

Appendices

The following material is not directly part of the Constitution and Canons. For the most part its source is outside the diocese. The appendices are as follows:

Appendices A - E are statutes of the Legislature of the Province of Ontario. Any amendment would have to be by that body.

- A. An Act to Incorporate the Bishop, 1885
- B. An Act to Incorporate the Synod, 1906
- C. An Act Respecting the Incorporated Synod of the Diocese of Algoma, 1955
- D. An Act to Provide for the Holding of Land by Religious Organizations, 1979
- E. An Act Respecting the Anglican Church of Canada

Appendix F is an act of the first Synod of Algoma, declaring the principles on which it was founded. It is an historical document and not subject to change by Synod.

- F. The Solemn Declaration, 1906

Appendices G & H are schedules which explain material in the canons, but are not directly part of them.

- G. Schedule A -- Committees of the Executive Committee
- H. Schedule B -- Map showing Diocesan Boundaries

Appendix I is the Patent of Arms and the Coat of Arms of the Diocese. Approval for these lies with the College of Arms in England.

- I. Patent of Arms; Coat of Arms

Appendix J is the Rules of the Diocesan Court. The Canon on the Diocesan Court gives the Court the power to set its own rules of procedure and to publish them as an appendix to the Canon.

- J. Rules of the Diocesan Court

Appendix A: AN ACT TO INCORPORATE THE BISHOP, 1885
(Statutes of Ontario, 1885, Chapter 88)

Whereas the House of Bishops of the Church of England in Canada, with the assent of the Incorporated Synod of the Diocese of Toronto, in the year 1873 set apart a certain portion of the said Diocese of Toronto, being within the Province of Ontario, and comprising the then Districts of Muskoka and Parry Sound, Manitoulin, Algoma District, East and West, and so much of the District of Nipissing as belonged to the Diocese of Toronto, as a new and missionary diocese to be known as the Missionary Diocese of Algoma;

And whereas the Right Reverend Frederick D. Fauquier, Doctor of Laws, now deceased, was elected, consecrated and appointed first Bishop of the said Missionary Diocese of Algoma of the Church of England in Canada, in the year 1873, and held such office until the time of his death, whereupon the Right Reverend Edward Sullivan, Doctor of Divinity, was elected, consecrated and appointed to fill the vacancy in such office, and is the present Bishop of the said Diocese;

And whereas the said Diocese of Algoma is still a missionary diocese, and no Synod, Assembly, Convocation or other body comprising representatives of the clergy and laity therein has ever been convened or organized;

And whereas in the absence of such a body it is expedient that provision should be made for the management and control of the property, affairs, and interest of the said Church in matters relating to and affecting only the said Church and the officers and members thereof;

And whereas there are no rectory lands within the limits of said Diocese;

And whereas diverse lands situate within said diocese have been granted to the successive incumbents of said bishopric, to each and his successors in office, for various purposes in connection with the said Church in said diocese, in belief that the bishop of said diocese is and was a corporation sole;

and it is expedient to make provision in respect thereof;

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

1. The Bishop of the Diocese of Algoma of the Church of England in Canada, for the time being, and his successors, shall be a corporation sole, by and with the name aforesaid, with perpetual succession and all the powers and privileges contained in sub-section 24 of section 8 of *The Interpretation Act*, and every power and

capacity in respect of real or personal property now enjoyed by any incorporated synod of any diocese of the said Church of England in Canada.

2. The Bishop of the Diocese of Algoma for the time being shall have the management of the property, affairs and interests of the said Church in his diocese in matters relating to and affecting only the said Church and the officers and members thereof; and shall have the administration and control of all property, real, personal and mixed which now is or hereby or hereafter may be vested in him or conveyed to him for the use or endowment of his See or vested in or conveyed to him or any other person or body as trustee, for the use of endowment, benefit or advantage of the said Church in his diocese in general, or of any particular church, chapel, parish, living, parsonage, institution, mission, congregation, person or persons, or otherwise howsoever, of the said Church in the said diocese, or for other purposes appertaining to said church in his diocese or in general, or appurtenant to any particular parish, mission, or other person or portion of or in connection with said Church in said diocese, with power to lease, exchange, mortgage, encumber, sell, alien and convey the same in the absence of any express provision to the contrary in the deed or document whereby such property is given or granted, or such trust created as aforesaid; provided always that the rent, proceeds, purchase money or income so realized or raised, of the property so received in exchange shall be held on the same general or special trusts as attached to the property in its unconverted form; and no purchaser shall be liable for the application of any moneys or other considerations given by him on any sale, exchange or other conversion or security made or given under the provisions of this Act.
3. The Bishop of the Diocese of Algoma for the time being may take over and receive from any person or body corporate now or hereafter holding and desirous of transferring the same any property of what description soever vested in such person or body on any of the trusts for any of the purposes aforesaid, and hold the same to and upon the trust, uses, and purposes which heretofore attached to it, and upon the completion of such transfer such person or body shall be discharged and freed from any liability arising from the future execution of the said trusts.
4. The Bishop for the Diocese of Algoma for the time being shall have and is hereby invested with the like corporate rights, powers, patronage and privileges as by any Act or Acts of this Province or of the late Provinces of Canada or Upper Canada are conferred on any Bishop of the said Church of England in Canada, or any Church Society or Incorporated Synod in any Diocese of the said Church; and the several clauses and provisions of the said Acts shall be read, taken and applied, in so far as the same may be applicable, to the Bishop of the Diocese of Algoma for the time being; but nothing in the said Acts contained shall be taken to confine, restrict or lessen the powers, rights, and privileges hereby conferred on the Bishop of Algoma

for the time being.

