

Bishops have no greater authority than what is conveyed by the Canon. In other words, the action of the Upper House is, (the Upper House being identical in membership with the House of Bishop,) an admission on its part of a want of power to act independently in the sub-division of Dioceses.

You will notice that, by the Canon, the House of Bishops, in reality is only the executive officer for carrying into effect the wishes of the two existing contiguous Dioceses, and that it cannot act without the concurrence, or at the request, of the Synods of such Dioceses. I do not read the concluding paragraph as indicating any authority in the Bishops to interfere with the Dioceses, and divide or sub-divide them of their own mere will. It appears to me that the intention of that last clause is to authorize them to initiate steps for a sub-division, that is, they may express their opinion to the Synods of the Dioceses concerned as to the advisability of sub-division, but it must be clear that under the terms of the Canon, the ultimate decision lies with the Dioceses, and not with the Bishops. The words, "with the concurrence, or upon the application of the Synod or Synods of the Dioceses affected," are, it seems to me, conclusive, and in fact, as I have said, indicate a merely limited power in the House of Bishops.

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2. J. A. WORRELL, Esq., B.C.L., Q.C.

It appears to me that there can be no doubt that, where there is no State control, the Provincial Synod must be the proper Body to sub-divide Dioceses, or form new ones out of existing Dioceses, and the references which you make show that that view has been adopted both by our Diocesan and Provincial Synods.

Canon IX. of the Provincial Synod appears very distinctly to confer this power on the House of Bishops, which, as you notice, is not [necessarily] the Upper House of the Synod.

Whether the Provincial Synod has any right to delegate such a power is, I think, very questionable; but, assuming the Canon to be valid, I do not see how you can prevent the House of Bishops saying that they will not exercise the power conferred on them unless they are satisfied that the new Diocese, which they are to create, is in possession of a sufficient endowment to, in their opinion, supply the income for a Bishop. I do not see that the mere fact that they make their rule public can affect the question. All they have to reply to any movement for the purpose of the division of the Diocese is that they have the power of sub-division, and that they do not see fit, under the existing circumstances, to exercise it. If, however, they once allowed the sub-division to be made, and a new Diocese to be created, it does not appear to me that they can impose any condition as to the election, or consecration. The Canon (XV.), on consecration, only requires that there should be a certificate, showing what are the securities of the Episcopal endowment, and it does not mention any required amount. I cannot see that the House of Bishops has any right to supply the blanks [of the forms of certificates] which the Synod itself did not supply in passing Canon XV.

Toronto, 8th of April, 1896.

J. A. WORRELL.

Note.—Canon XV. was originally passed in 1877. The forms of Certificate were added in 1889 and confirmed in 1892.

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I am asked to advise whether the "Rule" referred to at pages 47 and 81 of the Provincial Synod Journal, (1895), requiring "that a capital sum of not less than \$40,000 shall be raised before a new Diocese can be created," is one which the House of Bishops have a right to adopt, or whether the Toronto Synod Committee on the Increase of the Episcopate, may disregard it, as passed without authority, and as, in fact, a nullity.

I am told that lawyers, whose opinions I am bound to respect, have advised that the House of Bishops has no authority to make such a Rule, since:—

(1) That House can only legislate, (like the Senate of Canada), as one of two Houses forming that Provincial Synod.