

PART 9

JUDICIARY

Chapter 1

GENERAL PRINCIPLES

A. Meaning and Purpose of Church Discipline

5000. Church discipline is the proper exercise of the authority which Christ has vested in His church for the prevention and correction of offenses and the removal of scandal (cf. Matt. 18:15-18; 1 Cor. 5:1-5). The purpose of church discipline is the vindication of the truth, the preservation of the integrity of the body, the restoration and salvation of the guilty and the warning of the careless.

B. The Administration of Church Discipline

5002. In order that the purposes of church discipline may be realized, discipline for The Wesleyan Church shall be administered in accord with the following principles:

(1) A prayerful and Christlike spirit shall be maintained at all times by all parties (1 Cor. 13:4-7; Eph. 4:15; 2 Tim. 4:2).

(2) The restoration and salvation of erring persons shall ever be kept in view. Every effort that love can suggest shall be made to bring back to the Lord one who, while under the Church's care, has wandered from Him (cf. 268). (See 1 Thess. 5:14; Jude 22-23).

(3) A sincere and reasonable effort shall be made to clear up an accusation or to deal with an offending person without the formality of a church trial, in keeping with scriptural admonitions (Matt. 18:15-18; Gal. 6:1-2; James 5:16, 19-20).

(4) Each accusation and all judicial proceedings shall receive prompt and careful attention by the proper authorities.

(5) The doctrines and standards of The Wesleyan Church shall be maintained without respect of persons. Any offending person shall be dealt with kindly, yet faithfully, according to the seriousness of the offense and as provided for in this Judiciary and in *The Discipline*.

(6) Legal technicalities shall not be permitted to obstruct the sincere search for truth, while at the same time the fundamental principles and procedures of justice shall be upheld. There shall be no attempt to confuse or entangle anyone in the process of an investigation or a trial (cf. 276).

C. Offenses

1. Individual

5004. Any covenant member, minister, special worker or district or general official of The Wesleyan Church shall be liable to disciplinary proceedings and trial for any of the following offenses:

(1) Holding or teaching any doctrine contrary to the doctrine of The Wesleyan Church as stated in *The Discipline*. (See 2 Thess. 3:6,14-15; 1 Tim. 6:3-5; 2 John 9-11.)

(2) Disobedience to the provisions of *The Discipline* or tolerating such disobedience.

(3) Insubordination or willful refusal to recognize Church authority. (See Rom. 16:17-18; Titus 3:10-11; 3 John 9-10.)

(4) Conduct unbecoming a covenant member or minister of The Wesleyan Church.

(5) Immorality or crime. (See 1 Cor. 5:1-13; 6:9-11.)

(6) Serious or persistent neglect of duty.

2. Local Church, District or Official Body

5006. Any local church, district, official body or other agency of The Wesleyan Church shall be liable to disciplinary proceedings and trial for any of the following offenses:

(1) Disseminating or tolerating the teaching of any doctrine contrary to the doctrines of The Wesleyan Church as stated in *The Discipline*. (See 2 Thess. 3:6,14-15; 1 Tim. 6:3-5; 2 John 9-11.)

(2) Disobedience to the provisions of *The Discipline* or tolerating such disobedience.

(3) Insubordination or willful refusal to recognize Church authority. (See Rom. 16:17-18; Titus 3:10-11; 3 John 9-10.)

D. Discipline Without a Trial

5008. Personal Grievance Resolution. If a person alleges a personal grievance, the person having the grievance shall be first required to follow the Lord's directions in Matthew 18:15-17 before filing accusations or charges against the offending party. The person having the grievance may seek counsel from the official having jurisdiction (pastor, district superintendent, general officer) relative to the steps to be taken. (See 1 Cor. 6:1-8.)

5010. Corporate Offense and Counsel. If the personal grievance is not resolved in keeping with 5008, or if the suspected offense really affects the body of believers, for example an error in doctrine, disobedience to the order and *Discipline* of the Church, the indulging in sinful tempers or words, the sowing of dissension or other similar matters, the official having jurisdiction or a designated representative shall privately inquire, and, if necessary, instruct and admonish an offending person. If there is an acknowledgment of the fault and correction is made, the case shall be dropped. If the offense continues, the official in charge shall take along two or three other discreet covenant members or ministers of The Wesleyan Church and give further instruction and reproof. If the offense continues, the offending person shall be brought to trial (see Matt. 18:15-18).

