

REPORT OF THE COMMITTEE ON CANONS
225th DIOCESAN CONVENTION
November 8, 2008

A significant number of changes to the Canons have been proposed for this Convention. Some of them are relatively minor, intended to clarify certain points without really changing the substance. Most, however, deal with important matters touching on the governance of the Diocese and financial matters. They should be considered very carefully.

PART I: CLARIFYING AMENDMENTS

The Standing Committee has proposed the following amendments to the Canons which, in the view of the Committee, are merely clarifying in nature, without changing the important structures, responsibilities or other significant matters:

4.1.2: This change is consistent with advice given by prior Chancellors and raises no issues.

4.6.1: The Committee has no objection to these changes.

4.7.1 and 4.7.2: The Committee has no objection to these changes.

4.7.5: Any resolution that is presented to convention should in the first instance call for a renumbering of Canon 6.3. Moreover, according to the Committee's records the introductory text of 6.3 in its present form simply states "Committee on Finance and Property shall." If the Committee's records are correct, everything after the word "shall" in proposed 4.7.5 should be shown as an amendment.

4.7.5.3: The Committee has no objection to these changes.

5.1.1: The Committee has no objection to these changes.

5.1.2: The Committee has no objection to these changes.

6.1.2 and 6.1.4: The Committee has no objection to these changes.

Depending upon the comments received at hearings of the Resolutions Committee, this Committee believes the above changes could be presented and voted upon in the form of a single resolution.

PART II: AMENDMENTS THAT MAKE SUBSTANTIVE CHANGES

1. The Standing Committee's Proposed Amendments.

The following changes proposed by the Standing Committee would make substantive changes, some of which are more significant than others. The Committee believes they should each be taken up as separate resolutions.

4.2.1: Historically, the Bishop has appointed members of this Committee and designated who shall serve as chair of the Committee. This change would clarify who makes such appointments in the absence of a Bishop but also limit the Bishop's prerogative, and the Committee questions whether such a limitation should be adopted when there is no Diocesan Bishop to provide his or her views on the matter. The Committee has no objection to an amendment that provides that the Chancellor should be a member of the Committee, but questions whether the Canons should require that he or she be the chair.

4.2.2: If the intent of this change is to prevent the Committee from making recommendations to the Resolutions Committee, it is too narrowly drawn. In order for canon changes to come before Convention, the proposed changes have to be formulated as a resolution. The Resolutions Committee has the authority to refer the proposed resolutions to appropriate bodies if further study is required. The Committee on Canons should be able to make its recommendation to the Committee on Resolutions that a proposal be referred for additional study.

4.7.3: Canon 3.5 states that the Chancellor serves as the legal adviser to the Bishop and Standing Committee and *of other bodies when requested*. The absence of the proposed language has never prevented Chancellors from attending any committee meetings and participating in discussions *at the request of the committee* to the extent the committee thought that the Chancellor had something to add to the discussion. The proposed change would expand the Chancellor's privileges beyond what is stated in Canon 3.5. It is not clear to the Committee why this is appropriate.

4.7.5.6: This change would fundamentally alter the role of the Committee on Finance and Property. One of the primary reasons given for the recent change of the Canon on F&P so that its members are elected directly by Convention was that F&P had a significant role in "being responsible for all of the financial affairs of the Diocese". If this change is approved, and with the role of Diocesan Council having been limited by the most recent amendment of its canon, there will be no committee or other entity in the Diocesan structure with authority to address financial matters that arise between meetings of the Convention.

4.7.6: The question of the authority of Finance and Property and other bodies in the Diocese should be clarified. If Finance and Property or Diocesan Council cannot act in connection with other financial matters in between conventions, who can? Furthermore, the Committee questions the need for a canon of prohibition that appears to be duplicative of Canon 13.3.

5.1.4: These changes would have a significant impact in the Diocese. The existing language in 5.1.3 referring to “cases wherein provision is made for their action in place of the Bishop” specifically provides that an “authority” or “person” other than the Standing Committee can act in place of the Bishop where the governing instruments of those bodies provide for the Bishop’s position to be filled by others if there is no Bishop able to act. The Church Foundation and Diocesan Council are examples of such bodies. The proposal that the Standing Committee becomes “the Bishop” and that a single member of the Standing Committee can be designated to function as “the Bishop” in that context raises significant problems for the functioning of other bodies within the Diocese and makes the Standing Committee a super-governing body of the Diocese.

