

Standing Commission on Constitution and Canons
Meetings of April 30-May 2, 2007

Old Town Best Western Hacienda
San Diego, California

Draft Minutes

Commission Members Present: Matthew Livingood, Esq., Chair; The Rev. Carol Barron; Joan Geiszler-Ludlum, Esq.; the Rt. Rev. Dorsey F. Henderson, Jr.; Lawrence R. Hitt, II; Esq., Thomas A. Little, Esq.; the Rev. Luis Fernando Ruiz Restrepo; Diane E. Sammons, Esq.; the Rev. Ward H. Simpson

Commission Members Absent: Kevin J. Babb, Esq. (Excused); the Rt. Rev. Robert L. Fitzpatrick (Excused); the Rt. Rev. Samuel Johnson Howard

Guests: Mark J. Duffy, Director of the Episcopal Church Archives (representing the Presiding Bishop); Pauline Getz, Esq. (representing the President of the House of Deputies); the Rt. Rev. Stacy F. Sauls, Executive Council Liaison; the Rev. Gregory S. Straub, Secretary of the General Convention

April 30

The Commission members met socially and, following introductions and a prayer led by the Rt. Rev. Dorsey F. Henderson, Jr., enjoyed dinner and then adjourned for the evening.

May 1

Chair Livingood called the meeting to order at 9:00 a.m. He noted that Bishop Waynick has resigned from the Commission, and that the Presiding Bishop has appointed the Rt. Rev. Robert L. Fitzpatrick, Bishop of the Diocese of Hawaii, to serve in her place.

The Rev. Ward H. Simpson lead the members in prayer.

1. Review and approval of Agenda. The Commission proceeded to review its agenda, as submitted by the Chair. A copy of the agenda is attached to these Minutes as Exhibit 1. Tom Little read the text of an April 30 Email message from Sally Johnson, Chancellor to the President of the Hose of Deputies. There was consensus that the Commission would take up the questions raised by Sally later in the meeting. Tom asked that an issue relating to the Court for the Trial of a bishop be added to the agenda. With these additions, the Commission approved the proposed agenda.

2. Functions of the General Convention Office. The Rev. Gregory Straub gave a presentation on the functions of the General Convention Office and the services it provides for the benefit of the interim commissions, committees, agencies and boards. He handed out a descriptive memorandum detailing the "interfaces" between the Office of General Convention and the Standing Commissions, a copy of which is attached to these Minutes as Exhibit 2. Gregory also distributed a 2006 document from Robert C. Royce, styled a "Protocol," addressing the Standing Committee process for consenting to the ordination and consecration of a Bishop. This is attached to these Minutes as Exhibit 3.

3(a): White & Dykman. Tom Little reported on his recent communications with the Robert C. Royce, the editor of the Annotated Constitution and Canons (popularly known as "White & Dykman"). Mr. Royce is awaiting the publication of the Journal of the 2006 General Convention in order to update the White & Dykman supplement of the Constitution, and Titles I, II and V of the Canons. Tom, on behalf of the Commission's White & Dykman subgroup (Tom Little, Joan Geiszler-Ludlum, Kevin Babb and Diane Sammons), will stay in touch with Robert and offer assistance in the editing effort, with the hope that the supplement will be ready for release to publication later this year.

The Commission discussed the process for making progress on the updating of the Titles III and IV portions of White & Dykman, consistent with its new mandate under Canon I.1.2(n)3(iv). There was consensus, as at the Chicago meeting in November 2006, that while this is a formidable task in light of the wholesale revisions of both Titles in 2003 and 1994, respectively, the members believe it is a vital and critical task that must be undertaken and completed, and kept current. It was suggested that perhaps partial updates of Titles III and IV could be undertaken, from the last supplement (1991). Tom will pass this suggestion on to Bob Royce, and learn whether he has previously initiated work on this. Tom will also solicit Bob's thoughts on how to tackle the larger Titles III and IV updates.

3(b): General Convention Resolution A034 – Study of Usage of "Canonical Residence" in the Canons. Ward Simpson reported that he conducted a word search of the Canons and found fourteen instances of "canonical residence" and seventy-eight instances of "canonically resident." Neither term occurs in the Constitution. The terms are pervasive in the Canons, and any effort to make substantive changes in the meaning and function of the terms would likely be a large undertaking. Ward noted that as clergy (and the rest of us) have become more mobile, there may be more pressure on the concept of canonical residency than in generations ago.

The Commission then focused on what the problem is, or may be, or whether there is a problem that needs to be solved canonically. The "problem" is not articulated in the referral resolution from General Convention. It was noted that the terms are not defined in the Canons, except contextually, by how they are used and how they function. In the past triennium of the Commissions work, Tom Little explained, there was discussion about difficulties arising when a priest is alleged to have committed a Title IV offense in a Diocese other than the one in which he or she is canonically resident, if the Bishop of the Diocese of canonical residency is not responding to the concerns about the alleged

offense in a timely manner. This prompted the Commission's suggestion, in 2005, that canonical residency be studied.

Polly Getz noted that canonical residency is implicated in the Diocesan convention clergy voting canons in many if not all Dioceses. Accordingly, any change to the definition or use of the terms should keep this context in mind.

The Commission asked whether the new Title IV Task Force should be advised about this study topic and asked to include it in its deliberations. Gregory Straub suggested that the Commission reach out to those groups in the Church who are stakeholders, in a serious discussion about canonical residency. It was asked whether the Title III revision group looked at this issue in the period leading up to the major revisions of Title III in 2003 and 2006.

It was agreed that Ward Simpson would contact stakeholders in the discussion for comment and input. These will include the Standing Commission on Ministry Development, the Title IV Task Force #2, the Chancellor to the Presiding Bishop, the Church Pension Group, the National Episcopal Clergy Association, the Office of Pastoral Affairs of the Presiding Bishop, and others which can be identified. Ward will report back to the Commission at its next meeting.

3(c): General Convention Resolution A078. Carol Barron reported that following the Chicago meeting, she contacted a member of the Standing Commission on Liturgy and Music about this Resolution, which was jointly referred to SCLM and this Commission. She received no word back, but has learned that SCLM has referred the Resolution to the Theology Committee of the House of Bishops. Carol will keep the Commission advised of any further developments of which she becomes aware.

3(d): General Convention Resolution A104. Matt Livingood advised that upon reviewing this Resolution and the changes it made in the Canons, no "clean-up" work is necessary. He did note the use of the term "policy proposals" in I.1.2(a), first sentence. Gregory Straub explained that this was likely inserted to distinguish the Standing Commissions' purview from that of the programmatic responsibilities of the Church's paid staff at the Episcopal Church Center in New York City.

3(e): General Convention Resolution A007. As Kevin Babb was not present, the Commission deferred discussion of this agenda item until his arrival.

3(f): General Convention Resolution A169. Matt explained that he and Gregory Straub have discussed this Resolution, and Gregory has agreed to refer it to another commission, committee, agency or board.

