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CONTENTS

Editor's Preface 5

Articles

A Comprehensive Employee Benefits System for The Episcopal
Church: The 2009 Amendments to Title I, Canon 8
Patrick S. Cheng 7

Benedict XVI's Apostolic Constitution *Anglicanorum Coetibus*
Joseph J. Campo 29

The Evolving Role of Cathedrals in The Episcopal Church
A. Theodore Eastman 69

Notes and Resources 93

Editor's Preface

This issue contains articles about three issues. The first article by Patrick S. Cheng, details the lay pension benefits, and the clergy and lay medical benefits that were mandated by the General Convention of 2009. This is a timely subject since the canons and resolutions that established these programs directed that the lay pension system was to be “implemented between January 1, 2011, and January 1, 2012,” and that the “denominational health plan would be implemented no later than the end of 2012.” Professor Cheng includes an appendix with “Questions to Consider When Determining if an Organization is Subject to the Authority of the Church”—an important question since, as Professor Cheng points out, dioceses have some discretion in the matter of health care but are *required* to offer lay pensions to schools and other diocesan institutions that are subject to the authority of the church.

The second article is Joseph J. Campo's explanation of the Personal Ordinariate, the new canonical structure created by the Roman Catholic Church for clergy and laity who convert from The Episcopal Church. Father Campo details the expectations

The third article is a review by A. Theodore Eastman of the range of ways in which Episcopalians have organized cathedrals in their several dioceses. Bishop Eastman notes one result of the early opposition to the erection of cathedrals in the United States—the absence of references of any kind to cathedrals in the national canons. The canons and regulation that govern cathedrals are entirely diocesan and local in character.

Robert W. Prichard
Editor

A Comprehensive Employee Benefits System for The Episcopal Church: The 2009 Amendments to Title I, Canon 8

Patrick S. Cheng¹

Introduction

In 2009, the 76th General Convention of The Episcopal Church created for the first time a comprehensive employee benefits system for the Church.² Since 1916, the canons of the Church have mandated a pension system for the clergy of the Church. However, the canons did not include any mandated pension coverage for lay employees. Nor did such canons include any mandated health care coverage for either actively-employed clergy or actively-employed lay employees.³

The General Convention of 2009, which was held in Anaheim, California, established a comprehensive employee benefits system by adopting two separate resolutions. The first resolution, 2009-A138, created a mandatory lay employee pension system for the Church.⁴ The second resolution, 2009-A177, created a mandatory denominational health plan for the Church.⁵

¹ Patrick S. Cheng is the Assistant Professor of Historical and Systematic Theology at the Episcopal Divinity School in Cambridge, Massachusetts. Prior to his appointment to the faculty of EDS, Cheng served as the General Counsel of the Church Pension Fund and its affiliates, and he assisted with the drafting and passage of the 2009 amendments to Title I, Canon 8, of the canons of The Episcopal Church.

² This article will use the term “Church” to refer to The Episcopal Church.

³ Although the national canons were silent about mandated health care coverage, most diocesan compensation guidelines specified that full-time clergy are entitled to church-provided health care benefits. See The Church Pension Group, *Serving the Church in a Season of Change: A Report to the Episcopal Church and the 76th General Convention* (2009), 140.

⁴ For the text of resolution 2009-A138, see *Journal of the 76th General Convention* (2009), 656-57. The text is also reproduced in Appendix A of this article.

⁵ For the text of resolution 2009-A177, see *Journal of the 76th General Convention* (2009), 640-42. The text is also reproduced in Appendix B of this article.

Through these two resolutions, the General Convention delegated the authority to create and administer these new benefits to the Church Pension Fund, the current administrator of the clergy pension system. As such, the resolutions also amended Title I, Canon 8, which is the canon relating to the Church Pension Fund.

This article will describe the process by which Title I, Canon 8, was amended by the General Convention. Part I of the article will describe the scope of Title I, Canon 8, immediately prior to the 2009 amendments. Part II will describe resolution 2009-A138 and the establishment of a mandatory lay employee pension system. Part III will describe resolution 2009-A177 and the establishment of a mandatory denominational health plan.

I. Title I, Canon 8, Prior to 2009

This part will provide a brief overview of the scope of Title I, Canon 8, immediately prior to the General Convention of 2009. At that time, the primary focus of this canon was on the clergy pension system of the Church. Specifically, the canon focused on the Church Pension Fund, which is the agency of the Church that is authorized by General Convention to administer the clergy pension system. This canon was originally adopted by the General Convention of 1916 as canon 56, “Of the Church Pension Fund.”⁶

The Church Pension Fund was incorporated in 1914 pursuant to a resolution adopted by the General Convention of 1913. Although the General Convention had passed various resolutions relating to the relief of widows and orphans of deceased clerics going as far back as 1853—and some dioceses had relief programs dating to the colonial era—the Church did not have a comprehensive mandatory clergy pension system until the founding of the Church Pension Fund.⁷ Originally founded with assets of \$8.7

⁶ Title I, Canon 8, is still labeled “Of The Church Pension Fund.”