While such an arrangement does not appear to violate the Canons of General Convention, they would put our Standing Committee in a fundamentally different place than it has been in the past. The Committee is not aware of any other diocese that has elevated its standing committee to such a position. It is also not aware of any problems that have been encountered with the current arrangement that would make the proposed change necessary.

5.2: The Committee notes that Canon 5.1.2 expressly states that a Bishop Suffragan succeeds as the “temporary Ecclesiastical Authority” in the case of the absence or disability of the Diocesan or Coadjutor. The effect of revised Canon 5.2 would appear to be to eliminate the Suffragan from that role in the case of the death or resignation of a Bishop. The Committee does not see any reason to make a distinction and suggests that, if 5.2 is to be amended, it should make clear that the Bishop Suffragan would be the temporary Ecclesiastical Authority before that responsibility devolves to the Standing Committee.

6.1.1 and 6.1.5: The Canons currently designate “the Bishop” as the “Chief Officer” of Diocesan Council. This proposed change would allow the Standing Committee to appoint one of its members to be “the Bishop” who would then be the “Chief Officer” of Diocesan Council. Since this change goes on to state that the Council shall elect a member of Council to preside at meetings, it may be the intent is to have the “Chief Officer” responsible for other things. It is unclear, however, what those other things would be now that the role of Diocesan Council has been significantly limited by prior amendments to the canons.

The comment to Canon 4.7.3 applies with equal force to the last sentence of the proposed change to 6.1.1.

7.2.3: The Committee questions whether this proposed change should be put forward for consideration at a time when there is no functioning Diocesan Bishop who can express his or her opinion regarding the effect this would have on the functioning of the Episcopate.

13.2: Though modest on its face, this deletion would have a fundamental change in the historical practice of this Diocese and is not mandated by the Canons of General Convention. An alternative proposal would amend Canon 17.3, discussed below, to address the extent to which the Bishop and Standing Committee must approve the sale of real estate.

13.3: The proposed changes in the last two lines of this canon would require the Standing Committee to approve each check written against, or other expenditure of, funds that represent a very large portion of the annual income of the Diocese. It would remove the control of that portion of the income from the normal budgetary processes.

An alternative, in the form of a new Canon 13.5, has been proposed which takes a different approach, placing the primary responsibility for annual expenditures of funds covered by Diocesan Canons 13.3 and 13.4 (after designation of a purpose by the Bishop and Standing Committee, or upon their failure to agree on a designated purpose) in the hands of the committees and the Convention responsible for financial affairs.

19.3: “Personal property” includes stocks, bonds, cash, and similar intangible assets other than real estate. The existing canon expressly refers to “tangible personal property” to limit it to physical objects that have passed into the control of the Church Foundation either by gift or as a result of the Foundation taking title to real property in which those objects are located. Moreover, the requirement that the Bishop and Standing Committee approve any “expenditure” of funds would apply, by its terms, to expenditures approved in the diocesan program budget where income is to be paid out of the Church Foundation over to the Diocese for the program budget.

This proposed change, together with the proposed change to 13.3 and the weakening of Finance and Property, would place the Standing Committee in the supreme financial position in the Diocese. These changes do not expressly violate the canons of General Convention. But this Committee believes the better practice is to follow the canons of other dioceses that expressly prohibit members of the Standing Committee from being involved in financial affairs except to the extent mandated by the Canons of General Convention, or that expressly place such responsibility in other hands. This is more consistent with the primary role of the Standing Committee defined in the Canons of General Convention to be the “Bishop’s council of advice.”

2. Amendment Regarding Residency and Membership of the Chancellor:

The committee received two proposed amendments regarding a “residency” requirement for Diocesan positions, the most general of which has been withdrawn by its proposers. The remaining proposal to amend Canon 3.5 is specifically addressed to the position of the Chancellor. It does not present any canonical issues. The Committee suggests that the “membership” requirement -- which now refers just to a “parish” which is a limiting technical term -- be expanded to include a mission or other congregation of the Diocese.

3. Amendments Regarding Financial Matters:

13.5: As noted above, this proposal takes a different approach to the issue of designated funds than the Standing Committee’s proposed change to Section 13.3. This Committee has no other comments.

17.3: This proposal has been prepared to clarify a canonical issue raised by the Chancellor earlier this year. It has been drafted to conform the Diocesan canons to Diocesan practice as nearly as possible consistent with the requirements of the Canons of General Convention. As noted above, this proposal takes a different approach than the Standing Committee’s proposed amendment to Canon 13.2.

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Respectfully Submitted,

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