4: General Convention Resolution A153 (Creating the new Title IV Task Force). The Chair reported that the new Task Force has been appointed, its membership consisting of: Duncan Bayne, Esq.; the Rev. Barbara Beck; Ellen Bruchner; Joseph Delafield, Esq.; the Rev. Luis Gonzales; the Rt. Rev. Dorsey F. Henderson, Jr.; Stephen Hutchinson, Esq.

(Chair); Fred Isaac, Esq.; the Rt. Rev. Wallace Ohl; the Rev. Stanley Runnels; Diane Sammons, Esq. Bishop Waynick resigned recently, and the President of the House of Deputies has asked the Commission for a recommendation for this slot. After a discussion, Larry Hitt volunteered to serve. There was a consensus that Larry should be recommended to the President, unless the President of the House of Deputies advises that another Bishop is desired to replace Bishop Waynick. The Chair will communicate this to the President of the House of Deputies and report back to the Commission.

5(a): General Convention Resolution A112 (Study of the Commission's Canonical Mandate). After a discussion of the question posed in this Resolution, the Commission resolved to ask Ward and Tom to draft a proposal that would consider adding the Rules of Order of the Houses of Deputies and Bishops, and the Joint Rules of Order, to the Commission's canonical mandate. Ward and Tom will look at I.1.2(n)(3)(i) and (ii) as the place for the possible addition.

The Commission then engaged in a discussion about the Title IV implementation and usage challenges facing Dioceses in The Episcopal Church outside of the United States, where those Dioceses do not share the historical legal structures and cultural norms upon which Title IV is based. Father Restrepo confirmed that in his Diocese of Colombia, this is a significant problem. He noted that his Bishop clearly has a duty to follow the Canons of Title IV, but also must be mindful of the legal structures and of the culture and values of his country, which are not always aligned with Title IV. His Diocese has few resources with which to implement and manage disciplinary proceedings under Title IV.

Bishop Henderson observed that in some non-U.S. Dioceses of Province IX of the Church, historically Bishops have more Episcopal authority over priests than is the case in the United States. Matt added that these concerns were part of what prompted the first Title IV Task Force to move away from the current Title IV model in proposing a major revision of the Title.

The discussion turned to whether, and how, the Canons might include a form of waiver process, for non-U.S. Dioceses to use in lieu of portions of Title IV. Diane Sammons suggested the possibility of using a waiver process where variation from Title IV was warranted by local conditions, culture, history and legal traditions. Polly Getz asked whether this could be referred to the new Title IV Task Force. Larry Hitt mentioned that the same issues might arise, to some extent, in the American Convocation of Churches in Europe. Tom Little expressed concern about the precedent of local conditions being used as a reason to vary from other parts of the Canons. He pointed out that the question, who would be granting the waiver, would be a challenge.

Ward Simpson offered to try to draft a possible waiver process for the Commission's review and comment at its next meeting. The Commission members on the new Title IV Task Force (Diane and Dorsey) agreed to bring the issue up at a future meeting of the Task Force. Matt offered to draft a letter to the Standing Commission on the Structure of the Church, to communicate these concerns to it and ask for its comment and advice.

5(b): General Convention Resolution A159 (Commitment to the Interdependence of the Anglican Communion). Larry Hitt presented his April 30 Memorandum on this Resolution (copy attached to these Minutes as Exhibit 4), focusing on the fourth "Resolved" clause. He explained his "modest" proposal for inviting guests to Standing Commission meetings from other Provinces of the Anglican Communion to sit in on meetings with voice but no vote. He walked through his Memorandum and took questions from Commission members.

Bishop Henderson asked about funding for the implementation of such a plan, urging that our Church identify and provide the funding, and not expect the participants from other Provinces to fund themselves. He and Rev. Barron observed that the proposal would help members of other Provinces learn about the polity and the governance traditions of The Episcopal Church.

Matt Livingood asked about how canonical changes are adopted elsewhere in the Anglican Communion. Larry advised that there is a great deal of diversity in this regard, but that our Church is in the minority in terms of its requirement that clergy and lay persons participate in adopting canonical changes.

The Commission concluded that Matt's letter to the Standing Commission on the Structure of the Church will also cover the concepts articulated in Larry's Memorandum.

6. Following a break for lunch, the Commission took up new matters.

6(a): Standing Committee Consents to the Ordination of a Bishop. Rev. Simpson directed the Commission's attention to Constitution Article II, Section 2; and to Canon III.11.4(b), and proceeded to inquire whether the Canons should be revised to address any weaknesses in the treatment of Standing Committee consents to the ordination of a Bishop.

6(b): Form and Process of A Standing Committee's Consent to the Ordination of a Bishop. This discussion was initiated by Ward Simpson who related a difficulty his Diocese (Eau Claire) encountered in filing its consent in the recent South Carolina election. Ward asked whether there should be clarifications in III.12.4(b) to make it clear that a Standing Committee may meet by telephone conference call, and may obtain the necessary signatures on the consent testimonial by the use of counterpart signatures. There was a general consensus that these means should be acceptable, but less consensus on whether the Canons should be revised. Ward Simpson agreed to prepare a draft for the Commission's review and possible action.

The discussion delved into the possible use of electronic signatures, and holding Standing Committee "meetings" by Email. Ward suggested the possibility of a Canonical change to permit a single signature to be sufficient, in the form of the Chair of a Standing Committee certifying that the required meeting had taken place upon due notice, and that the affirmatives vote of a majority of all members of the Standing Committee were cast. There was no consensus in favor of this.

The Commission discussed the differences in language between Canon III.11.4(b) and Article II.2 of the Constitution. The former requires a testimonial to the effect that the Standing Committee finds no impediment to ordination, whereas the Constitution speaks in terms of consent to ordination and consecration. The Commission agreed that these differences should be studied to determine whether the differences are material and merit revision to become identical.

The Commission next turned to a discussion of the "translation" of a Bishop from one Diocese to another Diocese, and an examination of Article II.8 of the Constitution. Ward Simpson noted that there appears to be no corollary in the Canons. The Constitutional provision addresses the eligibility of a Bishop Diocesan of Diocese "A" to be elected as a Bishop of Diocese "B" within five years of being elected as Bishop of Diocese A. The Commission noted that the provision applies to Bishops Diocesan and Coadjutor, but not to Bishops Suffragan. Does this mean that Bishops Suffragan are not eligible for translation, or that the translation restriction simply does not apply to them? The Commission believes it is the latter.

The Commission did not reach a consensus on whether the Canons should be revised to deal explicitly with the translation scenario. Ward Simpson agreed to draft a proposal that would establish a Canonical basis for translation, to complement the Constitutional provision. He also agreed to prepare a draft of a revision to III.11.4(b) to specify that telephone conference call meetings by a Standing Committee, and the use of counterpart signatures on a Standing Committee's consent, are acceptable.

