

## Proposed Resolution R-6      2010 Convention Reconvened

Offered by:      The Standing Committee

Subject:    *Amendment of the Constitution of the Diocese of South Carolina*

**Resolved** that Article I of the Diocese of South Carolina is hereby amended to read as follows:

The Church in the Diocese of South Carolina accedes to ~~and adopts~~ the Constitution ~~and Canons~~ of the Protestant Episcopal Church in the United States of America. ~~and acknowledges this authority accordingly.~~

In the event that any provision of the Constitution of the General Convention of the Protestant Episcopal Church in the United States of America is inconsistent with, or contradictory to, the Constitution and Canons of the Protestant Episcopal Diocese of South Carolina, the Constitution and Canons of this Diocese shall prevail.

**Resolved** that Article VIII.1.a.2.e regarding requirements of new parishes is hereby amended to read as follows:

e. its willingness to conform to the Constitution ~~and Canons~~ of the Protestant Episcopal Church in the United States General Convention and the Constitution and Canons of the Convention of this Diocese, which are, or thereafter may be, enacted by the authority of the ~~same~~ Diocese.

**Resolved** that Article VIII.1.B.2.e regarding admission requirements for new missions is hereby amended to read as follows:

e. the extent of its ability to support its work, its willingness to conform to the Constitution ~~and Canons~~ of the Protestant Episcopal Church in the United States General Convention and the Constitution and Canons of the Convention of this Diocese, which are then, or thereafter may be, enacted by the authority of the ~~same~~ Diocese

**Resolved** that Article X.1 regarding Deputies to General Convention is hereby amended to read:

*Section 1.* At an Annual Convention **during the triennium between General Conventions, but preceding each General Convention**, four Presbyters and four laypersons, having qualifications established by the Constitution ~~and Canons~~ of the Episcopal Church, shall be chosen by ballot to represent the Diocese at the next succeeding General Convention. Four other Presbyters and four other laypersons, having the same qualifications, shall be chosen by ballot, as alternates for those selected. Such representatives and alternates shall serve until their successors are elected and qualified.

**Resolved** that Article XI regarding the Trial of Clergyman is hereby amended to read:

A clergyman shall be subject to a trial for offences enumerated ~~in the Canons of the General Convention or~~ in the Canons of this Convention, and if found guilty shall be sentenced in accordance therewith. The trial shall be conducted according to the Canons of this Convention.

**Explanation:**

The Diocese of South Carolina, as a founding Diocese of the Episcopal Church, has freely exercised its sovereignty in acceding to the Constitution and Canons of the Episcopal Church.

The demand of this Convention that the Presiding Bishop's office remove legal counsel representing itself as the attorney for the Episcopal Church in South Carolina has met with no response, suggesting continued legal threat from that office.

The changes in the Title IV section of the Canons of The Episcopal Church contradict the Constitution of The Episcopal Church and they represent an unacceptable change in our polity and an indefensible infringement upon the rights to due process of all the clergy of this diocese.

Protection of the sovereignty of the diocese consistent with the Constitution of The Episcopal Church and the right to due process for its clergy requires that accession to the Canons of The Episcopal Church be removed. This change preserves our ability to continue under the Constitution of the Episcopal Church.

## Proposed Resolution R-7      2010 Convention Reconvened

Offered by: The Standing Committee

Subject: *Article XII - Of Altering the Constitution*

**RESOLVED**, that Article XII of the Constitution of the Diocese of South Carolina regarding changes to the Constitution is hereby amended to read:

No alteration or amendment of, or addition to this Constitution shall be made unless the same be proposed in writing and in duplicate on the first day of ~~an Annual~~ a Convention and after reference to the Committee on Constitution and Canons, is adopted by a majority vote of the Convention at which it is proposed, and further adopted by a two-thirds vote of both Orders present at the next ~~Annual~~ Convention.

### **Explanation:**

The proposed changes make it possible for Convention to make changes to its Constitution in less time than the one year process encompassed by the current wording of the Article.

## Proposed Resolution R-8      2010 Convention Reconvened

Offered by: The Standing Committee

Subject: *Removal of Accession to the Canons of The Episcopal Church*

**Resolved**, the following Canons of the Diocese of South Carolina are hereby amended to read as follows, removing or qualifying reference to the Canons of The Episcopal Church:

Canon II, Section 1 is hereby amended to read as follows:

*Section 1.* Whenever not less than ten persons residing in any neighborhood not included within the limits of a Mission or Parish already organized desire to be organized as a Mission, they shall make application to the Bishop in writing, expressing their desire, and promising conformity to the Constitution and Canons, doctrine, discipline and worship of the Episcopal Church ~~in the United States and~~ in this Diocese, and to the rules regulating such Missions. They may propose a name for the Mission, and shall state the minimum amount they are able to contribute to the support of the proposed Mission.

