....	96
	The Appendix above referred to .....	97
CANON XXIII E OF THE MARRIAGE OF UNBAPTIZED PERSONS .....		99
	The appendix above referred to .....	100
CANON XXIII F OF MARRIAGE UNDER NON-CHRISTIAN LAW INCLUDING CUSTOMARY LAW .....		100
	1 Non Christians Married under Customary Law.....	100
	2 Marriage between a Non Christian and a Baptized Person.....	101
	3 Baptized Persons Married under Customary Law.....	101
CANON XXIII G OF CERTAIN IMPEDIMENTS TO THE SOLEMNIZATION OF MATRIMONY .....		102
	The appendix above referred to .....	103
TABLES OF KINDRED AND AFFINITY WHEREIN WHOSOEVER ARE RELATED ARE FORBIDDEN BY THE LAW OF THE CHURCH TO MARRY TOGETHER .....		103
	Table A .....	103
	Table B .....	103
	Table C .....	104
CANON XXIII H OF MIXED MARRIAGES.....		104
CANON XXIII I OF DISCIPLINE .....		104
	Church and Polygamy.....	104
	People who were Polygamist before becoming Christians.....	105

CANON XXIII J OF THE BLESSING OF A MARRIAGE CONTRACTED AS A CIVIL MARRIAGE .....	106
CANON XXIII K OF THE ORDERING OF THE MARRIAGE SERVICE .....	107

# **The Constitution of the Anglican Church of Kenya**

**Commencement: 16<sup>th</sup> March 2002**

## **ARTICLES**

### **ARTICLE I - ON DEFINITIONS**

In the construction and for the purpose of this Constitution, and in the construction and for the purpose of all Articles Canons Rules Regulations Standing Orders and By-laws of the Provincial Synod, the following words and expression shall have the meanings hereby assigned to them respectively (unless there be something in the subject or context repugnant thereto), viz:-

1. "Archbishop" means the Bishop elected to that office in accordance with the provisions of this Constitution.
2. "Articles" means the principal rules for the government of the entire Church of the Province of Kenya as promulgated by the Provincial Synod.
3. "Assistant Bishop" means a Bishop or priest appointed by a Diocesan Bishop of this Church and episcopally consecrated and holding the commission of the Diocesan Bishop to perform episcopal duties in his Diocese.
4. "Bishop Coadjutor" means a Bishop or priest elected to that office in accordance with the provisions of the Constitution of this Church and episcopally consecrated and who has (subject to the qualifications set out in Article XII hereof) the right of succession to the See of the Diocese in which he is Bishop Coadjutor.
5. "Bishop Suffragan" means a Bishop or priest appointed by a Diocesan Bishop of this Province in accordance with the provisions of the Constitution of this Anglican Church of Kenya episcopally consecrated to perform episcopal duties in a particular geographical area of his Diocese but whose appointment does not lapse with the election of a new Diocesan Bishop.
6. "Bishops of the Province" and "Bishops" means all Bishops whether Diocesan, Coadjutor, Suffragan or Assistant duly consecrated and serving as such within the Province.

7. "Bishop's Commissary" means a person (lay or clerical) authorized by the Archbishop or a Diocesan Bishop to act as his representative in other Anglican Dioceses or Provinces.
8. "By-law" means a secondary subordinate or accessory law passed or made by or under the authority of a principal law.
9. "Canon" except in relation to a person means any rule law or decree laid down by the Provincial Synod as a fundamental principal governing any particular subject in relation to which it is made or enacted.
10. "Church" in relation to a building means any building which has been set apart dedicated or consecrated as a place of worship.
11. "The Anglican Church of Kenya" and "Church of the Province of Kenya" both mean the Community which is associated under the Provisions herein set forth. The title Anglican Church of Kenya is not intended to exclude other ( such as Anglican Church) under which this Church, or any portion of it may be known, but being used to express the fact that the whole Church thus entitled is united in this Provincial organization, through which it is connected with other Churches of the Anglican Communion.
12. "Communicant Member of the Anglican Church of Kenya" means a member of the Anglican Church of Kenya wherever confirmed within the Anglican Communion who, given due opportunity, shall have received the Holy Communion three times at least during the preceding year at the hands of some priests, either of this Church or of some other Church in Communion with the same.
13. "Constitution of this Church", "Provincial Constitution" and "This Constitution" each mean the Constitution of the Anglican Church of Kenya as adopted at the inauguration of the Church in August 1970, together with such alterations or additions as may be made from time to time by the Provincial Synod in accordance with the procedure therein provided.
14. "Deacon" in the modern Anglican Church the diaconate has become a grade through which a candidate or Priest's orders passes for a brief period before being ordained to priesthood if found suitable. This order excludes Deaconess.
15. "Deaconess" this order is not part of the ordained ministry. It is an order for women who are commissioned to assist the parish priest in various pastoral duties.
16. "Dean" means the Bishop elected to or occupying such office in accordance with the provisions of this Constitution.
17. "Diocesan Bishop" means the Bishop for the time being of any Diocese within the Anglican Church of Kenya duly elected, consecrated and enthroned.

18. "Diocesan Synod" means an assembly consisting of the Diocesan Bishop and the Houses of Clergy and Laity of a Diocese of this Province, and constituted according to such laws as have been or shall be agreed upon in such Diocese and allowed by the Provincial Synod.
19. "Diocese" means each and every Diocese for the time being and from time to time referred to in Article II of this Constitution.
20. "Episcopal Synod" means the Bishops of the Province, assembled as a body in accordance with this Constitution.
21. "Laity" means all persons who are members of this Church and who are not members of the Orders of Bishops, Priests or Deacons.
22. "License" means
  - a) in relation to a priest or deacon the license issued by or on behalf of a Diocesan Bishop to a priest or deacon appointing him to a named charge; and
  - b) in relation to a member of the laity the license issued by or on behalf of a Diocesan Bishop to a lay person permitting him or her to conduct services of the Church, to preach and to assist at the holy Communion as a Lay Reader.
23. "Metropolitan" means the Archbishop of Kenya for the time being and during any vacancy in the office, the Dean of the Anglican Church of Kenya.
24. "Parish" means the congregation or congregations from time to time under the pastoral charge of a Parish priest.
25. "Parish Priest" means a Priest who has been licensed instituted or appointed by the Diocesan Bishop to the pastoral charge of a Parish.
26. "Priest" is a person who has been ordained by a Bishop after serving as a Deacon successfully. A Priest has a right to perform pastoral and sacramental duties if licensed by a Bishop so to do.
27. "Provincial Synod" means an assembly of the Houses of Bishops, Clergy and Laity of the Anglican Church of Kenya, constituted, convened and held in accordance with this Constitution.
28. "Province of Kenya" and "this Province both" mean the geographical area from time to time comprising the several Dioceses specified in Article II of this Constitution.

29. "Quorum" means the number of voting members who must be present at a meeting of any Synod, Council, Board, Committee or other Church body in order that business may be validly transacted.
30. "Regulation" means a detailed instruction issued by a Synod whether Provincial or Diocesan for the guidance of that Synod or of any officer or other person in taking action under its Constitution.
31. "Rule" means an injunction or direction adopted formally by the Provincial Synod under the provisions of these Articles or of any Canon made thereunder.
32. "Schedule" means an annexure to these Articles Canons Rules Regulations Standing Orders and By-laws which will have the force of a Standing Order and be alterable (save in the case of the Constitution of the Church Commissioners for Kenya to which the provisions of the Companies Act apply) by the same procedure which Standing Orders may be altered and not otherwise.
33. "Senior Diocesan Bishop" means the Diocesan Bishop senior by Consecration and Enthronement as such.
34. "Session of the Synod" means the meeting or series of meetings of the Synod (whether Provincial or Diocesan) convened in pursuance of any one summons issued by the Archbishop or Bishop as the case may be.
35. "Standing order" means a regulation relating to the composition of any Synod, Council, Board, Committee or other Church body or to the procedure of any such body as aforesaid when in session or to anything necessary to be done before, during or after the session for the proper conduct of the business of the body concerned when in session.
36. "Voting by Houses" means the separate voting of the Bishops (or in the case of a Diocesan Synod the Bishop), and the Clergy and the Laity in their several Houses.
37. In such phrases as "Matter affecting Faith or Order" "Faith" means such truths as the Anglican Church of Kenya teaches.
38. "Order" means those principles on which the structure of the Church is build up and maintained. Among matters affecting Faith or Order (but without in any way limiting the generality of the foregoing definition) the following are included, namely, all matters of doctrine and all matters connected with membership of the Church, the Orders of the Ministry and their characteristic functions, the services and ceremonies of the Anglican Church of Kenya, the administration of the Sacraments, and the sacred rites thereof.

## **ARTICLE II - ON THE EXTENT OF THE CHURCH**

1. The original Church of the Province of Kenya (CPK) formed in 1970 consisted of six Dioceses namely - Maseno North, Maseno South, Mombasa, Mt. Kenya, Nairobi and Nakuru.
2. By an Act of Synod, the name of the Church was changed from the Church of the Province of Kenya (CPK) to the Anglican Church of Kenya (ACK).
3. The Anglican Church of Kenya during the year of adoption of this Constitution consists of the following Dioceses. The Diocese of Bondo, the Diocese of Bungoma, the Diocese of Butere, the Diocese of Eldoret, the Diocese of Embu, the Diocese of Kajiado, the Diocese of Katakwa, the Diocese of Kirinyaga, the Diocese of Kitale, the Diocese of Kitui, the Diocese of Machakos, the Diocese of Maseno North, the Diocese of Maseno South, the Diocese of Maseno West, the Diocese of Mbeere, the Diocese of Meru, the Diocese of Mombasa, the Diocese of Mount Kenya Central, the Diocese of Mount Kenya South, the Diocese of Mount Kenya West, the Diocese of Mumias, the Diocese of Nairobi, the Diocese of Nakuru and the Diocese of Nambale, the Diocese of Nyahururu, the Diocese of Southern Nyanza, the Diocese of Taita Taveta, Diocese of Thika and the All Saints Cathedral Diocese several boundaries whereof are more particularly described in the First Schedule to this Constitution.
4. Subject to the terms of this Constitution, the Provincial Synod shall have power to admit to this Church other Anglican Dioceses in contiguous parts of Africa, to divide or re-arrange Dioceses within the Church, to create new Dioceses therein, to divide this Province or to combine with other Anglican Dioceses or Provinces in the formation of a new Province or Provinces and to divide or re-arrange this Province by the creation of several regional Archdioceses or Provinces under one Primate and a Provincial Synod and Generally to perform all such other acts and things as may be necessary and expedient in the administration of the Province.
5. It shall be competent, subject to the concurrence of all the Dioceses of the Church, of the Provincial Synod, and of the Archbishop of Kenya, for this Church to act in association with any other Anglican Province or Provinces in such manner and for such purposes as shall be mutually agreed.

## **ARTICLE III - ON DOCTRINE AND WORSHIP**

1. This Province, being in full communion with the Anglican Churches throughout the World, receives all the Canonical Scriptures of the Old and New Testaments, given by inspiration of God, as containing all things necessary for salvation and as being the ultimate rule and standard of the faith and life of the Church.
2. This Church holds the Faith of Christ as preached by the Apostles, summed up in the Apostles' Creed, and confirmed by the first Four General Councils of the Holy Catholic Church.
3. The Province shall remain a member of the Anglican Communion and accepts the

Archbishop of Canterbury, the Anglican Primates Meeting and the Anglican Consultative Council as the Institutions which form the focus of unity of the Anglican Communion.

4. The Church shall send its Bishops to attend the Lambeth Conferences and shall discuss any recommendations made by the Lambeth Conference, the Anglican Primates Meeting and the Anglican Consultative Council to the Provinces.
5. The Church further accepts the Lambeth Quadrilateral of 1888 which outlined the Anglican essentials for a reunited Christian Church. The text of the Articles is as follows:
  - a) The Holy Scriptures of the Old and New Testaments as "containing all things necessary to salvation", and as being the rule and ultimate standard of faith.
  - b) The Apostles' Creed, as the Baptismal Symbol; and the Nicene Creed, as the sufficient statement of the Christian Faith.
  - c) The two Sacraments ordained by Christ Himself - Baptism and the Supper of the Lord - ministered with unfailing use of Christ's Words of Institution, and of the elements ordained by Him.
  - d) The Historic Episcopate, locally adapted in the methods of its administration to the varying needs of the nations and peoples called of God into the Unity of His Church.
6. This Church, being wholly autonomous and self-governing part of the Body of Christ, affirms its right to draw up its own formularies of faith, and to set forth in terms that it considers suitable to the present day and to the needs for the peoples of this Church, the Faith which this Church holds; and also to determine those forms of liturgical worship by which it judges that its peoples can best be edified and led into maturity of Christian life and expression, and in which God will be glorified.
7. Until such time as these formularies can be drawn up and accepted, and the liturgical life of this Church can be established on its own foundation, this Church is content to declare its acceptance of the doctrine, Sacraments and discipline of the Church as these are set forth in the Book of Common prayer of 1662 and in the Form ordering Bishops, Priests and Deacons attached to the same Book. It accepts the Principles of Worship set forth in the said Book as consonant with the Gospel of Christ, and as the source from which Anglican Christians in East Africa have long been tradition.
8. On the other hand, this Church does not interpret this declaration as implying any limitation on its right and duty to discover for itself the truth as it is in Jesus, and to express that truth in life and in liturgy. On the other hand, this Church disclaims any wish or intention now or at any future time to depart from the standards of Faith and Order, so nobly set forth in these venerable documents of the Church.

9. This Church may make and authorize such deviations from and additions or alternatives to the forms of service provided in the said Book of Common Prayer and such new forms of Liturgy as may, in its judgment, be required to meet the needs of this Church and shall be consistent with the spirit and teaching of the said Book of Common Prayer.
10. In the interpretation of the aforementioned standards and formularies and in questions of Faith, Doctrine, Discipline and Worship, this Church is not bound by any decisions other than those of the Provincial Synod.
11. If an issue of great importance has been raised in the field of Faith and Order and the Episcopal Synod reports to the Provincial Synod that it has been unable to reach agreement on the matter and to find an acceptable solution, the Archbishop shall, at the request of the Provincial Synod communicate the problem and the issues raised to the Anglican Consultative Council or such other body as the Provincial Synod may select for advice.
12. On receipt of such advice the Archbishop shall commit all the relevant documents to a commission, which may be the Provincial Tribunal for the hearing of Appeals or a Commission specially appointed, with instructions to draw up a report. On receiving the report, the House of Bishops acting as the Episcopal Synod of the Church, shall draw up a statement for presentation to the Provincial Synod at its next meeting. If the Provincial Synod accepts the statement, this shall become part of the law and practice of the Church.
13. If the Provincial Synod fails to reach agreement, no further action shall be taken. In either case the decision of the Provincial Synod shall be final.
14. The absence from the foregoing sections of this Article of any reference to the Thirty-nine Articles shall not preclude the Synod of any Diocese including reference to that document in its own Diocesan Constitution and from requiring subscription to it in the oaths and declarations made at the ordination or licensing of its clergy.

#### **ARTICLE IV - ON THE VALUE AND DIGNITY OF MAN**

This Church proclaims that all human beings are made in the image of God and are therefore, of equal value and dignity in the sight of God, and, while careful to provide for the special needs of different people committed to its charge, allows no discrimination in the membership and government of the Church based on grounds of racial, tribal or gender difference.

#### **ARTICLE V - ON THE LITURGY OF THE CHURCH**

1. It should be lawful for a Diocesan Bishop, in the exercise of his liturgical authority and in consultation with the Standing Committee of his Diocesan Synod to order or sanction

within his Diocese such variation whether by way of deletion, omission, alternative use or otherwise from forms authorised or recommended by the Episcopal Synod and approved by the 'Provincial' Synod as being in his opinion both:-.

- a) convenient to be as ordered, allowed or sanctioned from time to time for special, optional or experimental use; and
  - b) neither contrary to, nor indicative of, any departure from the doctrine of the Church.
2. Where special liturgical services or occasional offices have been approved by the Provincial Synod, a Diocesan Bishop shall not authorize any other liturgical service or occasional office for the same purposes or occasions, unless he shall have first received permission to do so from the Archbishop or from another body to which the Provincial Synod has committed authority to act on its behalf in liturgical matters.
  3. In authorizing for use in his Diocese forms of service or occasional offices approved by the Provincial Synod, a Diocesan Bishop is not entitled to make adaptations, alterations, abridgments, or additions to such forms of service or occasional offices, unless such changes have been approved by the Provincial Synod or by another body to which the Provincial Synod has committed authority to act on its behalf in liturgical matters.

## **ARTICLE VI - ON THE MINISTRY**

1. The Church is the body of Christ upon earth, and to it has been committed the task of continuing and completing all that Jesus began both to do and to teach (Acts 1:1). It is therefore the purpose of this Church, in all its Ministries, pastoral, prophetic and priestly, to be conformed to the likeness of Jesus Christ, who is himself the good shepherd, the living word of God and the heavenly high priest.
2. No one order and no one office in the Church can claim exclusive possession of any one of these ministries or of all. Every Christian, by his/her baptism, is a member of the body; to each one, therefore, has been committed in his due order and proportion, a share of responsibility for the life of the Church and for all its ministries.
3. (a) From the Apostles' times, however, it has been found convenient and profitable that a special responsibility for ministry of one form or another should be committed to persons chosen and appointed for the fulfillment of these respective tasks. Consequently there have been in the Church, since very early times, the three orders of bishops, priests and deacons, together with the lay people (who form by far the larger part of the Church and in their degree share in the heavenly high-priesthood of Jesus Christ).
- (b) This Church therefore holds that no person shall be accounted or taken to be a lawful Bishop, Priest or Deacon in this Church, or permitted to assume any of these offices, except that such person be called, tried, examined, trained and

prepared for the sacred ministry and admitted thereunto according to an ordinal approved in accordance with Article II or has already had Episcopal consecration or ordination, the validity of which has been approved by the Provincial Synod which shall have power to delegate its power to approve to the House of Bishops, or to the Episcopal Synod.

- (c) Priests and Deacons who have received authority to minister in any Dioceses of the Province shall owe canonical obedience in all things lawful and honest to the Bishop of the same, and the Bishops of the several Dioceses owe canonical obedience to the Archbishop of this Church as their metropolitan and to the terms of the Constitution of this Church.

#### **4. The Office and Work of a Bishop**

A Bishop is appointed as Chief pastor of a diocese, or area, which in most cases is large enough to include both city and country, both industry and agriculture, both rich and poor, that the full variety and riches of the Church of Christ may be set forth in the life of the Church in that area. He is not the pastor of one congregation, but is set free from the detailed work of a pastor in order that he may be free to exercise his special duty of overseeing. It belongs to the office of a Bishop:

- a) To lead his people in the work of the proclamation of the Gospel, and especially in bringing the message of Christ to those who are still outside the fellowship of the Church.
- b) To be the leader of his people in worship, and therefore to provide and authorize such forms of worship in accordance with this Constitution as are authorized by the Provincial Synod or are judged expedient for the progress of his people in the life of the Spirit.
- c) To be watchful that the doctrine set forth in his Diocese is in all things conformable to the Word of God as set forth in Holy Scripture and to the standards of doctrine accepted by the Church; and to be diligent to guard against error in doctrine and irregularity in life.
- d) To maintain, as far as in him lies, unity, peace and concord among the people committed to his charge, and to be a peacemaker among them.
- e) To remain in unity, peace and godly love with the other bishops of this Church, and through them with all the other bishops of the world-wide Anglican Communion.

- f) To work to the utmost of his power for the visible unity of all Christ's people upon earth, and to this end to be respectful and loving towards Christians of other allegiances than his own.
- g) To join with the other bishops of this Church in the choice, confirmation and consecration of bishops as needed for the service of the Church, to be diligent in choosing and ordaining suitably qualified persons as deacons and priests in consultation with such body or bodies as may be established by the Diocesan Synod for this purpose as may be needed for the work of the parishes under his care, and to be diligent in ministering confirmation to those persons who are presented to him by the clergy in his Diocese.
- h) To be loving friend, father and brother to all the clergy of his jurisdiction, sharing their burden, guiding them with wise counsel, and keeping them in the fellowship of the faithful ministers of the Church.
- i) To be the chief minister of discipline in his diocese, providing for proceedings as may be required under Canon XVI (of Disciplinary Proceedings within the Church) of this Constitution, and where need arises to pronounce the sentence of excommunication not arbitrarily but as acting on behalf of the whole Diocese the welfare of which has been committed to his charge.
- j) To be diligent in seeking the restoration of those who have offended, and to pronounce the sentence of restoration when this becomes possible.
- k) As far as in him lies, to his life and that of his family and dependants an example to the flock in uprightness, sobriety and true devotion to the Lord of the Church.
- l) Remembering that exercise of authority and power may lead all too easily to arrogance and willfulness, to be at all times watchful over his ways, knowing that he is the servant of the servants of God and that he can carry out his duties only in so far as he follows the example of Christ, who made himself the servant of those whom he had come to redeem.

## **5. The Office and Work of a Priest**

Whereas a Bishop is ordinarily itinerant, moving throughout the area for which he is responsible, a Priest is usually appointed by the Bishop to a local ministry, to care as shepherd on his behalf for the people of Christ in one particular locality.

In most cases this is a parish or local community; but it may take the special form of a hospital, school or other special community; from early times it has been recognized that teaching is a ministry which may rightly be undertaken by a Priest. It belongs to the office of a Priest on behalf of the Diocesan Bishop.

- a) To be diligent and humble in ministering the Word of God and sacrament of the Church to the flock for which he/she is appointed to shepherd and care.

- b) To be earnest in teaching the people the truth as it is in Jesus Christ, and, to the end that 'his/her' teaching may be effective, to be himself/herself a diligent student of the Word of God and Holy Scripture and of all other subjects relevant to his/her ministry.
- c) To be diligent in visiting his/her people in their homes, to know their situation, and, be able to relate his/her teaching to their needs.
- d) To care lovingly for the young, and in particular to prepare young people and others for Baptism and Confirmation and to present them in due time to the Bishop.
- e) As far as is within his/her power to maintain mutual love and unity with his/her people, and to reconcile those that are at variance and in conflict.
- f) To correct errors in worship and doctrine, and to endeavour to bring to a better mind those who have fallen away from grace.
- g) When need arises, to report to the Bishop grave errors and scandals, in order that action may be taken as provided in this Constitution.
- h) To preside over his/her parishioners assembled in Council, and in Season and Out of Season be ready to listen to their concerns.
- i) To build up his/her people into Christian maturity, that they may become living and active members of the body of Christ and witnesses to Him in the world.
- j) To fashion the lives of himself/herself and of the members of his/her family in such fashion that they may adorn the Gospel of our Lord and Saviour, and may serve as profitable examples to the lay members of the fellowship.
- k) To ensure that members of the Church Committees, Parish Councils and Annual General Meetings receive and discuss important reports and Recommendations from the Diocesan Synod and its Standing Committee with regard to matters which might affect the congregations and the Parish under his care.

## **6. The Office and Work of a Deacon**

In the early Church the first Seven Deacons were appointed so as to serve tables and free the apostles so as to concentrate on proclamation of the gospel.

Later the deacons were the special helpers to the bishop, available at all times for his service. In later times, however, they have become helpers of the priest; most of those now made deacons hope at a later date to be admitted to the office of priest. But there

will always be a place in the Church for those whose vocation it is to remain permanently as deacons.

**It pertains to the office of a deacon:**

- a) To be available to assist the priest in his/her ministrations in the Church, and to carry out such other functions as are committed to the deacon.
- b) To be diligent in study, in order that he/she may if called to the priesthood be found fit to be elevated to that office, if this be approved by the bishop.
- c) To be diligent in instructing the children and young in all Christian matters whether in school, in Church or in their homes.
- d) To seek out the sick and other needy persons in the parish, and to ensure that they receive the help and the care which they need.
- e) To notify the parish priest of all events and situations in the parish which particularly require his/her attention.
- f) To be watchful and prudent in his/her conduct, and to give no offence in anything, in order that the ministry be not blamed.
- g) To fashion the lives of himself/herself and that of the members of his/her family in such fashion that they may adorn the Gospel of our Lord and Saviour, and may serve as profitable examples to the lay members of the fellowship.

**7. The Office and Work of Lay Persons.**

Lay persons form by far the greater part of the body of Christ. They cannot walk worthily in their high calling, unless they realize that they too are sharers in the heavenly high priesthood of Christ, and that this sharing must find expression in holiness, in witness, and in loving service of others.

**It pertains to the dignity of a lay person:**

- a) To care for the Church which is in his/her house, and, if he/she is the head of the household, to see to it that worship is regularly held in the home, and as far as in him/her lies that all the members of the family are in due time brought to the knowledge of Christ.
- b) To take part regularly in the public worship of the Church, and specially in the Holy Communion, and to hear the Word of God with reverence and an eager desire to understand it.

- c) To regard all his earthly possessions as a stewardship held from God himself, and to live modestly so that he/she may have to give others and to all needs of the Church.
- d) To take his/her full share in support of the Parish Ministers responsible for the administrative and financial affairs of the parish.
- e) To promote love and goodwill among all sorts of persons and especially among those that are called by the name of Christ.
- f) To take note of those who are in danger of straying from the right way, to seek them out and advise them, and, if need be, to report on their case to the parish priest.
- g) To maintain standards of Christian integrity in all the affairs of his/her business or vocation, and, as far as possible, to see to it that such standards are accepted also by all those with whom he has to do.
- h) To take a responsible share in the public life of the community in which he/she is resident, seeking to promote all that tends to human dignity and well-being, and to eradicate all that diminishes and de-humanizes the life of people and makes it difficult for people to live as children of God.
- i) To be loyal, but bearing in mind that Jesus Christ said, I came that they may have life, and have it abundantly, John 10:10b. critical, citizen of his country, serving as he/she may be called, seeking the unity and well-being of the whole community, and opposing everything that is incompatible with teaching of Christ and his apostles.
- j) To bear witness to Christ by word and deed, especially before those who do not yet belong to the flock of Christ, that the glory of Christ may be seen by men and women and the name of God may be exalted.