6(c): Assistant Registrar at the Ordination of a Bishop. At the request of Gregory Straub, the Commission examined Canon I.1.5(b). Following discussion, the Commission reached the conclusion that it would be helpful to specify that any deputy Registrar must be a Presbyter, as is required for the Registrar. Joan Geiszler-Ludlum agreed to prepare a draft of such a proposal for the Commission's review and action.

6(d): Questions Referred by the Chancellor to the President of the House of Deputies. Earlier in the day, the Commission received an Email communication from Sally Johnson, Chancellor to Bonnie Anderson, the President of the House of Deputies. The communication asked the Commission to review six issues; a copy of the communication is attached to these Minutes as Exhibit 5, and reference is made to this copy as needed.

(i) Presiding Bishop's "Council of Advice." The Commission reviewed the variations on the use of "council of advice" in the Canons and Rules of Order. The Commission found:

- Presiding Bishop's Council of Advice (Canon I.15.9), in the context of the Presiding Bishop's jurisdiction over Congregations in Foreign Lands.
- Advisory Council (Canon III.12.7(a), in the context of the Presiding Bishop's role in the process of renunciation.

- Advisory Committee (House of Bishops Rule of Order XXVII).
- Council of Advice (Canon III.5.1(b)), in the context of the Presiding Bishop's role as Bishop of the Convocation of Episcopal Churches in Europe.
- Canon I.1.1(b).

The Commission members agreed that it would be useful to review the variety of uses of the term, 'council of advice,' and to explore whether the Canons should use the term more uniformly.

Tom Little agreed to look into this issue and report back at the next meeting of the Commission; Gregory Straub offered to assist in this effort.

(ii) Missionary Bishops. Sally Johnson's second question asks whether the House of Bishops Rules of Order, relating to the election of Missionary Bishops, should more properly be handled in the Canons, as a matter of interest of both Houses. The Commission directed its attention to Article II, §1 of the Constitution, to Canon III.11.10(c), and Canon I.11.4(e).

Carol Barron agreed to take on the further study of this question, to consult with Sally Johnson, and then to report back to the Commission.

The Commission recessed its deliberations for the day. The members socialized in the evening, engaging in good fellowship and preparing for the second day of work.

May 2, 2007

Chair Livingood called the Commission meeting to order at 9:00 a.m. The Commission first discussed the timing of its next meeting and, mindful of the General Convention's admonition to develop ways of meeting at a lower cost to the Church, agreed to meet via telephone conference call on June 21, 2007, at 8:00 p.m. Eastern time. The Commission also agreed to schedule a meeting on November 15 and 16 of the year, in Phoenix, Arizona.

The Commission then turned to the remaining four items from the communication from the Chancellor to the President of the House of Deputies.

(iii) Ordination and Consecration of Bishops. The communication asks whether certain details of the process of ordaining and consecrating Bishops, contained in House of Bishops Standing Order I, should more properly be covered in the Canons. The Commission acknowledge that while it had not had an opportunity to study this communication carefully, in regards to this issue, its initial reaction was that 'it's not broken, so it doesn't need to be fixed.' The members moved on to a fully engaged

discussion of the purpose(s) of rules of order; the authority to adopt them; the scope of authority of rules of order; and related matters.

This led to asking what matters are appropriate for inclusion in rules of order of a House, versus including them in the Canons. Also raised was a question about the differences, if any, between the House of Bishops' Rules of Order, its Standing Orders, and its Standing Resolutions. Bishop Henderson noted that the Catechism assigns exclusively to Bishops the responsibility of guarding the faith and unity of the Church.

Following further discussion and discernment, the Commission agreed that on behalf of the Commission, Polly Getz should consult about this matter with Bishop Buchanan, the Parliamentarian of the House of Bishops; and, that Tom Little should do likewise with Bob Royce, the editor of White & Dykman. Church Archivist Mark Duffy agreed to research the history of the origins and function of the Rules of Order of the House of Bishops.

(iv) Place of Seating of Former Presiding Bishops as Services of General Convention. This item from Sally Johnson's communication asks whether a rule relating to protocol or procedure at a service of the General Convention (and where the members of both Houses are present) belongs in the rules of order of only one house, the House of Bishops in this case (Standing Order IX). The Commission determined that it is inclined to defer any action on this until further study has been undertaken, and that perhaps the Standing Commission on the Structure of the Church should be consulted about it.

(v) Resignations of Bishops. This item directs the Commission's attention to Standing Order X of the House of Bishops, an interpretation and implementation of Article I.2 of the Constitution, and asks whether the Standing Order may exceed the proper scope of the authority of the House of Bishops acting alone, i.e., should this be in the Canons, or in the Joint Rules of Order? This engendered a discussion about when it may be appropriate for the House of Bishops to interpret the Constitution, as possibly in the case of determining the proper voting credentials of Bishops. In other words, is Sally Johnson's statement regarding who may interpret the Constitution or Canons too broad, or does it need to be more nuanced? Ward Simpson suggested that the subject matter of Standing Order X seems okay where it is, although it could also properly go into the Canons.

Matt agreed to prepare a letter to Sally Johnson, and David Booth Beers (Chancellor to the Presiding Bishop), asking for advice and comment on the rules of order vs. Canons questions raised in Sally's communication.

(vi) Membership of Executive Council. In this item, Sally Johnson asks the Commission to comment on (i) how the Executive Council members should be elected, and (ii) whether there should be any requirements or restrictions on who is eligible to serve on Executive Council. During discussion of this, there seemed to be a consensus that this would better be referred to the Standing Commission on the Structure of the Church. However, the members agreed to continue to think about the Constitutional and Canonical implications of this communication.

The Commission's discussion included the role and authority of Executive Council when General Convention is not in session; the role and authority of the President of the House of Deputies when General Convention is not in session; and whether the House of Deputies has any authority as a body when General Convention is not in session.

The Commission reiterated an earlier-expressed concern that it stick to its Canonical charge, and not get into the business of offering opinions or interpretations of the meaning of sections of the Constitution or Canons.

Matt agreed to include this item in his letter responding to Sally Johnson's communication.

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Following a break, Tom Little walked the Commission through the anomalous situation the Church is facing with an "unpopulated" Court for the Trial of a Bishop following the 2006 General Convention. Action taken at that General Convention, and at the 2003 General Convention, have resulted in amendments to the Constitution and Canons to create two courts, one for a presentment on an offense of doctrine (Bishops only on the court), and one for all other offenses (Bishops, clergy and lay persons on the court). There is no resolution of the situation at present; resolution appears to require action at the 2009 General Convention, to elect members to the court for non-doctrinal offenses.

The Chair asked each member to read the Robert Royce's "Protocol on the Consent to the Ordination and Consecration of Bishops" (5/11/06), and be prepared to discuss it when the Commission meets next. He reminded members to be diligent about completing their "homework" assignments and to circulate reports prior to the next meeting.

Tom Little encouraged the members to stay in touch with each other on these matters between Commission meetings, and to review and comment on the Minutes when distributed.

At the conclusion of the meeting, the Commission telephoned its new member, Bishop Robert Fitzpatrick, of the Diocese of Hawaii, and by speaker phone introduced themselves and welcomed him to the Commission.