⁷ For the story of the founding of the Church Pension Fund, see Harold C. Martin, *Outlasting Marble and Brass: The History of The Church Pension Fund* (New York: Church Publishing, 1986). For a history of Title I, Canon 8, and its precursors through 1979, see Volume 1 of Edwin Augustine White and Jackson A. Dykman, *Annotated Constitution and Canons for the Government of the Protestant Episcopal Church in the*

million, the Church Pension Fund had \$10.03 *billion* in assets as of March 31, 2011.

Section 1 of Title I, Canon 8, authorizes the Church Pension Fund to establish and administer the “clergy pension system” of the Church substantially in accordance with the principles adopted by the General Convention of 1913.⁸ The purpose of the clergy pension system is to provide “pensions and related benefits” for retired and disabled clergy as well as the surviving spouses and minor children of deceased clergy.⁹

Although section 1 refers to “life, accident and health benefits,” these are the “related benefits” that are provided to retired clergy under the clergy pension system. Two affiliates of the Church Pension Fund—Church Life Insurance Corporation (a licensed life insurance company) and the Episcopal Church Medical Trust (the sponsor of a voluntary employees’ beneficiary association)—are the actual entities through which such related benefits are provided to the retired clergy.

Section 2 of the canon established the process by which the twenty-four elected trustees of the Church Pension Fund are to be elected by General Convention.¹⁰ In general, each trustee is elected for a term of six years and may serve up to two consecutive full terms before she or he must rotate off the Board of Trustees.

Section 3 of the canon authorizes the Church Pension Fund to “levy upon” and collect compensation-based “assessments” from all organizations that are “subject to the authority” of the Church. These organizations would include the parishes and missions of this Church. Section 3 also permits other Church “societies, organizations, or bodies” to elect to participate in the clergy pension system.

United States of America Otherwise Known as The Episcopal Church (New York: Seabury Press, 1981), 303-21.

⁸ These principles included the adoption of one pension system, recognition of accrued liabilities, balancing of contributions and continuing liabilities, adjustment of assessments as needed, maximum and minimum pensions. See *Outlasting Marble and Brass*, 67-68.

⁹ See *Constitution and Canons* (2006), 40.

¹⁰ The President of the Church Pension Fund serves as the twenty-fifth trustee, but she or he is appointed by—and serves at the pleasure of—the elected trustees.

Section 3 is critical to the functioning of the clergy pension system because it authorizes the Church Pension Fund to collect pension assessments directly from the organizations that are subject to the authority of the Church. Without this canonical delegation of power, the Church Pension Fund would not be able to fund the ongoing operations of the clergy pension system.

The other six sections of Title I, Canon 8—sections 4 through 9—relate primarily to administrative matters and thus are not directly relevant to the issues discussed in this article. In sum, although Title I, Canon 8, established the clergy pension system of the Church, prior to 2009 it did not authorize the establishment of a mandatory lay pension system, nor did it authorize the establishment of a denominational health plan.

II. Resolution 2009-A138 and Mandatory Lay Pensions

As noted above, the General Convention of 2009 adopted resolution 2009-A138, which established for the first time a mandatory lay employee pension system for the Church. This part will first provide some background to resolution 2009-A138 and the reasons why it was proposed. This part will then provide an overview of the content of the resolution. Finally, this part will describe how Title I, Canon 8, was amended by the resolution.

A. Background

The origins of resolution 2009-A138 can be traced back to the General Convention of 2006, which was held in Columbus, Ohio. Specifically, that General Convention adopted a resolution, 2006-A125, which authorized a number of studies that would lay the groundwork for adopting a mandatory lay employee pension system for the Church.¹¹

One such study involved a comprehensive survey by the Church Pension Group¹² of the Church's lay employees about a

¹¹ For the text of resolution 2006-A125, see *Journal of the 75th General Convention* (2006), 573-74.

¹² The Church Pension Group is a collective term that refers to the Church Pension Fund and its affiliates.

number of workplace issues, including compensation and benefits. Another study involved a feasibility study by the Office of Ministry Development to examine whether “pension benefits for lay employees should be made compulsory and be administered by a single provider.” A third study involved the continuing work of the Task Force to Study Employment Policies and Practices in The Episcopal Church (the “Employment Task Force”) to ensure a fair and just workplace for all employees of the Church.

As a result of these various studies,¹³ the Employment Task Force drafted and submitted resolution 2009-A138 to the National Concerns Committee of the General Convention. According to the Employment Task Force, this resolution would propose a canonical change to “amend the pension provisions of the church to include mandatory pension benefits for lay employees.” The Employment Task Force determined that previous General Convention resolutions about lay pensions going back to 1991 were not mandatory and had not been “universally or uniformly applied.”¹⁴ As a result of this inconsistent application, the Employment Task Force concluded that a national canonical provision was required.

The resolution was approved by the Executive Council of The Episcopal Church in October 2008, and it was approved by the Church Pension Fund Board of Trustees in November 2008.¹⁵ The resolution was adopted by the General Convention of 2009 exactly as proposed by the Executive Council and the Church Pension Fund.

B. Content of Resolution

Resolution 2009-A138 sets forth a number of general operating principles for the mandatory lay pension system.

- First, the system applies only to those lay employees who worked at least 1,000 hours annually for any

¹³ For the text of the Church Pension Group study, see *Serving the Church in a Season of Change*, 65-109.

