

Diocese of New Jersey
Report of the Standing Committee on Constitution and Canons 2019

Introduction

The Committee reviewed requests received from members of the diocese for possible changes in the constitution and canons of the diocese. As provided in Canon 75, Section 1, proposals for amendments must be sent to the Committee by December 1 of the prior year for consideration and report. The following proposals were received prior to such deadline.

Part I
Changes to Diocesan Canons Resulting from
Episcopal Church Canon Amendments at the 79th General Convention

Section 4 of Diocesan Canon 75 provides: "Following each meeting of the General Convention, the Standing Committee on Constitution and Canons must (a) review any changes to Canons of The Episcopal Church approved by such meeting and (b) propose to the next diocesan Convention amendments to Diocesan Canons so as to conform them to such changes in Canons of The Episcopal Church."

The Committee has reviewed the Resolutions passed by the General Convention this past summer and in particular those amending the Constitution and Canons of The Episcopal Church, and it has concluded that none require conforming amendments to the Constitution or Canons of the Diocese of New Jersey.

Part II
Canon 18 — Audit Committee

Diocesan Canon 18 provides for the establishment, composition, duties, and powers of the diocesan Audit Committee. It is currently required to be composed of six members elected by Diocesan Convention — two each year for three-year terms — and two more appointed each year by the Diocesan Council. In recent years, however, there has been a dearth of candidates for election, and the Standing Committee has had difficulty finding candidates to fill vacancies. At the time this report was prepared, the Nominating Committee was seeking, in addition to the two candidates for full three-year terms, one candidate for a two-year unexpired term and two for a one-year unexpired term. Canon Paul Ambos, a member of the Committee, inquired of the Bishop, Chief Operating Officer, and the members of the Audit Committee whether it would impede their operations if, going forward, they had five members instead of eight. They responded that they would welcome such a change. In addition they requested a clarification of the duties of that committee, which the Standing Committee on Constitution and Canons has reviewed and found to be reasonable.

Accordingly, the Committee proposes the following implementing resolution:

Implementing Resolution II: *Resolved*, That Canon 18 of the Canons of the Diocese of New Jersey be amended as follows (deletions shown by strikethrough, insertions by double-underline):

CANON 18

Audit Committee

SECTION 1. The Audit Committee of the Diocese shall consist of ~~six~~ three members elected by Convention to serve three-year terms and two members appointed annually by the Diocesan Council, at least one of whom shall be appointed from among its members. There shall be three classes of elected members with ~~two members~~ one member being elected each year. After an elected member has served for two full consecutive terms, such elected member shall not be eligible for reelection until a year shall have passed. ~~The~~ A Chair or two Co-Chairs shall be appointed by the Ecclesiastical Authority from among the ~~elected~~ members. The Chief Financial Officer of the Diocese and other officers of the Diocese may be designated by the Bishop to assist the Audit Committee.

SECTION 2. The duties of the Audit Committee shall be to ensure that the financial management of all diocesan functions is performed in accordance with generally accepted accounting practices in the following ways:

- (a) To prescribe the methods of accounting and record keeping of all such Boards, Trusts, Committees, Treasurers and Financial Officers of the Diocese, with power to summon them or any of them, or their auditors, with their books, records and securities for examination as to the conduct of their offices and the condition of the funds entrusted to them;
- (b) To ~~gather and review audits from all diocesan churches annually to ensure that fiscal management procedures are acceptable~~ encourage and assist parishes and other congregational entities in their audit processes and to develop guidelines for acceptable fiscal management procedures;
- (c) To appoint auditors, as required under the canon on Accounts, for the audit of all diocesan accounts, funds and trusts and to gather and review the audit reports of all such accounts of the Diocese annually;
- (d) To designate areas of financial management for internal audit as deemed necessary, and to prescribe the methods for the conduct of such internal audits;
- (e) To advise the Bishop and other officers of the Diocese in financial and business matters when requested;
- (f) To ensure that all funds and accounts of any diocesan or congregational entities, including discretionary accounts and funds, are audited annually;
- (g) To report to the Convention annually the results of any internal and external audits conducted.

SECTION 3. The Audit Committee shall have power to employ counsel subject to the approval of the Ecclesiastical Authority in consultation with the Chancellor.