Following a reminder that the Commission will meet via telephone conference call on June 21, 2007, at 8:00 p.m. Eastern time, and thanks to all who participated in and helped to plan the meeting, the meeting was adjourned at 1:15 p.m.

Exhibit 1

Agenda

Exhibit 2

Office of General Convention Interfaces with Standing Commissions

Standing Commission on Constitution & Canons

The General Convention Office

The Executive Officer of the General Convention is charged in the canons with coordinating the work of interim bodies (Canon I.1.13.). What that means in real life is open to interpretation. At the very least, I hope to visit each interim body at least once each triennium, so if you have a concern, you can put a face to a name.

The General Convention Office (GCO) of which I am in charge has several different interfaces with Standing Commissions.

1. The first of your contacts with the GCO was First Meeting in Chicago last November. At First Meeting we provided orientation to the work of interim bodies and delivered to you resolutions passed by General Convention or resolutions that were not voted on by General Convention and referred to you by me.
2. Next, the chair of your Standing Commission works with the Meetings Department of the GCO to find appropriate places for you to meet. When you have meetings questions, please address them to Patrick Haizel.
3. Your secretary sends the minutes of your meetings to Cheryl Dawkins, who notes their receipt, collates them and sends them on for posting on the GCO website. Be assured your minutes are being read by a GCO staffer to see if your work is similar to work being undertaken by another interim body, so that both bodies can be alerted and undertake to work in concert. If there is the possibility of your body's working with another, I'll be in touch with both chairs.
4. Cheryl's more important duty, and one you'll appreciate, is receiving your requests for travel reimbursement (travel and entertainment forms). She assures that all receipts are in hand before she forwards your requests to the Controller for reimbursement. She also charges your expenses to your budget line item.
5. Tony Jewiss, my deputy, or his successor, as he is retiring at the end of the year, tracks the budget of each Committee, Commission, Agency or Board. He can alert you of the status of your budget and how much money you have remaining for this triennium. Your meetings budget is yours to expend to carry out the work you have to do. The GCO helps you be good stewards of your meetings budget by proposing places for you to meet that fit within your budget. If you have indicated you wish to meet a given number of times during a triennium, the GCO helps you to budget your meetings money to achieve that goal. You may, however, elect to skimp on one meeting (or to meet electronically) to meet in a more expensive place another time, if your work requires it. Your meetings budget is a triennial, not an annual, budget, and money can be allocated from any of your annual budgets, as long as it does not exceed your triennial total.
6. Next year you will be asked to write a report to the church to be printed in the Blue Book of General Convention. This will detail the work you have accomplished during the triennium and include any resolutions that you propose

be debated at the 76th General Convention in July 2009, in Anaheim, CA. Anne Karoly, Staff Assistant for Publications, will provide you with guidelines for writing your report, and Marian Conboy, Staff Assistant for Legislation, will ensure your resolutions appear in proper form.

Exhibit 3

Robert C. Royce's "Protocol on the Consent to the
Ordination and Consecration of Bishops"

A PROTOCOL ON THE CONSENT TO THE ORDINATION AND CONSECRATION OF BISHOPS

PREFACE

In 1799, by Canon, the General Convention provided for the consents of the Standing Committees to the consecration of Bishops-elect. This Canon was then adopted as an Article of the Constitution in 1901. Prior to 1799, the Consent of the House of Deputies and Bishops was required.

Since the 1780s, two different forms of Testimonials for the consecration of a Bishop-elect have been required. They are found in their present forms in Canon III.11. 3(a) ~~(at page 96)~~ as to the electing Convention and in Canon III.11.4(b) ~~(at page 97)~~ as to the Standing Committees. As the House of Deputies would be acting in lieu of the Standing Committees, this Testimonial would be the guide for the House of Deputies.

The electing Convention declares in the Testimonial:

...we know of no impediment on account of which the Reverend A.B. ought not to be ordained ... We do, moreover, jointly and severally declare that we believe the Reverend A.B. to have been duly and lawfully elected and to be of such sufficiency in learning, of such soundness of the faith and of such godly character as to able to exercise the Office of a Bishop to the honor of God and the edifying of the Church, and to be a wholesome example to the flock of Christ.

Compare and contrast the above Testimonial to that of the Standing Committee Testimonial which provides:

... it is our duty to bear testimony on this solemn occasion without partiality, do, in the presence of Almighty God, testify that we know of no impediment on account of which the Reverend A.B. ordained to that Holy Order.

It must be noted that the electing Convention certifies as to lawful election, sufficiency of learning, soundness of the faith, godly character and a wholesome example. The Standing Committee only testifies to the fact that it knows of no impediment to ordination.

These are vastly different and intentional standards. It is suggested that the House of Deputies should be guided by the standards set for Standing Committees and not the standards for the electing Convention.

The threshold query is: "Ought a Standing Committee or the Deputies go beyond the record of the election in issuing or refusing to issue its Testimonial of consent to an episcopal election?" In 1924, this question was answered directly by Edwin Augustine White as follows:

The question, raised some years ago, whether Standing Committees had the right to go behind the record in considering confirmation of a Bishop-elect, has been settled in the affirmative. Several cases have occurred in which Standing Committees have gone behind the record of an Episcopal election as certified by the Diocesan Convention, in case the validity of the election was denied. The first two cases, those of the Rev. Dr. Ogden, elected Bishop of New Jersey in 1799 [doubts whether all clergy voting were qualified], and of Bishop Smith of Kentucky, elected Bishop of that Diocese in 1831 [defective canonical residency qualifications] have already been considered. The next case was that of Dr. DeKoven, elected Bishop of Illinois in 1874. The regularity and validity of the election in his case, however, was not questioned. The majority of the Standing Committees refused to consent to his election on the ground, as it was well understood at the time, of his publicly expressed views on the subject of Eucharistic Adoration. Several other cases have occurred in more recent years, where the validity of an Episcopal Election has been questioned, and where Standing Committees have felt themselves authorized to go behind the record of the election as certified by the Diocesan Convention holding the election.

Whether or not the scholars approve or disapprove, common experience tells us that during the past twenty-six years, there have been numerous instances, usually in elections during which policies pertaining to the ordination of women and homosexual persons had become issues, where Standing Committees have not only gone behind the record, but have actively both led opposition to and sought support for elections throughout the Church.

In 1988, the General Convention went "beyond the record" regarding the election in San Joaquin to the extent that the House of Deputies Committee on Consecration of Bishops had extended confirmation hearings on that election along with the companion election in Southern Ohio, which Diocese's Standing Committee had been among the most vocal in opposition to the San Joaquin election.

