

# **Diocese of New Jersey**

## **Report of the Standing Committee on Constitution and Canons 2007**

### **Introduction**

The Committee reviewed actions of the General Convention 2006, took up the issue of revisions to the canon governing the Commission on Ministry that was not completed last year, and reviewed other requests for changes in the constitution and canons of the diocese.

### **Part I**

#### **Canon 31**

This canon was addressed in the last two years' reports. Diocesan Canon 31 defines the structure and functions of the Commission on Ministry. Its existing text is as follows:

#### **CANON 31**

##### **Commission on Ministry**

SECTION 1. The Diocesan Commission on Ministry shall consist of twenty persons, consisting of a reasonable balance of lay persons and members of the clergy, plus the Chair and such ex officio members as are provided in Section 3 of this Canon, who shall be appointed by the Bishop at the annual Convention. There shall be five classes of persons each serving a five year term. Four persons shall be appointed in each year. The Bishop shall also appoint a chair of the Commission who shall serve at the pleasure of the Bishop. The Commission shall perform such functions as provided under Title III, Canon 1, of the Canons of the Episcopal Church, and such duties as may be assigned to it.

SECTION 2. The Commission shall have responsibility, under the jurisdiction of the Bishop and Standing Committee, over the selection, education and examination of Candidates for the Ministry.

SECTION 3. At the annual Convention, the Bishop shall also appoint a Committee on the Diaconate, whose members shall be ex officio members of the Commission on Ministry, which committee shall operate as a committee of, and shall report to, the Commission. The Committee shall consist of eight persons: four deacons, two presbyters and two lay persons, each serving a four year term. One deacon shall be appointed each year, one presbyter in even numbered years, and one lay person in odd-numbered years. The Bishop shall appoint the chair of the Committee from among its members. The chair of the Commission on Ministry shall also be a member of the Committee, or the chair may designate one member of the Commission as a liaison to the Committee. Both the chair and the liaison, if such shall be appointed, shall receive all papers and other information provided to the Committee.

SECTION 4. The Committee on the diaconate shall be that committee of the Commission on Ministry which is responsible, under Section 2 of this Canon, for the selection, training, and examination of all persons who seek to be ordained solely to the diaconate.

SECTION 5. The Commission on Ministry as a whole shall organize itself and establish such rules of order, subject to the approval of the Bishop, as it finds necessary to conduct its assigned duties, provided that such rules are not inconsistent with the Constitution and Canons of the Episcopal Church, or of this Diocese.

The 2003 General Convention extensively revised National Canons III.1-9, which deal with ordination and ministry of presbyters and deacons, adding responsibilities for lay education to diocesan Commissions on Ministry and requiring that deacons be included on such Commissions (as our diocese had previously provided for). The 2006 General Convention last summer made no further changes affecting the structure of such Commissions. Since 2003, Bishop Cancell has spearheaded a reorganization of the structure of the Commission on Ministry in our diocese, such that it is now an umbrella committee overseeing and coordinating three major subcommittees dealing with lay education, the ordination path for priests, and the ordination path for vocational deacons. Under the previous structure, the Commission dealt with candidates for the priesthood and a subcommittee dealt with the diaconate. The Christian Formation Committee was a separate body not governed by diocesan canon. Under the new structure, the former Committee on the Diaconate continues as a subcommittee of the Commission, but the rest of the former Commission members have been formed into another subcommittee, named the Committee on the Priesthood, and the former Christian Formation Committee has become a third subcommittee, renamed as the Committee on Lifelong Christian Formation. The co-chairs of these three subcommittees now form the membership of the Commission on Ministry, which exercises canonical functions and supervises the work of the subcommittees. The proposed rewritten Canon 31 has been drafted with input from the bishop, from Canon Elizabeth Geitz, and from the co-chairs of the subcommittees, to reflect this new structure.

The functions of diocesan Commissions on Ministry are set forth extensively in the national canons, so they need not be repeated in diocesan canons. Accordingly, this language has been removed, and the proposed amended canon deals only with the structure of the Commission.

The implementing resolution sets forth the proposed replacement canon and also contains transitional provisions that will not become a permanent part of the canons.

**Implementing Resolution I:** *Resolved*, That Canon 31 be deleted and replaced by the following text:

## **CANON 31**

### **Commission on Ministry**

SECTION 1. The Commission on Ministry of the Diocese shall consist of the six persons who are the co-chairs of the following three standing committees of the Commission: the Committee on Lifelong Christian Formation, the Committee on the Diaconate, and the Committee on the Priesthood. The Commission shall include at least one priest, one deacon, and one lay person. The Ecclesiastical Authority shall appoint a chair of the Commission from among its members, who shall serve at the pleasure of the Ecclesiastical Authority. The Commission shall perform such functions as provided under Title III of the Canons of the Episcopal Church, and such

duties as may be assigned to it. With the consent of the Ecclesiastical Authority, the Commission may establish additional committees with such membership as it may direct and may delegate any of its duties to its standing committees or to any such other committees. The Commission shall organize itself and establish such rules of order, subject to the approval of the Ecclesiastical Authority, as it finds necessary to conduct its assigned duties, provided that such rules are not inconsistent with the Constitutions and Canons of the Episcopal Church or this Diocese.