The Anglican ideal for the Church and for all its members is perfectly set forth in the Second Collect for Good Friday: "for all estates of people in Thy Holy Church, that every member of the same in his/her vocation and ministry may truly and godly serve Thee; through Our Lord and Saviour Jesus Christ AMEN".

## **ARTICLE VII – ON THE ELECTION OF THE ARCHBISHOP**

1. There shall be an Archbishop of the Anglican Church of Kenya who shall also be the Bishop of the All Saints Cathedral Diocese.

2. When the Archbishopric becomes canonically vacant the Dean of the Province (or if there is no Dean or if he is absent from the Province or is otherwise incapacitated from carrying out his duties the most Senior Diocesan Bishop by consecration) shall if the circumstances permit within Fourteen (14) days of the Archbishopric becoming vacant inform the Provincial Chancellor (or if there is no Provincial Chancellor or if he is absent from the Province or is otherwise incapacitated from carrying out his duties the Deputy Provincial Chancellor or if there is no Deputy Provincial Chancellor or if he is absent from the Province or is otherwise incapacitated from carrying out his duties, any Diocesan Chancellor) of the vacancy and shall instruct him to hold an Arch-episcopal Election in accordance with this Article and with the Canon governing such an election.
3. Where the vacancy arises as a result of the incumbent Archbishop notifying the Dean or the Provincial Chancellor of his intention to resign or retire in accordance with the provisions of this Constitution, which notice shall be given in writing not less than Four (4) months before the date of resignation or retirement, then the procedure for electing a person to fill the vacant Arch-bishopric shall if circumstances permit be commenced not less than three (3) months before the date upon which the resignation or retirement is to take effect and must circumstances permitting be completed not less than one (1) month before the effective date of resignation or retirement as the case may be.
4. The Archbishop shall be elected by an Electoral College (hereinafter called the Electoral College) consisting of all the Diocesan Bishops of the Province other than and to the exclusion of the incumbent Archbishop together with all the elected members of the Provincial Synod and together also with Six (6) Laymen and Six (6) Clergy who are elected members of the Standing Committee of Synod of the All Saints Cathedral Diocese.
5. “An Arch-episcopal election shall be held in accordance with the provisions of this constitution notwithstanding any vacancy in any See of any Bishopric within the Province **PROVIDED THAT** (and in addition to the members stipulated in paragraph (4) of this Article) the House of Bishops shall appoint One (1) Senior Priest to the Electoral College from each Diocese whose Episcopal See is vacant at any time prior to the election of the Archbishop.”
6. The Provincial Chancellor after consultation with the Archbishop or the Dean of the Province as the case may be shall:-
  - a) inform all the members of the Electoral College of the vacancy of the Archbishopric;
  - b) send nomination forms to the members of the Electoral College and remind them of their right to nominate candidates;
  - c) inform the members of the Electoral College of the date of closure of nominations; and
  - d) inform the members of the Electoral College of the date/time and place fixed for the holding of the election to the vacant Archbishopric;

7. Any Six (6) members of the Electoral College (of whom there shall be at least two (2) Bishops, two (2) Priests and two (2) Laypersons, none of whom shall be from the same diocese) may together nominate any Bishop who has attained the age of 'forty-five (45) years, and has served the Church as a Priest or a Bishop (or both) for not less than ten (10) years' and who is not over Sixty (60) years of age, of any Diocese of the Anglican Communion in good standing as a candidate for election to the vacant Archbishopric and all such persons shall together sign and send such nomination in writing to the Provincial Chancellor. No member may sign more than one nomination form. The consent of the person nominated must be obtained by his nominators and the nomination form shall be signed by the person nominated in order to signify his consent thereto unless he is absent from the Province in which case such consent may be obtained by letter duly signed by him and delivered to the Provincial Chancellor before the closure of nominations.
  
8. On the day after the closure of nominations, the Provincial Chancellor, the Provincial Secretary, the Clerical and Lay Secretaries of the Provincial Synod and the Dean of the Province shall check the nominations satisfying themselves that all those nominated are Bishops of a Diocese of the Anglican Communion, and have given their consent to the nominations and that all those who have signed nominations are members of the Electoral College and that no member has signed more than one nomination form. They shall also satisfy themselves concerning the age, Episcopal consecration and canonical status of all those nominated and shall delete the name of any person not validly nominated.  
  
After so satisfying themselves as aforesaid the Provincial Chancellor, the Provincial Secretary, the Clerical and Lay Secretaries of the Provincial Synod and the Dean of the Province shall prepare and certify as correct in all respects the final list of nominations and no name not on such certified final list shall be considered or voted on by the Electoral College.
  
9. The Provincial Chancellor shall send a copy of such certified final list to each elector not less than Twenty-one (21) days before the date of the election and shall inform all those whose names are on the list of their nomination. Those nominated may withdraw their names in writing to the Provincial Chancellor at any point up to the time of Election.
  
10. Subject as is hereinafter otherwise provided the appointment of the Archbishop shall be for an unspecified term **PROVIDED THAT:**
  - a) The appointment shall terminate upon the holder of the office attaining the age of Sixty-five (65) years unless the Provincial Synod shall by special resolution extend his tenure of office; such extension in no case to exceed Two (2) years.
  
  - b) The appointment may be terminated at any time by the Provincial Synod if that course is recommended by competent medical authority on grounds of physical or mental incapacity.

- c) The appointment may be terminated by the Provincial Synod at any time if after due enquiry made consequent upon a complaint in due form as provided in this Constitution, the Archbishop has been found guilty of conduct unbecoming the office and work of an Archbishop or of serious persistent or continuous neglect of duty.
  - d) The appointment shall automatically terminate if the holder of the office ceases to hold the office of Bishop of the All Saints Cathedral Diocese or if he resigns the Archbishopric. If the Archbishopric is resigned the See of the All Saints Cathedral Diocese shall automatically become vacant.
  - e) The appointment shall terminate upon the passing of a resolution in that behalf by a Special Session of the Provincial Synod convened for that purpose under and in conformity with the provisions of Canon VII part III paragraph 2 (of the compulsory Retirement of the Archbishop). No such Resolution shall be valid unless passed by at least three-quarters ( $\frac{3}{4}$ ) of the members of each of the three houses of the Provincial Synod present and voting.
11. The mode of procedure relating to the retirement of the Archbishop and also of Diocesan Bishops shall be laid down in a Canon of this Constitution.

## **ARTICLE VIII - ON THE FUNCTIONS OF THE ARCHBISHOP**

### **1. The Archbishop shall have the following functions:-**

- a) To exercise spiritual leadership in the Anglican Church of Kenya and to have and to hold such authority and rights of supervision as are committed to him in virtue of his office in accordance with the provisions of this Constitution and the several Diocesan Constitutions.
- b) To summon and to preside over the Provincial Synod or its Standing Committee and the House of Bishops and the Episcopal Synod.
- c) To perform the duties assigned to him under Article XI and any Canon connected therewith.
- d) To visit officially any Diocese of the Province as Metropolitan in accordance with any Canon in that behalf.
- e) To represent the Province in its relation to the rest of the Anglican Communion and to other Churches, and on its behalf correspond with other Metropolitans.
- f) To be the spokesman of the Church in national and international issues and forums in consultation with the House of Bishops where necessary.

- g) To perform such other duties as may be entrusted to him by the Provincial Synod.
2. The Archbishop may at any time invite the Bishops of the Province to meet with him for spiritual fellowship and counsel on the problems that arise in the exercise of their Episcopal office. But no resolution shall be passed at such meeting, and agreements reached between the Bishops shall be binding only by consent and shall have no legal force.

## **ARTICLE IX - ON THE ARCHBISHOP'S JURISDICTION AS METROPOLITAN.**

No Act or Resolution of the Provincial Synod or of the Episcopal Synod under the preceding Articles I, II and IV shall take effect until it has been certified by the Archbishop after consultation with the Provincial Chancellor that it is consonant with this Constitution **PROVIDED THAT** if the Archbishop shall fail so to certify such Act or Resolution within a period of Six (6) calendar months from the passing thereof and if the Provincial Synod at its next ordinary or special meeting re-affirms such Act or Resolution by not less than a two-thirds majority then such Act or Resolution shall thereupon take effect.

## **ARTICLE X - ON THE DEAN OF THE PROVINCE**

1. There shall be a Dean of the Province who shall be elected from amongst the Diocesan bishops by the Standing Committee of the Provincial Synod, from among the name or names recommended by the House of Bishops. During any vacancy in the office of the Dean or if the Dean is absent from the Church or is incapacitated by illness or any other cause from carrying out his duties as Dean the Most Senior Diocesan Bishop 'by consecration' shall act as Dean.
2. The Dean of the Province shall, during any vacancy in the office of the Archbishop of the Province, or if the Archbishop is absent from the Province or is incapacitated by illness from carrying out his duties as Archbishop, immediately become responsible for and conduct all routine business but the Dean shall not either subject to the provisions of Part III of Canon VII, summon the Provincial Synod, or consecrate any Bishop without in each case having the special written mandate of the Archbishop.
3. To preside over the hearing of such appeals as may be allowed by the regulations of the Province, from decisions of a Diocesan Authority to a Provincial Authority.
4. If and when the Archbishop or (as the case may be) the Dean is able to resume his functions all special authority committed to the Dean or (as the case may be) the senior Diocesan Bishop as aforesaid shall lapse.

## **ARTICLE XI - ON THE ELECTION OF BISHOPS**

1. When a See becomes canonically vacant, the Archbishop (or if there is no Archbishop or if he is absent from the Province or is otherwise incapacitated from carrying out his duties, the Dean or the Most Senior Diocesan Bishop by consecration) shall if the circumstances permit within Seven (7) days of the Bishopric becoming vacant inform the Diocesan Chancellor of the Diocese concerned (or if there is no Diocesan Chancellor or if he is absent from the Province or is incapacitated from carrying out his duties the Provincial Chancellor) of the vacancy, and unless there be in that Diocese a Bishop Coadjutor with right of succession, shall instruct him to hold an Episcopal election, in accordance with this Article and with the Provincial Canon governing such an election.
2. Where the vacancy arises as a result of the incumbent Bishop notifying the Archbishop of his intention to resign or retire in accordance with the provisions of this constitution, then, the procedure for electing a person to fill the vacant bishopric shall if circumstances permit be commenced not less than Three (3) months before the date upon which the resignation or retirement is to take effect and must be completed not less than One (1) month before the effective date of resignation or retirement as the case may be.
3. **The Diocesan Chancellor after consultation with the Archbishop shall:**
  - a) inform all the members of the Synod of the Diocese concerned and all the members of the Provincial Standing Committee of Synod of the vacancy of the Episcopal See;
  - b) send nomination forms to all the members of the Synod of the Diocese concerned and all the members of the Provincial Standing Committee of Synod.
  - c) inform all the members of the Synod of the Diocese concerned and all the members of the Provincial Standing Committee of Synod of the date of closure of nominations which date shall be no more than thirty (30) days from the date the nomination forms are sent out.
4. Any five members of the Diocesan Synod of the vacant See or any five members of the Provincial Standing Committee of Synod may nominate any Bishop or Priest who has attained the age of thirty-five (35) years and who is not over sixty (60) years of age from any part of the Anglican Communion to be a candidate for the vacant See. **PROVIDED THAT** the Five (5) Members of the Diocesan Synod shall include Two Priests and two Laymen, and the Five (5) members of the Provincial Standing Committee of Synod shall include one Bishop, one Priest and one Layman.
5. Members of the Diocesan Synod and the Provincial Standing Committee of Synod, as the case may be, shall sign and send their nomination forms to the Diocesan Chancellor of the Diocese in which the See is vacant.

No Member of the Diocesan Synod or Provincial Standing Committee of Synod as the case may be may sign more than one nomination form. The consent of the person nominated must be obtained by his nominees and the nomination form shall be signed by the person nominated in order to certify his consent thereto unless he is absent from the Province in which case such consent may be obtained by letter duly signed by him and delivered to the Diocesan Chancellor before the closure of nominations.

6. On the day after closure of nominations, the Diocesan Chancellor together with the Clerical and Lay Secretaries of the Diocesan Synod shall check the nominations, satisfying themselves that all those nominated are Priests of a Diocese of the Anglican Communion and that all those who have signed nominations, are members of the Diocesan Synod and the Provincial Standing Committee of Synod, as the case may be, and that no member has signed more than one nomination form. They shall also satisfy themselves concerning the age, canonical status and ordination of those nominated and shall delete the name of any person not validly nominated.
7. The Diocesan Chancellor shall then send the list of valid nominations to the Archbishop and the Provincial Chancellor and state his reasons for deleting the name of any person from the list of those validly nominated.

The Archbishop and the Provincial Chancellor shall satisfy themselves as to the validity of the nominations whereupon the Archbishop shall send the list of valid nominations to the Search Committee hereinafter defined.

8. There shall be a Search Committee which is hereby established. The Search Committee shall consist of three (3) priests and three (3) laypersons from the vacant See together with two (2) Bishops, two (2) priests and two (2) laypersons from the Province. The Chairman shall be a Bishop and the Secretary shall be a layperson. The Provincial members shall be appointed by the Archbishop after consultation with the House of Bishops. The Diocesan members shall be appointed by the Archbishop after the consultation with the Diocesan Standing Committee of Synod.
9. The Search Committee shall interview and evaluate all candidates legally nominated for the election of the vacant see and shall recommend up to three candidates for the election. The decision of the Search Committee shall be final. The Chairman of the Search Committee shall then send the list of the short-listed candidates to the Archbishop who shall satisfy himself concerning the age, ordination and canonical status of those nominated. The Archbishop shall then submit the same to the Provincial Chancellor and the Diocesan Chancellor.
10. The Archbishop shall determine the date of the election and shall request the Diocesan Chancellor to convene the Electoral College **PROVIDED THAT** the election shall circumstances permitting be held within two (2) months of the date of the receipt of nominations by the Archbishop.
11. **The Diocesan Chancellor shall thereupon:-**

- a) send a copy of the list of candidates to each member of the Electoral College (hereinafter defined) not less than twenty-one (21) days before the date of the election;
- b) inform the members of the Electoral College of the date time and place fixed for holding of the election;
- c) inform those whose names are on the list of their nomination.

Those nominated may withdraw their names, in writing, to the Diocesan Chancellor at any point up to the time of the election.

**12. The Diocesan Bishop shall be elected by an Electoral College which shall consist of:**

- a) The following elected members of the Provincial Standing Committee of Synod appointed by the Archbishop in consultation with the House of Bishops:-
  - Three (3) Bishops
  - Two (2) Priests
  - Two (2) Lay-persons
- b) The following elected members of the Diocesan Standing Committee of Synod of the vacant See:-
  - Vice Chairman
  - Treasurer
  - Clerical Secretary
  - Lay Secretary
  - Six (6) Priests
  - Six (6) Lay-persons

**PROVIDED THAT** in the event that any of the priests shall become a candidate, he shall be disqualified and the Standing Committee of Synod of the Diocese concerned shall elect another priest in his place.

13. The Diocesan Chancellor shall preside over the meeting of the Diocesan Electoral College but shall not have any right to vote. The quorum for the Electoral College shall be three quarters ( $\frac{3}{4}$ ) of the members of the Electoral College.
14. If an election has been successfully carried out the Chancellor shall communicate to the Archbishop the outcome of the election and the willingness of the person so elected to accept the office of Bishop of the Diocese of which the See is vacant who shall then issue a certificate of the validity and canonical regularity of the election.

15. The Archbishop shall arrange for the consecration at the earliest possible date of the Bishop – elect (if he has not already received Episcopal consecration) by not less than Three (3) Bishops of this church or any other Province or Church with which this church is in full communion and shall send notice thereof to the press. He shall also transmit to all Metropolitan of Anglican Provinces the name of the person elected and consecrated (or enthroned) Bishop of the Diocese, the See of which was vacant.
16. The Archbishop’s certificate of the validity and canonical regularity of the election shall be read aloud during the service of consecration, or at the enthronement of the Bishop, if he be already in Episcopal orders.
17. Every Bishop at his consecration (or translation) shall make a solemn declaration of canonical obedience to the Archbishop as metropolitan, and of his lawful successors, and give his assent to the Constitution of the church.
18. The declaration and subscription to be made by a Bishop-elect or designate shall be as follows:

“I, A.B. chosen Bishop of the Diocese of ..... do profess and promise all due reverence and obedience to the Archbishop and to the Metropolitan Church of Kenya and to their successors.

I, A.B. chosen Bishop of the Diocese of ..... do promise that I will teach and maintain the Faith of Lord Jesus Christ and the Doctrine and Discipline by Him delivered to the church as acknowledged and set forth by the Anglican Church of Kenya in the Constitution of the said church.

And I also do declare that I consent to be bound by and to govern this Diocese in conformity with all the laws and canons of the said church, and by the Rules which have heretofore been made, or which may from time to time be made by the Provincial Synod of this Church.

And I hereby undertake to resign or to accept and immediately submit to the sentence depriving me of any or all the rights and emoluments appertaining to the said Bishopric, which may at any time be passed upon me, after due examination had, by any tribunal acknowledged by the Provincial Synod of the said church for the trial of a Bishop, saving all rights of appeal allowed by the said Provincial Synod.

19. The Search Committee stands dissolved upon the successful consecration of the Bishop-elect.

**ARTICLE XII - ON BISHOPS COADJUTOR, SUFFRAGAN AND**

## **ASSISTANT**

1. If a Diocesan Bishop shall feel the need of Episcopal assistance, he shall, after consulting with the Diocesan Synod, signify his need for a Bishop Coadjutor, a Bishop Suffragan or (as the case may be) an Assistant Bishop to the Archbishop who, if after due consultation feels that the request is reasonable and is satisfied that the Diocese concerned is able to make proper financial provision for the holder of the proposed office, shall inform the Bishop concerned that his request is granted and authorize him to implement it in accordance with the appropriate procedure.
2. The appointment of a Bishop Coadjutor shall be by Episcopal election in accordance with the procedure set out in Article XI hereof.
3. A Bishop Coadjutor has (subject to the qualification set out below) the right of succession to the office of Bishop of the See in which he is Bishop Coadjutor:
  - a) On the declaration of the vacancy of that See, the Archbishop shall immediately request the Bishop Coadjutor to write to him stating whether or not he wishes to exercise his right of succession. In the event either that the Bishop Coadjutor's reply to the Archbishop request is negative or that no reply is received by the Archbishop to his request within Thirty (30) days of it being made, the Bishop Coadjutor's right of succession shall cease and the Archbishop shall thereupon so inform him and instruct the Diocesan Chancellor to hold an Episcopal election (at which the Bishop Coadjutor shall not be eligible for nomination) in accordance with Article XI:
  - b) In the event that the Bishop Coadjutor's reply to the Archbishop's request is affirmative and is received by the Archbishop within the said time of Thirty (30) days, the Archbishop shall in writing inform all the Diocesan Bishops, the Provincial Chancellor and the Diocesan Chancellor concerned and shall request each of them to inform the Archbishop in writing within Thirty (30) days of the date of his letter whether or not he has or is aware of any canonical objection to the succession of the Bishop Coadjutor:
  - c) If no such objection is received by the Archbishop within the said period of Thirty (30) days, he shall forthwith write to the Bishop Coadjutor confirming his succession to the office of Bishop of the See and as from the date of the Archbishop's letter the Bishop Coadjutor shall assume the title and all the rights, privileges and emoluments of the See. The Archbishop shall at the same time inform the Diocesan Bishop, the Provincial Chancellor, the Diocesan Chancellor concerned and the media of the succession and instruct the Diocesan Chancellor to make arrangements for the enthronement of the new Bishop:
  - d) If any canonical objection is received by the Archbishop within the said time of Thirty (30) days then he shall forthwith convene a meeting of the Episcopal

Synod to consider the same and, if the Synod shall resolve that any objection is well founded, the Bishop Coadjutor's right of succession to the See shall thereupon cease and he shall be so informed in writing by the Archbishop who shall immediately instruct the Diocesan Chancellor to hold an Episcopal Election (at which the Bishop Coadjutor shall not be eligible for nomination) in accordance with Article XI.

- e) If a Bishop Coadjutor's right of succession to the See ceases for any reason it shall be the duty of the Provincial Synod to determine the status of the said Bishop, his further employment (if any) in the Province and any other matters that may arise.
4. The procedure for the appointment of a Bishop Suffragan or an Assistant Bishop shall be as follows:
- a) After he has obtained the Archbishop's authority for the proposed appointment, the Diocesan Bishop shall lay before the Standing Committee of his Diocesan Synod the name of the priest, or priests whom he regards as suitable for the proposed appointment:
  - b) When agreement has been reached by a three-quarters ( $\frac{3}{4}$ ) majority of the Standing Committee of the Diocesan Synod, the Diocesan Bishop shall communicate the name of the candidate to the Archbishop who shall then consult the Episcopal Synod, if necessary by correspondence:
  - c) If of the Diocesan Bishops (of whom the Archbishop shall be one) at least two-thirds ( $\frac{2}{3}$ ) express their approval, the person whose name has been put forward by the Diocese shall be accepted as a Suffragan Bishop or (as the case may be) an Assistant Bishop of the Province with special responsibilities in the Diocese of his appointment:
  - d) The Archbishop shall then arrange for the consecration of the person so accepted by not less than three Bishops of the Province (or of any other Province or Church with which this Church) is in full Communion.
5. (a) A Bishop Suffragan ordinarily has a territorial title other than the title of any Diocese in the Province:
- b) A Bishop Suffragan is eligible for election as Diocesan Bishop of any Diocese in the Province, and may be transferred from one Diocese to another as Suffragan:
  - c) The appointment of a Bishop Suffragan does not lapse with the election of a new Diocesan Bishop, and if not himself elected to office as Diocesan Bishop or transferred to another Diocese, the Suffragan Bishop shall continue to serve in the Diocese to which he has been appointed.

6. (a) An Assistant Bishop shall have no right of succession to the Office of Bishop of the See in which he is Assistant Bishop and his appointment as Assistant Bishop shall lapse in the event that a newly appointed Diocesan Bishop of the See shall satisfy the Episcopal Synod that he has good cause for not desiring the continuance of that appointment, whereupon it shall so far as it lies within their power be the duty of the Episcopal Synod to assist the former Assistant Bishop in finding suitable employment:
- b) An Assistant Bishop shall be eligible for election as a Diocesan Bishop, a Bishop Coadjutor or a Bishop Suffragan of any Diocese in the Province.

### **ARTICLE XIII - ON THE PROVINCIAL OFFICERS**

There shall be a Provincial Chancellor, Deputy Provincial Chancellor, Provincial Registrar, Provincial Secretary, Provincial Treasurer, Clerical Secretary of Synod and Lay Secretary of Synod. The manner of appointment and the functions of these several officers shall be defined by Canon.

### **ARTICLE XIV – ON PROVINCIAL, DEPUTY PROVINCIAL AND DIOCESAN CHANCELLORS**

1. The Archbishop of the Province shall appoint a legal advisor who shall be styled and known as the Provincial Chancellor.
2. The Archbishop of the Province shall appoint a legal adviser who shall be styled and known as the Chancellor for the All Saints Cathedral Diocese. The Chancellor of the All Saints Cathedral Diocese shall also be the Deputy Provincial Chancellor.
3. Each Diocesan Bishop shall appoint a legal adviser who shall be styled and known as "Chancellor".

By being a Diocesan Chancellor this does not mean that the Chancellor shall be the advocate of the Diocese or appear in Court on behalf of the Diocese. He/She may however advise on suitable advocates to appear in Court on behalf of the Diocese.

### **ARTICLE XV - ON DIOCESAN ADMINISTRATIVE SECRETARIES**

1. Each Diocesan Bishop, after consultation with his Diocesan Appointment Committee shall appoint a Diocesan Administrative Secretary to assist him in the administrative work of the Diocese and to carry out such other functions in addition to those set out hereunder as may be assigned to him by the Standing Committee of Synod.

2. It is essential that the Diocesan Administrative Secretary should be trained in Business Administration and readily available for constant consultation by the Bishop. If, in the judgement of the Bishop, a clerk in holy orders can fulfill the functions better than any of the available laymen, there is no impediment to the appointment of such clerk in holy orders.
3. The Diocesan Administrative Secretary is primarily responsible for all documents used in the Administrative work of the Province.
4. He must ensure in consultation with the Diocesan Chancellor that all such documents as letters of orders, licenses and acts of dedication of churches, chapels and churchyards, are drawn in the proper form, and are available whenever required by the Bishop.
5. It is his responsibility to see to it that proper registers of Episcopal acts, such as ordinations, confirmations, dedications, or, the case arising, excommunication, are maintained and kept up to date.
6. It shall be the responsibility of the Diocesan Administrative Secretary to ensure that the minutes of the Diocesan Synod and its subordinate bodies, and also the minutes of the Provincial Synod and of Parish Councils and other similar bodies are regularly sent to the Bishop and are filed and stored in the Diocesan Archives.
7. At the request of the Bishop, or of any Parish, he shall visit parishes to advise parish priests in the administrative work of parishes and in the maintenance of correct parochial records.
8. In particular, he shall urge parish priests to send in to the Diocesan Archives, for proper preservation, all parochial records, especially registers of births, marriages and deaths, which are no longer current.
9. He shall be responsible for the establishment and maintenance of the Diocesan Archives.
10. The Diocesan Administrative Secretary shall be an ex-officio member of the Diocesan Synod and the Standing Committee thereof.
11. The Diocesan Administrative Secretary shall be present at every election of a Bishop, or Bishop Coadjutor in the Diocese to assist the Chancellor in the formalities of the election.
12. In the event that the Chancellor of the Diocese and the Diocesan Administrative Secretary are the same person, he shall in consultation with the Vicar-General of the Diocese (or the Diocesan Bishop, in the case of the election of a Bishop Coadjutor) appoint a deputy to assist him in the election.

13. If so requested by the Bishop, the Diocesan Administrative Secretary shall serve as clerk of the court at any session of the Diocesan Tribunal.