5012. Investigative Committee. At any point in these proceedings, the official having jurisdiction may ask the official body having jurisdiction to appoint an investigative committee. Such a committee shall consist of two or more covenant members or ministers of The Wesleyan Church in good standing who can be relied on for impartial judgment, who are not involved in the case, and who are not closely related to any party involved. A member of the committee of investigation may not thereafter be a member of the judicatory that will hear the case (cf. 5054). The committee shall make a careful and thorough inquiry into the matter, meeting with each appropriate person and meeting with any antagonists together if at all possible. One member of the committee shall serve as secretary and a written report shall be presented to the official having jurisdiction. If the committee finds no grounds for discipline, it shall so report and the official having jurisdiction shall relay this report to the official body having jurisdiction and the matter shall be dropped. If the committee does find grounds for discipline, it shall so report and the official and official body having jurisdiction shall decide on subsequent steps.

5014. Settlement by Agreement. At any point in these proceedings, in matters that would not involve deposition from credentialed standing or dismissal from covenant membership, if the official having jurisdiction discovers that an agreement can be reached with the parties involved that will settle the matter satisfactorily without a trial, the official may secure signatures to it from the involved parties and submit it for approval to the official body having jurisdiction and subsequently to the next higher Church authority. If all approve, it shall close the matter.

5016. Citation to Show Cause. If no agreement has yet been reached, and the official having jurisdiction believes the evidence is strong that an offense has occurred, in a final effort to avoid a trial, the official may cite the person suspected of the offense to appear before the official having jurisdiction to show cause why the suspected person should not go to trial. If the suspected person persists to resist counsel, the matter shall go to trial.

5018. Confession of Guilt. At any point in the proceedings outlined above, if the suspected person shall confess guilt, the official body having jurisdiction may pass on the offense and decide on the penalty to be imposed, without further trial unless such is requested by the accused. (Cf. 5058:5.)

E. Discipline Involving a Trial

1. Right to Trial and Appeal

5020. The right to a fair and impartial trial and the right to appeal shall not be denied to any covenant member, minister, local church, district or official body of The Wesleyan Church. No one shall be arbitrarily set aside without due consideration for both spiritual welfare and rights as a covenant member of The Wesleyan Church and shall always have the right to request a trial or to appeal, even when placed under discipline (302:4; 305:3; 313:7; 315:8; 323:10; 360:3f; 375:4, 6; 380).

2. Accusation

5022. Accusations must be in writing, dated, signed by the accuser(s) and handed to the official having jurisdiction over the accused before a trial can be ordered. Whenever, in the opinion of the accuser(s), proper action has not been taken, appeal may be made to the next higher Church authority.

3. Charges and Specifications

5024. A trial may not be ordered until a proper inquiry is made by an investigative committee (5012). When this committee has found evident need for discipline, it shall prepare appropriate charges and specifications.

(1) A *charge* sets forth an offense, a kind of act or conduct that makes a person liable to discipline.

(2) A *specification* states what the accused is alleged to have done, an instance of the offense indicated in the charge.

(3) It is not required that the charges be written in any particular legal form, but it is recommended that charges and specifications follow the form provided in *Robert's Rules of Order, Newly Revised*. Every charge must be in writing, dated, signed by the accuser or by those covenant members or ministers of The Wesleyan Church sustaining the charge, and must clearly define the alleged offense by its proper term as stated in 5004-5006, and each charge must be accompanied by at least one specification.

(4) A charge shall not allege more than one offense. However, more than one charge against the same person or unit, with the specifications for each charge, may be presented to the judicatory at the same time and heard at the same time, provided that the vote on each charge shall be taken separately. The specifications shall declare as far as possible, the time, place and circumstances of the alleged offense, and shall be accompanied with the names of the witnesses and the title of each record or document to be cited for its support.

4. Judicatory

5025. When the official body having jurisdiction orders a trial, it shall at the same time appoint the judicatory (trial committee) in keeping with the appropriate provisions of *The Discipline* (cf. 5110; 5209; 5279; 5310; 5365). Each judicatory is appointed as needed for a specific case. The judicatory shall conduct the trial in keeping with the provisions of this Judiciary.

5026. One member of the judicatory shall be designated as the chair, either by the official body having jurisdiction, or as otherwise provided in *The Discipline* (cf. 5110:2; 5209:2; 5279; 5310; 5365). The chair is a voting member of the judicatory. The duties and responsibilities of the chair shall include:

(1) To preside over all phases of the trial, making certain that all provisions of this Judiciary are observed.