SECTION 2. The Committee on Lifelong Christian Formation shall be made up of twenty persons, consisting of a reasonable balance of lay persons, deacons, and presbyters, who shall be appointed by the Ecclesiastical Authority at the annual Convention. There shall be four classes of persons each serving a four-year term, with five persons appointed in each year. The Ecclesiastical Authority may appoint additional members for one-year terms for specified projects and shall in addition appoint two Co-Chairs of the Committee, who shall serve at the pleasure of the Ecclesiastical Authority.

SECTION 3. The Committee on the Diaconate shall be made up of twelve persons, consisting of a reasonable balance of lay persons, deacons, and presbyters, who shall be appointed by the Ecclesiastical Authority at the annual Convention. There shall be four classes of persons each serving a four-year term, with three persons appointed in each year. The Ecclesiastical Authority shall in addition appoint two Co-Chairs of the Committee, who shall serve at the pleasure of the Ecclesiastical Authority.

SECTION 4. The Committee on the Priesthood shall be made up of twenty persons, consisting of a reasonable balance of lay persons and members of the clergy, who shall be appointed by the Ecclesiastical Authority at the annual Convention. There shall be four classes of persons each serving a four-year term, with five persons appointed in each year. The Ecclesiastical Authority shall in addition appoint two Co-Chairs of the Committee, who shall serve at the pleasure of the Ecclesiastical Authority.

SECTION 5. The Ecclesiastical Authority may fill any vacancy on the Commission or any of its committees. The Ecclesiastical Authority may in addition appoint liaisons to the Commission and to any of its committees, with such duties as the Ecclesiastical Authority may designate.

SECTION 6. Each committee of the Commission shall organize itself and establish such rules of order, subject to the approval of the Ecclesiastical Authority, as it finds necessary to conduct its assigned duties, provided that such rules are not inconsistent with the Constitutions and Canons of the Episcopal Church or this Diocese. Each committee of the Commission may appoint subcommittees from among its members, with such duties as the committee may establish.

and be it

*Further resolved*, That the following transitional changes be authorized and approved:

- a. The former Christian Formation Commission be renamed the Committee on Lifelong Christian Formation;
- b. The former Committee on the Diaconate shall continue under the same name;
- c. The former Commission on Ministry (exclusive of the ex-parte members) be

renamed the Committee on the Priesthood;

d. The foregoing standing committees of the Commission on Ministry shall continue with their present duties and responsibilities until otherwise directed by the Commission on Ministry pursuant to the amended Canon 31;

e. The Bishop shall make such transitional appointments to such standing committees as to bring them into compliance with the amended Canon 31 prior to the 224th Convention of the Diocese of New Jersey.

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

## **Part II Canon 67**

The General Convention of 1994 entirely rewrote Title IV of the national canons, which deal with ecclesiastical trials of bishops, priests, and deacons. Under the Title IV procedures up until 2000, complaints against members of the clergy are presented to the Standing Committee in each diocese, which acts like a grand jury to determine whether a canonical offense has been committed and whether there is reasonable cause to believe that the clergyperson in question committed it. If so, a presentment is issued, which leads to a trial before a diocesan trial court. The 2000 General Convention amended the procedure to provide that dioceses could by canon establish a separate Diocesan Review Committee to act in lieu of the Standing Committee to perform the function of consenting to the issuing of presentments. Unless a diocese made such a provision, its Standing Committee would continue in its previous role. In our diocese, no change was made at the next following meeting of the diocesan convention, since the Constitution and Canons Committee proposed a moratorium on canonical changes during the interim period following Bishop Doss's resignation, which moratorium was adopted by the convention. No further consideration was given to this until last year, when Bishop Cuncell requested that the establishment of a Diocesan Review Committee be considered. This proposal follows.

There is some concern that a Standing Committee, which primarily serves as a confidential council of advice to its bishop, should not be involved in clergy discipline in any adjudicatory manner. Establishment of a separate Diocesan Review Committee elected by the diocesan convention would relieve Standing Committee members of possible conflicts of interest, and would eliminate an appearance that the bishop or his advisors might be influencing proceedings against a member of the clergy.

Current diocesan implementation of Title IV procedures are entirely contained in Canon 66. Because it was drafted in 1996 to implement the 1994 Title IV revision, it deals only with the establishment and operations of Trial Court and the Church Attorney and does not address presentments or the role of the Standing Committee. Rather than inserting provisions establishing a Diocesan Review Committee into this

canon, a new Canon 67 is proposed to effect this structure.

The 2006 General Convention was presented with a proposal for a newly rewritten Title IV which would change the procedural model to a less adversarial system and would expand coverage of the procedures to include laypersons in positions of church leadership as well as members of the clergy. This proposal was sent back to committee for revision and resubmittal to the 2009 General Convention. While some 2006 changes were enacted to existing Title IV, there were none that require further changes in our diocesan canons.

The proposed implementing resolution provides for the new canon and specifies its effectiveness next year, so that nominees can be proposed for election, in lieu of providing for appointment now by some body pending an election by convention next year. Until such time, the Standing Committee will under national canon IV.3.1 continue to serve as the Diocesan Review Committee.