¹⁴ See the report of the National Concerns Committee in the *Report to the 76th General Convention Otherwise Known as The Blue Book* (2009), 654-56

¹⁵ See *Serving the Church in a Season of Change*, 20.

domestic diocese, parish, mission or other Church organization or body “subject to the authority of the Church.”

- Second, employers have the choice of offering either a defined benefit plan with a 9% employer contribution, or a defined contribution plan with a 4% employer contribution and 5% matching employer contribution.
- Third, existing defined benefit plans are grandfathered to the extent that they provide a minimum pension benefit that is equal or greater to the benefits mandated by the resolution.
- Fourth, the lay pension system is to be administered by the Church Pension Fund, but school employers are able to choose a plan with investment options managed by TIAA-CREF.
- Fifth, the lay pension system is to be operated on a financially sound basis.
- Sixth, Church organizations that are not required to participate in the lay pension system may elect voluntarily to come into the system.
- Seventh, contributions to the system are based upon future salaries (that is, the lay pension system will not provide retroactive benefits).
- Eighth, previous service in the Church prior to the implementation date does count for purposes of vesting.
- Ninth, the system is to be implemented between January 1, 2011, and January 1, 2012.¹⁶
- Tenth, the Church Pension Fund is to engage in “further study” to determine the feasibility of overseas dioceses in the Church participating in the lay pension system and report back to the 77th General Convention to be held in 2012 in Indianapolis, Indiana.¹⁷

¹⁶ The implementation deadline was subsequently extended by the Church Pension Fund to January 1, 2013.

¹⁷ See Appendix A for the complete text of Resolution 2009-A138.

The operating principles in the first half of Resolution 2009-A138 provided a detailed framework for how the mandatory lay pension system would be administered by the Church Pension Fund. The second half of Resolution 2009-A138 provided the language that would amend Canon I.8.

C. Canonical Changes

The second half of Resolution 2009-A138 amended Canon I.8 in two ways. First, the resolution amended Section 1 of the canon to expressly authorize the Church Pension Fund to “establish and administer the *lay employee pension system* of the Church” (emphasis added). This is important because, as we have seen above, the focus of Article I, Canon 8, has been on clergy pension benefits since 1916. The lay pension system would be established and administered “substantially in accordance with the principles adopted by the General Convention of 2009,” which are the operating principles described in the previous section of this article. Such a system would provide benefits to “eligible lay employees” and their “eligible beneficiaries.”

Second, the resolution amended Section 3 of Article I, Canon 8, to expressly authorize the Church Pension Fund to collect assessments based upon compensation from all “Parishes, Missions, and other Church organizations or bodies subject to the authority” of the Church as well as any other Church organizations that elect to join in the pension system.¹⁸ Again, this amendment is important because, prior to this resolution, the Church Pension Fund’s authority to collect assessments was limited to the clergy pension system.

¹⁸ According to guidance issued by the Church Pension Fund, each diocese will make the final determination as to whether a specific organization is “subject to the authority of the Church.” This guidance lists 21 factors to be considered in making such a determination. See Appendix D for the complete text of this document, which also can be found at

http://download.cpg.org/pensions/forms/lay/pdf/church_authority.pdf (accessed August 29, 2011).

In sum, resolution 2009-A138 establishes for the first time a mandatory lay pension system for the Church. The studies authorized by the General Convention of 2006 demonstrated the need for such a resolution and for key changes to be implemented by canon.¹⁹

III. Resolution 2009-A177 and Denominational Health Plan

As noted above, the General Convention of 2009 also adopted resolution 2009-A177, which established for the first time a mandatory denominational health plan for the Church. This part will first provide some background to resolution 2009-A177 and the reasons for its proposal. It will then provide an overview of the content of the resolution. Finally, this part will describe how Title I, Canon 8, was amended by the resolution.

A. Background

As in the case of the mandatory lay pension resolution, the origins of resolution 2009-A177 can be traced back to the General Convention of 2006. Specifically, that General Convention adopted a resolution, 2006-A147, which endorsed a church-wide health care feasibility study to be conducted by the Church Pension Group. Furthermore, that resolution called upon the Church Pension Group to report its findings back to the General Convention of 2009.

Under the terms of resolution 2006-A147, the General Convention of 2006 “urged” dioceses, parishes, and other church institutions to “cooperate” with the study by submitting data relating to health care costs. The resolution also noted that the study will include “an analysis of the potential for a mandated denominational healthcare benefits program” along with a “recommended solution and an actionable implementation plan.”²⁰

¹⁹ For the amended canon, see *Constitution and Canons* (2009), 41-42. See Appendix C of this article for the current text of sections 1 and 3 of Title I, Canon 8.

²⁰ For the text of resolution 2006-A147, see *Journal of the 75th General Convention* (2006), 574-75.

In 2009, the Church Pension Group released the results of its feasibility study, which concluded that the General Convention of 2009 should adopt a mandatory denominational health plan.²¹ Prior to this resolution, individual units within the Church such as dioceses and parishes could purchase their active health benefits from a variety of vendors, including – but not limited to – the Episcopal Church Medical Trust.