This first question is then followed by: "How far ought a Standing Committee or the House of Deputies go beyond the record?" In recent years, some Standing Committees have sought to all but re-elect the Bishop-elect through questionnaires, written interrogatories, inquiries as to theological and political positions, etc.: *a de facto*, if not *de jure*, mini-election. Such conduct and extensive investigations by individual Standing Committees has never been contemplated or promoted by the history, polity and Canons

of this Church. If each and every Standing Committee were to so conducted itself, a Bishop-elect and the electing diocese would be burdened to no end trying to comply in good faith with each and every particular demand for data or inquiry. Such inquiry by the Deputies might be more efficient and concentrated, but its wisdom is suspect.

This sort of activity has usually been a reflection of a particular bias on a particular issue rather than a reflection as to the other qualities of the Bishop-elect. For example, there are purportedly some Standing Committees, as a matter of that body's policy, that will not issue a Testimonial for a Bishop-elect who will not agree to ordain women to the priesthood. Evidently, such bodies view this as an automatic canonical "impediment" to ordination to the episcopate.

It is also apparent and fortunate that it has been rare for Standing Committees to make detailed inquiries into or to withhold Testimonials based upon the personal character of the Bishop-elect. Evidently, the electing diocesan convention is trusted to make these evaluations.

Edwin Augustine White comments further:

The Country has now [1924] become too large for them to make such investigations of disputed elections or the qualifications of the persons elected as Bishops, as will enable them to form a truly judicial opinion in such cases. It sometimes happens that Standing Committees refuse to go behind the returns sent to them from the Diocese concerned. A responsibility met in that way is of but little worth. Unsatisfactory, however, as the working of the present system is, it represents a fundamental principle, *viz.* that the Clergy and Laity of the Church, as represented in either the House of Deputies of the General Convention, or in the several Standing Committees, are entitled to vote in the election of Bishops, who are to exercise, among other things, the functions of Senators for life in our supreme legislative council.

White gets right to the issue that seems to be most troubling to Standing Committees today, which can be stated: "Is the issuance of a Testimonial as a consent to an episcopal consecration merely an administrative detail confirmed by evaluating the canonical correctness of the election or do the individual members of the Standing Committee have a further duty to make corporate and even personal inquiry as to the fitness of the Bishop-elect before issuing the Testimonial?" The clear and Anglican answer is both!

A Standing Committee that issues its Testimonial without confirming that the requisite elements of an election are in constitutional and canonical compliance is derelict in the discharge of its duties. The election of a person having patent canonical infirmities or an election conducted contrary to the national and diocesan constitutions and canons cannot be countenanced. The corporate orthodoxy of the Church requires that all essential elements of these processes be met to the end that persons are not ordained to the

episcopate with any canonical taint on their orders: a taint that could rise up in later years so as to raise questions on matters of authority, the ordinations of others, etc. This is fundamental to the order of this Church.

The scope of the duty of the Standing Committee members to make any personal and corporate inquiry as to the qualifications and person of a Bishop-elect is the primary source of concern to many serving on Standing Committees as they try to be diligent in discharging their obligations. This role may be in practice active, passive or both, with either being a proper discharge of the duty.

In instances where a member or members of the Standing Committee have personal knowledge or reliable information as to the person and qualifications a Bishop-elect, it is right and proper to share this with the other members of the diocesan Standing Committee. Further, if this data is of substance and might make impossible the issuance of the Testimonial, consideration should be given to sharing this at least with the Standing Committee of the electing Diocese and, perhaps, even with other Standing Committees: always after due, careful and mature consideration of reputations and questions of defamation.

The more difficult decision comes in the more numerous cases where absolutely nothing is known by members of the Standing Committee about the Bishop-elect. How can Standing Committee members consent in such cases? This leads to what might be referred to as the "Lightning Rod Test". Remembering that the present Testimonial does not require personal knowledge of the Bishop-elect, the members of the Standing Committee signing the Testimonial are only required to state that they "know of no impediment on account of which [the Bishop-elect] ought not to be ordained ..." [Canon III.11.4(b).]

Neither the Testimonial itself nor the tradition or polity of this Church require that members of the Standing Committees (or the Deputies) exhaust all possible avenues of inquiry to satisfy themselves beyond any doubt as to the lack of impediments to the ordination of a Bishop-elect. However, as the elected Clergy and Laity of a Diocese acting jointly on its behalf as to the election of William White's "superior order of ministers" or Edwin Augustine White's "Senators for life in our supreme legislative council", they become the "lightning rod" in that jurisdiction for information as to the existence of any such impediments concerning the election and the person elected. It can be fairly presumed that if no one on a Standing Committee (being persons raised up by and fully known to the local diocese and its political processes) has personal knowledge or does not receive information from sources within or without the Diocese that there are or may be impediments to the ordination, then a Testimonial can issue in good conscience and with a fair discharge of the duty imposed by canon. This ecclesiastical body and its members in corporate being is always in place to receive the "lightning" of possible impediments, if such are believed to exist by persons who could communicate the same to the Standing Committee.

Finally, there is resort to the distinction between the Testimonial of the electing Convention, which requires the affirmative portion of the Testimonial and that of the consenting Standing Committee, which today and historically has not required the same depth and scope of inquiry or personal knowledge as the electing Convention, and which is clearly as it should be.

It is respectfully suggested also that a Standing Committee can take not only comfort from the declarations in the Testimonial from the electing Convention, but, absent patent defects, can accept this Testimonial in comity, if not the full faith and credit, as the good faith declarations of brothers and sisters in Christ acting for and on behalf of the Church.

It is clear that the Canons anticipate and require an affirmative consenting process and which contemplates that a majority of the Standing Committees or the Deputies be in support of and issue the Testimonials for the ordination of the Bishop-elect. There is no canonical provision for active dissent other than the possibility of the nullity of the election, if a majority of Standing Committees fail to issue Testimonials. However, a legislative action by the House of Deputies not to Consent would nullify the election.

In cases where there is no personal knowledge as to impediments or where no "lightning" has struck the rod, how does a Standing Committee or the House of Deputies evaluate its consent to an episcopal election through the issuance of its Testimonial? This is the sticky issue that arises when it is generally agreed that the election was canonically and properly conducted and that the Bishop-elect may be a splendid person, but one whose politics or theological positions (or the politics or theological positions of the majority of the electing Diocese) are at variance with those of the majority of the members of the Standing Committee or the Deputies now being asked to consent. Be this framed as a question of principle or an issue of personal conscience, how does a member of the Standing Committee evaluate the existence of a possibility of an "impediment" on such grounds?

Both the canons and the commentators all presume that members of Standing Committees and Deputies will be acting reasonably and in good faith and conscience, and that they will not be mere automatons discharging a dry canonical process, but are entitled to evaluate and express their personal principles and consciences. This is a given. What then might be the steps to guide such persons in fairly evaluating the granting or withholding of an individual member's consent in such cases?

A fine starting point would be to individually and collegially adopt Edwin Augustine White's admonition "to form a truly judicial opinion", that is to say be prepared to proceed with an informed, fair and open mind and as the early Testimonial required "without partiality or affection."

But what of the possibility of theological or political "impediments" in the eyes, minds and hearts of individual members of Standing Committees and Deputies, even after forming a truly judicial opinion? In such instances, there is a further test that might be applied and to which resort may be fairly taken.