**Implementing Resolution II:** *Resolved*, That the following be enacted as a new Canon 67:

## **CANON 67**

### **Diocesan Review Committee**

SECTION 1. There shall be a Diocesan Review Committee for the Diocese consisting of four lay persons and five clergy persons each to be elected for staggered three-year terms by the Convention of the Diocese, to have such responsibilities as may be provided for by canon, including the responsibilities set forth in National Canon IV.3. Clergy members of the Diocesan Review Committee must be presbyters or deacons who are canonically resident in the Diocese. Lay members must be adult confirmed communicants in good standing of a congregation in the Diocese. Members completing their terms are eligible for reelection. Any vacancy caused by reason of death, incapacity, resignation, or any disqualification under National Canon IV.14.13 must be promptly filled by the Standing Committee of the Diocese from a qualified person of the same order, to serve until the next meeting of the Convention, at which time an election will take place to fill the balance of any unexpired term together with the election of full-term members.

SECTION 2. Following each annual meeting of the Convention, the senior member of the Diocesan Review Committee by reason of service on the Committee (or in the case of two members with equal service, the one elected with the most votes), shall act as a convener to call a meeting of the Committee to be held within two months after the close of Convention. At this meeting, the Diocesan Review Committee shall elect a President and a Secretary from among its members, each to serve until a successor is elected. Whenever a vacancy thereafter occurs in the office of President or Secretary, the remaining members of the Diocesan Review Committee shall promptly convene at the call of the then senior member of the Committee and elect from among their number a successor to serve for the remainder of the unexpired term.

and be it

*Further resolved*, That the following transitional changes be authorized and approved:

a. This canonical amendment shall be effective upon the opening of the Diocesan Convention in the year following the passage of this implementing resolution.

b. At the Diocesan Convention at which this amendment is effective, there shall be an election for all nine members of the Diocesan Review Committee, with separate ballot offices for lay persons and clergy persons. There shall be elected two lay persons and one clergy person for a three-year term, one lay person and two clergy persons for a two-year term, and one lay person and two clergy persons for a one-year term. Those elected by the largest majority shall serve the longer initial terms. At subsequent Conventions there shall be elected a total of three persons to be drawn from the same order as those whose term is expiring.

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

### **Part III Canon 5**

Canon 5 deals with elections in diocesan conventions. Section 4 of this canon governs the nomination process:

SECTION 4. Nominations for elective offices to be filled by the Convention shall be submitted in writing to the Secretary by the Nominating Committee no later than January 1. Additional nominations, if any, may be submitted after this date by any member of Convention, but no later than 45 days before the meeting of the Convention in the form prescribed by the Convention.

The Secretary shall distribute a list of all nominees so received to all members of Convention no later than 30 days before the meeting of the Convention. A ballot shall be prepared on which shall be printed the names of the nominees submitted in the above manner. The ballot shall indicate which names have been submitted by the Nominating Committee. Provision shall also be made on the ballot that write-in votes may be cast for those nominated from the floor of Convention.

Dr. James Sullivan, a current member of the Nominating Committee, suggested a review of the timetables for submission of nominations to the Nominating Committee and to the Secretary of Convention and the practicality of sending the 30-day notice and the preparing of ballots in time for distribution at convention, and he requested clarification that post-January 1 nominations be made directly to the Secretary of Convention.

The Constitution and Canons Committee confirmed with diocesan staff that the timetables in the canon pose no difficulties of implementation, and that they have been followed since the date of convention was moved from November to March. The Committee agrees that there might be some confusion about details of submitting nominations after the Nominating Committee has ended its work, and so it proposes on behalf of Dr. Sullivan a clarifying amendment.

**Implementing Resolution III:** *Resolved*, That the second sentence of Section 4 of

Canon 5 be amended to read as follows (insertions underlined): "Additional nominations, if any, may be submitted after this date to the Secretary of Convention care of the diocesan office by any member of Convention, but no later than 45 days before the meeting of the Convention in the form prescribed by the Convention."

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

#### **Part IV Canon 7**

Canon 7 provides for selection of Deputies to Province II Synod of The Episcopal Church. Province II comprises the dioceses in the states of New York and New Jersey and the Diocese of Haiti, the Diocese of the Virgin Islands, and the Convocation of the American Churches in Europe. Deputies now meet once every three years in the spring preceding General Convention, and the meetings are directed to General Convention issues as well as provincial government. Between Synod meetings the Province is governed by a Provincial Council elected by the Synod. The Ordinances of the Province allow for each member diocese to send four clerical and four lay deputies to Synod, to be chosen as each diocese may determine.

Our current canon provides for the election of three lay deputies and three alternates and three clerical (priest or deacon) deputies and three alternates. These elections take place in the year of the General Convention. The fourth member in each order is the deputy to the General Convention who had previously received the highest number of votes in his or her order when elected, or if they are unable to attend then the General Convention deputy with the next-highest number of votes. In 2005 diocesan treasurer Peter Hausman had recommended that all eight General Convention deputies serve *ex officio* as Synod deputies, since General Convention deputies often attended Synod meetings as observers in any case, and to save the effort and expense of having elections for a separate office. This Committee had recommended that no action be taken at that time. This year, Dr. James Sullivan has again requested this same change in the canon, for the same reasons as previously stated by Mr. Hausman. Since no election of Synod deputies would be impending until 2009, consideration of a change by Convention at this time would not disrupt any election or nomination process. Bishop Cancell has indicated that he prefers the existing election system for Synod deputies, since it gives opportunity for additional persons to participate in diocesan representation, but that he is willing for the Convention to decide whether a change should be made.