Among other things, the feasibility study concluded that such a plan would result in savings of \$64 million in the first four years of its operation. In particular, the plan would allow the Church to take advantage of its size to allow for “large-scale purchasing of employee healthcare benefits.”²² However, the plan would also allow flexibility for individual dioceses in terms of plan design and other features. The study concluded that a denominational health plan would not only be “designed with fairness and equity in mind, but the savings it will generate, the benefits it will enhance, and the access it will provide, are unmatched by any available alternative.”²³

B. Content of Resolution

Resolution 2009-A177 sets forth a number of general operating principles for the denominational health plan. As an initial matter, only clergy and lay employees who work at least 1,500 hours annually for domestic organizations or bodies (e.g., dioceses, parishes, missions, etc.) that are subject to the authority of the Church are required to participate in the denominational health plan.

The resolution then lists nine operating principles.

²¹ For the full text of the Church Pension Group study, “Healthcare Coverage Feasibility Study and Recommendation to the 76th General Convention of the Episcopal Church,” see *Serving the Church in a Season of Change*, 110-59.

²² See *Serving the Church in a Season of Change*, 132. As part of its report to the General Convention, the Church Pension Group provided sample premium costs for congregations, dioceses, and institutions based upon size. See *Serving the Church in a Season of Change*, 139-48.

²³ See *Serving the Church in a Season of Change*, 110.

- First, the denominational health plan is to be designed and administered by the trustees and officers of the Church Pension Fund, following “best industry practices” for comparable plans.
- Second, the denominational health plan would allow dioceses to choose from a number of plan design options. Similarly, the denominational health plan would allow individual dioceses to make decisions with respect to minimum cost-sharing guidelines, same-sex domestic partner benefits, and whether schools and other diocesan institutions are required to participate in the plan.²⁴
- Third, the denominational health plan would provide benefits that are comparable to current benefits of domestic dioceses and parishes.²⁵
- Fourth, it would provide equal access to health care benefits for clergy and lay employees.
- Fifth, such benefits would be provided through the Episcopal Church Medical Trust, which would be the sole plan sponsor and be operated on a financially-sound basis.
- Sixth, the denominational health plan would have a Church-wide advisory committee appointed by the Church Pension Fund, and such advisory committee would receive annual reports about the denominational health plan.
- Seventh, the denominational health plan would cover the “domestic” dioceses of the Church, including the dioceses of Puerto Rico and the U.S. Virgin Islands.

²⁴ Note that the denominational health plan differs from the mandatory lay employee pension system in that individual dioceses under the latter system *do not* have the discretion to exclude schools and other diocesan institutions that are subject to the authority of the Church. For guidance from the Church Pension Fund on whether an organization is “subject to the authority of the Church,” see Appendix D.

²⁵ Resolution 2009-A177 is silent as to whether dioceses are required to amend their constitutions and canons to reflect the denominational health plan. However, Title I, Canon 8 would presumably preempt any diocesan provisions that conflicted with this canon.

- Eighth, the Church Pension Fund would continue to work with the other non-domestic dioceses to make recommendations about funding health care benefits in a way that is consistent with their local circumstances.
- Ninth, the denominational health plan would be implemented no later than the end of 2012.²⁶

The operating principles in the first half of Resolution 2009-A177 provided a detailed framework for how the denominational health plan would be administered by the Church Pension Fund. The second half of Resolution 2009-A177 provided the language that would amend Canon I.8.

C. Canonical Changes

Resolution 2009-A177 also amended Title I, Canon 8 in two ways. These changes paralleled the changes that were made by the mandatory lay pension system resolution. First, section 1 of Title I, Canon 8, was amended to authorize the Church Pension Fund to establish and administer the denominational health plan substantially in accordance with the principles articulated in Resolution 2009-A177. The canon was also amended to authorize the provision of health benefits to both eligible clergy and eligible lay employees.

Second, section 3 of Title I, Canon 8, was amended to authorize the Church Pension Fund to establish a formal benefits enrollment process that would determine eligibility for participation in the denominational health plan. This in itself is a significant step because, prior to the passage of resolution 2009-A177, there was no centralized database of lay employees of the Church.²⁷ Section 3 of the canon was also amended to authorize the Church Pension Fund to collect contributions for health care benefits from organizations that are subject to the authority of the Church. As noted above, this was an important amendment because, prior to this amendment, the

²⁶ See Appendix B for the complete text of Resolution 2009-A177.

²⁷ There was, of course, a centralized database of clerics as a result of the clergy pension system and the fact that The Church Pension Fund serves as the Recorder of Ordinations for the General Convention.

authority of the Church Pension Fund to collect contributions were limited to assessments for the clergy pension system.

In sum, resolution 2009-A177 established for the first time a mandatory denominational health plan for the Church. As in the case of resolution 2009-A138, the feasibility study endorsed by the General Convention of 2006 demonstrated the need for such a resolution and for key changes to be implemented by canon.²⁸

Conclusion

The 76th General Convention of the Episcopal Church, held in 2009 at Anaheim, California, was a watershed moment for the Church in terms of employee benefits. For the first time, the Church established a comprehensive employee benefits system for both its clergy and lay employees.