5. Nothing herein contained shall be taken or construed to affect or alter the rights of the parties as declared in an action lately pending in the Chancery Division of the High Court of Justice, known as *Labatt v. Campbell* as to the legacies in questions therein, or shall affect or alter the rights of the parties in any case in which a claim adverse to the right of any of the said grantees has been made in any court, or in any case where any party entitled to claim on the death of the grantee has heretofore alleged his claim by written notice to either of the said Bishops, or in the case of real estate by such notice or by taking adverse possession.
6. Subject to the provision of the next preceding section, all deeds, conveyances and letters patent heretofore made to the said the Right Reverend Frederick D. Fauquier or to the said Right Reverend Edward Sullivan purporting to convey lands or any interest therein to either of them and his successors as such Bishop of the said diocese of Algoma, shall be a valid and effectual for the purpose of vesting the same in the corporation by this Act created, as if such corporations had been created and in existence at the time at which such deeds, conveyances and letters patent were made.

(Assented to 30th March, 1885)

Appendix B: AN ACT TO INCORPORATE THE SYNOD, 1906
(Statutes of Ontario, 1906, Chapter 141)

An Act to Incorporate the Synod of the Diocese of Algoma in Connection with the Church of England in the Dominion of Canada.

Whereas the Bishop, Clergy and Laity of the Church of England in Canada in the Diocese of Algoma have by petition represented that the Diocese of Algoma was set apart several years ago, and includes the following territory, viz: The Districts of Muskoka, Parry Sound and Manitoulin, that portion of the District of Nipissing having the height of land as its northern boundary, and for its southern boundary the Mattawa River and Trout Lake, together with a line produced westerly to where the said lake is intersected by the northern boundary of the Township of Ferris, and thence westerly along that boundary to Lake Nipissing, all that portion of the district of Algoma lying south of the height of land, and that portion of the District of Thunder Bay lying south and east of the height of land;

and that it is advisable that the Bishop, Clergy and Laity members of the Church of England in Canada within the limits of the said Diocese, shall be formed into a Synod for the better government of the Church within the said Diocese;

and whereas the Bishop, Clergy and Laity above mentioned by their said petition, prayed that the said Synod may be incorporated;

and whereas it is expedient to grant the prayer of the said petition;

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

1. The Bishop, Clergy and Laity of the Church of England in Canada in the Diocese of Algoma are constituted a body corporate and politic under the name of *The Incorporated Synod of the Diocese of Algoma*, hereafter called the *Synod*.
2. The Synod shall be composed of the Bishop of the Diocese for the time being, who shall be the head thereof; the Suffragan or Coadjutor Bishop thereof, if any; the Priests and Deacons of the same licensed by the Bishop, and lay representatives elected in each parish or mission within the Diocese, in the first instance at such time and place and in such manner as the Bishop may direct, and thereafter in accordance with the canons, by-laws or regulations adopted by the Synod.
3. The first meeting of the said Synod shall be called by the Bishop of the Diocese at such time and place as he shall think fit.

4. At the said meeting or at any adjournment thereof the Synod may adopt a constitution and canons, by-laws or regulations for the general management and good government of the Church of England in Canada within the said diocese, and may from time to time, as the Synod sees fit, alter and amend the same, and the Synod may in such manner and by such proceedings as may be adopted, make regulations for enforcing discipline in the Church, for the appointment, deposition, deprivation, or removal of any person, bearing office therein of whatever order or degree, for the acquiring and disposing of property and for the convenient and orderly management of the same and the temporalities, affairs and interests generally of the Church in matters relating to and affecting the same, and the officers and members thereof; Provided that nothing in this Act contained shall authorize the doing of any act or the adoption of any canon, by-law, or regulation contrary to any general statute of the Province or to any canon, by-law or regulation of the Provincial Synod of Canada or of the General Synod of the Dominion of Canada.
5. The said Synod may receive by devise, bequest or gift and acquire by agreement, purchase or otherwise, land and other property or any interest therein and shall hold the same in trust for eleemosynary, ecclesiastical or educational purposes, of the Church of England in Canada, within the Diocese of Algoma and shall have the power to charge, sell or otherwise deal with or dispose of the same upon such terms and in such manner as it may deem expedient for the purposes aforesaid.
6. All property of every kind whatsoever, now held by the Bishop of the Diocese of Algoma in trust for the Church of England in Canada within the Diocese is hereby vested in the Synod, for all the estate, right, title, and interest therein of the said Bishop of Algoma, without the execution or registration of any deed, transfer, assignment or other conveyance from the said Bishop to the Synod, and the synod shall hereafter hold such property subject to all trusts relating thereto, and the Bishop of the said Diocese of Algoma is hereby released and discharged from all liability in connection with the future administration of such trusts, or the property constituting the subject matter thereof.
7. For the purposes of proving the transmission of title of any trust property aforesaid, from the Bishop of Algoma to the Synod, it shall be sufficient in order to satisfy the requirements for registration under *The Land Titles Act* or *The Registry Act*, or any other Act of the Province affecting the registered title to lands or goods and chattels, to recite in any instrument executed by the Synod and dealing with such property or any interest therein the title of this Act and the chapter and statute year in which it was passed.
8. The Synod shall invest at interest all funds held by it in trust, in securities in which

trustees may invest trust funds under the provisions of *The Trustee Investment Act*, and amendments thereto, and in no other securities. (Repealed 31st March, 1955; see Appendix C)