## **ARTICLE XVI - ON VICARS GENERAL**

1. Every Diocesan Bishop, on assuming the responsibilities of his office, shall appoint a Vicar-General who may also be an Archdeacon in the Diocese, who shall hold office as such until the Bishop shall terminate his appointment or has accepted his resignation.
2. During the absence of the Bishop from the Diocese, or during his incapacity through serious illness, the Vicar-General shall together with Diocesan Administrative Secretary be responsible for maintaining the administrative work of the Diocese, subject to such limitations as the Bishop may have indicated in the order of appointment.

A Vicar-General shall not summon a meeting of the Synod or Standing Committee of the Diocese, unless he shall have received a special mandate in that behalf from the Bishop.

3. The office of Vicar-General is administrative and not spiritual. Appointment as Vicar-General does not convey to the holder of the office the right to carry out any spiritual function beyond those which he was entitled to carry out before receiving the appointment. If confirmations and ordinations are required during the absence or incapacity of the Bishop, it shall be the duty of the Vicar-General to arrange for such Episcopal acts to be performed by some other Bishop holding jurisdiction in the Diocese or by some other Bishop of the Church, and where necessary for documents to be sealed with the Episcopal Seal.
4. When a See has been declared canonically vacant, the Archbishop shall appoint the Vicar-General as Commissary to act on his behalf in maintaining the administrative work of the Diocese, until a new Bishop assumes office **PROVIDED THAT** if the Vicar General is nominated as a candidate to the vacant See, he will cease to be the Archbishop's Commissary and the Archbishop shall appoint another Priest to be his Commissary in his place.

## **ARTICLE XVII - ON TRUSTEES**

1. All property of every nature and kind whatsoever whether movable or immovable real or personal which is or may be given obtained or held for the benefit of the Church, shall whenever it is practicable so to do be transferred to a trustee or trustees acting on behalf of the Provincial Synod and/or of the Diocesan Synod. Unless and until the Provincial Synod shall resolve to the contrary the Church Commissioners for Kenya (whose Constitution and Functions are set out in the Third Schedule hereto) shall be and they are hereby appointed to be the Trustees for this Church (hereinafter called the Church Trustees which expression shall include the Trustee or Trustees hereby appointed or other Trustee or Trustees from time to time appointed by the Provincial Synod).

2. The Provincial Synod or the Standing Committee thereof acting under its authority may in addition to the Church Trustees from time to time appoint a Special Trustee or Special Trustees for any portion of the property of the Church and may from time to time cancel and revoke the appointment of the Church Trustees or of any Special Trustee or Special Trustees and may appoint another Trustee or other Trustees in their place.
3. All property transferred to or held by the Church Trustees or by any Special Trustee or Special Trustees shall be held in trust so that the Church Trustees or such Special Trustee or Special Trustees shall hold the same, or otherwise shall transfer the same upon and according to such trusts intents and purposes and in accordance with all such rules and regulations as to the tenure and management and use of Church property as the Provincial Synod shall from time to time direct or appoint in writing **SUBJECT HOWEVER**, to any special trusts imposed by any Donor Testator or other benefactor **PROVIDED THAT**, no property subject to any such special trusts shall be held by any Trustee or Trustees on behalf of the Provincial Synod, unless the same shall have been accepted in terms of such trusts by the Provincial Synod or by the Standing Committee thereof acting on its behalf **AND PROVIDED ALSO THAT**, all rules and regulations as to the tenure management and use of Church property and the other matters aforesaid which have been hitherto made and shall be made hereafter by any Diocesan Synod, shall unless they be contrary to any rules and regulations previously made in that behalf by the Provincial Synod have force in that Diocese until other rules and regulations shall have been made by the Provincial Synod.
4. Every Trustee in whom any property whether movable or immovable real or personal shall be vested for and on behalf of the Provincial Synod shall hold the same with the power and subject to the limitations restrictions declarations and provisions contained in the Canons in that behalf from time to time in force so far as the same may be consistent with any special trusts affecting such property; and the Standing Committee of the Provincial Synod shall possess and may exercise any such of the powers belonging to the Provincial Synod as shall be by the Provincial Synod in that behalf prescribed. A model form of Trust Deed for the vesting of property in the Church Trustees is set out in the Fourth Schedule hereto.

## **ARTICLE XVIII - ON THE PROVINCIAL SYNOD**

1. The Provincial Synod shall consist of three Houses, namely that of the Bishops, that of the Clergy and that of the Laity, the consent of three Houses (whether voting together or by Houses) being necessary to give full Synodical Authority to any Act of Synod.
2. All retired Archbishops and Bishops of the Province shall be ex-officio members of the Provincial Synod for life with the right to speak in meetings but not to vote.
3. To the Provincial Synod belongs final authority in matters concerning the spiritual discipline of the Anglican Church of Kenya.

4. At Meetings of the Provincial Synod the Archbishop (if present) shall preside. In his absence the Dean (if present) shall preside and in the absence of both the Archbishop and the Dean, the Most Senior Diocesan Bishop by consecration shall preside.
5. An Ordinary Session of the Provincial Synod shall normally be held once in every two years at such time and place as the Archbishop may appoint. The notice convening a Session of the Synod shall be circulated not less than two months before and the Agenda not less than one month before the date fixed for the Session.
6. Subject always to the provisions of paragraph (7) of this Article a Special Session of the Provincial Synod may be convened by the Archbishop at his own discretion at any time and place as he may determine or shall be convened by the Archbishop in response to and within two months after receipt of the written request made by the Standing Committee of Synod. The notice convening such a Session shall be circulated not less than one month before and the Agenda not less than fourteen days before the date fixed for the Session.
7. The Provisions of Paragraph (6) of this Article shall not apply to a Special Session of the Provincial Synod convened for the purpose of sub-paragraph (e) of paragraph (10) of Article VII and in accordance with the provisions of Part III Canon VII which said provisions shall respectively apply to any such Session to the entire exclusion of those of paragraph (6) of this Article.
8. The Quorum necessary to form a Session of the Provincial Synod shall consist of at least one half of the House of Bishops, one half of the House of Clergy and one half of the House Laity present in person, together with the Archbishop or the Dean at the opening of the Synod.

If during any meeting of the Session a count is demanded by number, and it be ascertained that the number present of any House is less than one third of the number of that House, the Chairman of the Meeting shall adjourn the Meeting to a date and time approved by a majority of those present and if at such adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting the number present shall be a quorum.

9. There shall be a Standing Committee of Synod elected by the Provincial Synod at each Ordinary Session the membership whereof shall be determined by Canon.
10. The Provincial Synod may by Special Resolution delegate any of its powers under this Constitution to the Standing Committee of Synod upon such terms and conditions as the Provincial Synod deems fit and expedient. **PROVIDED THAT** any and all Resolutions of the Standing Committee shall be certified by the Provincial Synod at its next Special or Ordinary Session failing which such Resolutions shall lapse.
11. The three houses, namely the House of Bishops, the House of Clergy and the House of Laity shall sit together at each meeting of any Session for the transaction of business

and for debate. If a majority of members of any House shall require opportunity for separate deliberation of a specific Agenda, such opportunity shall be given as soon as practicable.

12. The Session of the Synod shall be suspended for the purpose of such separate deliberations and shall be resumed at such time as shall be determined immediately prior to such suspension. Any resolution passed by any one of the three Houses alone shall only have the effect of a recommendation to Synod.
13. The three Houses of the Synod shall ordinarily vote together. But if any member shall, before any motion is put, request a vote by Houses, his request shall be granted provided he is supported by Ten (10) other members of his House. The result of such voting by Houses shall be reported to the full synod.
14. Any valid motion which has received the required majority of the Bishops, Clerical and Lay representatives present in synod, and voting together or by Houses as the case may be, shall be deemed to be an Act of Synod.
15. All members of the Synod, Standing Committee of Synod and other Boards and Committee are bound by the principle of collective responsibility. In view of this they may not divulge the proceedings of the Synod, or Standing Committee of Synod, Boards or Committees as the case may be to the media or general public. Collective responsibility means that a member of Synod, Boards or Committees is bound by the decision of the majority even if he/she might have voted against such decision. It shall be the responsibility of the Chairman or a person authorized by the Chairman to issue statements to the media or general public.

## **ARTICLE XIX - ON THE HOUSE OF BISHOPS**

1. The House of Bishops shall consist of the Archbishop and all the Bishops of the Province (which expression includes Diocesan Bishops, Assistant, Suffragan and Coadjutor Bishops).
2. The Chairman of the House of Bishops shall be the Archbishop or in his absence or is unable to act, the Dean or in his absence or is unable to act, the senior most Bishop by consecration.
3. In the House of Bishops a motion shall be deemed to have been carried if a majority of the Bishops present and voting vote for it.
4. In matters affecting Faith and Order it shall be the responsibility of the House of Bishops to determine the form in which proposals shall be put before the Provincial Synod for its final decision.
5. The House of Bishops, consisting of the Bishops Diocesan, Coadjutor, Suffragan and Assistant, holding jurisdiction within the area of the Province, is an integral part of the Provincial Synod.

6. The quorum for the House of Bishops shall be one half ( $\frac{1}{2}$ ) of its total membership.
7. Ordinarily the House of Bishops sits and votes together with the other two Houses. But, if a resolution to that effect has been passed, the House of Bishops may meet in separate session.

## **ARTICLE XX - ON THE HOUSE OF CLERGY**

1. The House of Clergy shall be composed of clerical representatives from each Diocese of the Province elected from the clergy of the Province in accordance with Rules as to the number of representatives and the method of their election determined from time to time by the Provincial Synod.
2. The House of Clergy shall at its first meeting in each Ordinary Session elect a Chairman from among the members of that House who shall serve in that capacity until the next Ordinary Session of the Provincial Synod.
3. The Quorum for the House of Clergy meeting separately shall be one half ( $\frac{1}{2}$ ) of its total membership.
4. In the House of Clergy a motion shall be deemed to have been carried if a majority of the Clergy present and voting for it and in the case of an equality of votes the Chairman shall have a second or casting vote.

## **ARTICLE XXI - ON THE HOUSE OF LAITY**

1. The House of Laity shall consist of lay representatives being communicant members of the Anglican Church of Kenya of the full age of 18 years, from each Diocese of the Province elected in accordance with Rules as to number of representatives and the method of their election determined from time to time by the Provincial Synod.
2. The House of Laity shall at its first meeting in each Ordinary Session elect a Chairman from among the members of that House who shall serve in that capacity until the next Ordinary Session of the Provincial Synod.
3. The Quorum for the House of Laity meeting separately shall be one half ( $\frac{1}{2}$ ) of its total membership.
4. In the House of Laity a motion shall be deemed to have been carried if a majority of the Laity present vote for it.

## **ARTICLE XXII - ON THE EPISCOPAL SYNOD**

1. The Archbishop may and where required by this Constitution shall convene the House of Bishops as the Episcopal Synod of the Province for the transaction of such business as is remitted to the Bishops under the terms of this Constitution, especially in the areas of Faith and Order and of liturgical order and practice. At such meeting Two priests and Two Laymen, summoned by the Archbishop from the panel elected by the Provincial Synod out of its own number, shall always be present as assessors, and shall have the right to speak but not to vote. No resolution of the Episcopal Synod shall take effect until certified by the Archbishop and the Provincial Chancellor to be consonant with this Constitution and where appropriate with the Diocesan Constitutions.
2. If the Archbishop is of the opinion that business of special gravity requires attention between the sessions of the Provincial Synod, he may convene the Episcopal Synod together with the Standing Committee of the Provincial Synod for the consideration of such business, provided that he had not been requested in due form to convene a special session of the Provincial Synod.
3. Resolutions passed by the Episcopal Synod and the Standing Committee of the Provincial Synod sitting together shall take effect immediately and shall continue in force unless and until they have been revoked or amended at the next regular session of the Provincial Synod by a two-thirds majority of the members of the Synod present and voting, or replaced by other resolutions of Provincial Synod passed in regular form.
4. A quorum for a meeting of the Episcopal Synod shall be Two-thirds (°) of the Diocesan Bishops of which the Archbishop shall be one.

### **ARTICLE XXIII - ON THE COMMITTEE OF REFERENCE**

1. There shall be a Committee of Reference of the Province.
2. It shall be the duty of the Committee of Reference to watch over the Constitutional aspects of the life of the Church, and of the Dioceses to ensure, as far as possible, that the requirements of the Constitutions of the Church, and of the Dioceses are complied with, and to draw the attention of the Provincial Synod to such changes in and amendments to the Constitutions as may become necessary.
3. **Membership:**
  - a) A Bishop elected by the Provincial Synod who shall be the Chairman.
  - b) The Provincial Chancellor shall be the Vice Chairman.
  - c) All Chancellors of the Dioceses in the Province of whom at least five (5) shall be required to constitute a quorum.
  - d) One Priest and one layman elected by the Provincial Synod.

- e) The Clerical or Lay Secretaries of the Provincial Synod shall be joint Secretaries.
  - f) The Committee shall have the right to co-opt not more than Three (3) persons to represent interests which may be overlooked.
4. It shall be the responsibility of the Administrative Secretary of each Diocese to send to the Provincial Chancellor, Provincial Secretary and to the joint Secretaries of the Committee of Reference one copy each of the minutes of each meeting of the Diocesan Synod.
  5. The agenda for the meeting of the Committee of Reference having been prepared by the Provincial Chancellor, the Committee shall ordinarily meet during the week preceding each session of the Provincial Synod or of its Standing Committee.
  6. If minor irregularities be noted, such as failure to make the necessary appointment to boards and committees, the matter shall not be referred to the Provincial Synod or the Standing Committee but the joint Secretaries of the Committee of Reference shall be authorized to correspond with the Bishop concerned and request him to see that the requirements of the Constitution are complied.
  7. If more serious irregularities be noted, the Chairman shall present to the Provincial Synod, or its Standing Committee, a report, drawing attention to these irregularities. The Provincial Synod or its Standing Committee shall decide what action is to be taken or shall remit the matter to an ad hoc committee with power to decide, and shall request the Archbishop as Chairman of the Provincial Synod to communicate the decision to the Diocese or Dioceses concerned, with the request that the decision of the Provincial Synod or its Standing Committee be put into effect without delay.
  8. It shall be competent for the Chairman or Vice-Chairman of the Committee of Reference, with the consent of the Archbishop, to summon an emergency meeting of the Committee of Reference, if in his judgment a situation of urgency has arisen; if the Committee of Reference so decides, the Chairman shall have authority to advise any Bishop that action should be stayed on the matter under consideration until after the next meeting of the Episcopal Synod, which shall have the power to decide and report to the next meeting of the Standing Committee or Provincial Synod.

## **ARTICLE XXIV - ON THE PROVINCIAL BOARDS**

### **1. PROVINCIAL BOARD OF FINANCE**

- a) There shall be a Board of Finance of the Church, the Functions whereof shall be those set forth in this Article and the Membership and Rules of Procedure whereof shall be as from time to time prescribed by Standing Orders.
- b) **FUNCTIONS**

The functions of the Board shall be:

- i) To conduct the financial affairs of the Church and each year to submit a financial report to the Provincial Synod or its Standing Committee and to the Church Commissioners for Kenya.
- ii) To receive through the Provincial Treasurer audited Balance Sheets and Accounts of each Provincial undertaking for the preceding year and Budgets for the ensuing year.
- iii) To receive from each Diocese an audited Balance Sheet and a Statement of Income and Expenditure for the preceding year and its Budget for the ensuing year.
- iv) To receive from the Church Commissioners for Kenya an estimate of the sum available for allocation in the ensuing year.
- v) To co-ordinate requests from the Dioceses for financial aid either by way of grant or loan, and to submit recommendations to the Church Commissioners for Kenya to assist them in allocating the funds at their disposal.
- vi) To consider, and advise on, any financial matter referred to it by the Church Commissioners for Kenya.

2. **PROVINCIAL BOARD OF THEOLOGICAL EDUCATION AND TRAINING**

- a) There shall be within the Church a body called the Provincial Board of Theological Education and Training which shall be appointed by the Provincial Synod and charged with the duty of considering in particular all matters arising under the provisions of Articles III and V of this Constitution which may from time to time be referred to it and also all other matters of a like nature or not upon which the Provincial Synod or any Diocesan Synod required the guidance of the Committee.
- b) The Composition of the Board shall be such as shall from time to time be determined by the Provincial Synod and the members thereof shall hold office as decided by the Provincial Synod.

3. **PROVINCIAL BOARD OF MISSION**

- a) There shall be a Board of Mission, which shall be appointed by the Provincial Synod. This Board is the evangelistic arm of the Anglican Church and shall be charged with the duty of preaching the gospel to every person in obedience to the command of Christ. The Board shall coordinate the work of Sunday School,

Brigade, Youth, Mothers' Union, Kenya Anglican Men's Association, Hospital Chaplaincy, Armed Forces Chaplaincy, etc.

- b) The composition of the Board shall be such as shall from time to time be determined by the Provincial Synod and the members thereof shall hold office as decided by the Provincial Synod.

#### 4. **PROVINCIAL BOARD OF SOCIAL SERVICES**

- a) There shall be a Board of Social Services which shall be appointed by the Provincial Synod and charged with the duty of addressing major areas of societal concern as well as researching the roots of societal evil and coming up with positive solutions.
- b) The composition of the Board shall be such as shall from time to time be determined by the Provincial Synod and the members thereof shall hold office as decided by the Provincial Synod.

### **ARTICLE XXV - ON TRIBUNALS**

- 1. The Provincial Synod shall determine the Constitution and Rules of Procedure of the Diocesan Tribunals for the exercise of Ecclesiastical Discipline, and shall provide a Provincial Tribunal of Appeal **PROVIDED ALWAYS** that in default of Rules for Diocesan Tribunals being made by the Provincial Synod, the Diocesan Synod of any Diocese may establish provisional Rules or as the case may be continue to use the Rules already in force in the Diocese concerned.
- 2. Any Bishop Priest or Deacon and any Layman of any Diocese in the Province against whom a charge shall be brought shall be tried in accordance with the provisions of this Article and of Canon XVI.

### **ARTICLE XXVI - ON THE DISCIPLINE OF THE CHURCH**

- 1.
  - a) The Church of Jesus Christ is a fellowship of love and of mutual service. In it no law obtains except the law of love as revealed to us in the words and actions of Jesus Christ. Every Christian has a vocation to live in love with all the brethren, and as far as possible in charity with all people, and to keep himself or herself void of offence towards those that are within the fellowship and towards those that are without.
  - b) Nevertheless, all history shows that the Church has at all times fallen short of this high ideal, both in its corporate life, and in the individual response of its members to the grace of God. Offenses have come in, and will come in until the end of age.

- c) In the great majority of cases of failure, no more is needed than the private repentance of the Christian who knows that he/she has failed, and is determined that with the help of the Holy Spirit he/she will not fail again in the same. For such assurance of God's pardon is provided in the Scriptures and in the absolution at Morning and Evening Prayers and at the Holy Communion.
  - d) In certain cases it is desirable that the one who has done wrong should acknowledge his/her fault to the person or persons whom he/she has wronged, or privately to a priest, and should make such reparation as is in his/she power. In some cases it may be found desirable that an offender should acknowledge his/her fault before the fellowship of believers, should promise to make such restitution as is possible, and should ask the prayers of the faithful that he/she may be able to keep the promises made in their presence.
- 2.
- a) There may however arise cases in which a member of the Church is accused of holding and propagating teaching contrary to the Gospel of Christ, or of creating and fostering a spirit of schism, hostility and division within the fellowship, or of acting or having acted in such a way as to bring discredit on the name of Christ and to cause scandal among unbelievers; then it may be necessary for the Church for the sake of its own peace and of its witness to the world, to take disciplinary steps against such offenders, especially when those who have fallen into error or sin show a hard and impenitent heart, and refuse the call issued to them in penitence and amendment of life.
  - b) The disciplinary action of the Church rests on the consent of its members and has nothing to do with the coercive jurisdiction of an earthly Court. However, Christians, like all others, are subject to the law of the land in which they live and may claim neither exemption nor privilege in relation to it. They may however either individually or collectively protest to a Government against any laws that they judge, in the light of the teaching of Christ, to be unjust, arbitrary or oppressive.
  - c) It is the duty of the Church to remind all its members from time to time of the injunction that they should not go to secular Law Courts against one another, especially before unbelievers; and that all disputes between Christians should be settled by wise and experienced members within the fellowship. (**See Mathew 18:15–17 and 1Corinthians 6:1-11**). As far as possible, Christians should refrain from entering into litigation even against those who are not Christians, though they must do their duty in supporting the forces of order, when the public welfare demands it.
  - d) The disciplinary processes of the Church deal only with spiritual matters, and the sanctions which they may impose are only spiritual. Moreover the discipline of the Church must always be exercised with a view to healing and not to destruction, to restoration and not to exclusion.
3. The sanctions which the Church may apply are the following:

- (a) To Office bearers of the Church:
    - i) Suspension from the exercise of that office, for a period to be specified and communicated to the one so suspended.
    - ii) Deprivation of that office
    - iii) Degradation.
  - (b) To all members of the Church without distinction:
    - (i) Monition, that is a serious warning to the person concerned that his/her conduct has given offence, and that unless he/she shows due signs of penitence and amendment, it will be necessary for the Church to proceed to graver measure.
    - (ii) Withdrawal of the right to participate in the Holy Communion, for a specified period, or until due signs of penitence and amendment have been seen.
    - (iii) Withdrawal of all the rights and privileges of membership in the Church of Christ, by the process commonly known as excommunication.
4. (a) Every Bishop at his consecration, shall make a declaration, including the words
- "And I hereby undertake to resign or to accept and immediately submit to any sentence depriving me of any or all of the rights and emoluments appertaining to the said Bishopric, which may at any time be passed upon me, after due examination had, by any Tribunal acknowledged by the Provincial Synod of the Church for the trial of a Bishop, saving all rights of appeal allowed by the said Provincial Synod".
- If therefore there is reason to think that a Bishop has behaved in a manner prejudicial to the faith or good repute of the Church, it shall be in order for proceedings to be taken against him in accordance with the rules laid down in this Constitution; and the rights of a Bishop to appeal against a sentence duly passed shall be such only as are laid down hereunder.
- (b) Every priest and deacon at his/her ordination, and at the time of receiving a License to minister in the Church, shall make a declaration, including the words
- "And I hereby undertake to accept and submit to any sentence which may at any time be passed upon me, after due examination had, by any Court acknowledged by the Diocesan Synod for the trial of a Clergyman, saving all rights of appeal allowed by the said Synod"

If therefore there is reason to think that a Clergyman has behaved in a manner prejudicial to the faith and good repute of the Church, it shall be in

order for proceedings to be taken against him/her, in accordance with the rules laid down in this Constitution; and the rights of a Clergyman to appeal against sentence duly passed shall be such only as are laid hereunder.

- (c) Every member of the Provincial Synod, of a Diocesan Synod, or of other committees and boards of the Church or of the Dioceses, and such officials as Registrars, on appointment to such membership or office, shall sign a document agreeing to be bound by the Constitution, Canons and Rules of the Church. If therefore there is reason to think that any such member or official has acted in a manner prejudicial to the faith and good repute of the Church, it shall be in order for proceedings to be taken against him/her, in accordance with the provisions of this Constitution; and the rights of such member or official to appeal against sentence duly passed shall be such only as are laid down hereunder.
  - (d) Every Christian admitted by the solemn rite of Confirmation to full membership of the Church, has made a solemn profession of faith in Christ and of obedience to Him as head of the Church. If therefore there is reason to think that any such member has behaved in a manner prejudicial to the faith, good order and good repute of the Church, it shall be in order to take proceedings against him/her in accordance with the provisions of this Constitution.
  - (e) Every baptized person bears his/her share of responsibility for the life of the Church and for its witness in the world. If therefore there is a reason to think that any baptized person has behaved in such a manner as to cause injury to the life of the Church and scandal among the unbelievers, it shall be in order to take proceedings against such person in accordance with the provisions of this Constitution.
  - (f) The Church claims no rights of discipline against un-baptized persons or against members of any other religious fellowship.
5. Any ecclesiastical sentence passed against any person, and confirmed after appeal (if any) duly heard, shall be communicated to the person concerned in writing. In the case of the more severe sentences, i.e. excommunication, deprivation or degradation, it is desirable that the sentence should be made known in time of divine service, in the case of a Bishop, priest or deacon, in the Cathedral Church of the Diocese, and in the case of a priest or deacon also in the Church of the Parish in which he has served: in the case of layman, in the Church in which each such person regularly worships. But at the same time, the people shall be solemnly reminded that the purpose of such sentences is always healing and restoration, and that they must pray earnestly for those who by their fault have fallen under the censure of the Church. In some cases it may be impossible for one who has injured the Church to be restored to a position of honour or authority which he/she had held before the passing of sentence. But even in such cases the aim is

always the restoration of such offender to full fellowship as a worshipping and witnessing member of the Church.

6. In all matters of discipline a special responsibility rests on the Bishops since to them is committed in a special way the care of the faith and order of the Church. But the Bishop must act always as the servant of the Church and in strict accord with the Rules of Procedure set out in this Constitution. He has no arbitrary and independent authority. When proceedings have been concluded and appeals heard and determined, it falls to the Bishop to pronounce sentence. But this he must always do in the light of the findings of the properly constituted Tribunals of the Church and Dioceses, and after consultation with those best qualified to advise him in each particular case. He must never forget the words spoken to him at the solemn moment of his consecration:

"Be so merciful that you may not remiss; so to minister discipline that you do not forget mercy"

Similarly, it falls to the Bishop to make the final pronouncement in all cases of restoration after the imposition of discipline; but he shall take action only after due enquiry had, and on the recommendation of those best qualified to advise him in each particular case.

## **ARTICLE XXVII - ON THE RELATIONS BETWEEN THE CHURCH AND THE DIOCESE**

1. The Provincial Synod shall deal with matters of common concern to the whole Church and with those that affect the Communion of the Dioceses with one another and of the Church with other Provinces of the Anglican Communion, and shall leave the Dioceses to deal with matters which concern only members of the Church in each Diocese. The decision on the question as to which the above classes of matters any particular subject belongs shall rest with the Provincial Synod.