Canon III, Section 1 is hereby amended to read as follows:

*Section 1.* Whenever any organized Mission shall desire to become an organized Parish, it shall make application to the Bishop in writing, which application may state such facts as applicant deems pertinent; but it must show (a) the facts of applicant's organization in accordance with the Canons of the Diocese and its continued existence thereunder for at least one year, (b) that its organization has not been dissolved by the Ecclesiastical Authority, (c) the number of adult members and the number of communicants, (d) its willingness to conform to the Constitution ~~and Canons~~ of the General Convention and the Constitution and Canons of the Convention of this Diocese, which are then, or thereafter may be, enacted by the authority of the same, and (e) evidence that it is self-supporting and the prospects of remaining so, which evidence of self-support shall include its ability to pay the full salary of its minister at or greater than the minimum salary scale approved by the Department of Missions with the approval of the Bishop. The application must be accompanied by a certified copy of its corporate charter, with the approval of such charter by the Chancellor or the Assistant Chancellor. Said charter must contain the provision that the corporation is formed for the purpose of operating a Parish or Mission, organized pursuant and subject to the Canons of the Protestant Episcopal Church in the Diocese of South Carolina as now in force or as thereafter may be amended, and the further provision that upon being dissolved pursuant to the Canons of the Protestant Episcopal Church in the Diocese of South Carolina, automatically the offices of the Vestry, Wardens, and

other officers of the corporation shall become vacant, and the Standing Committee of the Protestant Episcopal Church in the Diocese of South Carolina shall become the managing body of the corporation, with full power and authority, without restriction, to liquidate the property of the corporation, to sell or mortgage its property or any part thereof, to convey any or all of its property to the Trustees of the Protestant Episcopal Church in South Carolina, and upon complete liquidation to surrender the charter of the corporation.

Canon V, is hereby amended to read as follows:

*Section 1.* Pursuant to the Canons of General Convention of the Protestant Episcopal Church in the United States of America (2006) there is hereby established a Commission on Ministry in the Diocese of South Carolina, consisting of not more than five (5) and not less than three (3) Presbyters, and not more than five (5) and not less than three (3) laypersons, nominated by the Bishop and confirmed by vote of the Annual Convention of the Diocese. The number of Presbyters and the number of laypersons on the Commission to be determined by the Bishop. The term of office of each member of the Commission shall be three years and until his or her successor is nominated and confirmed.

*Section 2.* If any Parish or Mission shall have failed for three successive years to elect a Vestry (if a Parish), or to send a Deputy to the Convention (if in union with the Convention), or to make the reports required by Section 1, Canon 6, Title I of the General Convention (2006), or to make a financial contribution to the program of the Diocese, such Parish or Mission shall be considered dormant, and may be dissolved by the Bishop with the consent of the Standing Committee of the Diocese.

Canon VI, Section 2 is hereby amended to read as follows:

*Section 2.* At least thirty (30) days prior to the annual meeting the Rector shall compile and publish a list of the communicants of the Parish in good standing as defined by the Canons of this Diocese ~~and of the Episcopal Church~~, and shall indicate which are confirmed communicants.

Canon IX, Section 2 is hereby amended to read as follows:

*Section 2.* He shall transmit to each Bishop of the Protestant Episcopal Church in the United States of America, to the Secretary of the House of Deputies of the General Convention, and the Secretary of every Diocesan Convention, when desired, a copy of all Journals of the Convention of this Diocese, and to every General Convention, a certified list of the Clergy of the Diocese; and shall perform all other duties devolving upon him by the Canons and Regulations of the General Convention (2006).

Canon XIII, Section 9.c is hereby amended to read as follows:

c. Except as otherwise provided in these [Canons](#), any property impressed with a trust at the time the trustees took title and re-conveyed by the trustees to the diocese shall not be alienated, encumbered, or disposed of without the written consent of the trustees.

Canon XXI, Section 3 is hereby amended to read as follows:

*Section 3.* The Parish designated as the Cathedral Church shall not be deprived of any privileges afforded Parishes under the Constitution and Canons of this Diocese ~~and the Protestant Episcopal Church in the United States of America~~, except as provided in this Canon, nor relieved of any duties or responsibilities imposed upon it hereby; and such Parish shall continue its activities as a separate entity, but shall be known as a Cathedral Parish.

