



THE EPISCOPAL CHURCH

The Most Reverend Katharine Jefferts Schori
Presiding Bishop and Primate

September 12, 2008

Memorandum to the House of Bishops
Subject: Bishop of Pittsburgh

Sisters and Brothers:

As has been widely reported, at the forthcoming business meeting of the House in Salt Lake City on September 18, I shall present to the House the matter of the certification to me by the Title IV Review Committee that Bishop Robert W. Duncan has abandoned the Communion of this Church within the meaning of Canon IV.9. In this memorandum, I lay out the background of this matter and what I see as the procedural and substantive issues that are raised by it.

1. The Title IV Review Committee Certification

As the House has been informed previously, in November 2007 I directed a submission by my Office to the Title IV Review Committee that enclosed materials suggesting that Bishop Duncan had abandoned the Communion of this Church within the meaning of Canon IV.9. That submission recited that Bishop Duncan had supported first readings of amendments to the Constitution of the Diocese of Pittsburgh at the last Diocesan Convention that, among other things, would delete the unqualified accession by the Diocese to the Constitution and canons of the Episcopal Church. The submission also recited Bishop Duncan's leadership of a program under which delegates to the next Diocesan Convention in October 2008 would determine whether or not to adopt a second reading of the proposed amendments to the Diocesan Constitution deleting the "accession" clause, and pass a resolution purporting to make the Diocese a member of another Province within the Anglican Communion. Further details of Bishop Duncan's program were outlined in a second submission to the Review Committee by certain lay and clerical members of the Diocese of Pittsburgh.

The thrust of the foregoing submission by my Office was not that Bishop Duncan had already left the Episcopal Church, but rather that he had in his episcopal leadership role taken the position that the Diocese had the option of either remaining subject to the Constitution and canons of this Church or leaving this Church for membership in another Province of the Communion; and that in that role he was encouraging the Diocese to choose to leave. The submission suggested, therefore, that Bishop Duncan, by pressing his position that the Diocese

THE EPISCOPAL CHURCH CENTER

had such a choice and should exercise it by disaffiliating from the Episcopal Church, had abandoned the Communion of this Church by "an open renunciation of the . . . Discipline . . . of this Church" within the meaning of Canon IV.9(1)(i).

The Review Committee evidently agreed with that analysis and on December 17, 2007 certified to me as Presiding Bishop that Bishop Duncan had abandoned the Communion of this Church. Shortly thereafter, I asked the three senior bishops having jurisdiction in this Church, pursuant to Canon IV.9(1), to consent to Bishop Duncan's inhibition pending presentation of the matter to the House of Bishops, but not all these bishops gave their consent.

2. Bishop Duncan's Response

As the House has also been previously informed, on January 15, 2008, I informed Bishop Duncan of the Review Committee's certification and pointed out the provisions of Canon IV.9 that permitted him to respond to this certification in advance of a meeting of the House of Bishops at which consent to his deposition from the ordained ministry of this Church would be sought. On March 14, 2008, Bishop Duncan responded in a letter in which he stated that he considered himself fully subject to the Doctrine, Discipline and Worship of this Church, and described certain actions that he believed supported that view. I concluded then, and I remain of the view now, that that response was not a sufficient "declaration . . . that the facts alleged in the certificate are false," and that therefore Bishop Duncan remains "liable to Deposition" under Canon IV.9(2). Moreover, since his letter of March 14, 2008, Bishop Duncan has made clear, both in responses to questions put to him in litigation within his diocese and in his recent letter to the House, that he does indeed support the proposed amendments to the Diocesan Constitution referred to above and a purported "realignment" of the Diocese of Pittsburgh with the Province of the Southern Cone.

3. Presentation to the House of Bishops

As stated above, I intend to bring this matter before the House at its forthcoming meeting in Salt Lake City. Prior to the business meeting on September 18, I shall ask my Council of Advice to hold an informal evening meeting to "investigate the matter" pursuant to Canon IV.9(1) at which members of the House can offer views and participate in a discussion concerning Bishop Duncan's conduct. While Bishop Duncan has unfortunately announced that he will not attend this meeting of the House, his supporters may at this hearing offer factual and opinion material as to why he has not abandoned the Communion of this Church.

As stated above, the House will be asked whether or not it will consent to Bishop Duncan's deposition at the business meeting on September 18, when there will be opportunity for further discussion. At that time, the House may, by majority vote of those present, grant or withhold its consent or decline to vote until a later time. In that regard, some have suggested that a vote not be taken until a later meeting of the House after the forthcoming Convention of the Diocese in early October, when Bishop Duncan's intentions and actions can perhaps be viewed more clearly.