Nevertheless the Provincial Synod shall exercise the power of making that decision and also its General powers of legislation so as to give to all the Dioceses the greatest possible liberty compatible with the unity and good order of the Church of this Province and to ensure the fullest consultation with them in matters of legislation.

2. The sub-division or re-arrangement of existing Dioceses or the creation of new Dioceses shall be deemed to be a matter of common concern for the whole Church.

3. Canons and other decisions of the Provincial Synod shall, be operative in all the Dioceses in such manner to such extent and after such consultation as it shall determine.

### **ARTICLE XXVIII - ON DIOCESAN CONSTITUTIONS**

- (a) The Provincial Synod recognizes the Synodical government of constituent Dioceses, each with its Diocesan Synod consisting of the Diocesan Bishop, House of Clergy and House of Laity governed by a Constitution, Laws and Regulations approved by the Diocesan Synod and confirmed by the Provincial Synod. Any subsequent amendment to the Diocesan Laws and Regulations must receive approval of Provincial Synod.
- (b) All Diocesan Constitutions shall within a period of three (3) years of the coming into force of this Constitution be amended to conform to this Constitution.
- (c) Dioceses should in drawing up their Constitutions, Laws, and Regulations study carefully the model form of Diocesan Constitution contained in the second schedule hereto.

### **ARTICLE XXIX - ON CATHEDRALS AND CHAPTERS**

1. A Cathedral is a principle Church in the Province or Diocese in which the Archbishop or Bishop (as the case may be) has his official throne.
2. Every Cathedral shall be governed by Statutes and Regulations, the principles of which are in the Third Schedule annexed hereto. Such Statutes and Regulations should take into account the particular situations and needs of the Diocese and Cathedral concerned.

### **ARTICLE XXX - ON THE ERECTION OF CHURCHES**

1. Any person or a group of people wishing to start a new congregation shall inform the Priest in charge of the area who will convene the Parish Council to discuss the request. Once the Parish Council has given its blessing the new congregation may start. The Parish Priest should inform the Bishop in writing of the planting of a new Church in his Parish.
2. No person shall erect any permanent Church, whether on private or on Church land, without the prior permission of the Bishop of the Diocese within the jurisdiction of which the land where it is proposed to erect any Church is situate **PROVIDED HOWEVER** that the Diocesan Bishop may in his sole discretion and notwithstanding the foregoing provisions of this Article license and dedicate a building erected without his prior permission as a Church either permanently or for such shorter period and upon such terms and conditions as he may deem fit in the circumstances of the case **PROVIDED FURTHER** that the Diocesan Bishop concerned may include in any such

permission or license a condition that the land upon which the building in question has been erected shall be transferred to the Trustees of the Anglican Church of Kenya.

3. The effect of an act of consecration (which may only be performed by a Bishop of the Anglican Church of Kenya) of a Church is not necessarily, despite the terminology used in the Sentence of Consecration, to set aside the land or building for ever from the common uses of mankind but only to so set it apart for the duration of the title if less than a freehold for which the land is held from the State. Accordingly the land or building is likewise only set apart solely for sacred purposes for the duration of the title.
4. Accordingly and without prejudice to the generality of the foregoing and for the better implementation of the provisions of this Article and for the more orderly government of the lands and buildings from time to time vested in the Church and for the proper ordering of all matters related thereto the Provincial Synod or as the case may be, or the Diocesan Synod, may make such Regulations and Rules as to it may seem proper and necessary for the issue of faculties governing the erection demolition or alteration of or additions to Churches used for Public Worship.

#### **ARTICLE XXXI - ON THE MAKING OF CHURCH CANONS, RULES, REGULATIONS, STANDING ORDERS AND BY-LAWS**

1. The Provincial Synod shall have full power and authority to make, from time to time, such Canons, Rules, Regulations, Standing Orders and By-Laws for giving effect to the provisions of this Constitution as to the said Provincial Synod shall seem fit, and further, from time to time, to amend, alter, repeal and add to such Canons, Rules, Regulations, Standing Orders and By-Laws.
2. No Canon, Rule, Regulation, Standing Order or By-Law of the Church shall be liable to alteration, amendment or repeal, and no new Canon, Rule, Regulation, Standing Order or By-Law shall be added by any future Provincial Synod, unless formal written notice of such proposed alteration, amendment, repeal or addition shall have been given to the Archbishop in the manner provided by Standing Orders from time to time pursuant to this Article.
3. Any motion adopted by the Provincial Synod for the alteration, amendment, repeal of or addition to any existing Canon, Rule, Regulation, Standing Order or By-Law of this Church shall take effect Thirty (30) days from the date of the adoption of the same, which shall always be made immediately before the termination of the Session of the Synod at which such motion was adopted unless the motion as adopted shall otherwise provide.

#### **ARTICLE XXXII - ON THE AMENDMENT OF ARTICLES**

If it is desired to amend or add to these Articles, the Episcopal Synod or the Standing Committee of the Provincial Synod shall formulate the amendments or additions desired and submit them to the Dioceses of the Province for their consideration; and if approval be given by not less than two-thirds of the Diocesan Synods the proposal shall be submitted to the Provincial Synod and if the Provincial Synod accepts the proposal shall thereupon take effect.

### **ARTICLE XXXIII - ON TRANSITIONAL PROVISIONS**

1. Notwithstanding the creation of the Anglican Church of Kenya as a separate autonomous organization distinct from the former Church of the Province of East Africa, it is hereby declared that:
  - a) all Canons, rules, regulations and Acts of Synod made by the Provincial Synod of the Province of East Africa shall, so far as the same shall not have been replaced by or under the provisions of this Constitution, and so far as the same are not inconsistent therewith, have effect and be deemed to have been under this Constitution and shall accordingly continue in full force and effect within this Province until replaced under the provisions of this Constitution and shall be construed with such modifications, adaptations, qualifications and exceptions as may be necessary to bring them into conformity with this Constitution; and
  - b) where any office has been established by or under the provisions of the Constitution of the former Province of East Africa or any such Canon, Rule, Regulation or Act of synod as aforesaid and this Constitution established or provided for the establishment of a similar or an equivalent office not being the office of Archbishop or Dean of the Province or Provincial Treasurer or Clerical or Lay Secretaries of Synod and person who, immediately before the date of the coming into force of this Constitution, holds or is acting in the former office shall, so far as is consistent with the provisions of this Constitution to have been appointed, elected or otherwise selected to or to act in the latter office in accordance with the provisions of this Constitution or of any such Canon, Rule, Regulation or Act of Synod as aforesaid, and shall act in his office accordingly until the appointment of a new holder of the office in accordance with the provisions of this Constitution; and
  - c) the persons who, immediately before the date of the coming into force of this Constitutions, are –
    - (i) the Members of the Provincial Synod of the Church of East Africa appointed by the synods of the Several Dioceses comprised in this Province, and
    - (ii) the members of the Electoral College for the appointment of the Archbishop of the Church of the Province of East Africa appointed by the Synods of all the Dioceses comprised in this Province, and the

Members of the Provincial Panel created pursuant to the provisions of Article X V of the Constitution of the Church of the Province of East Africa shall, so far as is consistent with the provisions of this Constitution, continue to be the members of the Provincial Synod of this Church or as the case may be of the Electoral College for the appointment of the Archbishop of this Church or as the case may be of the Provincial Panel of this Church after the date of the coming into force of this Constitution and shall as from that time be deemed to have been appointed thereto respectively in accordance with the provisions of this Constitution and shall hold their seats therein respectively in accordance with these provisions.

# THE CANONS

Canon I.....Of the Division of a Diocese and Related Matters.....	45
Canon II..... Of Union with other Christians.....	49
Canon III..... Of Exchange of Workers Between the Anglican Church of Kenya and other Churches or Christian Bodies. ....	50
Canon IV..... Of the Election of the <b>Archbishop and Bishop of All Saints Cathedral Diocese</b> .....	52
Canon V..... Of the Election of Diocesan Bishops. ....	55
Canon VI..... Of the Archbishop’s Visitations.....	57
Canon VII..... Of the service of Bishops in the Church.....	58
Part I ..... General	58
Part II of Resignation or Retirement .....	59
Part III of the Compulsory Retirement of the Archbishop.....	60
Canon VIII... Of the Relinquishment of Episcopal Jurisdiction.....	61
Canon IX.....Of Archdeacons.....	62
Canon X.....Of Chancellors Provincial and Diocesan.....	64
Canon XI.....Of Licensing of Clergy of the Church.....	66
Canon XII.....Of the Appointment and Functions of the Church Registrar, the Provincial Secretary, the Treasurer and the Clerical and Lay Secretaries of the Provincial Synod.....	68
Canon XIII....Of the Constitution of the Houses of Clergy and Laity and of the Standing Committee of Synod.....	69
Canon XIV....On the powers etc of Trustees.....	70

Canon XV.....Of the Tribunals of the Church .....	71
Canon XVI....Of the Disciplinary Proceedings within the Church.....	72
Canon XVII...Of the Trial of Archbishop and Bishops.....	76
Canon XVIII..Of the Trial of Priests and Deacons. ....	78
Canon XIX....Of the Discipline of the Laity.....	79
Canon XX.... Of Sentences .....	79
Canon XXI....Of Appeals.....	85
Canon XXII...Of Baptism and Confirmation.....	86
1. Of Holy Baptism.....	86
2. Of God Fathers and Mothers.....	86
3. Of Infant Baptism.....	87
4. Of the Baptism of Children of Parents of whom one alone is a Christian.....	87
5. Of Baptism in Emergency.....	88
6. Of Catechumenate.....	88
7. Of the Baptism of such as are of riper years.....	89
8. Of the Baptism of Polygamists.....	90
9. Of the Registration of Baptisms.....	91
10..Of Fee.....	91
11..Of the sign of the Cross in Baptism.....	91
12..Of Christian Instruction of Children and young...people.....	91
13..Of Confirmation.....	91
14..Of the Registration of Confirmation.....	92
Canon XXIII..Of Marriage .....	92

Canon XXIII A - Of Holy Matrimony.....	93
Canon XXIII B - Of the Rites of the Church Relating to Christian Marriages.....	93
Canon XXIII C – Of Nullity and Marriage after Declaration of Nullity.....	94
Canon XXIII D– Of Divorce and the Marriage of a Divorced Person.....	94
Regulations under the Canon Law of Marriage Relating to the Bishops’ Court.....	96
The appendix above referred to.....	97
Canon XXIII E – Of the Marriage of Unbaptized person.....	99
The appendix above referred to.....	100
Canon XXIII F – Of Marriage under Non-Christian Law including Customary Law..	100
1. Non Christians Married under Customary Law.....	100
2. Marriage between a Non Christian and a Baptized Person.....	101
3. Baptized Persons Married under Customary Law.....	101
Canon XXIII G – Of Certain impediments to the Solemnization of Matrimony.....	102
Table of kindred and Affinity.....	103
Table A.....	103
Table B.....	103
Table C.....	104
Canon XXIII H – Of Mixed Marriage.....	104
Canon XXIII I - Of Discipline.....	104
Church and Polygamist.....	104
People who were Polygamist before becoming Christians....	105
Canon XXIII J - Of the Blessing of a Marriage Contracted as a Civil Marriage.....	106
Canon XXIII K - Of the Ordering of the Marriage Service.....	107

## CANONS

### CANON I - OF THE DIVISION OF A DIOCESE AND RELATED MATTERS.

1. Any proposal for the division of a Diocese or for the re-arrangement of the territorial limits of any two or more Dioceses whether by revision of any boundary common to them or otherwise or for the amalgamation of any two or more Dioceses shall be submitted to the Synod of the Diocese or of each of the Dioceses concerned for consideration.
2. If approved in principle by the Synod or Synods concerned, the proposal shall be submitted by the Bishop of the Diocese or of each of the Dioceses concerned to the Archbishop in the form of a written substantive proposal drafted with the advice of the Diocesan Chancellor signed by him or them and containing.
  - a) a copy of the relevant resolution of the Synod of the Diocese or of each of the Dioceses concerned;
  - b) all such information as shall be requisite clearly to show that the proposed change is necessary, that substantial spiritual benefits and administrative or financial advantages may reasonably be expected to accrue therefrom and, in the case of any change involving the division of a Diocese or a reduction in its territorial limits, that each of the proposed new Dioceses or (as the case may be) the residual Diocese will be spiritually, administratively and financially viable;
  - c) A statement clearly stating how the Diocesan Synod has agreed on the Division of Assets and Liabilities of the Diocese to be divided.
  - d) a map showing the proposed new boundaries of the Diocese or Dioceses concerned;
  - e) in the case of a division of a Diocese, a statement by the Bishop of that Diocese stipulating which part of the Diocese he intends to retain within his own jurisdiction, and which part or parts he intends not so to retain;
  - f) in the case of a division of a Diocese or the amalgamation of two or more Dioceses, a draft of the proposed Constitution of the new Diocese or of each of the new Dioceses concerned;
  - g) in the case of a re-arrangement of any two or more Dioceses that is so substantial that it is desirable that the Dioceses concerned should be given an opportunity to elect Bishops of the re-arranged Dioceses, the written resignation of the Bishop of each of the Dioceses concerned, made conditional upon the proposal being approved;

- h) in the case of an amalgamation of two or more Dioceses, the written resignation of the Bishop of each of the Dioceses concerned, made conditional upon the proposal being approved in the manner hereinafter mentioned, and
  - i) such further information as may be considered requisite.
- 3. The Archbishop shall consult the Provincial Chancellor and as soon as may be practicable after the receipt of the proposal, send a copy to all the Diocesan Bishops who are not signatories thereto for their consideration and shall request them to communicate to him their views thereon and may also request them to give him such advice or other assistance as the Archbishop may see fit.
- 4. The Archbishop shall communicate to the Bishop of the Diocese or each of the Dioceses with which the proposal is concerned, any objections, criticisms, suggestions or questions raised, made or asked by any of the other Diocesan Bishops or the Provincial Chancellor or by the Archbishop himself and request him or them to send him their comments thereon.
- 5. In the event that any such objection, criticism, suggestion or question shall be, or relate to, or raise a matter, of such fundamental importance that the validity of the proposal is, in the view of the Archbishop or of a majority of the Diocesan Bishops, impeached or gravely prejudiced, the Archbishop shall instruct the Bishop of the Diocese or of each of the Dioceses concerned to submit the matter to the Diocesan Synod or to respective Diocesan Synods to consider whether the proposal should be prosecuted, or should be withdrawn, or modified in some appropriate manner and to inform him of the decision of the Diocesan Synod.
- 6. The Archbishop shall communicate to all the other Diocesan Bishops the reply received by him from the Bishop of the Diocese or of each of the Dioceses concerned, and shall invite their further views or other advice as he may see fit, and shall continue this process of consultation and enquiry until the proposal shall have been approved by the Archbishop and a majority of the Diocesan Bishops (exclusive of the Bishop of the Diocese or of each of the Dioceses concerned) or shall have been withdrawn.
- 7. In the event that, upon the proposal being submitted to it upon the instruction of the Archbishop as aforesaid, the Synod of the Diocese or of any one or more of the Dioceses concerned shall resolve that the proposal should be modified, the original proposal shall be deemed to have been withdrawn and the Bishop of the Diocese or of each of the Dioceses concerned shall if the Synod or Synods concerned so resolve, submit to the Archbishop a new proposal which shall be, and shall be dealt with, in accordance with the foregoing procedure.
- 8. If the proposal shall be approved as aforesaid, the Archbishop shall convene a meeting of the Provincial Synod to consider the proposal and, to decide whether to reject it, approve it conditionally, or approve it unconditionally.

9. If the Provincial Synod shall reject the proposal it shall be deemed to have been withdrawn but such rejection shall not prevent the re-submission of the same proposal to the Archbishop under the foregoing procedure provided that it shall not

be re-submitted prior to the expiration of Six (6) months from the date of its rejection.

10. If the Provincial Synod shall approve the proposal conditionally it shall reduce the conditions it wishes to impose to writing. The Archbishop shall inform the Bishop of the Diocese or of each of the Dioceses concerned of the conditions and ask him to state whether or not they are acceptable and will be complied with.

11. If the Bishop of the Diocese or of either of the Dioceses concerned replies negatively the Archbishop shall inform the Standing Committee of the Provincial Synod and the proposal shall be deemed to have been withdrawn in like manner as if it had been rejected by the Provincial Synod.

If the Bishop of the Diocese or of each of the Dioceses concerned answers affirmatively the Archbishop shall inform the Standing Committee of the Provincial Synod and request that Committee to advise him when the conditions have been complied with. The Archbishop shall determine the date upon which the proposal shall take effect.

12. If the Provincial Synod shall approve the proposal unconditionally it shall take effect upon such date as the Provincial Synod shall determine.

13. As soon as may be after the date from which the proposal takes effect, the Archbishop shall inform the Bishop of the Diocese or of each of the Dioceses concerned.

14. In the case of the division of a Diocese, the Archbishop shall:

- a) convene the Synod(s) of the Diocese(s) for the purpose of electing members of the Standing Committee(s) of Synod who will form part of the Electoral College;
- b) direct the Provincial Chancellor or, if he is unable to act the Deputy Provincial Chancellor or, if he is unable to act, the Chancellor of any other Diocese other than the Diocese(s) being divided to hold an Episcopal election. The election shall be held in accordance with the provisions of this Constitution.

15. If in the case of a re-arrangement of the boundaries of any two or more Dioceses, the Archbishop, after consultation with the Bishops of the said Dioceses concerned, shall consider that the change in the boundaries is so substantial that it is desirable that the Dioceses concerned should be given the opportunity to elect Bishops of the re-arranged Dioceses, the Archbishop shall;

- a) as soon as may be practicable after the date from which the proposal takes effect, inform the Diocesan Bishops that their conditional resignations tendered with the written proposal have been accepted;

- b) declare the Sees concerned canonically vacant;
- c) direct the Provincial Chancellor or, if he is unable to act the Deputy Provincial Chancellor or, if he is unable to act, the Chancellor of any other Diocese other than the Diocese(s) the boundaries of which are being re-arranged, to hold an Episcopal election. The election shall be held in accordance with the provisions of this Constitution.

The Bishops who have tendered their resignation shall be eligible for election to the vacant Sees.

16. In the case of amalgamation of two or more Dioceses, the Archbishop shall:

- a) as soon as may be practicable after the date from which the proposal takes effect, inform the Diocesan Bishops that their conditional resignations tendered with the written proposal have been accepted;
- b) declare the new See canonically vacant;
- c) convene the Synod of the amalgamated Diocese for the purpose of electing members of the Standing Committee of Synod who will form part of the Electoral College;
- d) direct the Provincial Chancellor or if he is unable to act, the Deputy Provincial Chancellor or, if he is unable to act the Chancellor of any other Diocese other than the Dioceses being amalgamated to hold an Episcopal election. The election shall be held in accordance with the provisions of this Constitution.

The Bishops who have tendered their resignation shall be eligible for election to the vacant Sees.

17. Notwithstanding anything hereinbefore contained the Archbishop shall have the right, where he considers that a proposal for the re-arrangement of the territorial limits of any two or more Dioceses involves only minor changes, to convene a meeting of the Provincial Synod under paragraph (8) of this Canon, without following the consultative procedure prescribed under paragraph (3) and (4) and without obtaining the approval required under paragraph (5) of this Canon.

## **CANON II - OF UNION WITH OTHER CHRISTIANS**

1. Any negotiations between the Anglican Church of Kenya as a whole, or between one or more Dioceses thereof, and any other Christian body or bodies with a view to the formulation of a scheme of union shall only be undertaken consequent upon resolution, proposed by the Episcopal Synod, being passed by simple majorities of each House of

the Provincial Synod.

The Provincial Synod shall appoint the delegates representing the Anglican Church of Kenya to such negotiations, and shall at every Ordinary Session of the Synod receive from them a report of progress. The Provincial Synod may issue instructions to its delegates by way of resolutions passed by a simple majority of the whole Synod. In the intervals between the sessions of the Provincial Synod, the Standing Committee thereof may issue such instructions to the delegates.

2. The following shall be the procedure for the adoption of a scheme of union between this Church as a whole or certain of the Dioceses thereof and other Churches in Kenya:

(a) A resolution of general approval of the scheme proposed must be presented to the Provincial Synod by the Episcopal Synod, and passed by two-thirds (°) majorities in each House of the Synod. The resolution shall be dealt with as one involving a question of Faith or Order.

The Provincial Synod may attach to a resolution of Provincial approval conditions, such as the proviso that a certain point or points shall be reconsidered by representatives of the negotiating Churches and that the further proposals on that point or those points shall receive the approval of the Standing Committee of the Synod.

(b) Every proposed scheme of union shall be communicated to the Anglican Consultative Council with a request for its opinion or advice thereon, and such opinion or advice shall be considered by the Provincial Synod before a final decision is taken on any such scheme.

(c) The proposed scheme of union, together with the resolution of Provincial approval thereof, shall be referred to all the Diocesan Synods, and the opinion or advice of the Anglican Consultative Council shall also be reported to them as it is available.

(d) On the receipt of the opinion or advice of the Anglican Consultative Council, it shall be competent to the Episcopal Synod and the Standing Committee of the Provincial Synod, sitting together:

i) to suggest certain points for the consideration of the representatives of the negotiating Churches, and

ii) on receiving a report from those representatives, either on those points or on any that may have been referred to them under paragraph (a) above, to approve modifications in the scheme of union and to refer such modifications to the Diocesan Synods for their considerations.

(e) Resolutions of general approval of the proposed scheme of union (whether in its original or in a modified form) must be passed by the Diocesan Synods of

not less than two-thirds of the Diocese of the whole Church

- (f) A resolution of final adoption of the proposed scheme of union, whether modified or not from the form in which it had previously received the Provincial approval of the Provincial Synod, must be passed by simple majorities in each House of the Provincial Synod and by a three-quarters majority of the members of the whole Synod present and voting, at a session held at least twenty-one months after that at which the Provincial approval had been given. The resolution shall be dealt with as one involving a question of Faith or Order.
3. Any Diocese of this Church which has received permission to join a scheme of union in accordance with the provisions of this Canon shall continue to be bound by the Constitution, Canons and Rules of this Church until such time as it becomes a constituent part of a united Church.

### **CANON III - OF EXCHANGE OF WORKERS BETWEEN THE ANGLICAN CHURCH OF KENYA AND OTHER CHURCHES OR CHRISTIAN BODIES.**

1. This Church, believing that the Church is the body of Christ in which all nations are to find salvation and unity, repudiates every racial, tribal or ethnic view of the Church. It believes that it has received from the Lord of the Church gifts and graces which are to be shared with other parts of Christian fellowship.  
  
It believes also that it should at all times be ready to send help and service to other parts of the Church, and to welcome those from other parts of the Church who feel a vocation to enter into the service of this Church.
2. No Christian from another Church shall be appointed to the service of the Anglican Church of Kenya until he or she has agreed to accept the principles of doctrine and worship as set forth in this Constitution, and has also agreed to be bound by the Canons, Rules, Standing Orders and the principles of Christian discipline set forth in this Constitution.
3. It shall be the duty of the House of Bishops to draw up annually a list of posts for which the services of non-Kenyan workers are desired, and also of the institutions for which financial and other forms of support are requested, and shall communicate this list to the Churches with which this Church is in full Communion, or to missionary societies in the service of those Churches.
4. A non-Kenyan servant of the Church shall receive the status of Provincial worker, and, after consultation with his Church or missionary society, and with the Bishop concerned, shall be appointed to the Diocese in which he is to serve, and shall be considered as a Provincial worker.

5.
  - a) It shall be the responsibility of this Church to carry out (in consultation with the representative (if any) in Kenya of the Church or missionary society through whom a non-Kenya worker has come to serve in the Church) the regulations of the Church or missionary society concerned relating to salary and allowances, overseas and local leave, probation, language examinations and all other matters affecting the personal well being of the worker concerned.
  - b) Such representative (if any) shall be kept informed of all actions taken in relation to such worker and shall be the channel of communication between this and such other Church or missionary Society.
  - c) It shall be the responsibility of the Church Treasurer to disburse to all such workers only such salaries and other emoluments as have been received by him on their behalf from other Churches or by missionary societies while such workers are resident in Kenya.
6. If the post to which such a worker is nominated involves, in the opinion of that worker, a breach of the agreement under which he has come to Kenya, and if the worker has been unable to resolve the matter with his Bishop an appeal shall lie to the Church or missionary society concerned and agreement shall be sought with the Bishop of the Diocese. If no agreement is reached, the Archbishop shall notify the other Diocesan Bishops that the services of such worker are available, and take steps to arrange for his appointment elsewhere. If no such appointment is available, the said worker shall be free to return to the Church from which he came.
7. If, in the opinion of the Synod or Standing Committee of Synod of a Diocese, a post previously held by a non-Kenyan worker can not suitably be filled by a Kenyan, the Standing Committee of the Synod of the Province shall withdraw that post from the list of posts for which help has in the past been asked.

The worker whose services are no longer required for that post shall be free either to return to his own Church, or to inform the Archbishop of his desire to remain in Kenya in the service of the Church in some other position.

8. If a Bishop no longer desires to retain the services of a particular Missionary worker in his Diocese, he shall notify the Archbishop, who shall consider the statement made by the Bishop concerned; and, if he is satisfied that the services of such worker will be of value to this Church, shall take steps, in consultation with the Missionary Society concerned, to arrange for the appointment of such worker to another Diocese.
9.
  - (a) If another Church or Province desires to avail itself of the services of a minister or a member of this Church, the invitation shall be brought to the Standing Committee of the Diocesan Synod and such minister or member shall accept the invitation only with the approval of the Standing Committee and of the Bishop in whose Diocese he has been working.