Canon XXII is hereby amended to read as follows:

*Section 1.* Pursuant to the Canons of General Convention of the Protestant Episcopal Church in the United States of America [\(2006\)](#) there is hereby established a Commission on Ministry in the Diocese of South Carolina, consisting of not more than five (5) and not less than three (3) Presbyters, and not more than five (5) and not less than three (3) laypersons, nominated by the Bishop and confirmed by vote of the Annual Convention of the Diocese. The number of Presbyters and the number of laypersons on the Commission to be determined by the Bishop. The term of office of each member of the Commission shall be three years and until his or her successor is nominated and confirmed.

*Section 2.* The Commission on Ministry hereby established shall have the duties and powers as prescribed by the Canons of the General Convention of the Protestant Episcopal Church in the United States of America [\(2006\)](#). The Chairman shall be a Presbyter, and both the Chairman and Secretary shall be named annually by the Bishop from among the Commission.

Canon XXVII, is hereby amended to read as follows in the following Sections:

*Section 1.* Except as provided in Title III, Canon 17, Section 5 of the Canons of The Episcopal Church [\(2006\)](#), a Rector may not resign as Rector of a Parish without the consent of its Vestry, nor may any Rector canonically or lawfully elected and in charge of any Parish be removed therefrom by said Vestry against his will, except as hereinafter provided.

*Section 9.*

(1) Statements made during the course of proceedings under this Canon are not admissible in any proceeding under Title IV of the Canons of The Episcopal Church [\(2006\)](#) and/or Canon XXVIII of this Diocese. This section 8 does not,

however, require the exclusion of evidence in any proceeding under the Canons of this Diocese, or of The Episcopal Church (2006) which is otherwise discoverable and admissible, merely because it was also presented in proceedings under this Canon.

- (2) In the course of proceedings under this Canon, if a charge is made against the Rector that could give rise to a disciplinary proceeding under the Canons of this Diocese or the Episcopal Church (2006), all proceedings under this Canon shall be stayed until the charge has been resolved or withdrawn.

Canon XXVIII, is hereby amended to read as follows in the following Sections:

Section 1.

- (11) (a) The Chancellor shall give the members of the Ecclesiastical Court and of the Trial Court his/her opinion as to the procedure required by the Canons for them to organize and comply with the provisions of canon law but shall not directly or indirectly express any opinion as to the facts of the case or the guilt or innocence of the respondent. After a Lay Assessor or Assessors have been appointed, the Chancellor shall have no further communication with the Trial Court, unless specifically asked by the Trial Court to give an opinion on canon law. When requested by the Lay Assessor, Church Attorney, or by counsel for the Respondent, the Chancellor shall give his/her opinion on the meaning or purport of a provision of the Constitutions and Canons of the Diocese and the National Church (2006). The Chancellor shall be permitted to attend all open sessions of trials before the Court.
- (13) The Trial Court shall be governed by the portion of the Federal Rules of Civil Procedure set forth in Appendix A to Canon IV of the Canons of the Protestant Episcopal Church in the United States (hereinafter "National Canons") (2006).

*Section 4. Of Presentments.*

- (1) A Presentment to the Ecclesiastical Court may be issued only by the Standing Committee of this diocese as provided in this Canon and in the Canons of the Episcopal Church in the United States (2006).
- (2) A charge against a Priest or Deacon shall be in writing, verified and addressed to the Standing Committee of this diocese and, except as otherwise provided in Title IV of the Episcopal Church in the United States (2006), if the Priest or Deacon is canonically resident in this diocese.
- (3) A Charge may be made as by those persons as provided for in Canon IV, Section 3, of the National Canons (2006).