The Committee has reviewed the existing canon and now proposes amendments to effect the change in the selection process requested by Dr. Sullivan and previously by Mr. Hausman. Following the pattern of other canonical revisions, references to the "Bishop" are changed to references to the "Ecclesiastical Authority", since if the diocesan bishop retires or dies, his or her authority devolves upon a bishop coadjutor, if there is one, or a suffragan bishop designated by the Standing Committee, if there is more than one, or the Standing Committee if there is no suffragan bishop. These lines of succession are covered by use of the term "Ecclesiastical Authority" rather than

"Bishop". Finally, rather than requiring an annual report from Synod deputies, they are only required to report in years that Synod meets.

**Implementing Resolution IV:** *Resolved*, That Diocese of New Jersey Canon 7 be amended as follows (insertions underlined, deletions stricken through):

## CANON 7

### Deputies to Provincial Synod

SECTION 1. ~~At the Annual Meeting of the Convention held in the calendar year of the regular meeting of the General Convention there shall be elected three clerical and three lay deputies to the Provincial Synod of the Second Province of the Episcopal Church. There shall also be elected three clergy and three lay persons to be alternate deputies to the said Synod. The three candidates in each order receiving the highest number of votes shall be deputies, and the three candidates in each order receiving the next highest number of votes shall be alternate deputies. Those persons elected as deputies to General Convention pursuant to Article X, Section 1, of the Constitution of the Diocese of New Jersey shall, by virtue of such election, be deputies to the Provincial Synod of the Second Province of the Episcopal Church. Those persons elected as alternate deputies to General Convention pursuant to Article X, Section 1, of the Constitution of the Diocese of New Jersey shall, by virtue of such election, be alternate deputies to the Provincial Synod.~~

SECTION 2. ~~In addition to the deputies elected as above, the deputy to General Convention in each order who receives the highest number of votes shall during the deputy's term of office serve as deputy to Provincial Synod. Any deputy unable to serve shall be replaced by another deputy to General Convention in the same order who has received the next highest number of votes.~~

SECTION 3. — It shall be the duty of each deputy-elect, at least two weeks before the convening of the Synod, to notify the Bishop Ecclesiastical Authority of the Diocese whether or not the deputy-elect will attend the Synod. In case any deputy-elect shall be unable to attend, or shall fail to notify the Bishop Ecclesiastical Authority of the deputy-elect's intention, the Bishop Ecclesiastical Authority shall appoint a person or persons to serve as deputy to the Provincial Synod from among those elected as alternate deputies. Such appointment shall be made from the alternate deputies ~~in the order of precedence according to the number of votes received by them at the election~~ according to their order of preference of election as set forth in Article X, Section 3, of the Constitution of the Diocese of New Jersey.

SECTION 43. ~~It shall be the duty of the The~~ Treasurer of the Diocese to shall pay to the deputies of the Provincial Synod their traveling and hotel expenses; ~~and such sums are to be included in the Diocesan Budget.~~

SECTION 54. ~~It shall be the duty of the The~~ deputies to the Provincial Synod to shall report to each annual meeting of the Convention held in the year following any meeting of the Provincial Synod.

*The Standing Committee on Constitution and Canons makes no recommendation as to the adoption of this implementing resolution.*

Canon 13 governs the election and duties of the Trustees of Diocesan Trust Funds. The canon names six funds that the Trustees are to govern; however, there are other trusts that the diocese has responsibility for that, under current practice, are managed by these same Trustees (except for testamentary or other trusts that may name a different trustee or trustees). Chancellor John Wood Goldsack advised the Committee that some question had arisen as to this current practice and asked that it be set forth in the canon. He also noted that N.J. Rev. Stat. § 16:12–20 provides that trustees of diocesan corporations be a minimum of "five discreet persons, who are members of the Protestant Episcopal Church, and citizens of this state, residing within the limits of the diocese," whereas the current canon has no such restrictions on who may serve as a Trustee. He noted that previous research had indicated that the diocese was an unincorporated entity, and the Committee had begun work on revising Canon 13 upon this assumption.

It has been pointed out to the Committee by the Rev'd Elmer L. Sullivan, however, that some form of incorporation of the diocese had been accomplished by special legislation as early as 1826, which predates the sections of New Jersey statutes governing the incorporation of Episcopal Church dioceses. Because the current status of such corporation is unclear (for example, the legislation limits annual income on investments to \$5,000), the Committee has asked the Chancellor for clarification of the status vis-à-vis the current laws. Accordingly, the Committee is deferring further revision of Canon 13 until next year to allow for such clarification and for further review.

## **Part VI**

### **Canon 13 Section 8**

Separately from the other work of the Committee on Canon 13, the Rev'd Elmer L. Sullivan has proposed that the last paragraph of Section 8 be amended to increase the maximum death benefit to the widow, widower, or orphans of deceased clergy from \$500 to \$1,000. His statement in support of this change is as follows:

The purpose of this amendment is to increase the death benefit from \$500 to \$1,000.