- (b) If this procedure has been followed, the name of such minister candidate or member shall be retained on the list of the active workers of the Diocese concerned, and on the termination of his appointment elsewhere it shall be the responsibility of the Diocese concerned to take back into its service such minister candidate or member, or in consultation with the Standing Committee of the Provincial Synod to arrange a suitable appointment for him in another Diocese.
  - (c) If the correct procedure has not been followed, the connection between such minister candidate or member and his Diocese shall be void. If that Diocese shall at any future time require the services of such minister or candidate or member a new agreement shall be necessary.
10. If any dispute or disagreement shall arise in connection with any of the matters dealt with in the preceding paragraphs, the same shall be referred to the Archbishop, who shall take such steps as seem to him appropriate with a view to agreement being reached; and, if no agreement is reached, the Archbishop shall decide the matter at his discretion and after such consultation as seems to him appropriate.
11. The previous provisions of this Canon are without prejudice to the right of the Bishop to take action against any such worker under the appropriate provisions of this Constitution, or, in the case of an ordained minister, to take action with a view to the withdrawal of such minister's license.

#### **CANON IV - OF THE ELECTION OF THE ARCHBISHOP AND BISHOP OF ALL SAINTS CATHEDRAL DIOCESE**

1. a) The Archbishop and the Bishop of the All Saints Cathedral Diocese shall be elected by an Electoral College which shall consist of:-
- (i) all the Diocesan Bishops of the Anglican Church of Kenya; other than and excluding the incumbent Archbishop
  - (ii) all the elected members of the Provincial Synod;
  - (iii) twelve (12) elected members of the Standing Committee of the Synod of the All Saints Cathedral Diocese of whom six-(6) shall be priests and six-(6) laypersons.
- b) The Chairman and the Presiding Officer of the Electoral College shall be the Provincial Chancellor or, if he be unable to be present the Deputy Provincial Chancellor or if he is unable to be present, any Diocesan Chancellor elected by the Standing Committee of the Provincial Synod.

- c) The quorum for the meeting of the Electoral College shall be three quarters ( $\frac{3}{4}$ ) of the members of the Electoral College.
2. The following shall be members of the Electoral College without a vote:-
- (a) the Provincial Chancellor;
  - (b) the Deputy Provincial Chancellor;
  - (c) Two (2) Chancellors of any Diocese of the Province appointed by the Dean for this purpose who shall be the joint Recording Secretaries.
3. When the office of the Archbishop has become canonically vacant whether by reason of death or otherwise the Dean of the Province shall cause the Electoral College to be convened by the Provincial Chancellor to meet within not more than two (2) months of the date upon which the office of Archbishop became vacant for the purpose of conducting an election to fill the vacant Archbishopric, **PROVIDED THAT** where the vacancy arises as a result of the incumbent Archbishop notifying the Dean of the Province of his intention to resign or retire then, in accordance with the provisions of this Constitution the procedure for electing a person to fill the vacant Archbishopric shall, if circumstances permit, be completed not less than one (1) month before the effective date of resignation or retirement as the case may be.
4. At the meeting of the Electoral College after it has been convened the following shall be the procedure:
- (a) The proceedings shall start with a service of Holy Communion, the celebrant being the Dean (or if he be a candidate) a Diocesan Bishop who is not a candidate for election or if there be none a senior priest appointed by the Chairman.  
  
A sermon shall be preached, and thereafter prior to the prayer for the Church Militant the names of all those validly nominated as candidates for election shall be read by the Chairman and special prayers shall be offered for the guidance of the Holy Spirit in the election which is to follow:
  - (b) When the Electoral College meets for the transaction of business, the Chairman shall read the mandate for the holding of the election, shall call the roll of the Electoral College and shall satisfy himself that no one is present who is not a member of the Electoral College or otherwise entitled to take part in the proceedings;
  - (c) The Presiding Officer shall supply to each Elector a copy of the list of the candidates for election to the vacant Arch-bishopric. The candidates shall have no right to vote.

- (d) When this has been done, all the Electors present shall make and sign the following declaration:

"Bearing in mind how important it is that the sacred office of an Archbishop should not be unworthily conferred, I do solemnly declare that I will neither speak nor vote in this Assembly through fear or favour but in singleness of heart for the Glory of God, the good of his Church and the welfare of His people. So help me God".

- e) The Chairman of the Electoral College shall then require those nominated as candidates for election to withdraw from the meeting of the Electoral College until after the result of the ballot or ballots next hereinafter referred to has been announced. It shall not be lawful to vote by proxy and each member of the Electoral College shall have (1) vote.
- f) Each candidate shall be entitled to have two (2) observers, who shall be members of the Electoral College, to verify the counting process.
- g) The election shall be by secret ballot and shall be determined as follows:-
- (i) if only One (1) nomination is received the nominee shall be declared to be 'duly' elected;
  - (ii) if Two (2) nominations only are received there shall be a deciding election, when a Two-thirds (°) majority shall decide the election; **PROVIDED THAT** if Two-thirds (°) majority is not attained in the first ballot, there shall be a second ballot which shall determine the winner by a simple majority. In case of an equality of votes there shall be a further ballot (or further ballots) which shall determine the winner by a simple majority; in no case shall the number of votes be announced.
  - (iii) if Three (3) nominations only have been received there shall be a preliminary ballot, the Two (2) nominees receiving the largest number of votes remaining in the election, when a Two-thirds (°) majority shall decide the election; **PROVIDED THAT** if Two-thirds (°) majority is not attained in the first ballot, there shall be a second ballot which shall determine the winner by a simple majority. In case of an equality of votes there shall be a further ballot (or further ballots) which shall determine the winner by a simple majority; in no case shall the number of votes be announced.
  - (iv) if more than Three (3) nominations are received there shall be a series of ballots and the candidates having the least number of votes shall be excluded from the election leaving the other nominees to contest the ensuing ballot and this shall be repeated as many times as is necessary having regard to the number of candidates until only Two (2) candidates

remain, when a Two-thirds (°) majority shall decide the election; **PROVIDED THAT** if Two-thirds (°) majority is not attained, there shall be a further ballot which shall determine the winner by a simple majority. In case of an equality of votes there shall be a further ballot (or further ballots) which shall determine the winner by simple majority; in no case shall the number of votes be announced.

5. When an election has been successfully carried out, the Bishops present shall thereupon subscribe the Deed of Confirmation in the presence of the Provincial Chancellor who shall announce the name of the Archbishop and the Bishop of the All Saints Cathedral Diocese so elected.
6. Whether an election has been successfully carried out or not, the meeting shall close with prayer, and the electors shall disperse.

## **CANON V - OF THE ELECTION OF DIOCESAN BISHOPS**

1. The Archbishop or Dean (as the case may be) shall first satisfy himself that the See in question is canonically vacant.
2. Upon being satisfied as aforesaid the Archbishop or Dean (as the case may be) shall cause the procedure set out in Article XI of the Constitution of the Church and in this Canon to be followed.
3. The Presiding Officer of the Electoral College shall be the Diocesan Chancellor of the Diocese concerned, or, if he be unable to be present, a Diocesan Chancellor of any Diocese in the Province, appointed by the Archbishop.
4. The Recording Secretary shall be a Diocesan Chancellor of any other diocese in the Church appointed by the Archbishop.
5. At the meeting of the Diocesan Electoral College after it has been convened the following shall be the procedure:
  - (a) The proceedings shall start with a service of Holy Communion, the celebrant being the Suffragan or Assistant Bishop if there be one or, if there be none, then the Senior Archdeacon by appointment, failing whom the Senior Priest by Ordination as such of the Diocese shall be the celebrant **PROVIDED THAT** he is not a candidate. A sermon shall be preached. Before the Prayer for the Church Militant, the names of the candidates for election shall be read by the Presiding Officer, and special prayers shall be offered for the guidance of the Holy Spirit in the election which is to follow.
  - (b) When the Electoral College meets for the transaction of business, the Presiding Officer shall read the mandate of the Archbishop for the holding of the election,

shall call the roll call of the Electoral College and shall satisfy himself that no one is present who is not a member of the Electoral College or otherwise entitled to take part in the proceedings.

- (c) When this has been done, all the Electors present (excluding the Presiding Officer and the Recording Secretary, neither of whom shall be deemed to be an Elector nor be entitled to vote) shall make and sign the following declaration:  
"I, A.B. being a member of the Electoral College of X, do solemnly declare that I will neither speak nor vote in this Assembly through fear or favour but in singleness of heart for the Glory of God, the good of His Church and the Welfare of His People. So help me God, Amen".
- (d) The Presiding Officer of the Electoral College shall then require the Three candidates recommended by the Search Committee as candidates for election to withdraw from the meeting of the Electoral College until after the result of the ballot or ballots hereinafter referred to has been announced. The candidates shall have no right to vote.
- (e) Each candidate shall be entitled to have two (2) observers, who shall be members of the Electoral College, to verify the counting process.
- (f) The Presiding Officer shall supply to each Elector a copy of the list of the three candidates for election to the vacant bishopric. Each Elector shall have one vote and it shall not be lawful to vote by proxy.
- (g) The election shall be by secret ballot and shall be determined as follows:-
  - (i) if only One (1) nomination is received the nominee shall be declared to be 'duly' elected;
  - (ii) if Two (2) nominations only are received there shall be a deciding election, when a Two-thirds (°) majority shall decide the election; **PROVIDED THAT** if Two-thirds (°) majority is not attained in the first ballot, there shall be a second ballot which shall determine the winner by a simple majority. In case of an equality of votes there shall be a further ballot (or further ballots) which shall determine the winner by a simple majority; in no case shall the number of votes be announced;
  - (iii) if Three (3) nominations have been received there shall be a preliminary ballot, the Two (2) nominees receiving the largest number of votes remaining in the election, when a Two-thirds (°) majority shall decide the election; **PROVIDED THAT** if Two-thirds (°) majority is not attained in the first ballot, there shall be a second ballot which shall determine the winner by a simple majority. In case of an equality of votes there shall be a further ballot (or further ballots) which shall determine the winner by a simple majority; in no case shall the number of votes be announced;

6. If an election has been successfully held, the Presiding Officer shall announce to the Diocesan Electoral College the name of the person duly elected. If the person elected is not present, the Presiding Officer shall without delay obtain his consent to accept the office of Bishop of the Diocese concerned and, having obtained the same, shall then proceed in accordance with the provisions of Article XI of the Constitution.
7. Whether an election has been successfully carried out or not, the Presiding Officer shall close the meeting with prayer.

## **CANON VI - OF THE ARCHBISHOP'S VISITATIONS**

1. Visitations by the Archbishop to the Dioceses of the Province other than his own shall be carried out in the manner provided by this Canon.
2. The Archbishop as the head of this Province under Jesus Christ shall in consultation with the Diocesan Bishops normally visit each Diocese at least once every four (4) years. During his visitation of a Diocese the Archbishop shall visit such places as shall have already been determined by the Diocesan Bishop for the purposes of meeting the congregation, of feeding them with the Word of God and of performing such pastoral ministrations as shall have been agreed upon by him with the Diocesan Bishop. Such visitations shall also aim at strengthening the relationships between the Province and the Dioceses.
3. In special circumstances, the Archbishop shall pay a pastoral visit to any Diocese if the Standing Committee thereof passes a resolution by majority vote that the situation in the Diocese requires his visit. If the Diocesan Bishop is not willing to invite the Archbishop despite the resolution, the vice Chairman of the Diocesan Synod and the Lay and Clerical Secretaries of the Synod shall sign the letter inviting the Archbishop to pay a pastoral visit to the Diocese. The letter shall clearly state the reasons for the need for Archbishop's Pastoral visit.

## **CANON VII OF THE SERVICE OF BISHOPS IN THE CHURCH**

### **PART I**

#### **GENERAL**

1. The provisions of this Canon shall apply to the Bishop of every Diocese in the Province whether created before or after the promulgation of this Canon and to every Bishop

(coadjutor, suffragan or assistant) who is commissioned by the Bishop of any such Diocese:

Provided that where the Bishop whose retirement is in question is the Archbishop this Canon shall apply subject to the following modification namely that the functions, powers and duties of the Archbishop hereunder shall be performed by the two senior diocesan Bishops of the Church together with the Provincial Chancellor.

3. Subject as is hereinafter otherwise provided the appointment of every bishop shall be for an unspecified term Provided however that:
  - a) The appointment shall terminate upon the holder of the office attaining the age of sixty-five (65) years unless the Provincial Synod after consultation with the Synod of the Diocese concerned by special resolution extends his tenure of office but such extension shall in no case exceed Two (2) years nor shall there be any further extension whatsoever:
  - b) The appointment may be terminated at any time by the House of Bishops if that course is recommended by competent medical authority on grounds of physical or mental incapacity as is in this Canon hereinafter provided:
  - c) The appointment may be terminated at any time if after due enquiry made consequent upon a complaint in due form as provided in the Canons formulated under the appropriate Article of this Constitution the Bishop concerned has been found guilty of conduct unbecoming the office and work of a bishop or of a serious persistent or continuous neglect of duty:
  - d) The appointment shall in the case of the Archbishop automatically terminate if the holder of the office ceases to hold the All Saints Cathedral Diocese or if he resigns the Archbishopric. If the Archbishopric is resigned, the All Saints Cathedral See shall automatically become vacant.
  - e) The appointment shall in the case of the Archbishop terminate upon the passing of a resolution in that behalf by a Special Session of the Provincial Synod convened for that purpose in conformity with this Constitution.
3. For the purposes of this Canon the seniority of a diocesan bishop shall be determined by length of service as a diocesan bishop within the Church, and if any question arises as to the relative seniority of any two bishops the question shall be determined by the Archbishop whose decision shall be final:

Provided that for the purposes of this Part any diocesan bishop whose retirement is in question under this Canon shall be disregarded.

4. If the resignation of a Diocesan bishop tendered under Part II of this Canon is accepted, the Archbishop shall declare the bishopric vacant.

5. Where a declaration that a bishopric is vacant has been made by the Archbishop under this Canon the vacancy shall be filled in the same manner as if the bishop was dead, and if the said bishop holds any other preferment in addition to this bishopric, that other preferment shall also be vacated unless the Archbishop declares that it shall not be vacant.

## **PART II**

### **OF RESIGNATION OR RETIREMENT**

1. If a diocesan bishop becomes aware that, by reason of physical or mental infirmity, he is no longer able to carry out the duties of his office, he may tender his resignation to the Archbishop. If the Archbishop, after consultation, shall conclude that the bishop's judgement on the situation is correct, he shall accept his resignation, and take such steps as he deems necessary to ensure that adequate arrangements have been made to support the bishop in his period of retirement, and shall declare the bishopric vacant. Thereafter he shall take steps to secure the election of a bishop according to the procedure laid down in this Constitution, to fill the vacant bishopric.
2. If a diocesan bishop is of the opinion that for administrative reasons (including but without prejudice to the generality of the foregoing the creation of a new diocese, division of a diocese, substantial modification of the boundaries of a diocese), the work of the Church will be best served by his resignation, he shall offer his resignation to the Archbishop, who shall proceed as in Section 1 of this Part.
3.
  - a) If it appears to the Archbishop that a bishop to whom this Canon applies is unable through physical or mental infirmity to carry out the duties of his office, the Archbishop shall approach the said bishop, and ask him to consider whether he may best serve the interests of the Church by resigning his office. If the bishop agrees, the Archbishop shall accept his resignation, shall declare the bishopric vacant, and shall take steps to secure the election of a bishop to fill that office.
  - b) If the bishop is unwilling to resign, the Archbishop shall ask him to agree to a medical examination, to be carried out by a medical practitioner agreed upon between the Archbishop and the said bishop, or failing such agreement, by a medical practitioner appointed by the Chairman for the time being of the Kenya Medical Association.
  - c) If the bishop agrees to this procedure and the medical report is unfavourable to his continuance in office, he shall be held to have resigned his office, and the Archbishop shall take steps to fill the bishopric which shall be deemed to have fallen vacant.
  - d) If the bishop refuses the proposed medical examination, or, the report being unfavourable, declines to accept the medical verdict, the Archbishop shall convene the Episcopal Synod, and, if the bishops agree, they shall collectively

request the bishop concerned to reconsider his decision, in the light of his own best interests and those of the Church, and, if he is now in agreement, to submit his resignation to the Archbishop.

- e) If he is still unwilling to do so, the Archbishop shall refrain from any further attempt to influence such a bishop's decision, but may after consultation with the Synod of the Diocese concerned take steps to secure the election of a Coadjutor Bishop with right of succession, to aid such a bishop in the discharge of the duties which he is no longer able to carry out alone.
4. In the case of bishops other than diocesan bishops the procedure shall be as above except that the initiative shall be taken by the bishop of the Diocese concerned in consultation with the Archbishop.

### **PART III**

#### **OF THE COMPULSORY RETIREMENT OF THE ARCHBISHOP**

1. Upon the receipt by the Provincial Chancellor from not less than one half ( $\frac{1}{2}$ ) of the members of the Standing Committee of the Provincial Synod of a request in writing duly signed by each of such members that a Special Session of the Provincial Synod should be convened for the purpose of considering and if thought fit passing a resolution that the Archbishop should be removed from office, the Provincial Chancellor shall in writing notify the Dean of such request.
2. The Dean shall forthwith and in any event not later than Seven (7) days after receipt by him of such notification as aforesaid convene a Special Session of the Provincial Synod. The notice convening such a Session shall be circulated not less than Fourteen (14) days before the date fixed for the Session and shall contain particulars of the resolution to be considered thereat. No business shall be transacted at any such Special Session other than:
  - (a) consideration of the resolution set out in the agenda for the meeting and
  - (b) consideration of the arrangements necessary for the convening of an Electoral College in accordance with this Constitution in the event of the motion for the removal of the Archbishop from office being carried.
3. The Dean shall preside at any such Special Session.
4. A resolution for the removal of the Archbishop shall not be effective unless it is passed by a majority of not less than Three Quarters ( $\frac{3}{4}$ ) of the members of each of the three Houses of Synod whether voting together or separately.

5. The Archbishop may be present at any such Special Session and shall be given an opportunity to speak upon the resolution if he so wishes.

### **CANON VIII - OF THE RELINQUISHMENT OF EPISCOPAL JURISDICTION**

1. The Episcopal jurisdiction of a Diocesan Bishop shall be relinquished by him in any of the following circumstances namely:-
  - (a) If in the case of an official visitation by the Archbishop carried out at his own instance or (after having first advised the Bishop of their intention so to do) at the instance of not less than Ten (10) full time Clergymen, Ten Laymen (10) who are members of the Diocesan Synod concerned. It shall appear to the Archbishop that there be strong reason for the inhibition of the Episcopal jurisdiction of the sole Diocesan Bishop concerned; or
  - (e) If the See is vacant for any reason; or
  - (f) If the Diocesan Bishop shall have been suspended pending the institution of proceedings against him for any offence under the appropriate Article of this Constitution, in any of which cases such jurisdiction shall be assumed by the Archbishop and exercised by him during the continuance of the inhibition or vacancy or suspension as the case may be **PROVIDED ALWAYS** that it shall be competent for the Standing Committee of the Provincial Synod at its next session to declare in the case of an inhibition whether or not the reason therefore was sufficient **AND PROVIDED FURTHER** that in the event of the Diocesan Bishop concerned being also the Archbishop then and in such case the Episcopal jurisdiction of the Archbishop as such Diocesan Bishop shall fall to be exercised by the Dean.

### **CANON IX - OF ARCHDEACONS**

1. An Archdeaconry is a geographical area, precisely defined, within which an Archdeacon exercises his functions.

Usually the Archdeaconry is co-extensive with the Diocese. If a Bishop is of the opinion that more Archdeaconries should be created, he shall

- (a) inform the Standing Committee of his Diocesan Synod of the reasons for which he thinks that such Archdeaconries are necessary
- (b) indicate the exact area of the proposed new Archdeaconries

- (c) inform the Standing Committee of Synod of the financial measures which he proposes for the support of an additional Archdeacons.

If the Standing Committee of Synod is in agreement, the new Archdeaconry shall come into existence, and the Bishop shall notify the Provincial Secretary, in order that the necessary alterations may be made in the Provincial and Diocesan maps.

- 2. The Archdeacons are the Bishop's principal assistants in matters of administration and discipline in their respective Archdeaconries.

**It belongs to him, by virtue of this Office:-**

- (a) to be the warden of the college of churchwardens and accordingly to ensure that elections of churchwardens are regularly and canonically carried out, that churchwardens are instructed in the duties of their office, and are admitted by the Archdeacon himself to that office.
- (b) to exercise oversight of the properties of the Church, especially in lands and buildings.

At his visitations, which whenever possible should take once a year, he shall assure himself that:

- (i) All churches, parsonages and other buildings belonging to the Church are in good repair
- (ii) churches are supplied with all things that they need e.g. Communion vessels, Bibles and service books.
- (iii) parochial Church councils are functioning in regular order, and that their records are correctly kept.
- (iv) parochial registers are in good order and accurately kept and that those no longer in use have been lodged in the Diocesan Archives.
- (v) service registers, account books and other documents of the parish are being regularly kept.

He shall issue instructions to the incumbent for the correction of any irregularities that he has observed.

Copies of his visitation reports shall be sent to the Bishop and to the Diocesan Administrative Secretary.

- (c) Where there is more than one Archdeacon in the Diocese, one of the Archdeacons shall be appointed convenor of the Diocesan Faculties Board. The

Archdeacon may himself issue a license for all ordinary repairs to churches and other buildings, provided that no structural alterations is proposed. When major schemes are under consideration, he shall in every case convene the Diocesan Faculties Board, and shall issue a license only on the agreement of that Board.

- (d) At the request of the Bishop to induct parish priests into their parishes, and to convey to them the temporalities of their parishes, including the right to reside in the parsonage provided by the Church.
- (e) to take the initiative in all matters of ecclesiastical discipline in consultation with the Bishop and the Diocesan Chancellor.

It belongs to the Archdeacon to investigate, and if possible amicably to settle, all disputes between parishes, e.g. regarding parish boundaries, or between a parish priest and his flock.

It is also his responsibility to make the preliminary investigation in matters in which Church discipline may be involved and when satisfied that there is a prima facie case for action under the appropriate Canon of this Constitution to report to the Bishop, who shall institute proceedings, if he judges that this is required under that Canon.

- (f) to present to the Bishop candidates for ordination as laid down in the Rubric in the Ordinal.
3. The Archdeacon as such has no spiritual duties; and as a priest of the Church he will naturally take advantage of the opportunities afforded by his office to help and encourage his brethren of the Clergy and to minister to the Christian people in his Archdeaconry as opportunity offers. But he has no right to minister in any place of worship in his Archdeaconry otherwise than at the invitation of the Parish Priest.
  4. The Archdeacon shall fulfill such other function as may be committed to him by the Bishop, without prejudice to the rights of Diocesan Boards and committees and of Parish Priests.
  5. The appointment of a Archdeacon is the responsibility of the Bishop; but this must always be done after consultation with the Standing Committee of the Diocesan Synod and with its agreement.
  6. No limit is set to the tenure of the office of Archdeacon; but the Archdeacon must forthwith resign, if requested to do so by the Bishop.

## **CANON X - OF CHANCELLORS PROVINCIAL AND DIOCESAN**

1. a) The Archbishop shall appoint a 'Provincial' Chancellor to be his principal legal advisor and shall inform the Provincial Synod of the appointment:

- c) Further the Archbishop shall appoint a Diocesan Chancellor to be his Principal Legal Advisor in the All Saints Cathedral Diocese who shall also be the Deputy Provincial Chancellor and shall inform the Diocesan Synod of the appointment:

Every Diocesan Bishop shall appoint a Chancellor to be his Principal Legal Advisor and shall inform the Diocesan Synod of the appointment:

Subject as is hereinafter provided the appointment of Chancellor shall be for an unspecified term. Provided however that:

- (i) The appointment shall terminate upon the holder of the office attaining the age of Sixty-five (65) years unless the Provincial Synod in the case of the Provincial Chancellor or the Diocesan Synod in the case of a Diocesan Chancellor shall by special resolution extend his tenure of office such extension in no case to exceed Five (5) years:
  - (ii) The appointment shall terminate at any time upon the resignation by a Chancellor of his office:
  - (iii) The appointment shall terminate automatically upon Chancellor leaving the Republic of Kenya permanently:
  - (iv) The appointment may be terminated at any time by in the case of the Provincial Chancellor the Provincial Synod or in the case of a Diocesan Chancellor the Synod of his Diocese if such course be recommended by competent medical authority on grounds of physical or mental incapacity:
  - (v) Upon the enthronement and assumption of office by a new Archbishop or a new Diocesan Bishop such new Archbishop in the case of the Provincial Chancellor and such new Diocesan Bishop in the case of a Diocesan Chancellor may at his pleasure terminate the appointment of the Provincial Chancellor or as the case may be the Diocesan Chancellor and appoint another Chancellor in his stead:
  - (vi) The appointment may be terminated at any time if after due enquiry made consequent upon a complaint in due form as provided in the Canons formulated under this Constitution, the Chancellor concerned has been found guilty of conduct unbecoming the office and work of a Chancellor or of serious persistent or continuous neglect of duty.
2. A Chancellor should ordinarily be a layman not less than Thirty years old, a communicant of this Church, and learned in the law. It is not excluded that this office should be held by a clerk in holy orders.