*Section 5. The Ecclesiastical Trial.*

- (5) If on or during the trial, the accused shall confess the truth of the charges as stated in the presentment, the Court may dispense with hearing further evidence and proceed to tender judgment; but if he/she shall appear and proceed to trial on the presentment, the Court shall adjudge him/her guilty or not guilty, according to the evidence. If he/she be found guilty, the Court shall declare to the Bishop to what ecclesiastical censure he/she ought, in their judgment, to be subjected. The Lay Advisor shall also inform the accused of his/her right to appeal to the Court of Review as provided for in the National Canons [\(2006\)](#).
- (6) ~~All trials hereunder shall be subject to the National Canons.~~ The Secretary shall keep a record of all of the proceedings, which shall contain a copy of the presentment, specifications, notice to the accused, and his/her answer, with the evidence, both oral and written, and the final judgment of the Court. An attested copy of this record, made out by the Secretary, or by the stenographer and certified by the Secretary, shall be forthwith at the conclusion of the trial delivered to the Bishop, who shall in the consideration thereof be authorized to consult with the Chancellor or to appoint a Lay Adviser with the same authority and same duty as the Lay Adviser of the Court, and obtain from him/her when advisable, an opinion on all matters not theological. The Bishop shall also have the same authority in passing upon all motions for a new trial.
- (17) Alternate Ecclesiastical Trial Court. In the event that a Diocese cannot convene an Ecclesiastical Trial Court due to vacancies, declinations to act, absences, resignations, challenges or otherwise or due to the determination by the Standing Committee for good cause shown that change in venue is needed, the Ecclesiastical Authority shall arrange for the Trial to be held by an Ecclesiastical Trial Court of another diocese of that Province reasonably convenient for the parties [with the consent of that Diocese](#). The reasonable expenses of the Alternate Ecclesiastical Trial Court shall be the responsibility of the Diocese from which the Presentment has issued.

*Section 6. Inhibitions, Sentences and Appeals.*

- (1) (b) A Sentence of Admonition may be imposed (i) after the filing of a Waiver and Voluntary Submission under Canon IV.2 [\(2006\)](#), or (ii) after final Judgment by a Trial Court. This Sentence shall be a public Reprimand of the Member of the Clergy for the acts of which convicted after Trial or as set forth in the filing of the Waiver and Voluntary Submission.



- (c) (1) A Sentence of Suspension may be imposed (i) after the acceptance of a Waiver and Voluntary Submission under Canon IV.2 [\(2006\)](#), or (ii) after final Judgment by a Trial Court.
- (4) The Suspension of a Member of the Clergy from the exercise of the Sacred Ministry shall terminate the Pastoral Relationship unless the Vestry by two-thirds vote requests of the Ecclesiastical Authority within thirty days that the relationship continue. Unless the Pastoral Relationship has been terminated, religious services and sacramental ministrations shall be provided for that Parish as though a vacancy exists in the Office of the Rector. This Section shall not prohibit the application of National Canon IV.2(ii) [\(2006\)](#).
- (d) (1) A Sentence of Deposition may be imposed (i) after the acceptance of a Waiver and Voluntary Submission under National Canon IV.2 [\(2006\)](#), (ii) after final Judgment by a Trial Court, (iii) when there has been a renunciation under National Canon IV.8 [\(2006\)](#), (iv) upon the abandonment of the communion of the Church as set forth in National Canons IV.9 and IV.10 [\(2006\)](#), or (v) by the Presiding Bishop pursuant to National Canon IV.11.3(d) [\(2006\)](#).
- (3) The Bishop shall both adjudge and pronounce Sentence upon a Priest or Deacon (i) *after the acceptance of a Waiver and Voluntary Submission under National Canon IV.2 [\(2006\)](#)* (ii) when there has been a renunciation under National Canon IV.8 [\(2006\)](#), or, (iii) upon the abandonment of the Communion of the Church as set forth in National Canon IV.10 [\(2006\)](#).
- (4) (b) If a Priest or Deacon is liable to Sentence upon voluntary submission to discipline under Canon IV.2 of the canons of the Episcopal Church in the United States [\(2006\)](#), Sentence shall be imposed by the Bishop to whom the submission was made.
- (c) If a Priest or Deacon is liable to Sentence upon renunciation of the ministry of this Church under Canon IV.8 [\(2006\)](#), Sentence shall be imposed by the Bishop of the Diocese in which the Respondent is canonically resident, or in case there be no Bishop of that jurisdiction, by another Bishop at the request of the Standing committee of the Diocese.
- (d) If a Priest or Deacon is liable to Sentence upon abandonment of the communion of this Church under Canon IV.10 [\(2006\)](#), Sentence shall be imposed by the Bishop of the Diocese in which the Respondent is canonically resident, or in case there be no Bishop of that jurisdiction, by another Bishop at the request of the Standing committee of the Diocese.

- (7) The Bishop who is to pronounce Sentence upon a Priest or Deacon, after final Judgment by a Trial Court, shall appoint a time and place for pronouncing the Sentence and shall cause notice thereof in writing to be served upon the Respondent, the Church Attorney, each Complainant, and, unless waived in writing, the Victim in the manner provided in National Canon IV.14.17 [\(2006\)](#).