The death benefit provided for in Canon 13 was set at \$500 in 1974, and has remained at that level for 33 years. It is time to increase the amount to keep pace, to some extent, with inflation. One indicator of the increase in the cost of living is that in 1974 the minimum cash salary for clergy was \$8,000, and it now exceeds \$30,000.

The Fund for the Relief of Widows, Widowers and Orphans of Clergy, from which the death benefit is paid, has sufficient resources to support the increase. For example, the financial report for 2003 shows income of \$30,718 and disbursements of \$7,475 with a year-end balance of \$23,243. (See page 305 of the 2004 Journal.) This financial report is typical.

**Implementing Resolution VI-A:** *Resolved*, That the final paragraph of Diocese of New Jersey Canon 13 Section 8 be amended as follows (insertions underlined, deletions stricken through):

Upon the death of any member of the clergy canonically resident in the Diocese, the Trustees shall pay, if the Ecclesiastical Authority shall so order it in writing, a sum not exceeding ~~five hundred~~ one thousand dollars to the widow, widower or orphans of said member of the clergy as a death benefit.

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

The Committee had forwarded this proposal to the Treasurer, the Chief Financial Officer, and the Standing Commission on Clerical Compensation of the diocese for their review. The Treasurer and the Chief Financial Officer confirmed that the increase was justified by increases in the cost of living and that the fund in question could bear the increased payments. The Standing Commission on Clerical Compensation advised that its members felt that there was an inherent problem with this benefit: that it was redundant for clergy participating in the Pension Fund and not realistically a helpful amount to the family of a cleric who died suddenly. A motion was passed in the Commission to offer its recommendation for the suggested change **and** to direct the Chair of the Commission to write a letter to the Chair of the Standing Committee on Constitutions and Canons urging for a more in-depth analysis of this Canon, perhaps making it more specifically available to clergy not eligible or not participating in the Pension Fund or to establish a scholarship fund for minor children of deceased clergy. The Standing Committee on Constitution and Canons believes that such further study should be conducted by the diocesan bodies responsible for the subject-matter, and so it offers a further implementing resolution, not concurred in by Fr. Sullivan and not part of his proposal.

**Implementing Resolution VI-B:** *Resolved*, That the subject of the death benefit in Canon 13, Section 8 be referred to the Standing Commission on Clerical Compensation in consultation with the Insurance Committee for further study as to establishing possible conditions upon its grant or other possible modifications as to its implementation, and that such Commission report its findings to the Standing Committee on Constitution and Canons for its consideration and report to next year's Convention.

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

## **Part VII**

### **Constitution Article II, Section 2**

Article II of the Constitution of the diocese governs meetings of its convention, and Section 2 sets forth the voting rights for members of the clergy:

SECTION 2. The Bishop and all other bishops to the extent provided by canon shall each have a seat and vote.

Presbyters who have been canonically resident in Diocese for six months next preceding any meeting of the Convention shall each be entitled to a seat and vote.

Deacons who have been canonically resident in the Diocese for six months next preceding any meeting of the Convention shall each be entitled to a seat and vote.

But no members of the clergy shall be entitled to membership who are under ecclesiastical censure; or who shall have failed unless for good reason to exercise their ministries in the Diocese during the six months preceding the meeting of the Convention unless for reasons of age or infirmity; or who, being non-parochial, shall have failed to report to the Bishop their official acts not less than ten days preceding the meeting of the Convention, provided that no members of the clergy shall lose their right to a seat and vote who shall hold office in any ecclesiastical body organized under the General Convention or the Second Province of the Episcopal Church; or who are engaged as Rector, Principal, or Professor in any incorporated literary, or theological institution of the Church, or who shall be Chaplains in the Armed Forces of the United States of America.

The Rev'd Terence Blackburn has proposed that the six-month canonical residency requirement be eliminated, so that a member of the clergy could fully participate in convention if canonically resident at the time of convention. His position is that it is unreasonable for a priest or deacon, having received letters dimissory from his or her previous diocese, and having been formally received by the bishop into this diocese, to be unable to vote at the Convention of the Diocese, if he or she has not been resident in the diocese for six months prior to the convention. The Committee reviewed the language of the provisions governing the voting by the different orders of clergy and saw no reason to distinguish between bishops "having" the right to vote and priests and deacons being "entitled" to vote, and so have conformed the draft proposal to the same language.

If the proposed amendment is approved by this convention, under Article XIII of the Constitution it must be approved next year by a vote by orders in order to become effective.

**Implementing resolution VII:** *Resolved*, That the second and third paragraphs of Section 2 of Article II of the Constitution of the Diocese of New Jersey be amended, pursuant to Article XIII, Section 1 of the Constitution, to read as follows (insertions shown by underline, deletions by strikethrough):

Presbyters who ~~have been~~ are canonically resident in ~~the~~ the Diocese for ~~six months next preceding~~ at the opening of any meeting of the Convention shall each be entitled to ~~have~~ have a seat and vote.

Deacons who ~~have been~~ are canonically resident in the Diocese for ~~six months next preceding~~ at the opening of any meeting of the Convention shall each be entitled to ~~have~~ have a seat and vote.