Article VIII of the Constitution provides that at ordination, every ordinand must subscribe and make the following Declaration:

I do believe the Holy Scriptures of the Old and New Testaments to be the word of God, and contain all things necessary to salvation; and I do solemnly engage to conform to the Doctrine, Discipline and Worship of the Episcopal Church.

It is suggested that, if in the reasonable and judicially formed opinion of a majority of the members of Standing Committees or Deputies, they do not or cannot conclude that a Bishop-elect can fairly subscribe to and make that declaration or that prior statements and/or acts of the Bishop-elect would be contradictory to or subversive of this Declaration, as the terms and concepts used therein are generally understood by the members of that Standing Committee or the Deputies, it would be appropriate not to consent or issue the Testimonial.

If a majority of the members of a Standing Committee or Deputies, representing individual clergy and laity of all persuasions, piety, political parties, and personal preferences, and a majority of all the Standing Committees of the one hundred domestic and twelve foreign dioceses or the Deputies entitled to issue Testimonials consenting to an episcopal election, all acting in prayer and good faith and all exercising personal and corporate common sense with a judicially formed opinion, cannot consent to the ordination of a Bishop-elect, then it is probably a very good conclusion that the Bishop-elect not be ordained to the episcopate of this Church and the Anglican Communion. Perhaps, this result leads to an unhappy event for the electing Convention and for the Bishop-elect, but it is a far better result for the whole Church.

I. CONSTITUTIONAL AND CANONICAL ISSUES

Constitution, Article II

Sec. 1. In every Diocese the Bishop or the Bishop Coadjutor shall be chosen agreeably to rules prescribed by the Convention of that Diocese. ...

Sec. 2. No one shall be ordained and consecrated Bishop until the attainment of thirty years of age; nor without the consent of a majority of the Standing Committees of all the Dioceses, and the consent of a majority of the Bishops of this Church exercising jurisdiction. But if the election shall have taken place within three months next before the meeting of the General Convention, the consent of the House of Deputies shall be required in place of a majority of the Standing Committees. ...

II. PROCEDURAL ISSUES FOR THE ELECTING DIOCESE

Canon III.11.3(a). provides (~~at page 89~~):

When a Diocese desires the ordination of a Bishop-elect, if the date of the election occurs within three months before a meeting of the General Convention, the Standing Committee of the Diocese shall by its President, or by some person or persons especially appointed, forward to the Secretary of the House of Deputies [*Note: not the Secretary of the General Convention*]

- evidence of the election of the Bishop-elect by the Convention of the Diocese,
- together with evidence that the Bishop-elect has been duly ordered Deacon and Priest,
- evidence of acceptance of election,
- and a testimonial signed by a constitutional majority of the Convention [in the form prescribed by Canon III.11.3(a) ~~at page 90~~],
- and a summary of the biological information relating to the Bishop-elect.

The Secretary of the Convention shall certify upon this Testimonial that it has been signed by a constitutional majority of the Convention.

Canon III.11.3(b). provides (~~at page 96~~):

The Standing Committee shall also forward to the Secretary of the General Convention [*Note: not the Secretary of the House of Deputies*] with the testimonial and other documents,

- certificates from a licensed medical doctor and licensed psychiatrist, appointed by the Ecclesiastical Authority with the approval of the Presiding Bishop, that they have thoroughly examined the Bishop-elect as to that person's medical, psychological and psychiatric condition and have not discovered any reason why the person would not be fit to undertake the work for which the person has been chosen. Forms agreed to by the Presiding Bishop and then Church Pension Fund shall be used for this purpose.

III. ISSUE OF APPEALS AND OBJECTIONS

Canon III.11.9(a) ~~(at pages 91-92)~~ provides that within ten days after the election delegates constituting no less than 10% of the number of delegates casting votes on the final electing ballot may file with the Secretary of the Diocesan Convention written objections to the election process setting forth in detail all alleged irregularities.

This ten (10) day time frame and ten percent of the delegates should be a firm bar to any subsequent objection or objections.

If an objection is timely filed by ten percent or more of the delegates, the Secretary of the Diocesan Convention within ten days shall forward copies to the Bishop, Chancellor and Standing Committee of the Diocese and to the Presiding Bishop. The Presiding Bishop then requests the Court of Review of the Province to investigate the complaint. Within 30 days after receipt of the request, the Court of Review shall send a written report of its findings to the Presiding Bishop, who must send a copy of the report to the Bishop, the Chancellor, the Standing Committee and the Secretary of the Convention of the electing Diocese. If the election takes place within three months before a meeting of the General Convention, a copy shall be sent with the evidence of election and testimonials to the Secretary of the House of Deputies. [*Note: The Canon infers that the copy of the Report is to be sent by the Secretary of the Convention so electing.*]

Issues and Recommendations:

- (1) On or after ten days after the election, the Secretary of the House of Deputies should secure a written certificate from the Secretary of the Convention electing that no objections have been filed.
- (2) If objections are timely filed, given mailing times, etc., 60 – 70 days could elapse between the election and the due date of the Report. Thus, any election after early May 2003, which is the subject of objections, could have those objections coming to light just before or at the start of the General Convention.
- (3) The Secretary of the House of Deputies should be prepared to “push” the Presiding Bishop and the Court of Review to complete this work as soon as possible to be sure that a Report is timely before the House of Deputies.
- (4) There is no answer in the Canons as to what would happen if the Report is not submitted before the Deputies and Bishops are to act. The Presiding Officers must be prepared to rule as to whether or not the consideration of the Consent(s) may be had, and, if not, does the consenting process and, thus, the election fail.
- (5) It must be noted that the Report of the Court of Review does not dispose of the substance of the objections. It is clarifying information for the Deputies.

To the extent that the Report reaches conclusions after the investigation, it is highly persuasive. Were the election to be held more than three months before the meeting of the General Convention, a copy of the Report would be provided to each Standing Committee with the Certificate of the Secretary of the electing Convention.

- (6) It is obvious that it is easier for objectants to continue their cause before the House of Deputies than before all of the Standing Committees. Committee #7 [Consecration of Bishops Legislative Committee] will have to be prepared to early on decide the weight and authority of the Report and whether or not it can be challenged.

IV. PROCEDURAL ISSUES FOR THE HOUSE OF DEPUTIES

The matter before the House of Deputies is whether or not to consent to the ordination and consecration of a Bishop-elect. This is an anomaly to the usual Rules of Order of the House of Deputies. This action should not be the usual concurring Resolution. It should not be in the standard form “*Resolved, the House of _____ concurring.*” The consent process is not the concurrent act of the two Houses of the General Convention.

A review of the General Conventions 1998 – 2000 shows that this issue has been handled in some very different, bizarre and unconstitutional ways. The following is just a **sampling** for illustration.

General Convention of 1988: The House of Deputies acted solely upon a Report from Committee #7 with no underlying Resolution to issue “consent to consecration” which is reported as “The House Consented” (1988 *Journal*, p. 506).