9. The Synod may exercise its powers by or through such Committees as it may from time to time appoint, and the Bishop of the Diocese of Algoma or someone appointed by him shall be Chairman and convenor of every such committee.
10. Every conveyance of real estate or any interest therein vested in the Synod or any discharge or mortgage held by it or any deed, document, or paper writing necessary in connection with the due exercise of the powers herein conferred on said Synod, shall be deemed to be duly executed by the Synod, by affixing thereto the seal thereof and the signature of the Bishop of the Diocese for the time being or his commissary duly appointed, and of the Secretary or Registrar of the Synod, or in such other manner as the Synod may by canon or by-law from time to time direct.
11. In addition to the powers by this Act conferred, the Synod shall likewise possess and be entitled to exercise every power, right or capacity vested in the Bishop of Algoma under the provisions of the Act passed in the 48th year of the reign of Her late Majesty Queen Victoria and chaptered 88.

(Assented to by the Lieutenant-Governor of the Province of Ontario.
27th April, 1906)

Appendix C: AN ACT RESPECTING THE INCORPORATE SYNOD
OF THE DIOCESE OF ALGOMA
(Statutes of Ontario, 1955, Chapter 101)

Whereas the Incorporated Synod of the Diocese of Algoma by its petition has represented that by section 8 of *An Act to incorporate the Synod of the Diocese of Algoma in connection with the Church of England in the Dominion of Canada*, being chapter 141 of the Statutes of Ontario, 1906, it was authorized and directed to invest at interest all funds held by it in trust in securities in which trustees may invest trust funds under the provisions of *The Trustee Investment Act* and amendments thereto, and in no other securities;

and whereas the Synod desires to be empowered to invest the assets comprising the funds held by it in trust in such a manner so as to obtain a greater diversity of investment and an increase in the income derived therefrom;

and whereas the petitioner has prayed that special legislation be passed for such purposes;

and whereas it is expedient to grant the prayer of the petition;

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

1. Section 8 of *An Act to incorporate the Synod of the Diocese of Algoma in connection with the Church of England in the Dominion of Canada* is repealed and the following substituted therefor:

8. The Synod,

(a) shall invest at least 70 percent of the book value of the assets, now or hereafter comprising the funds held by it in trust, in investments in which trustees are now or may hereafter be authorized to invest trust funds under *The Trustees Act*, and

(b) may invest up to 30 percent of the book value of such assets in investments in which joint stock insurance companies and cash-mutual insurance corporations are now or may hereafter be authorized to invest under *The Corporations Act*, 1953,

and may alter and vary such investments from time to time by substituting others of a like nature.

July, 1997

2. This Act comes into force on the day it receives Royal Assent.
3. This Act may be cited as *The Incorporated Synod of the Diocese of Algoma Act, 1953*.

(Assented to 31st March, 1955)

Appendix D: AN ACT TO PROVIDE FOR THE HOLDING OF LAND BY
RELIGIOUS ORGANIZATIONS
(Statutes of Ontario, 1979, Chapter 93)

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

interpretation

1. (1) In this Act,
- (a) "meeting" means a meeting of the members of a religious organization that has been called by notice in accordance with section 17;
 - (b) "religious organization" means an association of persons,
 - (i) that is charitable according to the law of Ontario,
 - (ii) that is organized for the advancement of religion and for the conduct of religious worship, services or rites, and
 - (iii) that is permanently established both as to the continuity of its existence and as to its religious beliefs, rituals and practices.

and includes an association of persons that is charitable according to the law of Ontario and that is organized for the advancement of and for the conduct of worship, services or rites of the Buddhist, Christian, Hindu, Islamic, Jewish, Baha'i, Longhouse Indian, Sikh, Unitarian or Zoroastrian faith, or a subdivision or denomination thereof;

- (c) "trustees" means the trustees appointed by a religious organization to acquire, hold and possess land for its benefit, and includes their successors.
- (2) In interpreting subclause i of clause b of subsection 1, an organization does not cease to be charitable for the reason only that activities that are not charitable but are merely ancillary to a charitable purpose are carried on in conjunction with a charitable purpose.

derivative organizations

- (3) Where a separate religious organization is formed out of any existing religious organization, whether voluntary or otherwise, and the new organization meets the requirements of subclauses i and ii of clause b of subsection 1 it shall nevertheless be considered to be a religious organization for the purposes of the Act. *New.*

acquisition and holding of land

2. A religious organization may acquire and hold land for the purpose of,
- (a) a place of worship;
 - (b) a residence for its religious leader;
 - (c) a burial or cremation ground;
 - (d) a bookstore or a printing or publishing office;
 - (e) a theological seminary or similar institution of religious instruction;
 - (f) a religious camp retreat or training centre; or
 - (g) any other religious purpose,
- in the name of trustees, individually or by collective designation, and their successors in perpetual succession for the benefit of the religious organization.
R.S.O. 1970, c. 411, s.1(1), *amended*.

appointment and tenure of trustees

3. (1) A religious organization may by resolution adopted at a meeting of the organization,
- (a) appoint trustees and fill any vacancy in the office of trustee;
 - (b) provide for the retirement or removal of trustees and for the appointment of their successors;
 - (c) remove any trustee from office;
 - (d) decrease or increase the number of trustees;
 - (e) confer upon trustees the power to acquire, hold and possess land for one or more of the purposes set out in section 2.