Prior to the General Convention of 2009, the only mandatory employee benefits program for the Church was the clergy pension system. All this changed with the adoption of resolution 2009-A138, which established a mandatory lay employee pension system, and the adoption of resolution 2009-A177, which established a mandatory denominational health plan for both actively employed clergy and lay employees. Both resolutions specified that the Church Pension Fund would administer such programs and, as such, amended Title I, Canon 8, to expand the authority of the Church Pension Fund accordingly.

There are a number of significant advantages to having a centrally-administered system of pension and health benefits for both clergy and lay employees of the Church. These include cost savings as a result of more efficient administration and economies of scale with respect to investments. Other advantages include a uniform recordkeeping mechanism to ensure that all employees of the Church are being treated fairly, justly, and in accordance with the will of the General Convention.

²⁸ For the amended canon, see *Constitution and Canons* (2009), 41-42. See Appendix C of this article for the current text of sections 1 and 3 of Title I, Canon 8.

While it is still early to assess the overall impact of resolutions 2009-A138 and 2009-A178 on the Church, it is safe to say that future generations will view the General Convention of 2009 as an important turning point with respect to employee benefits and the Church.

Appendix A

Resolution 2009-A138

Resolved, That this Church establish a mandatory lay employee pension system for employees who are scheduled to work a minimum of 1,000 hours annually for any domestic Diocese, Parish, Mission or other ecclesiastical organization or body subject to the authority of the Church, in accordance with the following principles:

1. The lay employee pension system shall provide benefits that shall, initially, include defined benefit plan(s) and defined contribution plan(s);
2. If a defined benefit plan is selected, the employer assessment and/or contribution shall be not less than nine (9) percent of the employee's compensation; if a defined contribution plan is selected, the employer shall contribute not less than five (5) percent of the employee's compensation and match at least four (4) percent of the employee's contributions. The Trustees of the Church Pension Fund shall have the authority to increase or decrease the assessment and/or contribution percentages required for the lay pension system;
3. Existing defined benefit plans will be permitted to continue as long as their plan design delivers pension benefits not less than the pension benefits required by this resolution, as determined by the plan administrator. If the plan does not provide the pension benefits required by this resolution,

such plan shall be amended to provide for such pension benefits no later than January 1, 2012.

4. The lay employee pension system shall be designed and administered by the Trustees and officers of the Church Pension Fund; the investment managers of the system shall initially include, but not necessarily be limited to, the Church Pension Fund and, in the case of a defined contribution plan offered to school employees, TIAA-CREF;
5. The lay employee pension system will be operated on a financially sound basis, as determined by the Trustees of the Church Pension Fund;
6. Other societies, organizations or bodies in the Church not mandated to participate may, under the regulations of the Church Pension Fund, elect to come into the lay employee pension system;
7. No right or obligation to have assessments paid on compensation paid prior to plan participation will be part of the mandatory lay employee pension system;
8. Service in The Episcopal Church prior to plan implementation shall be recognized for vesting purposes;
9. The implementation of the mandatory lay employee pension system shall be completed no sooner than January 1, 2011 and no later than January 1, 2012; and
10. Further study be undertaken by the Church Pension Fund on the feasibility of inclusion of overseas Episcopal dioceses in the lay employee pension system and report back to the 77th General Convention

And be it further

Resolved, That Canon I.8 shall be amended as follows:

Sec. 1. The Church Pension Fund, a corporation created by Chapter 97 of the Laws of 1914 of the State of New York as subsequently amended, is hereby authorized to establish and administer the clergy pension system, including life, accident and health benefits, of this Church, substantially in accordance with the principles adopted by the General Convention of 1913

and approved thereafter by the several Dioceses, with the view to providing pensions and related benefits for the Clergy who reach normal age of retirement, for the Clergy disabled by age or infirmity and for the surviving spouses and minor children of deceased Clergy. The Church Pension Fund is also authorized to establish and administer the lay employee pension system of the Church, substantially in accordance with the principles adopted by the General Convention of 2009, with the view to providing pensions and related benefits for the eligible lay employees of this Church, as well as their eligible beneficiaries.

Sec. 3. For the purpose of administering the pension system, the Church Pension Fund shall be entitled to receive and to use all net royalties from publications authorized by the General Convention, and to levy upon and to collect from all Parishes, Missions and other ecclesiastical organizations or bodies subject to the authority of this Church, and any other organizations, or bodies in the Church which under the regulations of the Church Pension Fund shall elect to come into the pension system, assessments based upon the salaries and other compensation paid to Clergy by such Parishes, Missions and other ecclesiastical organizations or bodies for services rendered currently or in the past, prior to their becoming beneficiaries of the Fund. For the purpose of administering the lay employee pension system, the Church Pension Fund shall be entitled to collect from all Parishes, Missions and other ecclesiastical organizations or bodies subject to the authority of this Church, and any other societies, organizations or bodies in the Church which under the regulations of the Church Pension Fund shall elect to come into the lay employee pension system, assessments and/or contributions based upon the salaries and other compensation paid to eligible lay employees by such Parishes, Missions and other ecclesiastical organizations or bodies.²⁹

²⁹ *Journal of the 76th General Convention* (2009), 656-57.