(2) To appoint a secretary (5056).

(3) To exercise, if such is deemed wise, the option of appointing a defense counsel when the accused has not exercised the right to do so (5040:1).

(4) To give direction to preparation of notices and citations to appear, and to sign the same (5042).

(5) To notify the accused of their rights (5040).

(6) To instruct the judicatory concerning its duties as assigned in this Judiciary, both before the trial begins and again before the judicatory deliberates on the verdict (5058:15).

(7) To decide on the validity of any challenge for cause of the qualifications of a member of the judicatory (5040:3; 5054).

(8) To grant, if such is deemed wise, a postponement of the trial (5044).

(9) To state, at the beginning of the trial, the purpose of the trial, to read the official action ordering the trial, and to announce the members of the judicatory (5058:2).

(10) To decide on the admissibility of evidence (5027).

(11) To announce the verdict and any recommendations being made to the official body having jurisdiction (5058:17).

(12) To attest the records of the trial (5056).

(13) To have custody of the records throughout the trial until the case is finished, and then to deliver such records to the appropriate officer (5056).

5. Evidence

5027. Rules of Evidence. An investigative committee, judicatory or other official body shall not be bound by any technical rules of evidence but shall adopt such rules as shall, in its opinion, be best adapted to ascertain the truth and determine accurately the substantial rights of the parties involved (cf. 5002:6). The presiding officer of the judicatory shall decide on the admissibility of evidence.

5028. Testimony. No one may be barred as a witness on the grounds of not being a covenant member of The Wesleyan Church (but their time in the room where the trial is held may be limited (cf. 5046). Whenever circumstances make it impossible for a witness to appear, a proper certificate of affidavit from such a person may be presented, provided that the party against whom it is sought to be introduced has had a proper opportunity to see the certificate or affidavit and personally or through counsel to question before witnesses the person signing the affidavit regarding the contents thereof.

5030. Proof of Charges. The accused shall be presumed innocent until the contrary is proved. However, the moral conviction of the truth of the charge is all that is necessary to find the accused guilty of the charges.* In all cases the accused may be questioned relative to the charges made.

6. Manager

5032. The official body ordering a trial shall, at the same time, appoint a covenant member or minister of The Wesleyan Church in good standing (not under charges) as *manager* of the trial. The manager's duty is not to act as "a prosecutor," in the sense of making every effort to bring conviction, but rather to prepare in final form the bill of charges and specifications, present them at the proper time and place to the judicatory and represent the Church during the hearing. The manager's responsibility is to help the judicatory get at the truth and to secure a just outcome.

7. Rights of the Judicatory

5036. Right of Investigation. The Church has a right to investigate the character of its covenant members and ministers in order to maintain the purity of its doctrines and practices, and can, therefore, through its own officers, official bodies and judicatories, require covenant members or ministers under investigation to testify, under penalty of dismissal, if they refuse.

5038. Duty of Cooperation. It shall be the duty of every covenant member, minister and church body to cooperate and to witness when properly requested to do so for an official investigation or trial (cf. 5050).

8. Rights of the Accused

5040. Any covenant member or minister who is accused shall have the following rights:

*"In acting upon the case, it must be borne in mind that there is a vast distinction between the evidence necessary to convict in a civil court and that required to convict in an ordinary society or ecclesiastical body. A notorious pickpocket could not even be arrested, much less convicted by a civil court, simply on the ground of being commonly known as a pickpocket; while such evidence would convict and expel him from any ordinary society.

"The moral conviction of the truth of the charge is all that is necessary in an ecclesiastical or other deliberative body to find the accused guilty of the charges." —*Robert's Rules of Order*. Revised, Seventy-Fifth Anniversary Edition.

(1) **Counsel.** The accused shall have the right to choose a defense counsel, or to present a personal defense; but where this right is not exercised, a defense counsel may be appointed by the chair of the judicatory. The defense counsel shall be a covenant member or minister of The Wesleyan Church in good standing (not under charges).

(2) **Examination.** The accused, or the defense counsel, shall have the right to meet any accuser(s) face-to-face and to cross-examine any witnesses presented by the manager (cf. 5028).

(3) **Objection.** The accused shall have the right to challenge for cause the qualifications of any member of the judicatory, the validity of which shall be determined by the chair of the judicatory (cf. 5054).

(4) **Limitation.** A minister or covenant member shall not be required to answer charges for any act which occurred more than five years before the filing of such charges, except in cases involving immorality or crime.