termination of office

- (2) Unless the constitution or a resolution of the religious organization otherwise provides, a trustee holds office until he dies, resigns or ceases to be a member of the organization.

powers of trustee where vacancy

- (3) Where a vacancy occurs in the number of the trustees of a religious organization, until the vacancy is filled, the remaining trustees then in office have all the estate in and title to the land of the organization and have all the powers conferred by this Act with respect thereto as were originally vested in the whole number.

powers of successor trustees

- (4) A trustee appointed to fill a vacancy together with the trustees originally appointed or subsequently appointed and who remain in office have all the estate, title and powers vested in the original trustees.

vesting of land in successor trustees

- (5) Where no trustees of a religious organization remains in office, the land to which the organization is entitled vests automatically in trustees subsequently appointed by the organization and their successors without the necessity of any conveyance.

where successor trustees not provided for

- (6) Where a religious organization is entitled to land and the manner of appointing trustees or their successors is not set out in the instrument granting or devising the land, it vests automatically in the trustees appointed under sub-section 1 and their successors to be held in trust for the organization without the necessity of any conveyance. *New.*

property vested in one person

4. Where, under the constitution, customs or practices of a religious organization, its property is vested in one person, the person shall be deemed to be a trustee and has the powers and duties of trustees under this Act. *New.*

joint trustees

5. (1) Each of two or more religious organizations may by resolution appoint joint trustees and provide for the appointment of their successors and may enter into agreements respecting the holding of land for their joint benefit by such joint trustees for any of the purposes enumerated in section 2 and all the provisions of the Act apply with necessary modifications to such joint trustees.

conveyance to joint trustees

- (2) Where land referred to in subsection 1 was, before the agreement, held by different bodies of trustees, the religious organizations may direct them in the agreement or otherwise to convey or transfer the land to the joint trustees appointed in accordance with subsection 1 and their successors. R.S.O. c. 411, ss. 14, 18(1), *amended.*

authorization required to exercise of powers

6. (1) The trustees of a religious organization shall not exercise any of the powers conferred upon them by this Act until they are authorized to do so by resolution of the organization, and the organization may attach such terms or conditions to any such authorization as it considers expedient.

authorization in case of joint trustees

- (2) In the case of joint trustees for two or more religious organizations, the authorization shall be obtained by resolutions adopted by each religious

organization for whose benefit the land is or is to be held. *New.*

power to enter into agreements to purchase land

7. The trustees of a religious organization may enter into agreements to purchase land for the benefit of the organization for any of the purposes of this Act. *New.*

power to conduct actions

8. The trustees of a religious organization may, individually or by collective designation, maintain and defend actions for the protection of the land or of the interest of the religious organization therein. *New.*

power to mortgage land

9. (1) The trustees of a religious organization may secure any debt contracted for the acquisition or improvement of land under this Act, or for the building, repairing, extending or improving of any buildings thereon, by a mortgage or charge on all or any part of the land of the organization. R.S.O. 1970, c.411, s.4, *amended.*

power to release equity of redemption

- (2) If a mortgage or charge on land held by the trustees of a religious organization for the benefit of the organization is in arrears as to principal or interest, or both, the trustees may release, transfer or convey to the mortgagee or chargee or his assigns the equity of redemption in the land, or any part thereof, in satisfaction of the whole or any part of the debt. *New.*

power to lease

10. (1) The trustees of a religious organization may lease, for one term of forty years or for more than one term of not more than forty years in all, any land held by them for the benefit of the organization which is no longer required by it for any of the purposes enumerated in section 2, at such rent and upon such terms and conditions as they consider expedient.

power to agree to renewal of terms

- (2) In any such lease, the trustees,
- (a) may, subject to the forty year maximum period specified in subsection 1, agree for the renewal thereof at the expiration of any or every term of years for a further term or terms at such rent and on such terms and conditions as may be agreed; or
 - (b) may agree to pay to the lessee, his heirs, executors, administrators, successors or assigns a sum equal to the value of any buildings or other improvements that may at the expiration of any term be on the demised land.

method of ascertaining rent

- (3) The method of ascertaining the amount of the rent during any renewal term or the value of the buildings or other improvements to be paid at the end of any term may be specified in the original or in any subsequent lease. R.S.O. 1970, c. 411, s. 6(1,2), *amended*.

recovery of rent and the land

- (4) The trustees may take all proceedings for the recovery of rent or arrears of rent and of the demised land that landlords are entitled by law to take. R.S.O. 1970, c. 411, s. 6(4), *amended*.

power to enter into short term leases

- (5) A religious organization may by resolution give its trustees a general authorization to lease any land held by them for terms not exceeding three years per term and when so authorized the trustees may, without further authorization, lease the land from time to time for a term or terms not exceeding three years per term. *New*.

power to sell

11. (1) The trustees of a religious organization may, upon such terms and conditions as the organization may by resolution approve, sell or exchange at any time land held by them if the organization has by resolution determined that the land is no longer necessary for its purposes.

surplus land subject to R.S.O. 1970, c. 280, s.7

- (2) When land of a religious organization is not required for its actual occupation for a purpose set out in section 2 and is not leased under section 10, *The Mortmain and Charitable Uses Act* applies in the same manner as if the land were then assured to the religious organization for charitable purposes.

special powers not affected

- (3) Subsection 1 does not affect any special powers or trusts for sale contained in any instrument inconsistent therewith. R.S.O. 1970, c. 411, s. 7, *amended*.

conveyance to trustees of new religious organizations

12. The trustees of a religious organization out of which a separate religious organization is formed may convey or transfer to the trustees of the separate organization such part of the land held by them as is appropriate. R.S.O. 1970, c. 411, s. 9, *amended*.