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

## Part VIII Canon 74

Canon 74 governs the operation of the diocesan Commission on Clerical Compensation and sets forth minimum requirements for clergy compensation for congregations. Although salary and benefit schedules are calculated annually by the Commission, the canon text sets forth the minimum dollar figures for the year in which it was last amended, so that 1996 requirements are still contained in the canon. Chief Financial Officer Canon Wanda Greene had asked if these figures could be removed, and a general review of the canon indicated that other matters should be addressed. The Committee has consulted with the Commission on Clerical Compensation, which concurs with such changes and with other simplifications in formatting, consistency of language, and the correction of an error in Section 5 (a cross-reference to 3(b)(1) instead of 3(b)(2)). The dollar amount has been retained in section 3(b), last paragraph, since it is a cap rather than a minimum subject to frequent adjustment. The convention voted to increase this amount from \$4,000 to \$4,500 in 2005 — the first adjustment in at least ten years — but the canon was not then amended; the proposed amendment incorporates this increase. For the benefit of vestries, if a future increase is needed, it should be implemented by further formal amendment of the canon. No other substantive changes are made by this proposed revision.

**Implementing Resolution VIII:** *Resolved*, That Diocese of New Jersey Canon 74 be amended as follows (insertions underlined, deletions stricken through, moved provisions noted in curly braces):

### CANON 74

#### Minimum Compensation for Clergy

SECTION 1. All parishes and missions in the Diocese employing a priest full time shall be classified, for salary purposes only, into Position Levels by the Standing Commission on Clerical Compensation in a manner approved by the Convention of the Diocese. The classification shall be reported to each Convention of the Diocese and shall be published in the Journal of the Diocese. The Commission on Clerical Compensation ~~Commission~~, in accordance with the formula approved by Convention, may make annual adjustments in the classification as seem appropriate. A complete review of the classifications shall be made in each calendar year which is divisible by five. ~~SECTION 2.~~ A vestry, a or mission committee, or a member of the clergy, ~~may~~ request the ~~Standing~~ Commission on Clerical Compensation to reconsider the Position Level assigned to their church. If either is not satisfied with the decision of the Commission on Clerical Compensation ~~Commission~~, the matter may be referred appealed to the Standing Committee of the Diocese, whose decision shall be final.

SECTION 2. In accordance with the provisions of National Canon I.7.1(j), all churches in the Diocese shall set the compensation for all clergy employees according to a fiscal year that begins on January 1. {moved from Section 9}

SECTION 3. Every independent parish shall provide compensation for its rector in accordance with the provisions of this ~~Canon~~ section. Compensation shall include cash salary, housing, professional expense reimbursement, Social Security offset,

and continuing education allowance, in accordance with the following provisions:

~~(a) cash salary~~

~~(b) housing~~

~~(c) automobile and professional expense reimbursement~~

~~(d) Social Security offset~~

~~(e) continuing education allowance~~

(a) Cash salary shall not be less than the mandatory minimum level established in the Salary Schedule adopted annually by Diocesan Convention. The Rector's ~~rector's~~ term of office, for salary schedule purposes, will be considered to begin on the 1st of January closest to the date the Rector's ~~rector's~~ employment begins; provided, however, that all dates in July shall be considered closest to January 1st of the following year.

(b) Housing shall be provided in accordance with one of the following three alternatives:

(1) The parish shall pay the rector a housing allowance, not less than the minimum amount established annually by Diocesan Convention. This provision is intended to apply to situations in which the rector owns a home. ~~The minimum amount for 1996 is \$14,900.~~ In special circumstances the rector may make a written agreement with the vestry to accept a lesser amount for a given period of time, but all such agreements must be reviewed and approved in writing by the Standing Commission on Clerical Compensation.

(2) (i) The parish shall provide a rectory, pay the cost of utilities and maintenance, and provide a housing equity plan for the rector. As its share of the housing equity plan the parish shall pay a sum not less than ~~\$1,000~~ the amount set forth in the Salary Schedule per year into a tax deferred savings plan for the rector.

(ii) In addition, the rector may require the vestry to reduce the rector's cash salary by an amount specified by the rector and to pay this amount into the tax deferred savings plan as the rector's share of the housing equity plan; but the rector's share shall be applied to the requirement for cash salary provided for in paragraph "a" (a) of this section.

(3) The parish shall rent suitable living quarters for the rector and pay the cost of utilities. It may also provide a housing equity plan. When rented housing is provided in accordance with the provisions of this paragraph, the vestry or church officers shall, at the time when the member of the clergy is employed, make an agreement in writing with the member of the clergy stipulating the amount of the rent or rental allowance. A copy of the agreement shall be filed with the Commission on Clerical Compensation. This amount shall not be decreased by the vestry or church officers during the time that the member of the clergy remains employed by the church. {insert moved from Section 8}

~~If alternative two or three is selected, the rector may require the vestry to designate a portion of the cash salary as cash housing allowance in an amount specified by the rector, but this cash housing allowance shall be applied to the requirement for cash salary provided for in paragraph "a" of this section.~~

~~If alternative one (1) of this subsection (b) is selected, the rector may require the vestry to designate a portion of the cash salary as additional housing allowance in an amount specified by the rector, but this additional housing allowance shall be applied to the requirement for cash salary provided for in paragraph "a" subsection (a) of this section.~~

~~If alternative two or three (2) or (3) of this subsection (b) is selected, the rector may require the vestry to designate a portion of the cash salary as cash housing allowance in an amount specified by the rector, but this cash housing allowance shall be applied to the requirement for cash salary provided for in paragraph "a" subsection (a) of this section.~~

(c) The parish shall pay the rector a professional expense reimbursement in accordance with one of the following alternatives:

(1) The rector shall submit periodically to the parish treasurer an accounting of

professional expenses incurred and shall be reimbursed for the amount billed; provided, however, that the total of the amount billed shall not exceed \$4,000 \$4,500 per year unless the vestry shall agree to a larger sum.