At this meeting there may be raised the question whether, under Canon IV.9, the House may proceed to grant or withhold its consent to Bishop Duncan's deposition on the ground that the

three senior bishops have not consented to his inhibition. It is the position of my Chancellor, after reviewing the apparent intent of the canon and consulting several other chancellors and former chancellors, as well as the opinion of the Parliamentarian of the House, that the General Convention in enacting this canon did not intend to give the three senior bishops a "veto" over the House's right to determine whether or not a bishop who has been certified by the Review Committee as having abandoned the Communion of this Church should be deposed. Rather, that decision was intended to be made by the House. The consent of the three senior bishops, they opine, was intended to be sought only on the matter of whether or not the bishop in question should be inhibited pending the proceeding before the House, and that any ambiguity in the language of the canon should be resolved in favor of the ability of the House itself to vote on this matter. In their view, and in the language of the canon, it is my "duty . . . to present the matter to the House of Bishops" regardless of whether the bishop in question has been inhibited.

I concur with this advice, and that will be the ruling of the Chair. Any member of the House may appeal the ruling of the Chair, which may be overruled by a two-thirds vote pursuant to House Rule XV, p.192.

4. The Required Vote to Consent

There may also be raised at this meeting the question of whether consent to the deposition of a bishop who has been certified to have abandoned the Communion of this Church must be by a majority of bishops present at the meeting at which the matter is presented or, on the other hand, by a majority of all the voting members of the House whether or not in attendance. Canon IV.9(2) states that the vote to consent must, first, take place at a "regular or special meeting of the House" and, second, be "by a majority of the whole number of Bishops entitled to vote." My Chancellor and the Parliamentarian of the House have both advised me that the canon means that the vote must be by a majority of all the bishops who are at the meeting at which the vote must be taken and who are entitled to vote. Their view is based on their conclusion that the language of the canon may be ambiguous, but that it should be interpreted to give practical effect to the stated direction by the General Convention that the vote must be taken at a meeting of the House. This direction differs from other provisions in the Constitution and the canons where votes by a majority of all the members of the House are required but that voting may be by ballot (e.g., Art. II.6 (consent to resignation of bishops); Canon IV.3(21)(c) (consent to doctrinal presentation of bishops). The Chancellor has informed me that this canon was amended in the 1870s and again in 1904 to make clear that the vote had to be taken at a meeting of the House, presumably so that all who would vote on such an important matter could hear the factual presentations and arguments on both sides of the question. He also has pointed out that by 1904 the number of members of the House who were not entitled to vote was growing, as suffragan bishops, whose election and ordination were being permitted for the first time in our history, were nevertheless not given the right to vote in the House until the 1940s.

Finally, the Chancellor has noted with respect to the requirement that the vote be taken at a meeting of the House that most meetings of the House are not attended by a majority of all the voting members of the House. Thus, in the last several Triennia, while a majority of all voting members of the House were present at the meetings held in conjunction with a meeting of the General Convention, such a majority was not present at most of the interim and special meetings.

And, at those interim and special meetings where a majority was present, the majority was only by a bare handful, so that under an opposing reading of the canon, a vote to consent to the deposition of a bishop would have had to have been virtually unanimous. My Chancellor advised me that the votes to consent to the depositions of Bishop Davies, the resigned Bishop of Fort Worth, in 1993, and Bishop Larrea, the Bishop of Ecuador Central, in 2004, were cast at interim meetings of the House at which no account was taken of the absent members and, indeed, less than a majority of all the voting members of the House appear to have been present.

In these circumstances, I concur with my Chancellor and the Parliamentarian that any ambiguity in the canon should be resolved in favor of making this important provision work effectively and that the discipline of the Church should not be stymied because a majority or nearly a majority of voting bishops are no longer in active episcopal positions in the Church and their attendance at meetings is hampered by age, health, economics, or interest in other legitimate pursuits.

That will be the ruling of the Chair, subject to appeal as discussed above.

I urge your prayerful reflection on these matters as you prepare for our meeting in Salt Lake City, and I remain

Your servant in Christ,

A handwritten signature in cursive script that reads "Katharine Jefferts Schori". The signature is written in black ink and is positioned above the printed name.

Katharine Jefferts Schori