9. Notices and Postponements

5042. All notices and citations to appear shall be given as directed by the chair of the judicatory and shall be in writing, in the name of the church, and signed by the chair. An official notice of the date, time and place of the trial together with an official copy of the bill of charges and specifications, and a citation to appear shall be delivered to the accused; this shall be done at least thirty days before the trial unless both the manager and the defense agree to a shorter period. No subsequent changes in such charges and specifications shall be permitted. Notices to appear shall be given to such witnesses as either party may name, and shall be served at least ten days before the trial. Covenant members or ministers of The Wesleyan Church shall be cited to appear, but others may only be requested to appear (cf. 5038). An official notice of the names of the persons appointed to the judicatory shall be delivered to the accused at least ten days before the trial.

5044. The manager or the defense shall have the right to petition the chair of the judicatory for a postponement of the trial date, and the chair may grant such a petition if deemed essential for proper preparation or other necessary reasons, provided that the other party shall be notified before the postponement is granted. A postponement shall not be granted for more than thirty days.

10. Participants

5046. Only those who are covenant members or ministers of The Wesleyan Church shall be allowed to participate in a trial, except as witnesses,

and only those participating in the trial shall be permitted to attend the hearing of the trial. Nonmembers who consent to testify may be brought in as witnesses at the trial, but any witness, even a covenant member, should not be allowed in the room except while testifying. Witnesses shall be examined first by the party producing them, then cross-examined by the opposite party, after which any member of the judicatory or either party may put additional questions. All deliberations of a judicatory shall be considered confidential during and after the trial, and members of a judicatory shall not discuss the case with anyone outside the judicatory during the hearing of the case.

11. Request for Withdrawal

5048. Whenever in the course of an investigation or trial, the accused person shall request a letter of withdrawal from the Church, the same shall be granted and the case shall end. It shall be noted on the membership records of the local church, and, when the accused is a minister, on the membership record of the district, as “withdrawn under accusation” whenever such request is during the investigation, and “withdrawn under charges” when such request is during the trial (cf. 592).

12. Failure or Refusal to Appear

5050. Whenever an accused covenant member or minister refuses to obey a properly issued citation to appear for trial, or fails to appear except for unavoidable circumstances, the accused shall be considered guilty as charged and the judicatory may proceed to set the penalty. A covenant member or minister of The Wesleyan Church who refuses a properly issued citation to appear as a witness shall likewise be deemed guilty of contempt and may be liable to charges (cf. 5038).

13. Status of the Accused

5052. After the official notice of the date, time and place of the trial, together with a copy of the bill of charges and specifications, is delivered to the accused and until after judgment is rendered by the judicatory, the accused may be temporarily suspended from the exercise of any office by the official body having jurisdiction, at its discretion.

14. Grounds for Challenge

5054. A person is disqualified to serve as a member of any judicatory who is personally interested in the case, closely related to either the accused or the accuser, has been active for or against either party in the matter referred to in the charges, is at personal variance with either party, or who has prejudged the case (cf. 5012; 5040:3). Any member of a judicatory may, on such grounds, be challenged by either party, provided that such challenge shall be made not later than the opening of any trial hearing, and the allowance of such challenge shall be decided by the chair of the judicatory.

15. Records

5056. The chair of the judicatory shall appoint a secretary, who need not be a member of the judicatory (but must be a covenant member of The Wesleyan Church), and shall see that complete and accurate records are kept by the secretary of all proceedings, testimonies, evidence, documents admitted, together with copies of the charges, specifications, notices, citations and findings of the judicatory. The records shall be attested to by both the chair and the secretary. The chair shall be the custodian of such records until the case is finished and shall then deliver such records to the officer designated by the official body having jurisdiction for permanent filing. Whenever the decision of the judicatory is appealed, the person having custody of the official records shall forward such records promptly to the chair of the appellate body, or a transcript of the same, when requested to do so by the chair of the appellate body.

16. Order of a Church Trial

5058. The following order should be observed in conducting a church trial:

- (1) Devotions.
- (2) Statement of purpose, the reading of the official action ordering the trial, and the announcement of the members of the judicatory, by the chair of the judicatory.
- (3) Challenges by either party of the members of the judicatory (5054), if any.
- (4) Reading of the charges and specifications by the secretary.
- (5) Answer by the accused or the counsel for the accused with a plea of

“guilty” or “not guilty.” If guilt is confessed, the judicatory may thereupon consider the penalty to be imposed, if any, and terminate the hearing, or it may request to hear the evidence in order to make a more proper determination of the case and the penalties to be imposed.

