



Diocese of the Virgin Islands
(Episcopal Church / Anglican)

By authority of the Bishop

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Diocesan Convention

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2009 Constitution and Canons Revision Group**

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The purpose of this discussion paper is solely to generate discussion and gather ideas and is not intended as an authoritative statement of canon law in the Diocese of the Virgin Islands. While the author endeavors to ensure the quality of this discussion paper, neither the author, the Bishop or the Diocese of the Virgin Islands accepts any responsibility for the accuracy, completeness or currency of the material included in this discussion paper, and will not be liable for any loss or damage arising out of any use of, or reliance on, this discussion paper.

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I. EXECUTIVE SUMMARY

The Rt. Rev. E. Ambrose Gumbs, Bishop of the Virgin islands, commissioned the 2009 Constitution and Canons Revision Group (“CCRG”) on 15 April 2009. It’s mandate is to examine and report back on the Constitution and Canons of the Diocese with a view to the adoption of a modern, clear and comprehensive document. The CCRG has begun its work by circulating a series of discussion papers to gauge the views and ideas from across the Diocese. The CCRG is utilizing the Deaneries to establish discussion groups on each discussion paper and to act as a focal point for the channel of information between the CCRG and the wider Diocese.

This discussion paper was prepared by the Revision Group Chairman, Jamal S. Smith. It does not necessarily reflect any position or policy agenda of the Bishop’s Office or the Revision Group. It is important for the discussions to envision unique solutions to the unique situations of our Diocese when exploring many of the issues. Towards that end, this discussion paper attempts to identify the current position within the Diocese, outline the legal restrictions from both National Canons and civil law, and explore how Diocesan Convention is treated in various other dioceses within the Episcopal Church.

Diocesan Convention is the highest representative deliberative body within the Diocese with the power to make legislative acts that govern the entire Diocese. It is the body which elects the Bishop who then serves as its presiding officer. It is currently a unicameral body not divided between the clergy and laity, except in certain votes. A criticism of the unicameral system is that larger congregations have more influence than smaller congregations, and similarly larger deaneries automatically have control of the Convention. However, as the Diocesan Convention is central to the work of the Diocese it is important that the work of the Diocesan Convention is carried on efficiently. Therefore, a proposed related project to the Diocesan Convention is to publish a handbook for delegates.

II. DIOCESAN CONVENTION

(a) Clerical Delegates

This discussion paper is not intended to consider specific issues relating to Clergy, including their professional development, performance appraisal, compensation or dissolution of the pastoral relationship. Those issues, among others, will be dealt with in later discussion papers. The scope and intent of this discussion paper is to deal with qualifications for members in the Diocesan Convention and while the CCRG welcomes comments on issues relating to clergy generally that may impact the reform of our Constitution and Canons, consideration would be given to the issues related to this discussion paper first.

The current Constitution provides for all canonically resident clergy to be members of the Convention, except in certain cases canonically resident clergy who have retired cannot vote.¹ Canonical residence requires either ordination or consecration within the Diocese or Letters Dimissory from that Diocese within which the clergy is canonically resident.² In broad terms,

¹ Art. II.1

² See, National Canon III.9.4.

canonical residence is the ecclesiastical equivalent to the civil law concept of “domicile”, and just as domicile is no simple concept in civil law so too the concept of canonical residence is rife with difficulties. There can be said to be two types of canonical residence: (a) original canonical residence, which is the place assigned to clergy when they are first ordained; (b) canonical residence of choice, which is the place where a clergy acquires for himself by some positive action. In essence, there is no such thing as being canonically resident in either the U.S. Virgin Islands or Virgin Islands (UK), as the canonical residence is tied to the Diocese. A few general principles needs to be understood about canonical residence, namely, (a) no clergy is without a canonical residence as they must belong to some Diocese; (b) no clergy can be canonically resident in more than one Diocese for the same purpose although it is difficult at this time to see what differing purposes would allow clergy to be considered canonically resident in different Dioceses; (c) a person is presumed to be canonically resident in a Diocese until it is proved that a new canonical residence has been acquired and it always rests on the person who asserts that canonical residence has been changed to prove it and the standard of proof is a heavy one since strong evidence must be shown that a person has changed canonical residence; and (d) the question of where a person is canonically resident should be determined solely in accordance with the Canons of this Diocese. For these reasons, it is important that the procedure for producing and receiving Letters Dimissory must be clearly established as is done in the Diocese of New York.³ Normally, this is done by policies within the Diocese as opposed to express provision within the constitution and canons of the diocese. An example of such policy from the Diocese of Virginia is attached as APPENDIX I.