3. It is the primary duty of the Chancellor to be available at all times to the Archbishop or the Bishop concerned, to advise him on any questions relating to the civil or ecclesiastical law that may arise in the administration of the Province or Diocese, to give to the Archbishop or the Bishop concerned such assistance as he may require.
4. In the event of proceedings under ecclesiastical law being instituted against any bishop, clergyman or layman, it shall be the responsibility of the Chancellor to advise the Archbishop or Bishop concerned whether there is any prima facie case to be answered. The Archbishop or Bishop is not, however, bound by the advice tendered by the Chancellor except on matters of Law.
5. The Chancellor shall be present in person, or by deputy, appointed by him, at every session of the Diocesan Tribunal (or in the case of the Provincial Chancellor at every session of the Provincial Tribunal) in an advisory capacity.
6. It shall be the responsibility of the Chancellor to ensure that accurate and reliable reports are made of every ecclesiastical case, whether personally heard and decided by the Bishop, or heard before the Diocesan Tribunal (or, in the case of the Provincial Chancellor, before the Provincial Tribunal), and that these records are preserved, under proper safeguards, in the Provincial or Diocesan Archives.
7. The Provincial Chancellor shall preside at the election of an Archbishop of Kenya, but shall not be entitled to vote in the election. If the Provincial Chancellor is unable to act, the presiding officer shall be the Deputy Provincial Chancellor or any Diocesan Chancellor appointed by the Episcopal Synod with the agreement of the Standing Committee of the Provincial Synod to serve in his place.
8. The Chancellor of each Diocese shall preside at the election of a Bishop, or of a Coadjutor-Bishop, for that Diocese. If the Chancellor is unable to serve, the Clerical and Lay Secretaries of the Diocesan Synod shall request the Archbishop (or, if the Archbishop is unable to act, the Dean of the Anglican Church of Kenya) to appoint the Provincial Chancellor or the Deputy or another Diocesan Chancellor, to serve in his place.
9. It shall be the responsibility of the Chancellor to hear applications for faculties, and to determine them, subject to an appeal to the Bishop, if the applicants are able to show good reason for lodging such an appeal.
10. The Provincial Chancellor shall be present, personally or by deputy appointed by him, at every Episcopal consecration, to assist the Archbishop in all the legal aspects of the ceremony of consecration.
11. The Chancellor of each Diocese shall be present, personally or by deputy appointed by him, at every ordination to assist the Archbishop or the Bishop concerned in all the legal aspects of the ceremony of ordination.

12. The Chancellor shall at all times ensure that the provisions of this Constitution are complied with.

## **CANON XI - OF THE LICENSING OF CLERGY OF THE CHURCH**

1. A Priest or Deacon shall not ordinarily be admitted to officiate in any Church, until such time as he shall received a License from the Bishop of the Diocese in which it is proposed that he should officiate; and before such License is delivered by the Bishop, the Priest or Deacon concerned shall have made in public the following Declarations of Canonical Obedience to the Diocesan Bishop and to the Constitution of the Diocese:

(a) "I, A.B. Do swear by Almighty God that I will pay due and canonical obedience to the Bishop of ..... and his successors in all things lawful."

(b) "I, A.B. Do declare that I consent to be bound by the Constitution, Laws and Regulations of the Diocese, and the enactments which have been made, or which may hereafter be made, by the Diocesan Synod, or which may otherwise have full effect in the Diocese. And I hereby undertake to accept and to submit to any sentence which "may at any time be passed upon me, after due examination "by any Court acknowledged by the said Synod for the trial of a Clergyman, saving all rights of appeal allowed by the said Synod."

"And I hereby affirm that I am bound by all the clauses of the Declaration to which, in the presence of witnesses, I have set my hand and seal. So help me God through Jesus Christ."

2. In the case of a Priest or Deacon of another Province of the Anglican Communion who shall have been seconded for service in this Province for a limited period, it shall be competent for a Bishop to issue to such Priest or Deacon permission to officiate in his Diocese (or for the Archbishop with the consent of the other Diocesan Bishops to issue to him a general permission to officiate in the Province).
3. If such permission has been granted, the holder shall not be a member of the Provincial or of any Diocesan Synod, and shall not be eligible for election to any office in this Province until such time as he shall have received a License in the Ordinary form. Such permission may be revoked by the Bishop (or Archbishop) at his discretion, and against such action on the part of the Bishop (or Archbishop) there shall be no appeal.

But, if the cause of the Bishop's (or Archbishop) action be conduct such as would render the holder of a License in the Church liable to disciplinary proceedings under the provisions of this Constitution, the Bishop concerned (or Archbishop) shall notify all the Bishops in the Province of the cause of his action, and shall also notify the Metropolitan of the province from which the Priest or Deacon concerned may have come.

4. A Bishop may in consultation with Diocesan Pastoral Care Committee take steps to withdraw the License of a Priest or Deacon, under the following conditions:
- a) If for financial reasons it becomes impossible to continue the services of such Priest or Deacon, or if the post to which he has been licensed shall cease to exist, the Bishop shall give him not less than Two (2) months' notice of the termination of his employment and the consequent withdrawal of his License: and before the date at which his employment ends, shall issue to him a bene discessit in order that there may be no bar to the employment of the said Priest or Deacon in any other Diocese of the Anglican Communion.
  - b) If the Bishop and the Pastoral Care Committee are of the opinion that the further services of a Priest or Deacon will not be to the advantage of the Church, he shall notify such Priest or Deacon in writing of his intention to withdraw his License, stating clearly the grounds on which he has reached this decision. He shall send a copy of his letter to the Archbishop, and shall also inform the Priest or Deacon concerned that he has the right of appeal to the Archbishop within one (1) month of the receipt of the Bishop's letter.
  - c) If no appeal has been received within one (1) month of the date on which the Bishop's letter has been received, the Bishop shall notify the Priest or Deacon concerned that his License has been withdrawn, and shall state the date on which the withdrawal is to take effect. After that date the Priest or Deacon concerned will have no right to officiate in any Church of the Diocese or Anglican Church of Kenya.
  - d) If the Bishop shall have taken no proceedings against the Priest or Deacon concerned, under the appropriate provisions of this Constitution, such Priest or Deacon may apply for employment in any other Diocese of the Anglican Communion, but the Bishop who has withdrawn his License is not under obligation to issue him a bene discessit, and, at the request of the Bishop to whom application for employment has been made, shall furnish him with information as to the reason for such Priest or Deacon having suffered the withdrawal of his License.
  - e) If within One (1) month of the receipt of the Bishop's letter, the Priest or Deacon concerned shall have lodged an appeal with the Archbishop, the Archbishop shall convene a Commission of Enquiry, consisting of the Provincial Chancellor, the Provost of the All Saints Cathedral Nairobi, and the Chancellor of the Diocese in which the said Priest or Deacon has been working **PROVIDED THAT** if the Priest or Deacon concerned is licensed in the All Saints Cathedral Diocese, the Archbishop shall appoint the Chancellor of one of the other Dioceses of the Church to serve on the Commission of Enquiry. If the Commission of Enquiry reports that the Bishop concerned has not made out a prima facie case for withdrawal of the License, the Archbishop shall notify the Bishop concerned that the case is terminated, and shall instruct him that no further action may be taken on his notice to the Priest or Deacon concerned.

- f) If the Commission of Enquiry reports that the Bishop has made out a prima facie case for the withdrawal of the License, the Archbishop shall instruct the Bishop concerned to take proceedings against the Priest or Deacon concerned under the appropriate sections of this Constitution. The outcome of such proceedings shall be determined by the Rules of Procedure and consequent action laid down thereunder.
- g) Unless otherwise determined in accordance with this or any Diocesan Constitution the appointment of every Priest or Deacon shall terminate upon the holder of the office attaining the age of Sixty-five (65) years unless the Diocesan Synod by Special Resolution shall extend his tenure of office but such extension shall in no case exceed Two (2) years and there shall be no further extension whatsoever.

**CANON XII - OF THE APPOINTMENT AND FUNCTIONS OF  
THE CHURCH REGISTRAR, THE PROVINCIAL SECRETARY, THE  
TREASURER AND THE CLERICAL AND LAY SECRETARIES OF  
THE PROVINCIAL SYNOD.**

- 1) The Treasurer, the Clerical and Lay Secretaries of the Provincial Synod shall be elected and shall hold office from the date of the Synod electing them until their replacement or re-election (for which each shall be eligible) by the next succeeding Ordinary Synod.
- 2) The Provincial Secretary shall be appointed by the Archbishop in consultation with the Standing Committee of the Provincial Synod.
- 3) The Treasurer, the Provincial Secretary, the Clerical and Lay Secretaries of the Provincial Synod and the Provincial Chancellor shall be ex-officio members of both the Provincial Synod and of the Standing Committee thereof.
- 4) The duties and functions of the Treasurer and the Provincial Secretary and of the Clerical and Lay Secretaries of the Provincial Synod shall be such as may be assigned to them by the Standing Committee from time to time.
- 5) The Provincial Secretary shall be a communicant member of this Church of not less than Thirty (30) years of age and with experience in the work of administration.
- 6) The duties of the Provincial Secretary shall include the following that is to say:-
  - (a) The Provincial Secretary shall be responsible for the Church Archives.
  - (b) It shall be the responsibility of the Provincial Secretary to ensure that the minutes of the Provincial Synod and its subordinate bodies, and also the minutes

of Diocesan Synods and other similar bodies are regularly and promptly sent to the Archbishop and are filed and stored in the Church Archives.

- (c) At the request of the Archbishop, the Provincial Secretary shall visit any Diocese, in which the need of advice as to the filing and storing of documents has been expressed by the Bishop of the Diocese, and shall help those responsible with the formation and proper ordering of Diocesan Archives.
- (d) If so requested by the Archbishop, the Provincial Secretary may serve as clerk of the court at any session of the Church Tribunal.
- (e) The Provincial Secretary shall be present at every election of the Archbishop of this Church, to assist the Provincial Chancellor in the formalities of the election, but without the right to vote.

**CANON XIII - OF THE CONSTITUTION OF THE HOUSES OF  
BISHOPS, CLERGY AND LAITY AND OF THE STANDING  
COMMITTEE OF SYNOD.**

1. The House of Bishops forming part of the Provincial Synod shall consist of the Archbishop, all Diocesan, Assistant, Suffragan and Coadjutor Bishops in the Province. The Assistant, Suffragan and Coadjutor Bishops shall have no vote in the Provincial Synod and its Standing Committee unless one of them is sent by the Diocesan Bishop to represent him thereat.
2. The House of Clergy forming part of the Provincial Synod shall consist of Two Clerical members from each Diocese elected by the Diocese concerned in accordance with its Constitution.
3. The House of Laity forming part of the Provincial Synod shall consist of Two Lay members from each Diocese elected by the Diocese concerned in accordance with its Constitution.
4. The membership of the Standing Committee of the Provincial Synod shall comprise such number of members, representatives of all three Houses of the Synod and as far as possible representatives of the several Dioceses of this Church, as shall be elected from and by the Synod at each of its Ordinary Sessions.
5. The Chairman of the Standing Committee of the Provincial Synod shall be the Archbishop or in his absence the Dean or, in the absence of both the Archbishop and the Dean, then the Most Senior Diocesan Bishop by consecration.
6. The Standing Committee of the Provincial Synod shall normally meet at least once in each year.

7. The Quorum at each meeting of the Standing Committee of the Provincial Synod shall be half the representatives of each of the three houses of the Synod, ex-officio members not being counted in ascertaining whether or not a Quorum is present at any meeting.

#### **CANON XIV - OF THE POWERS ETC. OF TRUSTEES.**

1. Any Trustees or Trustee may under the authority of the Provincial Synod or Diocesan Synod sell or otherwise dispose of absolutely either by public sale or private contract and either as a whole or in lots all or any part of any trust property in respect of which no special trust shall have been created inconsistent with the exercise of such power; or may exchange any immovable trust property or any part thereof for any other immovable property and may give (out of any moneys in their hands applicable for such purpose) or receive any money by way of equality of exchange and may execute and do all such instruments and acts as may be requisite for effecting any sale or exchange.
2. Any Trustees or Trustee may under the authority of the Provincial Synod or Diocesan Synod enter into leases or tenancies or agreements for lease or tenancy of any property either as Landlord or Tenant, grants of easements either as Grantor or Grantee or deeds of gift either as Donor or Donee.
3. Any Trustees or Trustee may under the authority of the Provincial Synod or Diocesan Synod raise or borrow or secure the payment of money in such manner and on such terms as such Trustees or Trustee shall think fit and in particular by way of mortgage or charge upon all or any of the property whether movable or immovable present or future vested or to be in them or him.
4. Any Trustees or Trustee shall as regards all monies received by them or him (subject always to any special direction to the contrary given to them or him) have all such powers of investment and transporting investments from time to time as if they or he were the absolute owner thereof.
5. Every Trustee shall be chargeable for such money only as he shall actually have received although he shall have joined in any receipt for money received by any Co-Trustee and shall not be answerable for the act of any Co-Trustee nor for any loss which may arise by reason of any Trustee money being deposited in the hands of any Banker broker or advocate or from the insufficiency or deficiency of any security upon which any trust money or any part thereof may be invested nor for any loss in the execution of the trust unless the same shall happen through his own neglect or default.

#### **CANON XV - OF THE TRIBUNALS OF THE CHURCH**

1. By the word "Tribunal" as used in this and other Canons is meant a Tribunal of this Church having such jurisdiction as can be claimed by, and may be exercised in a voluntary association upon the footing of mutual contract or agreement.

2. The Provincial Tribunal shall consist of The Dean as Chairman and Seven (7) Diocesan Bishops of the Province, sitting together. The Tribunal shall not be deemed to be properly constituted unless and until there shall be present at least Five (5) of the Diocesan Bishops of whom the Dean (unless unable to act or is debarred) shall be one but excluding any parties to the proceedings.
3. If the Dean shall be unable to act or be debarred from acting then the Most Senior Bishop, or if he is unable to act or be debarred from acting then the Diocesan Bishop of the Province next senior by consecration shall execute all the functions appertaining to the office of the Dean under this Canon and under the Canons relating to Judicial Proceedings and to Appeals.
4. The Dean shall in consultation with the Archbishop appoint Three (3) Clergymen of the Province together with Two (2) Laymen (both being Communicants of the Church one of whom shall be a person learned in the Law) as Assessors to assist the Provincial Tribunal in a purely advisory capacity.
5. **Each Diocesan Tribunal shall consist of:**
  - (a) The Vicar General of the Diocese as Chairman, unless he is the presenter of the case or has been required to proceed under the terms of Section 2 of Canon XVIII (Of the Trial of Priests and Deacons) in either of which events he shall request the Archbishop to nominate another Diocesan Bishop of this Province to preside;
  - (b) Three (3) Priests of the Diocese of at least Five (5) years standing appointed by the Diocesan Synod; and
  - (c) Three (3) Laymen (all being Communicants of this Church one of whom shall be a person learned in the Law) appointed by the Diocesan Synod.

In addition to the above the Bishop may if he thinks it desirable in any particular case so to do appoint one (1) Clergyman and one (1) Layman from his own or any other Diocese in the Church as Assessors to assist the Diocesan Tribunal in a purely advisory capacity **PROVIDED THAT** should any Bishop, Priest, Deacon or Layperson object to any member of the Tribunal the Standing Committee of Synod of the Province or the Diocese concerned as the case may be shall appoint a replacement.

6. In the case of the Provincial Tribunal, the Provincial Chancellor and in the case of a Diocesan Tribunal the Diocesan Chancellor of the Diocese concerned shall sit with the Tribunal in an advisory capacity but without being a member of the Tribunal.
7. In the case of the Provincial Tribunal the Archbishop and in the case of a Diocesan Tribunal the Bishop of the Diocese shall appoint a suitable person to be the Clerk of the Tribunal. The Clerk, who shall not be a member of the Tribunal shall faithfully and accurately record all the proceedings of the Tribunal and shall be sworn so to do, and

such record of the proceedings when authenticated by the Chairman of the Tribunal concerned shall be evidence of the proceedings at the trial.

8. The record of all proceedings held in the Provincial Tribunal shall be retained in safe custody by the Provincial Chancellor and the record of all proceedings in a Diocesan Tribunal or (as the case may be) before the Bishop shall be retained in safe custody under the directions of the Chancellor of the Diocese concerned.
9. The Provincial Tribunal shall be the Court for the Trial of a Bishop under Canon XVII (of the Trial of Bishops) and shall also be the Court of Appeal under Canon XXI (of Appeals).
10. The Diocesan Tribunal shall be the Court for the Trial of Priests and Deacons under Canon XVIII (of the Trial of Priests and Deacons) and for the Trial of Laymen under Canon XIX (of the Discipline of the Laity) and shall also consider such other matters as the Bishop of the Diocese may from time to time refer to it.

## **CANON XVI - OF DISCIPLINARY PROCEEDINGS WITHIN THE CHURCH**

1. The following are the charges or accusations on which any Bishop, Priest, Deacon or Layman of this Church may be presented for trial:
  - (a) Heresy or false Doctrine:
  - b) Schism, that is to say, causing members of the Church to divide into separate groups hostile to each other.
  - c) Apostasy from the Christian Faith:
  - d) The exercise of any profession or occupation which is either in its own nature or in the manner of its exercise inconsistent with the ministry of the Church or (as the case may be) the holding of any Lay Office therein:
  - e) Violation of the Constitution or Canons of this Church:
  - f) Disobedience, that is to say, willful contravention of the Acts, Rules and Regulations either of the Provincial Synod, or of the Diocesan Synod of the Diocese in which he holds office:
  - g) Habitual irregularity or neglect in the performance of ecclesiastical duties or other duties relating in the case of laymen to his office:
  - h) An offence which has led to conclusive conviction in the Criminal Courts:

- i) Sexual immorality:
- j) Financial impropriety
- k) Any act, habit, conduct, or contumacy which has given or is likely to give just cause of scandal or offence or which is unworthy of a clergyman or (as the case may be) a Layman and likely to bring the ministry of the Church or (as the case may be) the office of the Layman (if he holds office) or the Church generally into disrepute; including the institution of any legal proceedings in the secular courts against the church or any Bishop or other officer thereof in their respective official capacities within the church before exhausting the machinery set out in this Constitution.

2. For the purpose of any proceedings under this Canon, in which the accused is charged with any offence, proof that the accused has been convicted of such offence in any Criminal Court, and that such conviction has become conclusive, shall be sufficient proof that the accused has committed such offence; saving to the accused the right of submitting fresh evidence in support of his innocence. Save as aforesaid a conviction shall be deemed to become conclusive for the purposes of this Canon:

- (a) When there has been any appeal, upon the date upon which the appeal is dismissed or abandoned, or the proceedings on appeal are finally concluded; and
- (b) if there has been no such appeal, upon the expiration of the time limited for such appeal, or, when no time is so limited, upon the expiration of Twenty-eight (28) days from the date of conviction.

But, if varied on appeal, the conviction shall be conclusive only as so varied, and, so far as it is reversed on appeal, shall cease to be of any effect.

3. No original proceedings shall be instituted before any Tribunal of this Church unless:
- (a) in the case of a charge alleged to be laid under paragraph (h) of Clause 1 of this Canon such proceedings shall be commenced within a period of Six (6) months from the date when the conviction upon which the charge is based became conclusive as defined in Clause 2 of this Canon;
  - (b) in the case of charges under paragraphs (d), (i), (j) or (k) of Clause 1 of this Canon such proceedings shall be commenced within a period of Five (5) years from the date of the alleged offence; and
  - (c) in the case of charges under paragraphs (a), (b), (c), (e), (f) or (g) of Clause 1 of this Canon such proceedings shall be commenced within a period of Two (2) years from the date of the alleged offence. Provided however that special leave

of an extension of any of such periods as aforesaid may on good cause shown be granted by the Archbishop under his hand and seal. The date of the commencement of proceedings shall be deemed to be the date upon which the Articles or Presentment are filed with the Archbishop or the Diocesan Bishop as the case may be who shall endorse thereon the date upon which such Articles were received by him.

5. The Charge or Accusation shall be made in writing, shall be entitled "Articles of Presentment" and shall
  - (a) specify all the particulars of time, place and circumstance alleged by the presenters; and
  - (b) be signed by the presenters and shall be accompanied by:
    - (i) an intimation in writing of the name and address of some person to whom as the agent of the presenters all necessary communications in the cause shall be made; and
    - (ii) a minute of reference and agreement to the effect that the judgement of the Tribunals of this Church in all matters contained in the Articles or Presentment shall be held to be final in the cause, saving such rights of appeal as may be allowed by the Laws of this Church.
5. Any charge of heresy or false doctrine in order to be admissible must allege that the accused has taught published or otherwise publicly promulgated some doctrine or opinion repugnant to or at variance with the Faith and Doctrine of this Church as contained in the Fundamental Declarations, and must specify the particular passages of the Standards and Formularies to which the said charge refers as well as the particular statements of the accused which may be the subject of the charge.
6. Both the accused and the presenters may be represented, at their own expense, by an advocate or senior counsel or other representatives of their choice.
7. No testimony shall be received at the trial except from such witnesses as have, before their evidence, made an affirmative answer to the following question which shall be put by the Chairman or at his direction by the Chancellor:-

"Do you promise, in the presence of Almighty God, that you will speak the truth, the whole truth, and nothing but the truth, whether in the declaration which you shall make, or in the answers which you are about to give?"
8. If it be necessary to take the testimony of an absent witness or witnesses, such testimony shall be taken in the form and manner above provided, by a Commissioner or Commissioners to be appointed by the Chairman for that purpose, and the evidence shall be reduced to writing and forwarded to the Tribunal, which evidence shall be read and used at the Trial: provided however that no application for the appointment of such

Commissioner or Commissioners shall be made to the Chairman of the Tribunal by either party, except after at least Twenty-four (24) hours notice in writing, given by the one to the other, of his or their intention so to apply.

9. The Proceedings of the Tribunal shall be held in public, unless the Chairman of the Tribunal shall deem it advisable that they should, in whole or in part be held in private, and the accused does not object.
10. If any Bishop, Priest or Deacon of this Church, against whom a charge has been brought, shall tender his resignation to the Archbishop or Bishop (as the case may be) either before or during the trial, and if the Archbishop or Bishop (as the case may be) either before or during the trial, in the exercise of his discretion, shall see fit to accept the resignation so tendered, the person accused shall not be exempted by such resignation from judicial enquiry into the truth of the charge made against him, nor from any sentence which may be imposed.
11. Every sentence passed in any proceedings shall be in writing.
12. Assessors appointed to assist a Tribunal shall answer such questions as shall be put to them by the Tribunal and shall be at liberty to tender to the Tribunal their opinion on questions that may arise.
13. The Tribunal shall be bound to consider, but not necessarily to accept, the opinions of the Assessors before pronouncing judgement but it shall give its reasons for differing with the opinions of the assessors.
14. If the accused does not appear after citation as hereinbefore provided and, in the opinion of the Tribunal, no sufficient reason is submitted for his absence, or if he shall send in a written defence, the Tribunal shall proceed with the trial and pass such sentence as the case may require unless the Chairman of the Tribunal shall see fit to order a second citation to be issued.
15. Expenses to be incurred in summoning and holding any of the Tribunals shall be paid by the parties in amounts and proportions to be determined by the Tribunal. The Tribunal may also at its own discretion determine the deposit payable **PROVIDED THAT** the Tribunal may at its discretion direct that the whole or part of the expenses incurred shall be reimbursed from the funds of the Church or of the Diocese concerned (as the case may be).
16. Save as may be herein otherwise provided the rules relating to procedure and evidence shall be those governing Criminal Trials in Kenya.

## **CANON XVII - OF THE TRIAL OF ARCHBISHOP AND BISHOPS**

1. No charge shall be received against a Bishop of the Province unless it be preferred by at least Ten (10) Priests licensed in the Church or by Five (5) Bishops of the Church, or if it relates to matters other than Faith and Doctrine, by at least Five (5) Priests and Three (3) Lay representatives in the Synod of the Diocese of the accused Bishop.
2. The Articles of Presentment shall be delivered to the Archbishop unless he be the accused in which case they shall be delivered to the Dean.
3. The Archbishop, (or if the Archbishop is the accused, the Dean) shall, within Three (3) weeks of the receipt of the Articles of Presentment, transmit a copy of the same to the accused Bishop and also to each of the other Diocesan Bishops of the Church, the Provincial Chancellor and the Chancellor of the Diocese concerned, all of which intimations and citations shall be served on the accused Bishop personally or be sent to him by registered post at his last known postal address.
4. If a charge is to be preferred against the Archbishop before the Church Tribunal or if the Archbishop himself prefers such a charge against another Bishop the Dean (or if for any reason he be unable to act or debarred from acting then the Diocesan Bishop senior by consecration) shall perform all duties in relation to the trial which the Archbishop would otherwise perform under this Canon.
5. The trial shall commence within Four (4) weeks of the receipt by the Archbishop (or as the case may be) the Dean of the Articles of Presentment.
6. In the trial of a Bishop the accused may, if he sees fit, submit his defence in writing.
7. In the trial of a Bishop the sentence, if the accused be found guilty, shall be either
  - a) admonition; or
  - b) censure; or
  - c) suspension; or
  - d) deprivation; or
  - e) deposition; or
  - f) degradation;

as the Tribunal may determine, and in addition to any of these the Tribunal may pass a sentence of excommunication as the offence or offenses adjudged to have been proved shall seem to deserve, due regard being had to the Canons of this Constitution relating to Judicial Sentences.

Provided that no Bishop shall be found guilty unless at least Two-thirds ( $\frac{2}{3}$ ) of the Bishops present agree, and the sentence shall be that of the majority. Each Bishop shall be at liberty to deliver his judgement separately.

8. It shall be the duty of the Chairman of the Tribunal, whenever judgement has been given and sentence has been passed to communicate such decision and sentence
  - a) to the other Metropolitans of the Anglican Communion and of those Churches with which this Church is in full communion;
  - b) to the Bishop (or in his absence to the Vicar General or senior Priest) of every Diocese of this Church and it shall be the duty of the Bishop or other authority in each Diocese to cause such decision and sentence to be made known to every Clergyman under his jurisdiction.
9. Should the sentence passed on a Diocesan Bishop be one of suspension the Archbishop shall make provision for the care and administration of the Diocese concerned as he shall see fit, until the period of suspension be terminated.
10. Subject to any right of appeal the judgement of the Tribunal in all proceedings under this Canon shall be final and conclusive.

### **CANON XVIII - OF THE TRIAL OF PRIESTS AND DEACONS**

1. Any charge against a Priest or Deacon of this Church must be preferred by a Priest licensed in the Church or by the Church Wardens of the Parish in which he is licensed or by Ten (10) or more communicants of Twenty-four (24) years of age or upwards, all of the Parish in which the accused is licensed or resides.

The Bishop may also himself, if he shall see fit, order proceedings to be commenced against any Clergyman whose conduct he believes to have given just cause for scandal or offence, and in such a case it shall be sufficient for one Presenter appointed by the Bishop to deliver the Articles of Presentment.