Appendix B
Resolution 2009-A177

Resolved, That this church establish The Denominational Health Plan of this church for all domestic dioceses, parishes, missions and other ecclesiastical organizations or bodies subject to the authority of this church, for clergy and lay employees who are scheduled to work a minimum of 1,500 hours annually, in accordance with the following principles:

1. The Denominational Health Plan shall be designed and administered by the Trustees and officers of the Church Pension Fund, following best industry practices for comparable plans;
2. The Denominational Health Plan shall provide that, subject to the rules of the plan administrator, each diocese has the right to make decisions as to plan design options offered by the plan administrator, minimum cost-sharing guidelines for parity between clergy and lay employees, domestic partner benefits in accordance with General Convention Resolution 1997- C024 and the participation of schools, day care facilities and other diocesan institutions (that is, other than the diocese itself and its parishes and missions) in the Denominational Health Plan;
3. The Denominational Health Plan shall provide benefits that are comparable in coverage to those benefits currently provided by the domestic dioceses and parishes of this church;
4. The Denominational Health Plan shall provide equal access to health care benefits for eligible clergy and eligible lay employees;
5. The Denominational Health Plan shall provide benefits through the Episcopal Church Medical Trust, which shall be the sole plan sponsor for such benefits and continue to be operated on a financially sound basis;
6. The Denominational Health Plan shall have a church-wide advisory committee that is representative of the broader

church and appointed by the Church Pension Fund, and such church-wide advisory committee shall receive an annual report about the status of the Denominational Health Plan;

7. For purposes of this resolution, the term “domestic” shall mean ecclesiastical organizations and bodies located in the United States, including the Dioceses of Puerto Rico and Virgin Islands;
8. The Church Pension Fund shall continue to work with the Dioceses of Colombia, Convocation of American Churches in Europe, Dominican Republic, Ecuador Central, Ecuador Litoral, Haiti, Honduras, Micronesia, Taiwan and Venezuela to make recommendations with respect to the provision and funding of healthcare benefits of such dioceses under the Denominational Health Plan; and
9. The implementation of the Denominational Health Plan shall be completed as soon as practicable, but in no event later than by the end of 2012; and be it further

Resolved, That Canon I.8 shall be amended as follows:

Sec. 1. The Church Pension Fund, a corporation created by Chapter 97 of the Laws of 1914 of the State of New York as subsequently amended, is hereby authorized to establish and administer the clergy pension system, including life, accident and health benefits, of this Church, substantially in accordance with the principles adopted by the General Convention of 1913 and approved thereafter by the several Dioceses, with the view to providing pensions and related benefits for the Clergy who reach normal age of retirement, for the Clergy disabled by age or infirmity and for the surviving spouses and minor children of deceased Clergy. *The Church Pension Fund is also authorized to establish and administer the denominational health plan of this Church, substantially in accordance with the principles adopted by the General Convention of 2009 in Resolution A177, with the view to providing health care and related benefits for the eligible Clergy and*

eligible lay employees of this Church, as well as their eligible dependents.

Sec. 3. For the purpose of administering the pension system, the Church Pension Fund shall be entitled to receive and to use all net royalties from publications authorized by the General Convention, and to levy upon and to collect from all Parishes, Missions and other ecclesiastical organizations or bodies subject to the authority of this Church, and any other societies, organizations or bodies in the Church which under the regulations of the Church Pension Fund shall elect to come into the pension system, assessments based upon the salaries and other compensation paid to Clergy by such Parishes, Missions, and other ecclesiastical organizations or bodies for services rendered currently or in the past, prior to their becoming beneficiaries of the Fund. *For the purpose of administering the denominational health plan, the Church Pension Fund shall determine the eligibility of all Clergy and lay employees to participate in the denominational health plan through a formal benefits enrollment process, and the Church Pension Fund shall be entitled to levy upon and collect contributions for health care and related benefits under the denominational health plan from all Parishes, Missions and other ecclesiastical organizations or bodies subject to the authority of this Church with respect to their Clergy and lay employees.*³⁰

³⁰ *Journal of the 76th General Convention* (2009), 640-42.

Appendix C
Title I, Canon 8 (2009)

CANON 8: Of The Church Pension Fund

Sec. 1. The Church Pension Fund, a corporation created by Chapter 97 of the Laws of 1914 of the State of New York as subsequently amended, is hereby authorized to establish and administer the clergy pension system, including life, accident and health benefits, of this Church, substantially in accordance with the principles adopted by the General Convention of 1913 and approved thereafter by the several Dioceses, with the view to providing pensions and related benefits for the Clergy who reach normal age of retirement, for the Clergy disabled by age or infirmity and for the surviving spouses and minor children of deceased Clergy. *The Church Pension Fund is also authorized to establish and administer the lay employee pension system and denominational health plan of the Church, substantially in accordance with the principles adopted by the General Convention of 2009 in Resolution 2009-A177,³¹ with the view to providing pensions, health care and related benefits for the eligible Clergy and eligible lay employees of this Church, as well as their eligible beneficiaries and dependents.³²*

...