SECTION 4. The Audit Committee shall at all times comply with the provisions of Title I, Canon 7, Sections 1 and 2 of the Canons of the Episcopal Church.

The Standing Committee on Constitution and Canons recommends the adoption of this implementing resolution.

Part III
Canon 47 — Boundaries

Diocesan Canon 47 defines the boundaries of "Cures" of parishes or missions and provides a procedure for extending those boundaries and provides for reporting such extensions:

CANON 47
Boundaries

SECTION 1. The boundaries of a Parish or a Missionary cure shall be the limits as fixed by law of the municipality in which the Parish or Mission is located. If there be but one Parish or Mission within the limits of a municipality it shall be deemed the Cure of the member of the clergy having charge thereof. If there be two or more Parishes or Missions therein it shall be deemed the Cure of the members of the clergy having charge thereof. The Bishop may extend the boundaries of a Parish or Mission to include all or part of the municipalities adjacent to a Parish or Mission and adjacent to each other, provided there be no Parish or Mission already located in the adjacent municipality. A list of all such boundary extensions shall be printed annually in the Journal of the Diocese.

SECTION 2. All territory in the Diocese not included within the boundaries of a Parish or Mission by virtue of the provisions of Section 1 of this Canon shall be deemed to be the Cure of the Bishop of the Diocese.

SECTION 3. Members of the clergy in charge of or officiating in Seasonal Chapels, Collegiate Chapels, or Institutional Chapels shall not be deemed to hold a Cure in the Diocese or to have pastoral jurisdiction over any territory in the Diocese.

The Canons of The Episcopal Church already provide (Canon I.13.2–.3):

Sec. 2 (a) The ascertainment and defining of the boundaries of existing Parishes or Parochial Cures, as well as the establishment of a new Parish or Congregation, and the formation of a new Parish within the limits of any other Parish, is left to the action of the several Diocesan Conventions.

(b) Until a Canon or other regulation of a Diocesan Convention shall have been adopted, the formation of new Parishes, or the establishment of new Parishes or Congregations within the limits of existing Parishes, shall be vested in the Bishop of the Diocese, acting by and with the advice and consent of the Standing Committee thereof, and, in case of there being no Bishop, of the Ecclesiastical Authority.

Sec. 3 (a) Where Parish boundaries are not defined by law, or settled by Diocesan Authority under Section 2 of this Canon, or are not otherwise settled, they shall be defined by the civil divisions of the State as follows:

Parochial boundaries shall be the limits as fixed by law, of a village, town, township, incorporated borough, city, or of some division of any such civil district, which may be recognized by the Bishop, acting with the advice and consent of the Standing Committee, as constituting the boundaries of a Parish.

(b) If there be but one Church or Congregation within the limits of such village, town, township, borough, city, or such division of a civil district, as herein provided, the same shall be deemed the Parochial Cure of the Member of the Clergy having charge thereof. If there be two or more Churches or Congregations therein, it shall be deemed the Cure of the Members of the Clergy thereof.

(c) This Canon shall not affect the legal rights of property of any Parish or Congregation.

The relevance of such a definition of "Cure" is currently only in Canon III.9.7(b) relating to the life and work of Priests:

(b) No Priest shall preach, read prayers in public worship, or perform any similar function, in a congregation without the consent of the Rector or Priest-in-Charge of that congregation, except as follows:

- (1) In the absence or impairment of the Rector or Priest-in-Charge, and if provision has not been made for the stated services of the congregation or other community of faith, a Warden may give such consent.
- (2) If there be two or more congregations or Churches in one Cure, as provided by Canon I.13.3(b), consent may be given by the majority of the Priests-in-Charge of such congregations, or by the Bishop; provided that nothing in this Section shall prevent any Member of the Clergy of this Church from officiating, with the consent of the Rector or Priest-in-Charge, in the Church or place of public worship used by the congregation of the consenting Rector or Priest-in-Charge, or in private for members of the congregation; or in the absence of the Rector or Priest-in-Charge, with the consent of the Wardens or Trustees of the congregation; provided further, that the license of the Ecclesiastical Authority provided in Canon III.9.7(a), if required, be obtained.
- (3) This Canon shall not apply to any Church, Chapel, or Oratory, which is part of the premises of an incorporated institution created by legislative authority; provided that such place of worship is designated and set apart for the convenience and use of such institution, and not as a place for public or parochial worship.