conveyance where religious organizations unite

13. Where a religious organization desires to unite with another religious organization, the trustees of either organization may convey or transfer any land held by them to the trustees of the other religious organization or to the trustees of the united religious organization. R.S.O. 1970, c. 411, s. 10, *amended*

conveyance to denominational board or trustees

14. The trustees of a religious organization may convey or transfer any land held by them for the benefit of the organization to an incorporated board or to trustees of the denomination or subdivision thereof of which the organization forms a part. R.S.O. 1970, c. 411, s. 11, *amended*

duty to account

15. The trustees of a religious organization selling or leasing land under the authority of this Act shall on the first Monday in June in each year have ready and open for the inspection of the members of the organization a detailed statement showing the rents that accrued during the preceding year and all sums in their hands for the use and benefit of the organization that were in any manner derived from land under their control or subject to their management, and also showing the application of any portion of the money that has been expended on behalf of the organization. R.S.O. 1970, c. 411, s. 16, *amended*

resolutions

16. A resolution respecting any of the purposes of this Act is adopted if the majority of those present at the meeting called for that purpose and entitled to vote thereat vote in favour of the resolution. *New.*

notice of meeting

17. (1) A notice calling a meeting of a religious organization for any of the purposes of this Act,
(a) shall specify the purpose of the meeting; and
(b) shall be given in accordance with the constitution, practice or custom of the religious organization.
- (2) Where the constitution, practice or custom of a religious organization has no provision for the giving of notice calling a meeting, at least two weeks notice shall be given personally or by mail, or notice may be given by announcement at an open service at least once in each of the two weeks immediately preceding the week in which the meeting is proposed to be held. R.S.O. 1970, c. 411, ss. 3(2), 8(2), *amended*

keeping of records

18. (1) A copy of a resolution adopted under this Act shall be signed by the chairman and the secretary of the meeting at which it was adopted and shall be entered in the minute book or other record kept for that purposes. R.S.O. 1970, c. 411, s. 15(1), *part, amended*

evidence

- (2) A copy of a resolution adopted under this Act, certified as being a true copy by an officer of the organization, is *prima facie* proof of the matters therein stated. R.S.O. 1970, c. 411, s. 15 (3), *amended*

omissions

- (3) Failure to comply with subsection 1 does not invalidate the resolution or anything done under it. *New*

instruments made pursuant to Act

19. Any instrument affecting land made by or to trustees under this Act shall be expressed to be made under this Act, but failure to do so does not render the instrument void. *New*

former conveyance

20. (1) Where letters patent from the Crown or a grant, conveyance or devise made before this Act comes into force is made to persons described as trustees for a religious organization and to their successors, this Act applies to them and to the religious organization in the same manner as if the persons were duly appointed as trustees under this Act.

use of several names

- (2) Where more than one letters patent from the Crown, grant, conveyance or devise have been made for the benefit of a religious organization under different names, the organization may at a meeting by resolution adopt one of the names or another name as the name in which its trustees shall hold the land thereafter. *New.*

change of name

21. A change in the name of a religious organization or manner in which the trustees are described does not affect the title to land held by the organization or its trustees in the former name. R.S.O. 1970, c. 411, s. 1(3), *amended.*

application to court for directions where religious organization has ceased to exist

22. (1) Where a religious organization has ceased to exist, or where the authorization required under section 6 cannot be obtained for any reason

other than a dispute among the members of the organization concerning the organization's property, the persons in whom the land of the organization is vested as trustees, or upon their failure to do so or where no trustees remain in office, any interested person or the Public Trustee may apply in a summary way to the Supreme Court or to the county or district court of the county or district [now the Ontario Court of Justice, General Division] in which the land or any part thereof is situate for directions, and the court may authorize any other person to exercise any of the powers conferred by this Act.

power of court to direct sale

- (2) Upon such an application, the court may direct that the land or any part thereof be disposed of or that it or the proceeds of sale thereof be distributed in such manner as it considers proper, and the court may make such vesting orders as are expedient in the circumstances. *New.*

application to court as to applicability of Act

23. (1) Any organization or other body that wishes to have determined whether or not it is entitled to acquire, hold and possess land under this Act may at any time apply in a summary way to the Supreme Court or to the county or district court of the county or district in which the land in question or any part thereof is situate, and the court may determine the matter.

applications to court by Public Trustee

- (2) In like manner, the Public Trustee may apply to have determined whether any organization or other body that purports to hold and possess or that intends to acquire, hold and possess land under this Act is entitled to do so. *New.*

removal of proceeding into Supreme Court

24. (1) Where an application under subsection 1 of section 22 or under section 23 is made to a county or district court, any interested part may, by notice served on the applicant and on any other interested parties, if any, and filed with proof of service thereof with the clerk of the county or district court not later than two day preceding the day of return of the application, require the proceeding to be removed into the Supreme Court.

transmission of papers to Supreme Court

- (2) Upon the filing of the notice and proof of service thereof, the clerk of the county or district court shall forthwith transmit the papers to the office of the Supreme Court in the county or district in which the application was made.

proceedings in Supreme Court

- (3) The proceeding is removed to the Supreme Court when the papers are received at the office of the Supreme Court. *New.*

notice to Public Trustee

25. (1) Notice of an application under subsection 1 of section 22 or subsection 1 of section 23 shall be given by the applicant to the Public Trustee.
- (2) In any other proceeding in which the application of this Act is an issue, the court may direct that notice be given to the Public Trustee. *New*

subject to special Acts

26. (1) This Act is subject to any special Act applying to a religious organization.

subject to trusts

- (2) This Act is subject to any trusts or powers of trustees in any deed, conveyance or other instrument. R.S.O. 1970, c. 411, s. 17, *amended*

Religious Institutions Act repealed

27. *The Religious Institutions Act*, being chapter 411 of the Revised Statutes of Ontario, 1970, is repealed.

transactions under predecessor of this Act

28. Any land transaction that has been authorized but not completed under the predecessor of this Act when this Act comes into force shall be completed under the predecessor of this Act as if this Act had not been passed.