(2) The parish shall provide the rector with an automobile for professional use and pay the cost of operating it. In addition, the rector shall submit periodically to the parish treasurer an accounting of other professional expenses incurred and shall be reimbursed for the amount billed.

(d) Social Security offset shall be one-half the rector's Social Security Self Employment Tax on cash salary and housing provided by the parish. If the rector has taken the proper legal steps to be exempt from Social Security, the vestry shall pay the rector an equivalent amount. The rector may direct the vestry to pay all or part of this amount into a tax-deferred saving plan of the rector's choice. The balance, if any, shall be paid to the rector directly.

(e) The annual amount of continuing education allowance shall be not less than 3% of the minimum starting salary for Level I as established in the Salary Schedule adopted annually by Diocesan Convention. For 1993, it is 3% of \$23,200 or \$696. The rector is entitled to one week of leave time per year with full compensation for continuing education purposes. Both leave time and continuing education allowance may be accumulated for as much as seven years. Accumulated leave time and allowance are forfeited upon termination of the pastoral relationship. The leave time and allowance can be used by the rector only in a continuing education pursuit approved by the vestry. If the vestry withholds approval, the rector may appeal to the Standing Committee of the Diocese, and the decision of the Standing Committee shall be final and binding on all parties.

(f) Upon request and with the written consent of the member of the clergy concerned, the Commission on Clerical Compensation may approve adjustments in the cash salary, housing allowance (if any), and automobile professional expense reimbursement if the total of these three items meets the appropriate minimum requirements in these three areas.

(g) The failure of any parish to comply with the provisions of this Section ~~section~~ is a violation of Section 6 of Article II of the Constitution of the Diocese.

SECTION 4. The standards for compensation of vicars of organized missions and incorporated missions who are employed full time as clergy with pastoral charge of one or more Congregations shall be those provided for rectors in Section ~~section~~ 3 of this Canon ~~canon~~. It shall be the joint responsibility of the local Congregation and the responsible diocesan Ministry to see that the provisions of this Section ~~section~~ are carried out.

SECTION 5. (a) Curacies of an apprenticeship nature shall be considered Level I positions. Pastoral assistantship positions not of an apprenticeship nature shall be assigned a Position Level by the rector and vestry of the parish in which the person is or is to be employed. Compensation shall be in accordance with Section ~~section~~ 3 of this Canon ~~canon~~, except that the provision of Section 3, Paragraph b, Subparagraph (2) ~~section 3(b)(1)~~ in reference to the minimum amount of the housing allowance shall not be mandatory. When housing is provided for an assistant minister in accordance with the provisions of section 3(b)(1) of this canon, but the vestry elects in accordance with the provisions of this subsection 5(a) to pay a housing allowance less than the minimum amount, the vestry shall make an agreement in writing with the assistant minister stipulating the amount of the housing allowance. A copy of the agreement shall be filed with the Commission on Clerical Compensation. The vestry shall not decrease the amount during the time that the assistant minister remains employed by the church. {moved from section 8}

(b) The standards for compensation of priests who are employed full-time as interim rectors or interim vicars by a church in the Diocese shall be those provided for rectors in section 3 of this canon, except that the provisions of subsection 3(b) on housing shall not apply. The church and the interim priest shall negotiate a mutually-

acceptable written agreement providing for housing and/or a housing allowance. A copy of the agreement, signed by both parties, shall be filed with the Commission on Clerical Compensation. {moved from section 10}

SECTION 6. The Standing Commission on Clerical Compensation shall annually review the provisions of ~~Section 3 of this Canon~~ section 3 of this canon and shall report to Convention its recommendations on or before November 1 of the previous year. All proposed changes to this ~~Canon~~ canon shall be submitted to the Commission on Clerical Compensation for its study, report and recommendations, if any, at least sixty days prior to the Convention at which they are to be considered.

SECTION 7. All proposed changes in the level of insurance benefits provided for in Canon 36, Section 2, shall be submitted to the Commission on Clerical Compensation for its study, report and recommendations, if any, at least sixty days prior to the Convention at which they are to be considered.