Diocesan Canon 47 is thus only relevant by allowing the Bishop, rather than the Diocesan Convention, to expand the boundaries of that territory for which a Priest can forbid another Priest from officiating without permission. The Committee understands that this provision was once used to expand the territory of Trinity Church Vineland, but no published Journals of the Diocese of at least the past two decades have contained any listing of boundary extensions.

Committee member Paul Ambos has questioned the continued utility of this provision in light of the fact that Episcopal Church canons adequately cover the same subject-matter. Upon consideration, the Committee agrees. Accordingly, the Committee proposes the following implementing resolution:

Implementing Resolution III: *Resolved*, That Canon 47 of the Canons of the Diocese of New Jersey be deleted and the Canon declared reserved, as follows (deletions shown by strikethrough, insertions by double-underline):

CANON 47

Boundaries

~~SECTION 1. The boundaries of a Parish or a Missionary cure shall be the limits as fixed by law of the municipality in which the Parish or Mission is located. If there be but one Parish or Mission within the limits of a municipality it shall be deemed the Cure of the member of the clergy having charge thereof. If there be two or more Parishes or Missions therein it shall be deemed the Cure of the members of the clergy having charge thereof. The Bishop may extend the boundaries of a Parish or Mission to include all or part of the municipalities adjacent to a Parish or Mission and adjacent to each other, provided there be no Parish or Mission already located in the adjacent municipality. A list of all such boundary extensions shall be printed annually in the Journal of the Diocese.~~

~~SECTION 2. All territory in the Diocese not included within the boundaries of a Parish or Mission by virtue of the provisions of Section 1 of this Canon shall be deemed to be the Cure of the Bishop of the Diocese.~~

~~SECTION 3. Members of the clergy in charge of or officiating in Seasonal Chapels, Collegiate Chapels, or Institutional Chapels shall not be deemed to hold a Cure in the Diocese or to have pastoral jurisdiction over any territory in the Diocese.~~

CANON 47 RESERVED

The Standing Committee on Constitution and Canons recommends the adoption of this implementing resolution.

Part IV

Canon 5, Section 3 — Nominating Committee

Section 3 of Canon 5 (generally relating to diocesan elections) establishes the Nominating Committee and sets forth its duties. Currently, each Diocesan Convocation elects one clergy and one lay member each fall to serve a one-year term. Those elected members may also appoint up to four members-at-large in order to foster inclusivity and representation of diocesan membership. As part of its duties to make "suitable nominations" for elective offices, it reviews candidates to ensure that they meet any canonical qualifications for office. Committee member Ambos suggested to Bishop Stokes that it might be useful to have someone with a background in canon law to serve on this committee to assist them in this task, and he agreed. Members of the Nominating Committee were consulted and agreed as well. They also suggested that it would help with continuity of the committee if members were to serve two-year terms instead of just one. The Standing Committee on Constitution and Canons approves the suggested changes and also takes this opportunity to regularize capitalization in the canon, and accordingly proposes the following implementing resolution:

Implementing Resolution IV: *Resolved*, That Canon 5, Section 3, of the Canons of the Diocese of New Jersey be amended as follows (deletions shown by strikethrough, insertions by double-underline):

SECTION 3. There shall be a ~~nominating committee~~ Nominating Committee composed of one clerical and one lay member from each Convocation. The members shall be elected by each Convocation at the Fall meeting thereof to serve for ~~a one-year term~~ two-year terms beginning at the conclusion of the Diocesan Convention the following March. Vacancies shall be filled by the Dean of the Convocation. The President of Convention shall, before the first day of April, appoint from among the elected members a Chair and, in addition, may appoint a Chancellor or a Vice Chancellor as a liaison to the committee, to serve with seat and voice but not vote. The committee shall make suitable nominations for all elective offices. It shall report in writing to the Secretary its nominations. It shall in no way affect the right of any member of the Convention to place names in nomination in accordance with the provisions of these Canons and the Rules of Order of the Convention.

The Chair shall convene the first meeting of the ~~nominating committee~~ Nominating Committee no later than June 1. No later than September 1, the committee shall mail to all clergy and churches in the Diocese a list of the offices to be filled at the next Convention and a form on which names may be submitted to the committee recommending persons for nomination. Meetings of the ~~nominating committee~~ Nominating Committee shall be open to all clergy and church members in the Diocese. Opportunity shall be given at each meeting of the committee for such visitors to offer advice to the committee.