(6) Statement of the case and line of evidence by the manager.

(7) Evidence submitted by the manager and cross-examination by the defense.

(8) Statement of the case and line of defense by the defense.

(9) Evidence for the defense and cross-examination by the manager.

(10) Rebuttal by the manager.

(11) Rebuttal by the defense.

(12) Summary of the case by the manager.

(13) Summary of the case by the defense.

(14) Should it be deemed proper to allow the manager to reply, the defense shall also be permitted to reply.

(15) Instructions by the chair to the judicatory concerning the duties assigned to it as set forth in this Judiciary and especially to render a verdict in not more than three days, and to vote separately on each charge and by secret ballot, with a two-thirds vote of all the members required to render a verdict of guilty. Members of the judicatory who have been absent from more than one sitting shall not be permitted to vote on the verdict.

(16) The verdict.

(17) Announcement by the chair of the verdict, and the recommendation, if any, being made to the official body having jurisdiction over the accused.

17. Motion to Reopen the Case

5060. If within thirty days after a conviction under the foregoing provisions, the accused shall make application in writing to the chair of the official body having jurisdiction for a reopening of the case on the ground of newly discovered evidence, and shall submit a written statement of the same, and if it shall appear to the official body having jurisdiction that such evidence is material to the issue involved, the case shall be reopened. In no case, however, shall a reopening of the case be granted when the failure to submit such evidence at the original hearing was the result of neglect or carelessness on the part of the accused. If the official body having jurisdiction refuses to reopen the case and it appears that the failure to submit such evidence was not the result of neglect or carelessness on the part of the accused, such additional evidence may become a part of the record of the appeal. The judicatory shall be considered to continue for a period of

thirty days in order to reopen the case if such is authorized, and until the matter shall be decided upon, or a new judicatory may be constituted.

18. Appeals

5062. Right of Appeal. The accused, if found guilty, shall have the right to appeal the verdict and/or the penalty unless such right has been forfeited for misconduct. Misconduct shall consist of withdrawing from the Church, publicly discrediting, slandering or libeling the members of the judicatory, refusing to abide by the decision of the judicatory, or by refusing to appear in person or by counsel if cited to appear by the appellate body, or by resorting to a suit in a civil court concerning the matter involved in the charges. Misconduct shall be decided upon by the appellate body. If, on the other hand, the accused was found innocent, the official body which ordered the trial has the right to appeal the verdict.

5064. Procedure of Appeal. The appellant or the counsel of appellant, within thirty days after being notified of the verdict and/or penalty, may submit a request in writing and shall set forth the grounds of the appeal. The chair of the appellate body shall ask for a transfer of all the official records of the case, or a transcript of the same, which shall be forwarded promptly by the person having custody of such records. The appellant shall be responsible to pay the cost of the appeal, including the cost of preparing a transcript of the records. Upon modification or reversal of the verdict and/or penalty, such cost of the appeal shall be paid by the person or body losing the appeal.

5066. Status of the Accused During Appeal. While the appeal is pending, the penalty shall be deferred. Whenever the accused is a church or a district, it may continue to function but shall have the status of being under discipline and shall not be entitled to any representatives in a conference body and, in the case of a district, shall not have authority to buy, sell or transfer any real property, except with the approval of the General Superintendent over the area.

5068. Judgment of the Appellate Body. The appellate body shall promptly consider the case and the grounds for appeal and shall render judgment within thirty days, with the exception of the General Board of Review. The appellate body, by a majority vote, may affirm, modify or reverse the findings of the lower judicatory in whole or in part, or may remand the case for a new trial, provided that if the accused has been previously found innocent, it shall require a two-thirds majority vote of the appellate body to find the accused guilty (does not apply to the General Board of Review, cf. 5425:3). In all cases the right to present evidence shall be

exhausted when the case has been heard once on its merits in the proper judicatory, with the exception as provided for in 5060. The appellate body shall also have the right to cite the accused or the counsel of the accused to appear. Whenever a case is remanded for a new trial, a new judicatory shall be constituted if necessary, to provide for a fair and proper hearing of the case. When any appellate body shall modify or reverse, in whole or in part, the findings of a judicatory, or change the penalty imposed by the official body having jurisdiction, it shall return to the official body having jurisdiction, or to the judicatory, a statement of the grounds of its action.