Royal Assent

29. This Act comes into force on the day it receives Royal Assent.

short title

30. The short title of the Act is *The Religious Organizations' Lands Act, 1979.*

Appendix E: AN ACT RESPECTING THE ANGLICAN CHURCH OF CANADA
(Statutes of Ontario, 1979, Chapter 94)

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

rights extended to the Anglican Church of Canada, 1979

1. (1) All the rights, powers and privileges conferred upon any religious organization by *The Religious Organizations' Lands Act, 1979* or any predecessor thereof extend and apply to The Anglican Church of Canada, formerly or otherwise called The Church of England in Canada, or the United Church of England and Ireland in Canada, or the United Church of England and Ireland in Upper Canada, or the Church of England in Upper Canada.

incumbent and churchwardens to be trustees

- (2) The parson or other incumbent of the church for the time being and the churchwardens thereof shall, for the purposes of *The Religious Organizations Lands Act, 1979*, be deemed to be trustees within the meaning thereof.

bishop, etc. to be trustees under 3 V., c. 74, s. 16

- (3) In cases within section 16 of the Act passed in the year of the reign of Her Majesty Queen Victoria, chaptered 74, intituled *An Act to make provision for the management of the Temporalities of the United Church of England and Ireland in this Province, and for other purposes therein mentioned*, the bishop, parson, rector or incumbent or any successor or other person in whom the legal title or estate is vested, by, from or under any of them, shall also be deemed to be a trustee with the same powers and duties as trustees under *The Religious Organizations' Lands Act, 1979*.

property vested in the bishop in trust

- (4) In cases of property vested in the bishop of any diocese in trust, not covered by subsection 3, the bishop shall also be deemed to be a trustee with the same powers as trustees under *The Religious Organizations' Lands Act, 1979*.

property vested in the synod in trust within 7 V., c. 68 and 32 V., c.51, and 1979

- (5) In cases of property vested in the synod of any diocese within the Act passed in the seventy year of the reign of Her late Majesty Queen Victoria, chaptered 68, intituled *An Act to Incorporate the Church Societies of the United Church of England and Ireland, in the Dioceses of Quebec and Toronto*, and the Act passed in the thirty-second year of the reign of Her late

Majesty Queen Victoria, chaptered 51, intituled *An Act to Incorporate the Synod of the Diocese of Toronto, and the Unite the Church Society of the Diocese of Toronto therewith*, the synod shall also be deemed to be a trustee with the same powers and duties as trustees under *The Religious Organizations' Lands Act, 1979* and the powers of the synod under this subsection may be exercised by and through such boards and committees as the synod may by by-law appoint for that purpose. R.S.O. 1970, c. 411, s. 19(1-5), *amended*.

how land bay be sold or encumbered, consent requisite

2. (1) Land shall not be sold or leased, mortgaged or otherwise encumbered under the powers conferred by *The Religious Organizations' Lands Act, 1979*, except with the consent of the vestry of the church or congregation interested therein and the bishop of the diocese and the executive committee of the synod of the diocese, and the consent of the vestry given in accordance with the rules and canons of the church shall be deemed to be the consent of the congregation.

evidence of consent

- (2) The execution of a conveyance of land by the bishop, coadjutor bishop or a suffragan bishop of the diocese and by the secretary or secretaries of the synod, or a memorandum of consent endorsed thereon and signed by them, is, in favour of the grantee, his heirs and assigns conclusive evidence of the consent of the vestry, the bishop and the executive committee. R.S.O. 1970, c. 411, s. 19(6), *amended*

commencement

3. This Act comes into force on the day it receives Royal Assent.
4. The short title of this Act is *The Anglican Church of Canada Act, 1979*.