The Convocational Members of the Nominating Committee may elect up to four additional members-at-large. This election, if there be one, shall be by majority vote of all Convocational Members at a scheduled meeting of the Nominating Committee. In electing the members-at-large, the Convocational Members shall be as inclusive as possible to insure that the committee is representative of the entire membership of the Diocese. Members-at-large shall serve for a term of one year from their date of election and until a successor is elected, and they may be reelected.

The Standing Committee on Constitution and Canons recommends the adoption of this implementing resolution.

Part V

Canon 50, Section 5 — Charter Provision Exemption for Parish Elections

Diocesan Canon 50 sets forth the general requirements for annual elections in Parishes and Missions. It states: "Said meeting shall be held on a date which may be fixed at a regular or special meeting of the Congregation." It contains the qualifications for voters, incorporating some of the provisions from Episcopal Church Canon I.17, and specifies the necessary offices to be filled. At the end there is a catchall exemption:

SECTION 5. No provision of this Canon which may conflict with the Charter of any Parish shall have any force in such Parish.

The earliest predecessor of this exemption based on charter provisions stems from the 1796 Rules for the Government of Congregations (1797 Journal Appendix p. 7), which set the date for annual congregational meetings to be "on Easter Monday (unless the charter of any church directs a different day)". By statute (L. 1901, c. 62) the date for the annual meeting for new parish corporations was required to be held on "some secular day in the week beginning with the first Sunday in Advent", but this was changed in 1961 to any day "which shall not be inconsistent with the constitution, canons or laws of such church". Currently, no provision of canon or statute mandates when a congregation's annual meeting must be held. The exemption for charters as regards the annual meeting date is thus obsolete.

On the other hand, the Committee believes that the remaining provisions of current Canon mandating requirements for voters, the offices for which elections should be held, and the reference to "communicants" in Episcopal Church canons, should remain standardized throughout the Diocese and should not be varied by some obscure charter provision. The Committee agrees that Section 5 should be removed.

Accordingly, the Committee proposes the following implementing resolution:

Implementing Resolution V: *Resolved*, That Section 5 of Canon 50 of the Canons of the Diocese of New Jersey be deleted.

The Standing Committee on Constitution and Canons recommends the adoption of this implementing resolution.

Part VI

Canon 13, Section 12(b) — Authority to Sell Real Estate

Canon 13 deals with the establishment and authorities of the Trustees of Diocesan Trust Funds, and Section 12 of the canon authorizes the powers of the trustees of the two trusts that normally can own title to church land to transfer or sell it. Subsection (a) of Section 12 addresses the situation where the Trustees of Church Property or the Trustees of the Episcopal Fund hold title to property of an incorporated Parish. Typically this would be the result when a Mission congregation is reclassified to Parish status. The Parish requests that the Trustees transfer title to it, and, if a majority of the trustees approve the action and the Bishop and Standing Committee consent, the Trustees make the transfer. (A majority vote of the trustees is necessary for all corporate action, and the Bishop and Standing Committee must consent to all transfers or encumbrances of real property in the Diocese.) Subsection (b) of Section 12 deals with sales of real property by trustees, and Canon Phyllis Jones has requested an expansion of the authorization given to the trustees. Section 12(b) provides:

(b) Where the title to real estate of a Mission is held by the Trustees of Church Property or the Trustees of the Episcopal Fund, the Trustees of Church Property or the Trustees of the

Episcopal Fund, as the case may be, by a majority vote of such Trustees, is hereby authorized to sell and convey the same upon request of the members of the Diocesan Council, and the proceeds of such sale shall be disposed of at the direction of the members of the Diocesan Council.

The amendments requested by Canon Jones are to allow this same procedure to be used in the case of property that has been owned by a parish that has ceased holding services (and thus is eligible to be declared extinct by the Diocesan Convention under N.J. Revised Statutes § 16:12-16). If the effective closure takes place well before the next Convention, it may be advantageous for the diocese for the parish to deed over the property to the Trustees of Church Property and have them market and sell it, rather than waiting for the Convention to declare its extinction under the statute.