#### Section 7. General Provisions

##### (4) Limitations of Actions.

- (a) (1) No Presentment shall be made for any Offense specified in National Canon IV.1.1 [\(2006\)](#) that constitutes (a) Crime, (b) Immorality or (j) Conduct Unbecoming a Member of the Clergy, unless the Offense was committed within, or continued up to ten years immediately preceding the time of receipt of a Charge by the Standing Committee or the Presiding Bishop except: (i) in the case of a conviction of the Respondent in a criminal Court of Record or a judgment in a civil Court of Record in a cause involving Immorality, a Presentment may be made at any time within three years after the conviction or judgment becomes final; (ii) in a case where the alleged Victim was a minor at the time of the Offense, a Charge may be made at any time prior to the alleged Victim's attaining the age of twenty-five years; or (iii) if an alleged Victim entitled to bring a Charge is otherwise under a disability at the time the Offense occurs, or (iv) if the Offense is not discovered or its effects realized during the ten years immediately following the date of the Offense, the time within which the Charge shall be received by the Standing Committee shall be extended to two years after the disability ceases or the alleged Victim discovers or realizes the effects of the occurrence of the Offense, provided, however, in the case of clauses (iii) or (iv) above, the time within which the Charge shall be received by the Standing Committee shall not be extended beyond fifteen years from the date the Offense was committed or continued.
- (3) For Offenses, the specifications of which include physical violence, sexual abuse or sexual exploitation, which were barred by the 1991 Canon on Limitations (National Canon IV.1.4 [\(2006\)](#)). Charges may be made to a Standing Committee or the Presiding Bishop, in the case of a Bishop, no later than July 1, 1998.

- (b) No Presentment shall issue for any Offense specified in National Canon IV.1.1. (c), (d), (e), (f), (g), (h) or (i) [\(2006\)](#) unless the Offense was committed within, or continued up to, two years immediately preceding the time of the Charge is filed with the Standing Committee.
  
- (5) Materiality. In order for the Offenses specified in National Canon IV.1.1. (d), (e), (f) and (g) [\(2006\)](#) to be considered for Presentment, the Offense complained of must be intentional, material and meaningful as determined by the Standing Committee.

Canon XXXV, is hereby amended to read as follows in the following Sections:

*Section 4.* The Manual shall include at a minimum the following:

- a) Outline of procedures for the investigation of allegations of Sexual Misconduct that conform to the disciplinary Canons of the Episcopal Church [\(2006\)](#) and demonstrate sensitivity to the complainant and seek justice for all parties;

## Proposed Resolution R-9

## 2010 Convention Reconvened

Offered by: The Standing Committee

Subject: Canon XXXVI – *Of the Enactment, Alteration and Repeal of Canons*

Canon XXXVI, is hereby amended to read as follows in the following Sections:

*Section 1.* No alteration, amendment of or addition to these Canons shall be made unless the same be proposed on the first day of ~~an Annual~~ Convention in writing and in duplicate, and, after reference to the Committee on Constitution and Canons, is adopted by a two-thirds vote of both Orders present at the ~~Annual~~ Convention the proposal is made, PROVIDED, however, if the vote by Orders fails to pass either Order by the required two-thirds vote, but does pass both Orders by a majority vote, then the proposal shall lie over for the consideration of the next ~~Annual~~ Convention and only a majority vote of the next ~~Annual~~ Convention shall be sufficient for its passage.

### **Explanation:**

The proposed changes make it possible for Convention to make changes to its Canons on occasions other than the Annual Convention.

## Proposed Resolution R-10      2010 Convention Reconvened

Offered by: The Standing Committee

Subject: Canon XXIX – “Property held in trust”

**Resolved**, that Section 5 of Canon XXIX be removed.

~~Section 5. All real and personal property held by or for the benefit of any Parish, Mission, or Congregation is held in trust for the Episcopal Church and the Protestant Episcopal Church in the Diocese of South Carolina. The existence of this trust, however, shall in no way limit the power and Authority of the Parish, Mission, or Congregation existing over such property so long as the particular Parish, Mission, or Congregation remains a part of, and subject to, the Episcopal Church and the Protestant Episcopal Church in the Diocese of South Carolina.~~

### Explanation:

The ruling of the South Carolina Supreme Court has established that in this state there is not an implied trust in the property of the parishes of this diocese. Given that ruling, this Section no longer applies and should be removed.

## Proposed Resolution R-11      2010 Convention Reconvened

Offered by: The Standing Committee

Subject: Corporate Charter Purpose Statement

**Resolved**, that the Purpose Statement of the Corporate Charter for the Diocese of South Carolina be amended as follows:

FOURTH: The purpose of the said proposed Corporation is to continue the operation of an Episcopal Diocese under the Constitution and Canons of The Protestant Episcopal Church in the United States of America [Diocese of South Carolina](#).