2. The Articles of Presentment shall be laid before the Bishop who shall decide in consultation with the Diocesan Chancellor and at least Two (2) Clerical and Two (2) Lay Members of the Standing Committee of the Diocesan Synod, in the first instance, whether they are proper to be admitted or not. If the Bishop shall refuse to convene the Diocesan Tribunal, he shall intimate his refusal to the presenters in writing within Thirty (30) days after receipt by him of the Articles of Presentment, and in such case it shall be competent for the presenter to apply to the Archbishop, or if the Archbishop be the Bishop who refuses, to the Episcopal Synod through the Dean; and if the Archbishop or the Episcopal Synod think fit, he or they may require the Bishop to proceed; **PROVIDED ALWAYS** that notice of intention to apply shall have been given in writing to the Bishop of the Diocese within Twenty-one (21) days after such refusal, and that the application together with a copy of the Articles or Presentment,

shall have been forwarded to the Church or (as the case may be) the Dean within Thirty (30) days after receipt of the Bishop's refusal.

3. Notice of the intention to admit proceedings, containing a statement of the charge and a copy of the information upon which it is founded, shall be served upon the person accused, together with the names of those persons (if any) appointed to be Assessors, Thirty (30) days at least before the hearing of the case, which shall commence within Three (3) months of the date of admission of the Articles of Presentment.
4. Any Priest or Deacon serving within the Church who has been accused or reported guilty of any offence, may be suspended from the exercise of ministerial duties by the Bishop of the Diocese in which he is licensed should it appear to such Bishop to be necessary for the prevention of scandal until such time as the matter has been decided by trial or otherwise.
5. It shall be competent to the Chairman of the Diocesan Tribunal to refer to the Episcopal Synod and the Provincial Chancellor any question of the interpretation of the Faith and Doctrine of the Church or of the Laws of this Church; and their interpretation shall be final.
6. The Judgement of and any sentence passed by the Tribunal shall be that of the majority of its members, and each member shall have the right to state the grounds for his finding.
7. Subject to the provisions of Canon XX (of Sentences) the Judgement of and the sentence passed by the Tribunal shall be promulgated in such manner as the Bishop of the Diocese shall think fit.

### **CANON XIX - OF THE DISCIPLINE OF THE LAITY**

1. The provisions of Clauses 1, 2, 3, 4, 6, 7 and 8 of Canon XVIII (of the Trial of Priests and Deacons) shall apply mutatis mutandis to the case of any member of the Laity against whom any charge is brought with such modifications thereto only as are necessary to meet the circumstances of the case.
2. Any member of the Laity against whom a charge is brought, may if he so desires, have such charge or charges tried by the Diocesan Tribunal, in which event the Tribunal shall have power to dispose of the case in such manner and to pronounce such sentence as he may think fit.

### **CANON XX - OF SENTENCES**

1. Any Bishop, Priest or Deacon found guilty of any offence shall be liable to any one or

more of the following sentences:-

- (a) for Heresy or False Doctrine (unless he shall have formally retracted the same within Fifteen (15) days after judgement is given):
  - i) formal admonition with or without inhibition from preaching; or
  - ii) suspension for a term not exceeding Three (3) years Provided that if at the expiration of the suspension he shall refuse to undertake to refrain from publicly maintaining such opinions he shall become subject to the provisions of Clause 2 below; or
  - iii) if in the judgement of the Tribunal such false teaching be Heresy the sentence may be deposition but such penalty shall not be enforced unless the sentence shall have been upheld by the Episcopal Synod on review;
- (b) for Schism:
  - (i) deprivation; or
  - (iii) deposition;
- (c) for Apostasy from the Christian Faith:
  - (i) deposition; or
  - (ii) degradation;
- (d) for exercising any profession or occupation which is either in its own nature or in the manner of its exercise inconsistent with the ministry of the Church:
  - (i) formal admonition; or
  - (ii) suspension for a term not exceeding Three (3) years or until such time as he shall undertake in writing not to repeat the offence. If at the end of the period of suspension such undertaking shall not have been given the sentence shall be
    - aa) deprivation; or
    - bb) deposition.
- (e) **subject in either case to be the provisions of Clause 3 below.** for Violation of the Constitution or Canons of this Church (except as otherwise provided in these Canons):
  - i) formal admonition; or

- ii) suspension for a term not exceeding Twelve (12) months or until he shall have undertaken in writing to conform in the future. If at the end of the period of suspension, no such undertaking shall have been given, the sentence shall be deprivation subject to the provisions of Clause 3 below;
- (f) for disobedience, that is to say, willful contravention of any Act, Rule or Regulation either of the Provincial Synod or of the Synod of the Diocese in which he holds office:
  - i) formal admonition; or
  - ii) suspension for a term not exceeding Six (6) months or until he shall have undertaken in writing to conform in future. If at the end of the period of suspension, no such undertaking shall have been given the sentence shall be deprivation subject to the provision of Clause 3 below:
- (g) for habitual irregularity or neglect in the performance of ecclesiastical duties.
  - i) formal admonition; or
  - ii) suspension for a term not exceeding Twelve (12) months.

If he be found guilty by the Tribunal a second time of such neglect the sentence shall be deprivation subject to the provisions of Clause 3 below.
- (h) for an offence which has led to conclusive conviction in the Criminal Courts. Any of the sentences at the discretion of the Tribunal.
- (i) for sexual immorality:
  - i) suspension for a term not exceeding Three (3) years or
  - ii) deprivation, or
  - iii) deposition.
- (j) for financial impropriety:
  - i) suspension for a term not exceeding Three (3) years; or
  - ii) deprivation; or
  - iii) deposition.

**subject in the case of deprivation or deposition to the provisions of Clause 3 below.**

- (k) for any act, habit, conduct or contumacy which has given or is likely to give just cause of scandal or offence or which is unworthy of a Clergyman and likely to bring the ministry of the Church generally into disrepute.
  - i) formal admonition, or
  - ii) suspension for a term not exceeding Three (3) years or until such time as he shall undertake in writing not to repeat the offence. If at the end of the period of suspension, such undertaking shall not have been given, the sentence shall be
    - aa) deprivation, or
    - bb) deposition

**subject in either case to the provisions of Clause 3 below.**

- 2. Any lay member of any Synod, Lay Officer in the Church or in any Diocese thereof and any Lay Reader found guilty of any offence shall be liable to any one or more of the following sentences:
  - a) for Heresy or False Doctrine (unless he shall formally retract the same within Fifteen (15) days after judgement is given):
    - i) formal admonition with or without in the case of a Lay Reader inhibition from preaching; or
    - ii) suspension for a term not exceeding Three (3) years provided that if at the expiration of the suspension he shall refuse to undertake to refrain from publicly maintaining such opinions he shall become subject to the provisions of Clause 3 below; or
    - iii) If in the judgement of the Tribunal such False Teaching be Heresy the sentence may be Deprivation but such penalty shall not be enforced unless the sentence shall have been upheld by the Episcopal Synod on review.
  - b) for Schism:  
Deprivation
  - c) for Apostasy from the Christian Faith:  
Deprivation

- d) for exercising any profession or occupation which is either in its own nature or in the manner of its exercise inconsistent with the holding of any Lay Office in the Church:
  - i) formal admonition; or
  - ii) suspension for a term not exceeding Three (3) years or until such time as he shall undertake in writing not to repeat the offence. If at the end of the period of suspension, such undertaking shall not have been given, the sentence shall be Deprivation subject to the provisions of Clause 3 below.
  
- e) for violation of the Constitution or Canons of this Church (except as otherwise provided in these Canons)
  - i) formal admonition, or
  - ii) suspension for a term not exceeding Twelve (12) months or until he shall have undertaken in writing to conform in future. If at the end of the period of suspension, no such undertaking shall have been given, the sentence shall be Deprivation subject to the provisions of Clause 3 below.
  
- f) for disobedience, that is to say, willful contravention of any Act, Rule or Regulation either of the Provincial Synod or of the Synod of the Diocese in which he holds office.
  - (i) formal admonition; or
  - (ii) suspension for a term not exceeding Six (6) months or until he shall have undertaken in writing to conform in future.  
  
If at the end of the period of suspension, no such undertaking shall have been given, the sentence shall be Deprivation subject to the provisions of Clause 3 below.
  
- g) for habitual irregularity or neglect in the performance of duties relating to his office.
  - (i) formal admonition; or
  - (ii) suspension for a term not exceeding Twelve (12) months. If he be found guilty by the Tribunal a second time of such neglect the sentence shall be Deprivation subject to the provisions of Clause 3 below.
  
- h) For an offence which has led to conclusive conviction in the Criminal courts:

**Any of the sentences at the discretion of the Tribunal.**

- (i) Any Layman not being a member of any Synod, or Lay Officer as aforesaid or a Lay Reader, found guilty of any offence shall be liable to any of the sentences hereinbefore in paragraph (i) of this Clause specified other than a sentence of Deprivation or Suspension. Any of the sentences at the discretion of the Tribunal.
  - (ii) Provided always that in addition to any of the above sentences the Tribunal may suspend the accused from receiving Holy Communion for such period as it may determine, or pass a sentence or Excommunication.
3. Any Person who has had judgement and sentence pronounced against him by a Tribunal of this Church, and who refuses to submit to such judgement or sentence within such period as shall be specified by the Tribunal, shall render himself liable to a more severe sentence at the discretion of the Bishop of the Diocese, or, if he be a Bishop of this Province, of the Archbishop. That is to say, he may if not sentenced to suspension, be suspended; he may be suspended for a period longer than the original sentence; and on protracted contumacy, he will render himself liable to the successive penalties of Deprivation, Deposition and Degradation (all subject to the provisions of Clauses 4 and 5 below).

Any action which the Bishop may take under this Clause shall be without prejudice to any right the authorities of the Church may have to institute civil proceedings of whatsoever nature in any court against the contumacious person by reason of his default. Such civil proceedings shall, however, be instituted after all the machinery within the Church has been fully exhausted.

4. No sentence of Deprivation or of Deposition (except as provided under the terms of Clause 1 (d) of this Canon) shall come into effect until the Bishop shall have secured the consent of a Commission of Three (3) Bishops of this Province nominated by the Archbishop and sitting together.
5. No sentence of Degradation shall come into effect until the Bishop shall have secured the consent of the Episcopal Synod. Such Commission or Synod shall have power to remit the sentence or to substitute for it at a lesser sentence.
6. The sentences specified above shall be interpreted as follows:-
- (a) "Formal Admonition" means a written Admonition, delivered either in public or in private as the circumstances may seem to the Bishop to require.
  - (b) "Suspension" means suspension from all ministerial functions During the period of the sentence. Suspension entails the total loss of the emoluments attached

to the office unless the Tribunal otherwise determines.

- (c) "Deprivation" means deprivation of the office held by the person on whom sentence is passed.
- (d) "Deposition" means Deprivation together with Suspension from all ministerial functions within the sphere covered by the jurisdiction of the Tribunal and for such period as the Tribunal shall determine.
- (e) "Degradation" means the total removal from Holy Orders of the person on whom sentence is passed.

7. All sentences of deprivation, deposition or degradation and also of excommunication shall be published during Divine Service in the Cathedral Church of the Diocese in which the offender is a Minister, and in the Church in which he habitually ministered and also communicated to the Bishops of the other Dioceses of the Anglican Church of Kenya.

### **CANON XXI - OF APPEALS**

1. There shall, subject as is hereinafter otherwise provided, be a right of appeal to the Provincial Tribunal from any judgement or sentence of the Diocesan Tribunal or (as the case may be) the judgement or sentence of the Bishop:
- (a) by presenters in cases arising only from charges of False Doctrine, Heresy, Apostasy, Schism, Violation of the Constitution or Canons of this Church, or Disobedience as defined in Canon XVI (Of Proceedings); and
  - (b) by persons against whom judgement shall have been given upon any charge brought against them; **PROVIDED THAT:**
    - (i) There shall be no appeal to the Provincial Tribunal as regards the facts of any case, but only as to the conclusions to be drawn from those facts which the Diocesan Tribunal or (as the case may be) the Bishop shall have found to have been established **PROVIDED HOWEVER** that it shall be competent to the Provincial Tribunal, on receiving the case on appeal, to direct that the case, as regards the facts that are charged, shall be reviewed by the Diocesan Tribunal or (as the case may be) the Bishop;
    - (ii) Notice of appeal, setting forth the grounds thereof, shall be given in writing by the appellant to the Bishop of the Diocese within Fifteen (15) days after sentence has been passed.

2. When notice of appeal has been given by any person against whom sentence has been passed it shall be competent to the Bishop of the Diocese to inhibit such person from the exercise of his ministry or office (if any) until the Church Tribunal shall have determined the appeal.
3. In the case of an appeal to the Church Tribunal sentence shall be suspended pending the determination of the appeal.
4. The Church Tribunal may affirm, modify, amend or reverse the judgement of the Diocesan Tribunal or (as the case may be) of the Bishop or remit the case for retrial or confirm, increase or reduce the sentence.
5. If judgement shall have been pronounced and sentence passed against the Archbishop or any Bishop of the Church, he may appeal within Thirty (30) days to an Appellate Tribunal (to be appointed by the Provincial Chancellor and the Chancellor of the Diocese concerned sitting together and to consist of Three (3) persons all of whom shall be professing members of this Church and of whom the Chairman shall be a person learned in the Law who is of not less than Fifteen (15) years standing in the legal profession in Kenya) to determine the matter, and pending such determination sentence shall be suspended. The Provincial Chancellor and any Diocesan Chancellor shall be eligible for appointment to the Appellate Tribunal.
6. No civil proceedings may be instituted in a Court of Law unless the machinery set out herein has been fully exhausted.

## **CANON XXII - OF BAPTISM AND CONFIRMATION**

### **1. OF HOLY BAPTISM**

- (a) In these Canons the expression "Infant" shall mean any person under the age of Six (6). All other persons shall be deemed to be "Persons of riper years".
- (b) No person who has not been duly baptized shall be reckoned a member of this Church.
- (c) Only those shall be considered as duly baptized who have been baptized with water in the Name of the Father and of the Son and of the Holy Spirit. Baptism by water may be by sprinkling or by emersion as the candidate or sponsors may desire.
- (d) Baptism shall in no case be repeated. Whenever any doubt exists as to the sufficiency of an alleged baptism the form appointed for the Ministration of Conditional Baptism shall be used.

- (e) The Ministration of Holy Baptism shall, whenever possible, be by a recognized Minister of the Church; but in case of urgent necessity, and in the absence of the Minister, any baptized lay person may minister Baptism.

## 2. OF GOD FATHER AND GODMOTHERS

- a) No person shall be admitted to answer as godparent who is not baptized or who is known to live openly in sin, or who maliciously contended with his neighbours without being reconciled.
- b) No person under ecclesiastical discipline shall be allowed to stand as godparent.
- c) For every child or adult that is to be baptized there shall be at least one godparent of the same sex who shall be a communicant member of this Church and who shall not be the parent of the person to be baptized.
- d) In addition to such godparent, there shall also be one other godparent of the same sex and one other godparent of the opposite sex, both of whom shall be baptized Christians and communicant members of this Church.
- e) In the event of the absence of one or more of the godparents it shall be in order for his or her place to be taken by a proxy, who shall be a communicant member of this Church.

## 3. OF INFANT BAPTISM

- a)
  - i) Children born in lawful wedlock, both of whose parents are baptized, may be baptized.
  - ii) In the case of children not born in lawful wedlock, the Minister must satisfy himself that the godparent or godparents chosen or nominated are able and willing to fulfill the additional responsibilities, which such special case imposes on them.
- b)
  - i) A child born out of wedlock whose mother is baptized may be baptized **PROVIDED THAT** the mother or guardian shall undertake to bring up the child in the Christian faith.
  - ii) In the case of a child who is born to parents who are living together but are not lawfully married, the minister shall satisfy himself that one of the parents is willing to marry the other parent in accordance with the Rites of the Church and that the Godparent or Godparents chosen or nominated are able and willing to fulfill the additional responsibilities which such a special case imposes on them.

- c) No Minister shall baptize an adopted child unless he shall have satisfied himself that all necessary legal requirements in the matter of adoption have been complied with.

**4. OF THE BAPTISM OF CHILDREN OF PARENTS OF WHOM ONE ALONE IS A CHRISTIAN**

- a) The child of a Christian Parent who is married to a non-Christian or to a lapsed Christian, may be baptized, provided that the consent of one parent has been secured. In all cases of doubt, the matter shall be referred to the Bishop, who at his discretion shall give or withhold permission for the baptism.
- b) Children born before the baptism of their parents, may be baptized as soon as at least one of the parents is baptized.
- c) If any persons not baptized before they come to years of discretion to answer for themselves it may suffice to use the office for Public Baptism of Infants, or in the case of extreme danger the office for Private Baptism, substituting for the word "Infant" "Child" or "Person" as occasion requires.
- d) In case of any doubt about the application of any of the foregoing sections of this Canon the direction of the Bishop shall be sought.
- e) The Minister of every Parish shall often admonish the people that they bring their children to Baptism as soon as possible after birth, and that they defer not the Baptism longer than Six months or at the furthest Eight months unless upon a great and reasonable cause.
- f) A parish minister is entitled to require of those who desire to have their children baptized four (4) weeks notice before the baptism takes place. During that period he should see the parents, explain to them the meaning of baptism, and the responsibility that they undertake, and should take steps to see that godparents are chosen who will take serious the duties they undertake in relation to the child. If these conditions have not been fulfilled, the minister is entitled to defer the baptism, explaining to the parents the reason for the deferment and requesting them to return when the conditions have been fulfilled. If however, the minister is of the opinion that the interests of all concerned will best be served by the baptism of the child even though the conditions have not been fulfilled, he may proceed to the baptism of the child.
- g) No Minister may except in an emergency baptize an infant whose parents do not reside within his Cure without the previous consent of the incumbent of the parents' parish.
- h) Every Minister who baptizes any infant that is brought to the Church to be baptized whose parents are resident outside the boundaries of his Cure, shall as

soon after the Baptism as possible, send to the Minister of the Parish in which such parents reside the name and address of the infant who has been baptized together with a copy of the Entry in the Baptismal Register.

## **5. OF BAPTISM IN EMERGENCY**

In cases when a person in danger of death has been baptized by a layman those present shall notify the Minister of the Parish, and, if the person recover, the Minister shall publicly receive that person in the form prescribed in the Order for the Ministration of Private Baptism.

## **6. OF CATECHUMENATE**

- a) A catechumen is a candidate for baptism of riper years, who is undergoing a period of preparation, and at the service of baptism will be able to answer for himself.
- b) It is the responsibility of the Bishop to determine the conditions on which such persons may be admitted to the catechumenate, the length of the period during which they should remain as catechumens, and the course of preparation to be followed during that period.
- c) It is the responsibility of the Episcopal Synod, in consultation with the Liturgical Committee of the Church, to set forth by authority a service for the admission to catechumens, and, if desired, a form of admission as enquirers, prior to admission as catechumens.
- d) A period of preparation as a catechumen is ordinarily a pre-requisite for the baptism of a person of riper years.

If, however, the Bishop is of the opinion that a candidate for baptism has an adequate understanding of the Christian faith, and is sincere in the expression of intention to live a Christian life after baptism, he may give permission for the baptism of such person, even though formal admission to the catechumenate may not have taken place.

## **7. OF THE BAPTISM OF SUCH AS ARE OF RIPER YEARS**

- a) None shall be accepted for adult Baptism until they have been duly instructed in conformity with these Canons and thereafter examined by the Minister, after such consultation with the Church Council as he shall deem fitting.
- b) When any persons who are of riper years are to be baptized after due examination by the Minister, timely notice shall be given to the Bishop, or to whom he shall appoint for the purpose, and the names of all intending

candidates shall be published in Church on a Sunday not less than seven days preceding the day determined for the Ministration of Holy Baptism.

## **8. OF THE BAPTISM OF POLYGAMISTS**

- a) The law and custom of this Church do not ordinarily permit the baptism of a polygamist.
- b) It is not desirable that a polygamist who wishes to become a Christian should be required to put away all wives other than the first.
- c) He ought not, in order to become a Christian, to repudiate obligations entered into toward wives and children obligations which in non-Christian society are recognized as binding.
- d) In making this rule, the Church passes no condemnation on those who have acted in accordance with Customary Law which permits polygamy; it is concerned about the future of the Church, about the sanctity of Christian marriage and the purity of family life.
- e) A person who becomes a polygamist before becoming a Christian shall on accepting the gospel be baptized with his believing wives and children on condition that he shall not take any other wives while his present wives are living.
- f) It should be explained to the congregation that he is not to be treated as a sinner, but given a place of honour, as one who for the sake of the future of the Church has accepted the grave personal sacrifice of accepting catechumen status and has not at the time demanded the status of a baptized person.
- g) Any polygamist in grave danger of death may be baptized.
- h) If the situation arises in which a former polygamist is now the husband of only one wife, such polygamist may be baptized unconditionally, and confirmed in due course.
- i) The infant children of a polygamist who has been admitted to the status of a catechumen may be baptized, provided that the mother of such children has also been baptized.
- j) A polygamist of advanced years, who in the opinion of the Parish Priest has fulfilled all his family obligations, may be baptized at the discretion of the Bishop.

## **9. OF THE REGISTRATION OF BAPTISMS**

- a) Every Minister shall, within at most seven days after every Baptism within his Cure, record and enter the same in permanent ink in the appropriate Register.

- b) Whenever any Baptism has been performed in any place other than a Church or Chapel in any Parish providing its own distinct Register Books, and such Baptism has been performed by any Minister not being the Minister of such Parish or licensed thereto, the Minister who has performed such Baptism shall, on the same or on the next day, transmit a certificate of such Baptism to the Minister of such Parish, who shall thereupon record and enter the same in the appropriate Register.
- c) In cases of any Baptism in any place where there is no Church or Chapel, the officiating Minister, within seven days afterwards, shall deliver to the Bishop of the Diocese concerned, a certificate of such Baptism, and every such certificate shall be entered in such Register as the Bishop shall determine.
- d) The Parish Priest shall at the end of each calendar year submit to the Diocesan Bishop names of all infants and adults baptized in the Parish.

**10. OF FEES**

A prescribed fee, payable to the funds of the Parish in which the Baptism takes place, may be charged for the issue of a Certificate of Baptism.

**11. OF THE SIGN OF THE CROSS IN BAPTISM**

The Churches of the Anglican Tradition have ever held and taught, and still hold and teach, that the sign of the Cross used in Baptism is no part of the substance of the Sacrament: but, for the remembrance of the Cross, which is very precious to those that rightly believe in Jesus Christ, have retained the sign of it in Baptism, following therein the primitive and apostolic Churches, and accounting it a lawful outward ceremony and honourable badge, whereby the person who has been baptized is dedicated to the service of Him that died upon the Cross.

**12. OF CHRISTIAN INSTRUCTION OF CHILDREN AND YOUNG PEOPLE**

- a) Every Minister shall see to it that the children and young people within his Cure are instructed in the doctrine, sacraments, and discipline of Christ, as the Lord had commanded and as they are received and set forth in this Church; and to this end he, or some godly and competent persons appointed by him shall regularly and diligently instruct and teach them.
- b) All parents and guardians shall cause their children to come to such instruction at the time and place appointed.

**13. OF CONFIRMATION**

- a) The Bishop of every Diocese, or some other Bishop deputed by him, shall perform the rite of Confirmation throughout his Diocese, as shall be requisite.
- b) Only those persons who have completed such course of instruction as the Church may require shall be presented for Confirmation.
- c) Every Minister that has a Cure of Souls shall remind his people that all persons who have been baptized, and have come to a competent age and have not been confirmed, are to be brought to the Bishop for Confirmation.
- d) The Minister shall present to the Bishop only such as have been baptized, are come to years of discretion and can say the Creed, the Lord's Prayer and the Ten Commandments and can render an account of their faith according to the Church Catechism in the Book of Common Prayer.

**NOTE:**

**If the Parish Minister can find no satisfactory evidence of baptism he shall baptize conditionally those whom he desires to present to the Bishop for Confirmation].**

- e) The Minister, before or at the time assigned for the Confirmation shall give to the Bishop the names of those who are to be presented, together with their apparent ages and the date and place of their Baptism.
- f) If any person who is to be confirmed desires to take an additional name, the Bishop may confirm him by such name which shall thereafter be one of his recognized names.

**14. OF THE REGISTRATION OF CONFIRMATIONS**

- a) Every Minister shall record and enter in the Register Book of Confirmations belonging to his Church the Confirmation of every person presented by him and confirmed by the Bishop.
- b) The Chaplain (or other appointed responsible person) or any Institution presenting candidates for Confirmation from that Institution, shall, not less than two months beforehand indicate his intention of so doing to the Minister of the Parish in which each candidate normally resides and shall give heed to any comment which such Minister may make. He shall in like manner, as soon as possible after the Confirmation has taken place, report the Confirmation to that Minister.

## **CANON XXIII - OF MARRIAGE**

In these Canons and in any Regulation made hereunder the following expressions shall except where the context otherwise requires have the meanings hereunder assigned to them namely:-

1. "Married under customary law" shall mean married in accordance with the requirements of the law and custom applicable to the tribe or tribes of which the parties to the marriage which has been contracted are members:
2. "Civil Court" shall mean a Court of competent jurisdiction in the country in which civil proceedings for the dissolution of a marriage have been taken:
3. "Minister" shall mean any ordained person who is authorized by the Bishop and licensed according to the laws of the State to solemnize marriages:
4. "Polygamy" shall mean cohabitation by one man with more than one woman in such circumstances as shall indicate that a permanent engagement has been entered into between such man and each of such women, and the words "polygamous" and "polygamist" shall be construed accordingly;
  - a) words importing the singular number include the plural number;
  - b) words importing the plural number include the singular number;
  - c) words importing the masculine gender include the feminine gender.