It should be noted that our current Constitution and Canons do not allow for clergy who, although not canonically resident in the Diocese are licensed by the Bishop to serve in the Diocese.⁴ The National Canons places no restrictions on who may constitute the Diocesan Convention and it may be necessary to consider apart from determining the rules of canonical residence in the Diocese to also determine whether or not it should not be possible for clergy who are licensed by our Bishop to also be granted certain rights in our Diocesan Convention. For example, a clergy may be licensed by our Bishop to perform a specific ministry within the Diocese but is not canonically resident in this Diocese, would it not be fair to give that clergy at least seat and voice, but no vote, within our Diocesan Convention.

The current Constitution and Canons does not provide for a list of canonically resident clergy to be certified by the Bishop to serve as *prima facie* evidence of canonical residence. The current list that is appended to the Journal is not kept current and has not currency outside of Convention.⁵ It should also be a requirement that the certified list along with a list of all clergy licensed to officiate in the Diocese be forwarded to the Church Pension Fund since it is also a requirement under National Canons that a statement of the record of payments made to the Church Pension Fund in relation to any clergy accompany Letters Dimissory.⁶ It should also form part of the Journal of the Convention which must also be forwarded to the Secretary of the General Convention and the Archives of the National Church.⁷

³ See, <http://www.diocesen.org/pages/262-letters-dimissory>.

⁴ See, National Canons III.7.6 and III.9.6.

⁵ See, Diocesan Canon 4.1

⁶ See, National Canon III.7.7.

⁷ See, National Canon I.6.5(a).

Where a person's name is entered on the certified list there should be certain exceptions to the general rule that they are entitled to vote. For example, where they have not submitted the documents required by the Constitution and Canons or by National Canons they may be refused a vote at Convention.

Although this discussion paper will not explore the issues relating to inhibition, suspension or other forms of Ecclesiastical Censure in relation to the discipline of clergy, it may be necessary to bear in mind the possibility that Ecclesiastical Censure may be considered in subsequent discussion papers. In that case, it should be considered whether clergy under Ecclesiastical Censure of any kind should be allowed to vote, or even seat and voice, at Convention. To extend the obligations of clergy which exist currently,⁸ it should be a duty of every clergy whose name is on the certified list to attend Diocesan Convention and if they cannot attend to provide a written statement to the Episcopal Authority outlining the reasons for their absence. Failure of any clergy whose name is on the certified list to attend would be an issue of ecclesiastical discipline.

(b) Lay Delegates

National Canons do not specify any minimum requirement for lay delegates and the primary issue to be dealt with is the number of lay delegates per congregation. Currently, all parishes are entitled to 5 lay delegates and all missions are entitled to 2 lay delegates.⁹ This may not be a fair representation of the composition of the Diocese. There may be a parish with 100 active members and meeting the bare minimum requirements for a parish while a mission with 100 active members and meeting the minimum requirements for parish would be entitled to less seats at Convention simply because of a designation. The question must arise as to our theological basis for representation and ensuring fairness and equity across the Diocese. It may be necessary to ensure that all congregations, regardless of designation, would be given the same representation based on the number of active members stated in its last duly filed Parochial Report based on a grade system of small to medium to large congregations based on the median range of congregation sizes within the Diocese. However, no lay delegate should be seated if its congregation does not meet certain minimum criteria which may allow it to be classified as a "distressed congregation", a term used in some dioceses. However, the minimum standard for congregations is not the ambit of this particular discussion paper but will be dealt with in subsequent discussion papers. The same requirements would also apply to alternate lay delegates.

The efficacy of the current process for electing and certifying lay delegates and their alternates as well as their term of office needs exploration. However, a form of certification for lay delegates used in the Diocese of Minnesota is attached as APPENDIX II.