Sec. 3. For the purpose of administering the pension system, the Church Pension Fund shall be entitled to receive and to use all net royalties from publications authorized by the General Convention, and to levy upon and to collect from all Parishes, Missions and other ecclesiastical organizations or bodies subject to the authority of this Church, and any other societies, organizations or bodies in the Church which under the regulations of the Church Pension Fund

³¹ For the sake of parallelism, this clause should be interpreted as including a reference to "Resolution 2009-A138" as well as "Resolution 2009-A177." The phrase "Resolution 2009-A177" was added to the text of resolution 2009-A177 during its hearing before the 2009 General Convention Committee on Constitution and Canons, but the parallel phrase was not added to the text of resolution 2009-A138.

³² The italicized text represents the changes from the 2006 version of Title I, Canon 8.

shall elect to come into the pension system, assessments based upon the salaries and other compensation paid to Clergy by such Parishes, Missions, and other ecclesiastical organizations or bodies for services rendered currently or in the past, prior to their becoming beneficiaries of the Fund. *For the purpose of administering the lay employee pension system and denominational health plan, The Church Pension Fund shall be entitled to collect from all Parishes, Missions, and other ecclesiastical organizations or bodies subject to the authority of this Church, and any other societies, organizations, or bodies in the Church which under the regulations of The Church Pension Fund shall elect to come into the lay employee pension system, assessments and/or contributions based upon the salaries and other compensation paid to eligible lay employees by such Parishes, Missions, and other ecclesiastical organizations or bodies, determine the eligibility of all Clergy and lay employees to participate in the denominational health plan through a formal benefits enrollment process, and The Church Pension Fund shall be entitled to levy upon and collect contributions for health care and related benefits under the denominational health plan from all Parishes, Missions, and other ecclesiastical organizations or bodies subject to the authority of this Church with respect to their Clergy and lay employees.*³³

Appendix D

Questions to Consider When Determining if an Organization is Subject to the Authority of the Church³⁴

Both Resolution A138 and A177 contain the following phrase with regard to the applicability of the Resolutions: "...any domestic Diocese, Parish, Mission or other ecclesiastical organization or body subject to the authority of the Church." While this phrase has existed in the Constitution and Canons since 1914 [sic], the recent

³³ *Constitution and Canons* (2009), 41-42.

³⁴ This document was drafted by the Church Pension Fund and can be found at http://download.cpg.org/pensions/forms/lay/pdf/church_authority.pdf (accessed August 29, 2011).

enactment of Resolutions A137 and A177 has resulted in many questions regarding the meaning of the phrase.

The final determination as to whether or not a specific organization is subject to the authority of the Church will be made by each Diocese. Since each diocese will be asked to identify their organizations during the rollout of the registration system, the following are questions to consider when determining if an organization is “under the authority of the Church.”

1. Is the organization subject to the Constitution or Canons of the General Convention?
2. Is the organization subject to the Constitution or Canons of your diocese?
3. Does your annual Convention/Council/Synod elect or approve the appointment of a majority of the governing body of the organization?
4. Does the Bishop appoint or approve the election of a majority of the governing body of the organization?
5. Was the organization created by the diocese?
6. Is the organization separately incorporated from the diocese?
7. Does the organization use the diocese or parish’s tax exemption (501(c)(3)) or does it have its own exemption?
8. Does the organization use the diocese or parish’s tax or employer ID number or does it have its own?
9. Do the organization’s founding documents (e.g., articles of incorporation) link its mission, operations, or assets to the diocese or parish?
10. Is the organization required to have the approval of the Bishop or Chancellor or some person or body in the diocese to amend its Articles or Bylaws or other governing documents?
11. Is the Bishop the *ex officio* Chair or President of the governing body?
12. Does the organization have the word “Episcopal” in its name?
13. Has the organization been treated as part of the diocese?

14. Is the organization listed in the diocesan directory or journal?
15. Is there a close, day-to-day coordination of the religious, educational, or other charitable activities of the diocese or parish and the organization?
16. Does the organization manage its own assets and have its own bank accounts and payroll or are any of those managed by the diocese or parish?
17. Is the organization required to obtain approval of the diocese or parish to leverage or dispose of its property?
18. Does the diocese or parish have the right to set objective standards for the organization's operations and/or audit the organization's records to determine compliance with such objective standards?
19. Does the diocese or parish have the right to sanction the organization by liquidating the organization, terminating the organization's founding documents, or otherwise?
20. Does the diocese or parish have the right to the organization's assets upon the organization's liquidation?
21. Is the organization required to submit an annual report and/or audited financial statements to the diocese or parish?

Please note that the above is provided for informational purposes only and should not be viewed as legal or other advice. We recommend that you consult with your legal advisor before determining which organizations within your diocese are subject to the authority of the Church.

Benedict XVI's Apostolic Constitution *Anglicanorum Coetibus*

Joseph J. Campo¹

It would seem that from November of 2009, when Benedict XVI's Apostolic Constitution, *Anglicanorum Coetibus*, was promulgated, there has been some expectation that an exodus of conservative, disenchanted Anglicans would depart from the church of their roots and seek to reconciliation with Rome. Battles of gender neutral language, feminist theology, unbiblical teaching regarding all aspects of sexuality, unwanted Prayer Book revision, the ordination of women and, of course, the ordination of an actively homosexual man as a diocesan bishop had finally taken their toll.