The House of Bishops moved “Consent”, without any indication that the only Bishops voting were those holding jurisdiction, and reported “Motion Carried.” However, on the same day, as to the election of the Suffragan for Pennsylvania, the Bishop moved Consent, which is reported as “The House concurred” (1988 *Journal*, p. 155).

General Convention of 1991: The House of Deputies acted solely upon a Report from Committee #7 with no underlying Resolution to issue “consent to election and consecration” which is reported as “Motion carried. The House Consented” (p. 649).

The House of Bishops moved “concurrence” with the Deputies Message, without any indication that the only Bishops voting were those holding jurisdiction, and reported “The House concurred” (pp. 303-304).

General Convention of 1994: The House of Deputies acted upon Resolution D050 requesting “consent be given to ordination and consecration” which is reported as “Adopted” (acted on the Third Legislative day, but not reported in *Journal*).

The House of Bishops moved “concurrence,” with full indication that the only Bishops voting were those holding jurisdiction, and reported “Consent given” (1994 *Journal*, p. 237).

General Convention of 1997: The House of Deputies acted upon Resolution D109 requesting “consent to the consecration” which is reported as “Motion carried. The House Consented” (1997 *Journal*, p. 544). However, the House of Deputies then acted upon Resolution D107 requesting “consents to election” which reported “Motion Carried. The House Consented” (1997 *Journal*, p. 544)

The House of Bishops moved “consents to the election,” without any indication that the only Bishops voting were those holding jurisdiction, and reported “Motion carried. The House concurred” (1997 *Journal*, pp. 266-267).

General Convention of 2000: The House of Deputies acted upon Resolution D043 requesting “this General Convention consent to the elections” which is reported as “Motion carried. Resolution adopted.” (2000 *Journal*, p. 415).

The House of Bishops moved “this General Convention consent to the election,” without any indication that the only Bishops voting were those holding jurisdiction, and reported “The House concurred” (2000 *Journal*, p. 124). [Note: There were also “B” Resolutions submitted covering the same matters.]

General Convention of 2003: The Presiding Officers of both Houses were coached to be sure that the call of the question was on the “ordination/consecration” and not on the “election.”

[**Note:** The recent election in California of a Coadjutor of a person already consecrated bishop would mean that there is no action necessary by General Convention. Consent had already been given by the Standing Committees and Bishops holding jurisdiction to the election. Perhaps, if California seeks recognition, a Resolution of congratulations might be in order.]

It is clear that these actions of the two Houses have been all over the board, inconsistent and technically defective. For example, the Constitution requires consent to ordination and consecration and not election. Consent to the holding of an election and consent to the ordination and consecration are two totally different acts.

Further, the House of Bishops does not act as a body but only through those Bishops holding jurisdiction, i.e. Diocesan Bishops and Bishops Coadjutor have the right of vote.

Action on a Committee Report with no underlying Resolution violates the Rules of Order of the House of Deputies.

Many of the ordinations and consecrations covered by these very strange acts of the two Houses are constitutionally defective.

Especially if the House of Deputies is going to act on a contentious Bishop-elect, there must be absolutely no technical errors that could cause a snarl or give rise to all sorts of procedural problems for Committee #7 and the House itself.

A form of underlying Resolution should be prepared as to each Bishop-elect. As the action requested is really by the electing Diocese, the Resolution should not be an “A,” “B” or “D” Resolution. It should come to the House of Deputies as a “C” Resolution from the electing Diocese properly adopted just after the electing results requesting the Consent to Ordination and Consecration by the House of Deputies and Bishops holding jurisdiction of that Bishop-elect

Once the issue of the underlying Resolution is resolved, Committee #7 would follow the Rules of Order as to the consideration of the Resolution.

It will be imperative for Committee #7 to have in place its Rules of Procedure for how it will conduct the Hearings and deliberations, what is germane for consideration and what technical issues it will consider.

For examples: (a) if no Objections have been filed under the Canon III.11.9(a), objections that should have been encompassed thereunder should be deemed barred and not proper for consideration by Committee #7; (b) the physical and psychiatric evaluations are not to be divulged or considered; (c) the weight and authority of any Report from the Court of Review as to objections; and (d) the Committee should try to adopt and announce a standard or the standards that will guide its deliberations as appropriate for recommending adoption or rejection of the Resolutions, etc.

Recommendation:

- (1) That the Secretary of the House of Deputies prepare and provide to the electing Dioceses a form of Resolution from those Conventions to be adopted immediately after the results of the election requesting the Consent of the House of Deputies and the Bishops holding jurisdiction to the ordination of the Bishop-elect. This would then have a Resolution before the House of Deputies in compliance with HOD Rules of Order VI 21(a) ~~(p. 207).~~

Also, a Resolution properly prepared by the Secretary of General Convention would be sure to be in proper order.

Otherwise, there could be a nasty snarl and a technical defect to the House even considering the issue, which could frustrate and defeat the election.

V. ISSUE OF COGNATE COMMITTEES

At recent General Conventions, the Committees of the Houses have met in cognate session to broaden the exposure to testimony and debate and to simplify the process into one rather than two hearings. Given the constitutional nature of the Consents to Ordination and Consecration, this format could be awkward.

If this is to happen with Committees #7, both Chairs should be of a common mind. The hearings and evaluations by the Deputies could have a very different nature and thrust than those of the Bishops.

VI. PROCEDURAL AND SUBSTANTIVE ACTIONS OF THE HOUSE OF DEPUTIES

The actions of the House will be upon the Report of Committee #7 to reject or adopt. A Report to discharge would not seem to be in order due to the gravity of the matter and the Rules of Order.

If a seriously contended Consent arises, Committee #7 and Dispatch of Business should be prepared well in advance to have a Special Order for Debate and Consideration.

A vote by orders would be appropriate if properly called for by the House of Deputies.

It is suggested that it would be helpful if Committee #7 would be able to share with the Deputies the standards it has adopted in either recommending adoption or rejection. (See *Preface* above.)

RCR
5/11/06

Exhibit 4

Larry Hitt Report on Resolution A159

MEMORANDUM

To: Standing Commission on Constitution and
Canons

From: Lawrence R. Hitt II

Date: 30 April 2007

Re: A159: Initial Considerations

The General Convention in Columbus passed A159 which called for renewed commitment from The Episcopal Church to the other member churches of The Anglican Communion, including an exploration of consultation and participation by representatives of the other provinces of the Communion on or with the Standing Commissions of The Episcopal Church. (Copy of Resolution A159 is attached)

The minutes from the November meeting of the SCCC include the following:

A159: The members agreed that its anti-racism commitment would include actions to respond to this Resolution, including an examination of how to open up the Commission's work to members of the Church in the Anglican Communion beyond the U.S. The Chair will ask Larry Hitt to take the lead on this.