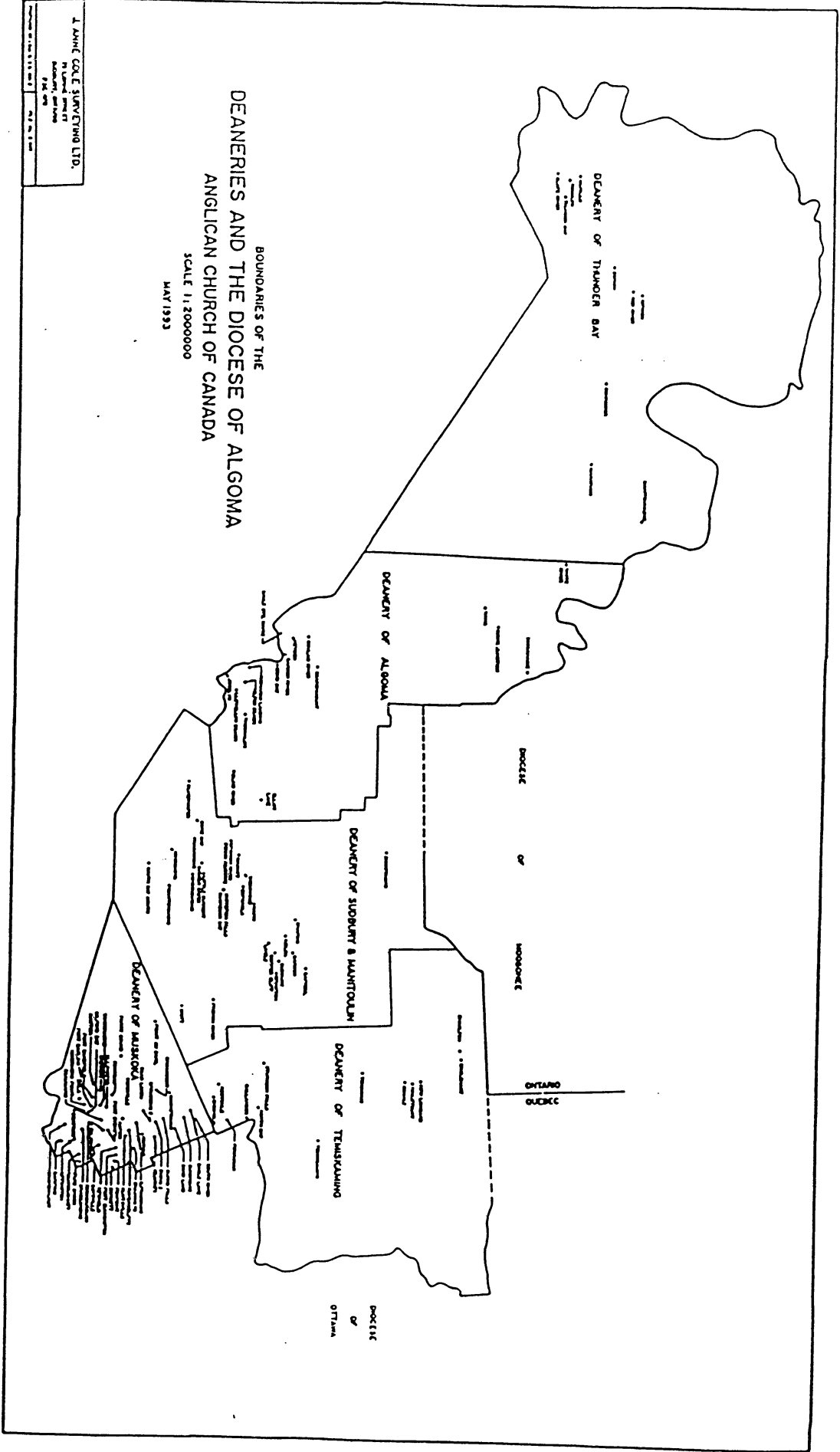
Appendix F: THE SOLEMN DECLARATION, 1906
(Synod of the Diocese of Algoma)

In the Name of the Father, and of the Son, and of the Holy Ghost, Amen.

- I. We, the Bishop, Clergy and Representatives of the Laity of the Church of England in Canada, within the Diocese of Algoma, in Synod assembled, intending, under God's blessing and guidance, to consider and determine upon such matters as shall appear necessary for the welfare of the Church in this Diocese, hereby make a solemn declaration of the principles upon which we propose to proceed.
- II. We desire that the Church in this Diocese shall continue as it has been, an integral portion of the Church of England in Canada. As members of that Church we claim a part in the fellowship of the one Holy Catholic and Apostolic church which is the one Body of Christ who is its One Divine Head; we receive the Canon of the Holy Scripture so set forth by that Church on the testimony of the primitive Catholic Church as containing all things necessary to salvation; we hold the one Faith revealed in the Holy Writ and defined in the Creeds as maintained by the undivided primitive Church in the undisputed Ecumenical Councils; we maintain the form of Church government by Bishops, Priests and Deacons, as Scriptural and Apostolical; and we are determined by the help of God to hold and maintain the Doctrine, Sacraments and Discipline of Christ as the Lord hath commanded in His Holy Word as the Church of England hath received and set forth the same in "The Book of Common Prayer and Administration of the Sacraments and other Rites and Ceremonies of the Church according to the use of the Church of England, together with the Psalter or Psalms of David pointed as they are the be sung in Churches; and the Form and Manner of Making, Ordaining and Consecrating of Bishops, Priests and Deacons", and in the Thirty-nine Articles of Religion, and to transmit the same unimpaired our posterity.
- III. It is our earnest desire and determination to confine our deliberations and actions to matters of discipline, to the temporalities of the Church, and to such regulations of Order as may tend to her efficiency and extension. We conceive that the following and such like objects may fitly come under our consideration and lead to action on our part.
 1. To form a Constitution for the Synod of this Diocese, and to regulate the time and place of its meetings and the order and manner of its proceedings.
 2. To provide for the proper exercise of ecclesiastical discipline in regard to both clergy and laity, by enacting or amending canons.

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3. To provide for the extension and well-being of the Church, the support of the clergy, the maintenance of public worship, and the diffusion of a sound religious education.
4. To promote and regulate the building and conservation of churches, parsonages and schoolhouses.
5. To provide for the division of the diocese into parishes or missions, with regulations for future sub-divisions.
6. To provide, where needed, fit regulations for the appointment of Bishops, Priests and Deacons.
7. To provide for the division of the diocese into new dioceses.
8. To procure such provincial legislation as the circumstances of the Church may from time to time require.