~~SECTION 8. When rented housing is provided in accordance with the provisions of Section 3, Paragraph b, of this Canon, the vestry or church officers shall, at the time when the member of the clergy is employed, make an agreement in writing with the member of the clergy stipulating the amount of the rent or rental allowance. A copy of the agreement shall be filed with the Standing Commission on Clerical Compensation. This amount shall not be decreased by the vestry or church officers during the time that the member of the clergy remains employed by the church.~~ {paragraph moved to section 3(b)(3)}

~~When housing is provided for an assistant minister in accordance with the provisions of Section 3, Paragraph b, Clause (1), of this Canon, but the vestry elects, in accordance with the provisions of Section 5 of this Canon, to pay a housing allowance less than the minimum amount prescribed by the Convention, the vestry shall make an agreement in writing with the assistant minister stipulating the amount of the housing allowance. A copy of the agreement shall be filed with the Standing Commission on Clerical Compensation. The vestry shall not decrease the amount during the time that the assistant minister remains employed by the church.~~ {paragraph moved to section 5(a)}

SECTION 9. ~~In accordance with the provisions of Title I, Canon 7, Section 1, Clause (8) of the Canons of the Episcopal Church, all churches in the Diocese shall set the compensation for all clergy employees according to a fiscal year that begins on January 1.~~ {moved to section 2}

~~SECTION 10. The standards for compensation of priests who are employed full-time as interim rectors or interim vicars by a church in the Diocese shall be those provided for rectors in Section 3 of this Canon, except that the provisions of paragraph (b) on housing shall not apply. The church and the interim priest shall negotiate a mutually acceptable written agreement providing for housing and/or a housing allowance. A copy of the agreement, signed by both parties, shall be filed with the Standing Commission on Clerical Compensation.~~ {moved to section 5(b)}

See also: Canon 33

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

## **Part IX Balloting in Convention**

Charles Perfater, Executive Director of Province II and a parishioner in our diocese, has made a proposal to this Committee and to the Committee on Rules of Order change balloting procedures in the Convention of the diocese to provide for involuntary removal of low-vote-getting candidates after the first ballot. This would speed up elections, which he feels are too prolonged by numerous ballots. He cites the provision in effect in the Diocese of New York (Canon 11(8)) (relevant language underlined):

In elections, unless otherwise directed by Canon, the voting shall be by ballot, provided that balloting may be dispensed with by a unanimous vote of the Convention. Balloting shall be by Orders, and, except in the case of a third ballot (if there be one), the concurrence of a majority of each Order shall be necessary for an election, provided that if in any election a greater number of persons than the number of offices to be filled shall receive a canonical majority of the votes cast, those who up to the number of offices to be filled receive the largest canonical majorities in both Orders shall be declared elected. Except in the election of a Bishop, Bishop Coadjutor or Bishop Suffragan, (i) the number of nominees on any second or third ballot shall be reduced, if necessary, so that there shall be twice as many nominees as there are vacancies remaining to be filled, such reduction to be effected by striking from the ballot, to the extent required for such reduction, the names of the nominees receiving in order the lowest aggregate number of votes of both Orders in the ballot last preceding, and (ii) any vacancy or vacancies remaining unfilled after taking the third ballot shall be filled by the President's declaring elected to such vacancy or vacancies the remaining nominee or nominees who shall have received on the third ballot the highest aggregate number of votes of both Orders.

Mr. Perfater has clarified that he would propose that the reduction of names not take place until the third or possibly the fourth ballot. The Committee has reviewed Mr. Perfater's proposal and notes that similar provisions have been proposed in the Diocese of New Jersey in the past and have been rejected. The Committee is also concerned that such a provision would adversely impact the rights of nominees and would limit the right of Convention deputies and clergy to vote for qualified candidates who have not voluntarily withdrawn their candidacies. Bishop Council has advised that he has "no enthusiasm" for such a change and is troubled also about the foregoing concerns. The Committee on Rules of Order is opposed to the change, although one member would defer to this Committee. Finally, extensive review of the Rules of Order, the Canons, and the Constitution would need to be made to seamlessly implement such a change in procedure. The Committee on Constitution and Canons is unwilling to undertake such a task unless the Convention is willing to consider anew this change that has been rejected in the past. Accordingly it is proposing a "sense of the Convention" resolution in order to proceed and recommending against its passage.

**Implementing resolution IX:** *Resolved*, That the Standing Committee on Constitution and Canons be directed to propose to next year's Diocesan Convention changes in the Constitution, Canons, and, in consultation with the Committee on Rules of Order,

the Rules of Order, in order to effect a procedure that would require the involuntary removal of certain candidates in all elections other than elections of bishops, from ballots after the second ballot.

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

## **Part X Canon 36**

The Insurance Committee of the Diocese of New Jersey invited the Chair of the Standing Committee on Constitution and Canons to attend its meeting on December 12, 2006, at which meeting it was noted that Canon 36 does not accurately describe the scheme of health insurance coverage provided through the diocese. The Insurance Committee, however, has not this year made a formal request for amendment of this canon. It is reviewing its policies and procedures and may make a request for changes for next year.

## **Conclusion**

The Committee reminds members of convention that proposals for amendments to the constitution or canons must be submitted to the Committee at least sixty days prior to the opening day of the next convention, or by around the beginning of January 2008. The Committee appreciates the input it receives from other diocesan bodies within the areas of their expertise.

Respectfully submitted,

The Reverend Terence Blackburn, Vice-Chair  
The Reverend Frank B. Crumbaugh, III  
The Reverend Dr. Henry Jansma, Secretary  
Keith P. Jones, Esq.  
Paul Ambos, Esq., Chair