It seems clear that the intent of the fourth resolution of A159 is to identify a vehicle – not necessarily canonical – by which representatives of other provinces can participate in the deliberations of the various Standing Commission of this church. It seems equally clear that the intent of the resolution is to provide such representatives seat and voice, but not vote, at the meetings of the various commissions.

(I am assuming that an electronic participation from a distance does not fall within the good faith intent of the resolution; since the resolution seems to me to be premised on the notion that personal relationships will form the foundation for an understanding of the interdependence among the provinces of the Communion which is the substance of the resolution.)

I Preliminary Questions and Issues

With that in mind, some initial questions arise:

- ◆ Are some commissions more appropriate than others or does the resolution intend that all Standing Commissions would participate?
- ◆ How should representatives from the other provinces be identified?
- ◆ How many representatives should be invited to meet with each commission?
- ◆ Should the participation of province representatives be a matter of random selection (that is, we clearly can not invite 37 representatives to each commission's meetings)?
- ◆ Do the canons need to reflect this invitation?
- ◆ Are the invitations for the next triennium only or of a more indefinite nature?
- ◆ Should any significant effort be put towards effectuating this particular resolution until we have a sense of whether events may indicate that The Episcopal Church is or is not welcome at the Communion's table?
- ◆ And, of course that ongoing nemesis: who pays for such participation?

II A Modest Proposal

As a starting point, we might consider evaluating the following approach:

- 1 The Presiding Bishop and the President of the House of Deputies (and Executive Council?) communicate with each Standing Commission and suggest that they participate in a program such as is set forth below.
- 2 We would recommend a voluntary, good faith approach – and definitely not a change in the canon law of the church as it relates to Standing Commissions.
- 3 The National Church would notify the Primates of the other provinces that each Standing Commission would welcome two observers from other provinces at their meetings, with full seat and voice, but no vote. This means two non-Episcopal observers at each commission -- not two observers from every other province!
- 4 If another province wants to send an observer, it notifies The Episcopal Church by a stated deadline, perhaps 45 – 60 days after the invitation is extended. Each province that wishes to send an observer or two would notify The Episcopal Church as to how many observers it was prepared to send.
- 5 After The Episcopal Church receives notice from other provinces as to which provinces want to participate, it then would (randomly?) assign two observers to each Standing Commission, who would serve until the end of the triennium.

6 I don't think The Episcopal Church can afford to subsidize this cost, so each province would be expected to pay the expenses of its observers. This also would probably reduce the number of observers from each other province, so that we are not overwhelmed with requests for participation. Alternative: ask Trinity Church in NYC to subsidize this cost as part of its ministry to the global communion.

Exhibit 5

Communication from Sally Johnson
Chancellor to the President of the House of Deputies
May 1, 2007

In the hopes that one or more of you are picking up your email, I have several things that I would like to bring to the attention of SCCC on behalf of the President of the House of Deputies, Bonnie Anderson, in my role as her Chancellor. I apologize for not getting them to you before the start of your meeting.

The only reason some of SCCC is copied and others aren't is that I did not have a complete list of all of the members' email addresses so I only copied those I had readily available.

Presiding Bishop's "Council of Advice"

The Church talks about the PB having a "Council of Advice" made up of the bishops who are presidents or vice-presidents of the Provinces. However, the only references to a "Council of Advice" in the Constitution and Canons are to the Standing Committee being a "Council of Advice" to the Bishop Diocesan, to Congregations in Foreign Lands, Canon I.15, a similar body for the Convocation of American Churches in Europe, Canon III.5. Canon III.12.7 talks about an "Advisory Council" to the PB. House of Bishops Rule of Order XXVIII (p. 195) talks about an "Advisory Committee."

While these may be three separate bodies, I doubt it. There seem to be two types: one for congregations in foreign lands, including the Convocation, and the other as a Council or Committee of advice to the PB.

Is there a way the SCCC could resolve these apparent inconsistencies between the "Advisory Council," "Advisory Committee," and the usage by the Church of the PB's Council of Advice?

I have not researched or checked with David Beers to see if there actually is a difference between the "Council" and the "Committee."

Missionary Bishops

The House of Bishops Rules of Order lay out extensively how the election of Missionary Bishops is to occur (pp. 196-197). I would appreciate it if the SCCC would consider whether or not this procedure should be included in the Canons rather than in the Rules of Order. It seems to be of the same type of specificity used for the selection of all other types of bishops and should be approved by both Houses of General Convention in the form of a Canon rather than subject to amendment by the House of Bishops acting alone at any of its meetings.

Ordination and Consecration of Bishops

House of Bishops Rules of Order Standing Order I (p. 197) specifies certain criteria and rules regarding the consecration of bishops. This material appears to belong in the Canons where both Houses of General Convention can have a say about whether or not these should be the rules for the Church. This rule does not deal in any way with the procedures the House of Bishops follow in their meetings or in organizing the internal affairs of their House.

Place of Former Presiding Bishops at Services of General Convention

Standing Order IX of the Rules of Order of the House of Bishops states that "at every service of the General Convention such Bishops as have formerly held the office of Presiding Bishop shall be assigned places immediately in front of the Chaplain of the Presiding Bishop." The concern here is not with the substance of the procedure but with the appropriateness of it being included in the Rules of Order of one House. The previous portion of the Rule deals with the seating of former Presiding Bishops in meetings of the House of Bishops, which is an appropriate subject for

inclusion in that House's Rules of Order. This phrase deals with a rule for services at General Convention, something of concern to the entire General Convention. I didn't find anything else in the Canons or HOB Rules of Order dealing with worship at General Convention (as opposed to worship within the HOB). If this belongs anywhere in the Constitution, Canons or Rules, perhaps it is more appropriately placed in the Joint Rules of Order.

Resignations of Bishops

Standing Order X of the House of Bishops Rules of Order is a lengthy interpretation of Article I.2 of the Constitution. Since no body other than General Convention or the ecclesiastical courts in the course of a proceeding have the authority to interpret the Constitution or Canons, this Rule seems to be well beyond the scope of the authority of the House of Bishops acting alone to adopt. Typically, further detail about a provision in the Constitution is provided in the Canons. I would ask you to consider whether this Rule should be a Canon on which both Houses can express their consent and which both Houses would have to concur for it to be changed.

Membership on Executive Council

As you know, the Executive Council has many, but not all, powers of General Convention between General Conventions. It is composed of members elected by General Convention and by the Provinces. The President of the House of Deputies would like you to consider (1) how the Executive Council should be elected and (2) whether there should be any requirements or restrictions on who is eligible to serve. For example, should only bishops entitled to vote in the House of Bishops be eligible for election? Should all lay and clergy have to be or have been at some time, Deputies to General Convention? Should all of Executive Council be elected by General Convention?

The concerns regarding the items included in the House of Bishops Rules of Order are not based on any objection to the substance of the Rules themselves but on issues of polity: who in the Church is authorized to or should make various types of decisions affecting the Church.

Thank you for your consideration of these matters. Either Bonnie or I would be pleased to be in conversation with you as you work on these issues.

Sally

Sally Johnson

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