(c) Ex Officio Delegates

There may be lay persons who may have a specific role to play in the life of the Diocese, but are not lay delegates. However, as with the exception considered above in relation to licensed clergy who would not be on the certified list but given seat and voice, those persons should similarly be given seat and voice but not vote. Those persons would include, the Chancellors and other officers of the Diocese who are not also officers of the Convention.

⁸ Diocesan Canon 4.2.

⁹ Diocesan Canon 3.1

(d) Extraordinary Delegates

(i) Youth Delegates

A growing trend among dioceses within the Episcopal Church is to have youth delegates, who are communicants in good standing but not yet an adult communicant. It may, therefore, be possible for each Deanery to recommend a youth delegate to the Bishop for the appointment of a communicant in good standing who is not yet an adult communicant to be a youth delegate, and the three youth delegates representing the three Deaneries will together form the Youth Delegation to the Diocesan Convention, with the right to seat and voice. Whether or not they should have a vote would need to be further explored based on our theological expression of fair representation, since it may be inherently unfair to allow a person not elected through the proper process like other lay delegates to have a vote.

(ii) Episcopal Church Women Delegates

While the Episcopal Church Women (“**ECW**”) play an important role in the planning and preparation for General Convention, there is no formal provision for their express involvement in the activities and deliberation of the General Convention. To remedy this situation it may be prudent to involve the ECW more closely in the work of the Diocesan Convention and give the President and Vice President of the Diocesan ECW the right to a seat and voice. Whether or not they should have a vote would need to be further explored based on our theological expression of fair representation, since it may be inherently unfair to allow a person not elected through the proper process like other lay delegates to have a vote.

(e) Visitors & the Press

The Diocesan Convention should be an important event in the life of the Diocese and witnessed by not just clergy and lay delegates, but should seek to impact and touch the lives of the ordinary parishioner. It should be open to all sectors of the wider community, businesses, community groups, school groups and others. While all would be welcome, no one but clergy and lay delegates would have seat, voice and vote. Additionally, the relationship between the Diocesan Convention and the press should be considered.

(f) Rules of Order

The present Canons provide for *Robert’s Rules of Order* to govern the business of the Convention unless otherwise provided by Canons.¹⁰ Whether this is acceptable or not should be explored, but generally provisions allowing for *Robert’s Rules of Order* to be the failsafe measure in the absence of any adopted Rules of Order as opposed to being the standard to be used.

(g) Officers of Convention

(i) President

¹⁰ Diocesan Canon 3.2.

Currently, the Bishop serves as presiding officer and in his absence the President of the Standing Committee presides, and in the absence of either then the senior priest by canonical residence calls the meeting to order to elect a President.¹¹ This appears to be the standard, except that it seems a bit curious that there may be a situation where the Diocesan Convention proceeds without the leadership and direction of the Ecclesiastical Authority, whether the Bishop or the Standing Committee. Therefore, the latter part of the provision may be considered for review so that the Convention does not elect a President, but the Canon itself will allow for the Ecclesiastical Authority in some way to preside. For example, the members of the Standing Committee present, whether there is a quorum or not, may elect one of their number to serve as President.

(ii) Secretary and Treasurer

The current Constitution provides for a Secretary and Treasurer to be elected at each annual convention and to continue in office until a successor is elected with their duties to be determined by Canons. While this appears to be standard, one point of departure common in other dioceses is not only must the duties of the Secretary, and also the Treasurer, be determined by Canons, but their duties may also be prescribed by the Convention itself. This may be considered as part of the review since it may be necessary to amend the Canons every time a new duty is to be performed by either the Secretary or the Treasurer. An additional condition for serving as Secretary or Treasurer should be that they should at least meet the requirements for a lay delegate if they are not clergy on the certified list or licensed clergy, or themselves lay delegates in their own right.

(iii) Parliamentarian

Effectively, the Chancellor serves as the Parliamentarian at Convention. While it is possible for the Convention to elect any person it chooses to any office, this should be something that the presiding officer is allowed to do by appointing a parliamentarian on the recommendation of the Chancellor, where the Chancellor is not the parliamentarian. Such appointment should form part of the Journal with the statement that the Chancellor has recommended that the person serve as Parliamentarian.