## **CANON XXIII A - OF HOLY MATRIMONY**

The Anglican Church of Kenya affirms and teaches the belief of the Universal Church that Marriage is, by Divine institution and in accordance with our Lord's teaching a lifelong and indissoluble union and partnership, for better, for worse, till death them do part, between one man and one woman to the exclusion of all others on either side, entered into with the free and full consent of both parties for the mutual society, help and comfort which the one ought to have of the other, both in prosperity and in adversity, for the hallowing and right direction of the natural instincts and affections of the parties and with a view to the procreation and nurture of children in every case in which this is normally possible. The law and regulations of the Church are based upon this belief.

## **CANON XXIII B - OF THE RITES OF THE CHURCH RELATING TO CHRISTIAN MARRIAGES**

1. Subject always to the provisions of paragraph 5 below, solemnization of Holy Matrimony by the Rites of the Church is reserved to those who have been baptized.

2. Marriages may be solemnized only at such times and in such places as may be for the time being prescribed by the laws of the Church and of the State, the law of the Church being that no marriage shall be solemnized in any other place than a Church or Chapel or other place of public worship authorized by the Bishop. A Bishop may give special authority for marriage to be conducted at a venue other than a place of worship.
3. It is the duty of the parish to interview those who desire to be married, to explain to them the nature and the obligations of Christian marriage, and, as far as lies in his power, to make sure that when they come to the Church to be married they will understand the vows which they will make in the presence of God and of the congregation.
4. It shall be the duty of the Minister to ensure that, in addition to the requirements of the church, the due requirements of the laws of the State are also observed and complied with.
5. In the case of a marriage proposed between a baptized person and an Unbaptized person, the Solemnization of holy Matrimony by the Rites of the Church shall only take place with such form of service as the Bishop shall direct when granting a dispensation in accordance with the provisions of Canon XXIII E.
6. The Form of Solemnization of Holy Matrimony shall not be used in the case of a proposed marriage in which either or both of the parties shall have been previously married by Christian Rites or by another form of monogamous marriage to a person or persons still living except by permission of Bishop in terms of Canon XXIII D 8 below.

### **CANON XXIII C - OF NULLITY AND MARRIAGE AFTER DECLARATION OF NULLITY**

A baptized person whose marriage has been declared null and void by a civil court and who desires to contract a Christian marriage, or any member of the Church who desires to contract a Christian marriage with one whose previous marriage has been declared null and void by a civil court of competent jurisdiction shall, if he or she desire to have such a union solemnized by the Rites of the Church during the life time of a former partner apply to the Bishop for judgment. The Bishop shall upon such application convene a Bishop's Court in accordance with the Regulations appended to these Canons.

### **CANON XXIII D - OF DIVORCE AND THE MARRIAGE OF A DIVORCED PERSON**

1. Since this Church regards marriage as a life-long contract of loyalty between two persons, it can regard divorce only with disapproval and regret.

2. If it comes to the notice of the parish priest that the marriage of two members of the Church is undergoing strain, it shall be his duty to visit the said persons, with, at his discretion godly layfolk of the parish, to remind them of the obligations into which they have entered, to enquire into the causes of dissension and if possible to remove them, and by all means to effect reconciliation between those who have become estranged.
3. Even when everything possible has been done, it may still come about that the situation between married persons has become such that a marriage has in point of fact ceased to exist. It may then be the duty of the Church to concur that, though divorce is always bad, it may be less bad than the continuance of an impossible situation, in which the presence is maintained that what is now a non-existent marriage still exists.
4. The practice of the Churches in regard to divorce has varied very much through the centuries. Traditionally only such sexual offenses as deny the very nature of marriage had been taken into ACCOUNT. In more recent times, the civil law in many countries has taken account of other circumstances such as prolonged willful desertion, incurable insanity and cruelty. More recently still disagreements which appear to be irreconcilable have been accepted as grounds for dissolution of marriage.
5. Where a decree of divorce has been granted by a civil court, on grounds which the Church is not compelled to regard as frivolous, the Church is prepared to accept that decree, and to regard the marriage as having come to an end. A Bishop's Court shall consider each case, and declare the mind of the Church on the civil proceedings and on the decision reached in the civil court making to the Bishop such recommendations as are within its competence defined by Regulation.

If it shall be competent for such a court to declare that, in view of actions or a series of actions that have taken place during the marriage, that marriage is to be regarded as now having no existence at all, having been brought to an end by the actions of the parties, before the declaration of the civil court bringing the marriage legally to an end.

6. The advice of St. Paul was that, in the case of permanent separation between husband and wife, the parties should remain unmarried. In fact, however, divorced parties often do desire to remarry, and provision is made in the civil law of almost all countries for such remarriage.
7. It is not the custom of this Church that persons, one or both of whom have been divorced should be married in Church. It should be carefully explained to such persons that the refusal to marry them in Church is not intended as a judgement on their individual case or moral status, but as a sacrifice that they are asked to accept for the sake of the general well-being of the Church, which has a special responsibility for maintaining and declaring the sanctity of marriage. As long as the phrase 'till death us do part' stands in the marriage vows in the Prayer Book service, it is not possible for the Church to accept the responsibility of marrying again in Church those who have once made this vow and found it impossible to keep it. Nor is the Church, as at present advised, prepared to provide a service for a second marriage with mutilated or abridged rites.

8. If divorced persons have made a civil marriage in accordance with the law of the land and wish to live as Christians, the Church is fully prepared to accept pastoral responsibility for them, and to help them in every way possible to make their second marriage a responsible and stable union. The Diocesan Bishop may authorize in writing that the marriage be blessed in Church provided the concerned Parish Council is in agreement.
9. It shall be competent for the parish priest, with the permission of the Bishop, to hold prayer with a couple who have made such a civil marriage. Such a service of prayer may be held in the church or at home.
10. It is the duty of the parish priest to pay special attention to persons married in this way, to visit them often and to help them by spiritual counsel and advice.
11. If the new marriage shows signs of stability, and the parties declare their intention to live a Christian life and to observe the responsibilities of a Christian marriage, the parish priest may, after the lapse of time, report the matter to the Bishop, and ask that the parties be restored or admitted, as the case may be, to the privileges of communicant status in the Church.

It should be noted, that it has been the custom of the Church that persons who have made a second marriage after divorce should not normally seek office in the Church, as church wardens, as members of any parish council or any Diocesan Synod or Standing Committee. However, the Bishop may approve in writing the service of any such persons in special circumstances.

12. Children born to a couple who have been married after the divorce of either or both of them shall be baptized in the ordinary manner, and no kind of stigma shall attach to them.

### **Regulations under the Canon Law of Marriage Relating to the Bishops' Court**

1. a) There shall be a Bishop's Court (hereinafter called the Bishop's Court") for the purposes of issuing judgments relating to cases of Nullity of Marriage and the granting or withholding (as the case may be) of permission for the solemnization of matrimony in the case of a person or persons whose marriage or marriages has or have been declared null and void by a Civil Court;
- b) The decision of the Bishop's Court shall be that of the majority of the Members thereof either sitting together or obtained by the Bishop by correspondence with all the Members.

### **2. The Members shall consist of:-**

- a) the Bishop.

- b) the Archdeacon of the Archdeaconry in which one or other of the parties resides, or if there be no Archdeacon, a Senior Priest of the Diocese appointed by the Bishop.
  - c) the Chancellor or Registrar of the Diocese if there be one, or if there be none, some other Communicant Christian learned in the Law.
  - d) such other Communicant Christians not exceeding Two (2) in number as the Bishop shall in his discretion appoint.
3. No case shall be considered until a period of Six (6) calendar months shall have elapsed from the date upon which the decree of the civil court became final.
  4. Applications shall be made to the Bishop not less than Three (3) calendar months before the date of the contemplated marriage.
  5. Before a favourable judgement is rendered, the Bishop's Court shall be satisfied;-
    - (a) that the applicants comply with the prior provisions of this Canon; and
    - (b) that no facts exist which could make the proposed marriage bigamous; and
    - (c) that both parties do intend to have a Christian marriage; and
    - (d) that in the case of Nullity of Marriage one or more of the facts set forth in the Appendix to this Canon are shown to have existed in the previous relationship of the man or woman whose marriage has been declared null and void which manifestly establish that no marriage bond such as is recognized by the Church exists; or
    - (e) that in the case of Divorced Persons there has during the course of the marriage which has been dissolved taken place any act or series of acts of such a nature as to nullify the essence of marriage as defined in CANON XXIII A of these Canons and that consequent upon such act or series of acts a decree of divorce has been granted by a Civil Court.

**The appendix above referred to**

The Church recognizes as valid grounds for the granting of a decree of nullity by a Civil Court any one of the following conditions:-

1. where either party was permanently impotent, or incapable of consummating the marriage, at the time of the marriage; or

2. where there has been willful refusal on the part of one partner to consummate the marriage; or
  3. where the parties are within the prohibited degree of consanguinity (whether natural or legal) or affinity; or
  4. where either party at the time of the marriage was of unsound mind or subject to recurrent fits of insanity; or
  5. where the former husband or wife of either party was living at the time of the marriage, and the marriage (including a marriage under customary law recognized as valid by the law of the country in which the same took place) with such previous husband or wife was then in force; or
  6. where the consent of either party to the marriage was obtained by force or fraud in any case in which the marriage might be annulled on this ground by the law of the State in which the marriage was effected; or
  7. where there was a defective form of the marriage itself, that is to say, if both parties had knowingly and willfully acquiesced in its celebration:
    - (a) in any place other than the office of a registrar of marriages or a licensed place of worship or other place specifically or generally authorized by law for the solemnization of marriage; or
    - (b) under a false name or names; or
    - (c) by a person, not being a Minister of religion lawfully authorized in that behalf in the place where the marriage was solemnized or a registrar of marriages; or
    - (d) without the Registrar's Certificate\* of Notice or Special License duly issued in the case of marriages celebrated under the Marriage Act or in the case of marriages celebrated under the African Christian Marriage and Divorce Act, without publication or Banns in the manner provided for by the Rubric prefixed to the Office of Matrimony in the Book of Common Prayer; or
    - (e) in the case of a marriage outside Kenya without such public notice as is required by the law of the country where the marriage took place.
- \* The term "Registrar's Certificate" is deemed to include any certificate for Marriage issued in conformity with Section 13 of the Marriage Act (Chapter 150 of the laws of Kenya).
6. No such judgement shall be construed as reflecting in any way upon the legitimacy of the children or the civil validity of the former marriage in the case of a marriage terminated by a Decree of Divorce.

7. Every judgement rendered by the Bishop's Court shall be in writing, and copies thereof shall be lodged in both the Diocesan Registry and the Provincial Registry.
8. In the case of Nullity of Marriage a person in whose favour a judgement has been granted under the foregoing provisions of these Regulations may be married by a Minister of the diocese in which the judgement is given. If the marriage is to be solemnized in a diocese other than that in which the judgement is given, the said judgement must have been previously submitted to the Bishop of that Diocese.
9. In the case of a Decree of Divorce a person in whose favour a judgement has been granted under the foregoing provisions of these Regulations may not be married by any Minister in any Church within the Anglican Church of Kenya but if called upon so to do the Parish Priest concerned may with the permission of the Bishop of his Diocese hold prayer with the couple who have made a civil marriage and call down the blessing of God upon their union using such formal of service as may from time to time be approved by the Bishop.

### **CANON XXIII E - OF THE MARRIAGE OF UNBAPTIZED PERSONS**

1. A Minister shall not solemnize Matrimony or allow Matrimony to be solemnized in his Church except between two persons both of whom have been baptized or who show a serious desire to be baptized.
2. The marriage of a baptized person with an Unbaptized person or of two Unbaptized persons shall not take place without the prior permission of the Bishop, who shall decide upon what conditions such marriage may take place, and upon the form of service to be used.
3. If a case be shown that there is no Christian partner available or for other grave reasons, the Bishop may grant dispensation. But the Bishop must first be satisfied:-
  - a) that both parties to the proposed marriage recognize that the marriage will be a Christian marriage, identical in status to a marriage between baptized persons; and
  - b) that the Unbaptized person intends to live with the baptized person according to the Christian law of marriage, and undertakes not to hinder him or her in the free exercise of his or her religion; and
  - c) that both parties to the proposed marriage give a written undertaking that any children of the marriage shall be baptized and brought up as Christians.

**The Bishop shall determine what form of service is to be used in such cases.**

4. (a) The marriage of a Christian to a non-Christian by non-Christian rites is in all circumstances undesirable. If such marriage has taken place the Bishop shall determine what ecclesiastical discipline (if any) is to be imposed.
  - (b) If such a marriage is valid in law then it will be indissoluble on the side of the Christian, in which case the Christian (who being such had married a non-Christian) shall have no claim to the Privilegium Paulinum (set forth in the Appendix to this Canon) which is applicable only to cases in which a married non-Christian becomes Christian.
5. No person who has formally renounced his membership of this Christian Church may have his marriage solemnized by a Minister of this Church.

**The appendix above referred to**

**Privilegium Paulinum is contained in 1 Corinthians 7:12-15, as follows;**

"To the rest I say this, as my own words, not as the Lords: if a Christian has a heathen wife, and she is willing to live with him, he must not divorce her; and a woman who has a heathen husband willing to live with her must not divorce her husband. For the heathen husband now belongs to God through his Christian wife, and the heathen wife through her Christian husband. Otherwise your children would not belong to God, whereas in fact they do. If on the other hand the heathen partner wishes for a separation, let him have it. In such cases the Christian husband or wife is under no compulsion, but God's call is a call to live in peace". (New English Bible).

**CANON XXIII F - OF MARRIAGE UNDER NON-CHRISTIAN LAW  
INCLUDING CUSTOMARY LAW**

1. **Non Christians Married under Customary Law.**
  - a) A non polygamous person married in accordance with the traditions or customary law of his or her ethnic group or tribe and who has fulfilled all the requirements of such marriage traditions or law of his or her ethnic group or tribe, such as the obtaining of the consent of the parents, the payment of dowry and is recognized by the community that he or she is married shall be deemed to be truly married.
  - b) Accordingly such a person shall not be required to undergo any other form of church marriage as a condition for baptism, or for admittance to Holy Communion, or for being received to the membership of the Anglican Church of Kenya. The local Parish Priest shall, however, be expected to exercise his pastoral care and encourage such a couple to have their marriage blessed in Church. Each case shall be taken on its own merit.

- c) Where two persons both being non-Christians are married under customary law (although such marriage be potentially polygamous or potentially dissoluble) such marriage is to be considered as good marriage capable of becoming exclusive and life long.
- d) Where two such persons become Christians and are admitted to Holy Baptism, their marriage shall (in virtue of such baptism be raised to the status of a Christian Marriage). It will not be necessary to conduct a wedding ceremony in accordance to the rites of the Church, but a ceremony to bless the already contracted marriage may be conducted in the form accepted by the Church.
- e) Before the couple is admitted to the Holy Communion the fact of the marriage and its life long nature shall be publicly acknowledged in conformity with the form and order accepted by the Church.

2. **Marriage between a Non Christian and a Baptized Person.**

Where parties to such customary union are not baptized at one and the same time, the first to be baptized may be admitted to the Holy Communion.

3. **Baptized Persons Married under Customary Law.**

Where two baptized persons are living together as man and wife, their union not having been solemnized by the Rites of the Church, the Diocesan Bishop may in his discretion give permission for one or both of such persons to be admitted to the Holy Communion in accordance to the Rites of the Church provided that the Bishop shall first be satisfied, inter alia, that the persons have been married under customary law or under some other generally accepted law custom or tradition and are accepted by the community as married. Provided further that such persons shall be strongly encouraged to have their marriage blessed in Church.

On granting such permission, the Bishop shall indicate what other privileges (e.g. of holding office in the Church pertaining to Communicant status shall be permitted to the person so admitted to the Holy Communion).

- 4. A marriage contracted by non-Christians which is potentially polygamous or potentially dissoluble is not raised to the status of Christian Marriage by the baptism of one of the partners only. If after such baptism, the Unbaptized partner is unwilling to remain peacefully and without offence to God with the baptized partner, it is possible for the baptized partner to take advantage of the Privilegium Paulinum.

If the baptized partner desires to marry he or she must, after the former marriage has been legally dissolved, make application to the Bishop. If the Bishop be satisfied that the former marriage has been dissolved, the baptized partner may be free to contract a new and Christian marriage in accordance with Christian rites.

The Privilegium Paulinum applies only when a baptized partner has been deserted by the Unbaptized partner; if the baptized partner drives away the Unbaptized partner unfairly, then and in any such case the privilege cannot be claimed.

5. Where traditional customs in regard to marriage are not repugnant to Christian Doctrine or Law, observance of such practice by two persons desiring to be married by the Rites of the Church shall not constitute a reason for refusing such rites to them nor shall such marriage be held in disrepute by the Church.

Provided that the Minister who solemnizes the marriage is satisfied that both persons concerned understand and accept the principles of Christian marriage, and intend that their marriage shall be monogamous and indissoluble.

In case of doubt as to whenever any local practice as aforesaid is repugnant to Christian Doctrine or Law, the ruling of the Bishop shall be final.

### **CANON XXIII G - OF CERTAIN IMPEDIMENTS TO THE SOLEMNIZATION OF MATRIMONY**

1. No person who has already been married whether by the rites of the Church or by civil process or in accordance with customary law, but whose marriage has been dissolved by secular authority, shall be married by any Minister of the Church, except as provided by Canon XXIII B so long as the husband or wife to whom that person was previously so married is still living.
2.
  - (a) No member of the Church shall marry within the degrees expressed in the Tables of Kindred and Affinity annexed to this Canon, and all ceremonies purporting to be marriages within the said degrees are by the judgement of the Church null and void:
  - b) In cases in which a marriage valid in accordance with customary law but contrary to the provisions of Table B or Table C, has been contracted by two persons prior to their baptism, dispensation may be granted by the Bishop and permission given for such persons to be baptized and their marriage recognized:
  - c) The Church recognizes that there are among certain communities customs more restrictive than the prohibitions set out in the said Tables. The Church while not encouraging individuals to marry contrary to such customs yet affirms that all marriages contracted and performed in accordance with the provisions of this Canon are valid.
3. Nothing in this Canon shall be construed as prohibiting marriage between an individual and a Godparent or relation of a Godparent, not being barred on grounds of kindred and affinity.

4. Subject always to the laws of the Republic of Kenya, persons under the age of majority may not be married by any Minister of the Church without the consent of their parents or of their lawfully constituted guardians unless dispensation be granted by the Bishop.

**The appendix above referred to**

**Tables of kindred and affinity wherein whosoever are related are forbidden by the law of the church to marry together**

**Table A**

**By the Law of God, binding in all places and at all time,**

A man may not marry his:

Mother  
 Daughter  
 Father's Mother  
 Mother's Mother  
 Son's Daughter  
 Daughter's Daughter  
 Sister  
 Father's Daughter  
 Mother's Daughter

A woman may not marry her:

Father  
 Son  
 Father's Father  
 Mother's Father  
 Son's Son  
 Daughter's Son  
 Brother  
 Father's Son  
 Mother's Son

**Table B**

**By the Law of Christ's Church as it is everywhere received,**

A man may not marry his:

Wife's Mother  
 Wife's Daughter  
 Father's Wife  
 Son's Wife  
 Father's Father's Wife  
 Mother's Father's Wife  
 Wife's Father's Mother

A woman may not marry her:

Husband's Father  
 Husband's Son  
 Mother's Husband  
 Daughter's Husband  
 Father's Mother's Husband  
 Mother's Mother's Husband  
 Husband's Father's Father

Wife's Mother's Mother  
Wife's Son's Daughter  
Wife's Daughter's Daughter  
Son's Son's Wife  
Daughter's Son's Wife

Husband's Mother's Father  
Husband's Son's Son  
Husband's Daughter's Son  
Son's Daughter's Husband  
Daughter's Daughter's Husband

### **Table C**

**In this Anglican Church of Kenya it is also forbidden that,**

A man marry his:-

Mother by Adoption  
Adopted Daughter  
Sister by Adoption  
Father's Sister  
Mother's Sister  
Brother's Daughter  
Sister's Daughter

A woman marry her:-

Father by Adoption  
Adopted Son  
Brother by Adoption  
Father's Brother  
Mother's Brother  
Brother's Son  
Sister's Son

**Note: In this Table the term "Brother" includes a brother of the half-blood, and the term "Sister" includes a sister of the half-blood.**

### **CANON XXIII H - OF MIXED MARRIAGES**

A baptized member of the Church ought not to enter into such marriage with a person other than a member of the Anglican Church as may involve the acceptance of conditions imposed without option by any other religion or denomination. The Church recognizes no legal or moral obligation to accept such conditions and therefore a baptized member of the Church who wishes to marry a baptized member of another Christian denomination may be married according to the rites of either Church provided that no such conditions are imposed.

### **CANON XXIII I - OF DISCIPLINE**

1. No person who has remarried according to the law but who has a former spouse still living, or who is married according to that law to a person who has previously been married to a spouse who is still living, shall be admitted to Holy Orders or to any office of the Lay Ministry.

If a person already so admitted violates the principles of marriage as in these Canons set forth, he shall be subject to such ecclesiastical discipline as shall from time to time be in force within the Church.

2. **CHURCH AND POLYGAMY**

This Church is convinced that monogamy is God's plan for marriage and that is the ideal relationship for the expression of love between a husband and wife. Nevertheless this teaching is not easily understood in many Kenyan cultures in which polygamy is widely practiced and is socially acceptable. While it teaches Monogamy, the Church must be pastorally sensitive to the widespread existence of polygamy.

### **3. PEOPLE WHO WERE POLYGAMISTS BEFORE BECOMING CHRISTIANS**

A person who becomes a polygamist before becoming a Christian shall on accepting the gospel be baptized with his believing wives and children on condition that he shall not take any other wives while his present wives are living. The Bishop may confirm such a polygamist, his wives and children after further instructions in the Christian faith. A person who has contracted a polygamous marriage before or after baptism shall not in any way be required or compelled to put away any of his wives as a condition of being admitted or re-admitted to the Holy Communion.

4. A Deacon, Priest or Bishop who becomes a polygamist shall be defrocked.
5. A baptized person who becomes a polygamist has thereby automatically deprived himself of the rights and privileges of full membership of the Church.

It shall be the duty of the Parish Priest concerned to report the facts to the Bishop, who, the facts being established, shall issue a sentence of deprivation of the rights and privileges of full membership and shall send a copy of the sentence to the person concerned and to the Parish Priest. The rights and privileges of which a polygamist has deprived himself are:

- a) participation in Holy Communion;
- b) standing as sponsor in baptism;
- c) office or membership of any parish council or any Provincial or Diocesan Synod or Standing Committee;
- d) office of Lay reader
- e) burial with the full rites of the Church.

**Note: i)** It shall be competent for any Minister of the Church to bury such Person according to the form of service from time to time in use in the Diocese concerned:

- ii) The Bishop shall have the discretion to readmit a polygamist to the full privileges of lay church membership after due consideration of the following circumstances with regard to each individual case:-

- (aa) the lapse of a notable time

- (bb) the polygamist's repentance for his faults in breaking the vows which he made at his first marriage
  - (cc) the acceptability of such re-admission in the eyes of the local church
  - (dd) special factors operating in an individual case which made it hard for the polygamist to resist the taking of another wife or wives subsequent to his first marriage in breach of his marriage vows.
5. A baptized member of the Church who marries a polygamist shall not be admitted as candidate for confirmation, and a communicant member who marries a polygamist shall deprive herself the rights and privileges as outlined in Canon XXIII I (5).
  6. The wives of a polygamist shall not solely on account of their marital status be refused admission to Holy Communion.
  7. A Communicant Member of the Church who marries a non-Christian, except it be within the terms and conditions of Canon XXIII E, shall be suspended from the reception of Holy Communion until such time as in accordance with the Regulations of the Diocese, he or she shall be restored thereto, or until such time as the non-Christian partner shall have been baptized, and all other conditions hereinbefore contained relevant to such a case shall have been fulfilled: such restoration shall not, without the approval of the Bishop, include the privileges otherwise pertaining to communicant status (e.g. of office in the Church) until the non-Christian partner shall have been baptized and the Bishop shall have given leave.
  8. A Member of the Church who, having obtained a divorce, contracts a new union except as provided in Canon XXIII D shall, ipso facto, not be allowed to receive Holy Communion nor receive the blessing of the Church upon the new union; but such members of the Church so suspended may nevertheless be admitted or re-admitted to Holy Communion and receive the blessing of the Church upon the new union with the express permission of the Bishop.

**CANON XXIII J - OF THE BLESSING OF A MARRIAGE  
CONTRACTED AS A CIVIL MARRIAGE**

If any persons have contracted marriage before the Civil Registrar under the provisions of the Statute Law, and shall afterwards desire to have their marriage blessed according to the Rites from time to time in force in the Anglican Church of Kenya, the Minister of the Parish or other area wherein such persons dwell, or where the name of one of them is entered on the Church Register, may, if he sees fit, perform the said rite in any Church, or any other place authorized by the Bishop within his Cure, without the publication of Banns or any license or certificate; provided however, first, that he be satisfied that there is no canonical impediment to the marriage of the parties. No such Ceremony of Blessing shall be entered by the Minister in the

Register Books of Marriage provided by the Registrar General, but it shall be duly noted in the Register of Services and on the reverse of the Certificate or Marriage issued by the Civil authority.

**CANON XXIII K - OF THE ORDERING OF THE MARRIAGE**  
**SERVICE**

1. When Holy Matrimony is to be solemnized in any Church, it appertains to the Minister concerned in consultation with the couple to be married to advise what music shall be played, what hymns or anthems shall be sung, or what furnishings or flowers shall be placed in or about the Church for the occasion, and whether, and to what extent, cameras, tape-recorders and other apparatus may be used within the Church during the actual solemnization of the Marriage.
2. No Minister shall be compelled to solemnize any marriage.
3. No Minister shall be required without his consent to make his Church available for the solemnization of any marriage by another minister provided that if he shall refuse consent the aggrieved parties may appeal to the Bishop whose decision shall be final.
4. No Minister who is not the parish priest in charge of the Church where it is intended that marriage shall be solemnized shall officiate at such marriage unless he shall have been invited so to do by the parish priest.