Appendix J: Rules of the Diocesan Court

1. *definitions*

In these Rules:

- (a) Canon: unless otherwise specified, means the Canon on the Diocesan Court;
- (b) Claim: means the statement referred to in Rule 2(a);
- (c) Claimant: means the person who files a Claim with the Clerk pursuant to the provisions of Rule 2(a);
- (d) Court: means the Diocesan Court created by the Canon;
- (e) Defence: means the Defence referred to in Rule 3(b);
- (f) Defendant: means the person accused in a Claim or against whom relief is sought in a Claim;
- (g) Disability: where used in respect of a Party, means that the Party is,
 - (i) a person under the age of twenty-one years; or
 - (ii) a person who is incapable of understanding the proceedings in which he or she is involved and of properly presenting his or her case to the Court;
- (h) Ecclesiastical offence: means an Ecclesiastical offence as defined in Section 1 of the Canon on the Diocesan Court;
- (i) Parties: are the Claimant or Claimants and Defendant or Defendants in any Claim referred to the Diocesan Court;
- (j) President: means the President of the Diocesan Court;
- (k) Reply: means the Reply referred to in Rule 3; and
- (l) Clerk: means the Clerk of the Diocesan Court appointed by the Court.

initiation of Claim

- 2. (a) Where a person alleges:
 - (i) that another person has committed an Ecclesiastical Offence or an offence against the provisions of the Constitution or Canons of the Diocese, the Provincial Synod of the Ecclesiastical Province of

Ontario, or of the General Synod of the Anglican Church of Canada;
or

(ii) the existence of facts which entitle him or her to relief from the
Diocesan Court,

and wishes such allegation or allegations referred to the Diocesan Court, he
or she shall file with the Clerk a Claim which shall contain his or her mailing
address and a concise statement of the material facts on which he or she
relies in making such allegation or allegations and shall name the person or
persons accused or against whom such relief is sought.

- (b) Upon receiving the Claim, the Clerk shall forthwith open a Diocesan Court
file and deliver the same to the Bishop, who shall, within thirty days, decide
whether to refer the Claim to the Diocesan Court.
- (c) If the Bishop decides not to refer the Claim to the Diocesan Court, he or she
shall so endorse the back of the Claim and cause the file to be returned to
the Clerk with a written statement as to what action, if any, will be taken by
the Bishop with respect to the Claim and the Clerk shall forthwith forward to
the Claimant by prepaid ordinary mail addressed to the Claimant at the
address set out in the Claim, a copy of such endorsement and of such
statement, which will be deemed to have been received by the Claimant on
the seventh day following the date of such mailing.
- (d) The Claimant may, within twenty days following his or her receipt of the
copies of each of the endorsement and statement referred to in Sub-rule
2(c), require the Claim to be brought before the Executive Committee by
filing with the Clerk a notice requiring the Claim to be brought before the
Executive Committee; whereupon the Clerk shall cause the file to be brought
before the Executive Committee at its next meeting and at such meeting, the
Executive Committee shall decide whether to refer the Claim to the Diocesan
Court. If the Clerk does not receive such notice within twenty-seven days
following the date of mailing of the copy of each of the endorsement and
statement of the Bishop, the Claimant will be deemed to have accepted the
Bishop's decision to not refer the matter to the Diocesan Court.
- (e) If the Executive Committee decides not to refer the Claim to the Diocesan
Court, the secretary of the meeting shall forthwith so endorse the back of the
Claim and cause the file to be returned to the Clerk with that portion of the
minutes of the meeting which record what action, if any, will be taken by the
Bishop or the Executive Committee with respect to the Claim and the Clerk
will so advise the Claimant in writing.

- (f) If either the Bishop or the Executive Committee decides to refer the Claim to the Diocesan Court, the Bishop shall forthwith refer the Claim to the Diocesan Court by notifying the Clerk of such decision and returning the file to the Clerk, who shall so advise, in writing, the President, the Registrar and the Claimant.

defence and reply

- 3. (a) Upon receiving a referral under Rule 2(f) the Clerk shall cause a copy of the Claim to be personally served upon the Defendant or Defendants, provided that if for any reason it is impractical to effect prompt personal service on any Defendant, service may be effected in any manner which, in the opinion of the President, may reasonably bring notice of the Claim to the attention of such Defendant.
- (b) Within thirty days of service of the Claim upon a Defendant, such Defendant shall file with the Clerk a Defence, which shall contain his or her mailing address and a concise statement of the material facts on which he or she relies in defence of the allegation or allegations made in the Claim, and the Clerk shall forthwith cause a copy of the Defence to be sent to the Claimant by prepaid ordinary mail at the Claimant's address as shown on the Claim and it shall be deemed to have been received by the Claimant on the seventh day following the date of such mailing.
- (c) A Claimant who intends to prove a version of the facts different from that set out in the Defence shall, within fifteen days of service of the Defence, file with the Clerk a Reply setting out the different version, unless it has already been stated in the Claim.
- (d) A Claimant who intends to rely in response to a Defence on any matter that might, if not specifically stated, take the Defendant by surprise shall, within fifteen days of service of the Defence, file with the Clerk a Reply setting out that matter.
- (e) A Claimant shall not file a Reply except where required to do so by Sub-Rules (c) or (d) of Rule 3.
- (f) Upon receipt by the Clerk of a Reply, the Clerk shall forthwith cause a copy of the Reply to be sent to the Defendant by prepaid ordinary mail at the Defendant's address as shown on the Defence and it shall be deemed to have been received by the Defendant on the seventh day following the date of such mailing.