(iv) Additional Officers

Any additional officers that the Convention deems necessary should be appointed by the Convention itself and provision should be made for the appointment of additional officers.

(h) Committees of the Convention

There are presently 2 committees of the Convention, namely, the Committee on Resolutions¹² and the Nominating Committee.¹³ However, the latter committee only comes into play on the election of a Bishop.

¹¹ Diocesan Canon 1.1.

¹² Diocesan Canon 9.2.

¹³ Diocesan Canon 10.2.

It is noted that there is no Committee on Credentials, which is sometimes referred to as the Committee on Qualifications, which would review certificates of the lay delegates and handle all matters relating to the seating of persons at Convention. Although it may not be necessary or expedient to appoint an entire committee, certainly at least the Secretary of the Convention should have the responsibility normally ascribed to the Committee on Credentials and make a recommendation to the Convention on any issue relating to a seat.

Additionally, there is no Committee for Planning which would be responsible for planning and preparing the agenda for the Convention and coordinate all the logistics for the convention including all the matters necessary for the proper conduct of business during the convention, including special rules of order. Normally such a committee would be elected at the end of each Annual Convention to handle all the affairs of any intervening Special Convention and the next Annual Convention. It would normally be chaired by the President of the Convention, include the Secretary of the Convention and involve persons representing the host for the Convention. It may be helpful to make provision for such a committee.

There would normally be reserved a general power in the Convention to appoint special committees. This unfortunately, is not the case presently.

(i) Acts of Convention

The following classes of actions are handled by Convention generally. Subject to the authority of the Constitution and Canons, they are the highest authoritative statements within the Diocese. The procedure for each form should be outlined. The Acts of Convention should continue to be automatically binding on all congregations¹⁴ but this should be unless expressly stated to apply restrictively to one or more congregations or one or more individuals. Additionally, provision should be made to consider when resolutions become effective, usually as of the close of business of the Convention at which they were adopted, unless a later effective date is provided, and should generally not be retroactive.

(i) Business Resolutions

These should include appointments, elections, budget, diocesan business matters, action on matters of diocesan governance and operations.

(ii) Policy Resolutions

These should provide for specific action to be taken once adopted. Where a policy resolution requires the application of financial resources, the policy resolution should outline the source of funding as a condition of validity.

(iii) Courtesy Resolutions

These would involve the usual pleasantries, well wishes and gratitude. Where a courtesy resolution requires the application of financial resources, it should outline the source of funding as a condition of validity.

¹⁴ Diocesan Canon 1.4.

(iv) Amendment of the Constitution and Canons

The current process for amending the Constitution and Canons should be subject to review and made more efficient within the context of the other provisions to be developed.

(v) Election of a Bishop

A review of recent processes for the election of a Bishop would be expedient to identify any weaknesses in the system and how best to improve the system.

(vi) Notification of Action on Resolutions

There is no requirement by National Canons that anything be notified to the clergy and lay delegates after Convention, since the only obligation by National Canons is to report to the National Church. The onus is for the Diocese to ensure that it communicates the final form of resolutions amended and adopted at the Convention.

III. RELATED PROJECT: DIOCESAN CONVENTION HANDBOOK

To ensure that all persons can effectively participate at the Convention level, it is suggested that a handbook be prepared for all delegates. A copy of the "Delegate's Handbook" from the Diocese of New Hampshire is attached as a reference as APPENDIX III.

IV. SUBMISSIONS

The Revision Group welcomes any submissions regarding the issues identified above, or any other matter related to the Diocesan Convention.

Submissions will be made publicly available on the Revision Group's website. If a submission, or any part of it, is to be treated as confidential, please indicate this clearly on the submission.

Submissions should be made by **1 September 2009** to:

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APPENDIX I

DIOCESE OF VIRGINIA

Requirements for Priests requesting Canonical Residence

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APPENDIX II

DIOCESE OF MINNESOTA

Form of Certification for Lay Delegates

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APPENDIX III

DIOCESE OF NEW HAMPSHIRE

Delegates' Handbook

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