The Committee has reviewed this request and has determined that, given the volatility of the real-estate market, this may be a useful tool to maximize value to the diocese of the realty of a parish that can no longer sustain itself and may not have the resources to market and sell its property on the open market. At the same time, the Committee recommends that the language be clarified to reflect that it is the resolution of the Diocesan Council as a body, rather than its individual members as trustees, that will request a sale of property or will give directions as to proceeds. Accordingly, the Committee proposes the following implementing resolution:

Implementing Resolution VI: *Resolved*, That Canon 13, Section 12(b), of the Canons of the Diocese of New Jersey be amended as follows (deletions shown by strikethrough, insertions by double-underline):

(b) Where the title to real estate of a Mission, or of a Parish that qualifies by statute for extinction as determined by resolution of the Diocesan Council but has not yet been so declared by the Diocesan Convention, is held by the Trustees of Church Property or the Trustees of the Episcopal Fund, the Trustees of Church Property or the Trustees of the Episcopal Fund, as the case may be, by a majority vote of such Trustees, is hereby authorized to sell and convey the same upon request of ~~the members of~~ the Diocesan Council, and the proceeds of such sale shall be disposed of at the direction of ~~the members of~~ the Diocesan Council.

The Standing Committee on Constitution and Canons recommends the adoption of this implementing resolution.

Part VII

Canon 13, Section 12(c) — Assets of Closed Churches Clarifications (part 1)

Subsection 12(c) of Canon 13 was added last year to resolves issues over the proceeds of sales of extinct parishes and closed missions that have been in controversy since 2014. The fund holding proceeds of sales of diocesan properties was originally proposed to be called the Disposition of Assets from Closed Churches Fund. Under the canon amendment last year it was

renamed the Mission Renewal Fund. This fund is available to enable grants "for missional purposes of the Diocese" under the authority of the Diocesan Council. Subsection (c)(2) currently provides that "The Congregational Development Commission, the Board of Missions, and the Loan and Grant Committee shall review grant applications and make recommendations to the Diocesan Council." Canon Phyllis Jones has noted that the subsection as written would appear to require that all three diocesan bodies must review grant applications and make recommendations, whereas the intent in the 2015 Treasurer's Report had been that any of them could make recommendations, or that the Diocesan Council could act on its own initiative. She has asked for a clarifying amendment. The Rev. Elmer L. Sullivan has suggested appropriate language for this.

The Committee agrees that clarifying language would avoid confusion and accordingly proposes the following implementing resolution:

Implementing Resolution VII: *Resolved*, That Canon 13, Section 12(c), of the Canons of the Diocese of New Jersey be amended as follows (deletions shown by strikethrough, insertions by double-underline):

(c) The Trustees of Church Property shall hold the proceeds of transfers and sales of property of extinct parishes and of closed missions in a separate account to be named the Mission Renewal Fund. The Diocesan Council shall have the authority to approve grants from the Mission Renewal Fund for missional purposes of the Diocese.

- (1) Congregations, Diocesan entities, and the Bishop's office may submit grant proposals in such form as the Diocesan Council may require.
- (2) The Diocesan Council may invite the Congregational Development Commission, the Board of Missions, ~~and or~~ the Loan and Grant Committee shall to review grant applications and make recommendations to the Diocesan Council.
- (3) Final approval of grants shall rest with the Diocesan Council.
- (4) The Trustees shall make a complete financial report of the Mission Renewal Fund to the Convention annually.

The Standing Committee on Constitution and Canons recommends the adoption of this implementing resolution.

Conclusion

The Committee has received no further timely proposals for consideration for this year. The Committee reminds members of Convention that proposals for amendments to the constitution or canons must be submitted to the Committee by December 1, 2019 for consideration at the 2020 Diocesan Convention.

The Committee appreciates the input it receives from other diocesan officers and bodies within the areas of their expertise. The Committee also notes that The Rev. Dr. John P. Mitchell and

Canon Paul Ambos, Esq. are completing their current terms on the Committee, although they have been nominated for a further term. We thank them for their service to the Committee.

Respectfully submitted,

The Reverend Dr. John P. Mitchell, Chair
Paul De Sarno, Esq., Vice Chair
Donna Freidel, Esq.
The Reverend Dr. Jeffrey M. Kirk
Canon Paul Ambos, Esq., Secretary