Whether that movement back to the "mother church" will be a trickle or a flood is yet to be seen. As of this writing, there has been some movement, albeit limited. In January of 2011, a Personal Ordinariate ("Our Lady of Walsingham") was established in England. Here in the United States, St. Luke's Episcopal Parish in Bladensburg, Maryland became the first Episcopal Parish to join such an Ordinariate. The popular media has given the issue its "fifteen seconds of fame," but has since moved on. Thoughtful members of churches within the Anglican Communion cannot. This paper will attempt to analyze the Apostolic Constitution in light of the church structures into which those leaving our communion will enter and must accept.

Anglicanorum coetibus is a complex theological and juridical text structured in the framework of an Apostolic Constitution, which ranks among those Vatican documents of the highest authority. What does this Constitution propose? What does it ignore? How

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must it be read? Are members of the Anglican Communion prepared to read its words with their Roman rather than Anglican meaning?

While it is hoped that this paper will provide a careful reading of the text within a specific canonical context, there is no pretense of providing a thorough or detailed commentary of the Constitution. This study represents one person's reading of the *Anglicanorum Coetibus* text with the "Complementary Norms" of the Congregation for the Doctrine of the Faith ("Congregation.") which accompanied the Constitution and which set out the authentic interpretation of its meaning. Also there is a history of Anglican/Roman Catholic Ecumenical dialog in which this document must be situated. Any detailed study must incorporate that history. Furthermore, there is the temptation to read *motivation* or *agendas* into an examination of a text which may be viewed as much political as it is theological. No such analysis is attempted here.

As we begin, I admit that I write as a member of The Episcopal Church, USA. For the sake of style and simplicity, I will use the words "Anglican" or "Episcopalian" interchangeably with the understanding that members of other Churches within the Anglican Communion have their own polity that may not completely correspond to that of The Episcopal Church. The Constitution targeted "Anglicans." I write as a member of an American expression of the Anglican tradition. In this article I shall refer to those churches under the authority of the Bishop of Rome as "Roman Catholic." I also recognize that there are a number of Ritual Churches in communion with the Bishop of Rome whose liturgical and canonical patrimony renders them "Catholic" although they have their own non-Latin traditions.

The Introduction: Ecclesiological Foundations

Lawyers craft texts with words. Words have meaning. Any reading of an ecclesial text must keep such obvious truisms in mind. Therefore I was struck by the fact that the very sub-title of the Constitution informs the reader that this document provides for

“Personal Ordinariates” for those Anglicans who choose to enter into full communion with the Roman Catholic Church.

The spiritual care of numbers of Anglicans who wish to be received “into full Catholic communion”² will now lead to the creation of a canonical entity known as a “Personal Ordinariate.” This fact alone could be the subject of a paper. Ordinariates are usually territorial, meaning that jurisdiction by a bishop or the canonical equivalent of a bishop is restricted to those who live within the boundaries of the Ordinariate.

What has been created is more in the line of a type of personal diocese. Those Anglicans who wish to be received into the Roman Catholic Church will be under the jurisdiction of a priest or bishop (who will be referred to as their “ordinary”) rather than the local diocesan bishop. Such a canonical structure isn’t unique. There is a model already in place within the Roman Catholic Church: that of the “*Military Ordinariate*”. Although this is a simplification, just as the pastoral care of those serving (or the dependents of those serving) anywhere in the armed forces is framed within a canonical structure that lies beyond the normal authority and care of a local diocesan bishop, so will pastoral care of former Anglicans be the responsibility and follow the special norms provided for this “Personal Ordinariate.”³

What will now exist marks a change that was perhaps foreseen 30 years ago since the publication in 1980 “Pastoral Provision” of John Paul II and its implementation by Decree of the Congregation. It was then stressed that whether those Anglicans seeking reconciliation with Rome did so as individuals or as a group,

² Benedict XVI, Apos. Const., *Anglicanorum coetibus*, introduction

³ E.g., Canon 569 simply states that “Chaplains to the armed forces are governed by special laws.” *The Code of Canon Law Annotated*, ed. by E. Caparros, M. Theriault, J. Thorn, Montreal: Wilson & Lafleur, 1993. (“*The Code*”). There is, of course, a canonically similar (but not identical) ministry within the Episcopal Church. Article II Section 7 of The Constitution of The Episcopal Church allows for the election by the House of Bishops of a Suffragan Bishop “who, under the direction of the Presiding Bishop shall be in charge of the work of those chaplains in the Armed Forces of the United States...” It has been pointed out that the text of the Constitution never mentions that such a Bishop has jurisdiction over individual members of military communities.

admission to full communion “should be considered the reconciliation of individual persons.”⁴ The Decree itself recognized that the “majority” of national bishops’ conferences preferred that such converts to Roman Catholicism not be segregated but rather inserted into the usual ecclesial structures. However even while admitting this, the Decree allowed: “the possibility of some other type of structure...is not excluded.”⁵ It would seem that this “other type of structure” has now been established.⁶

What intrigues me is that there already exists within the canons a different reality known as “Personal Prelatures.”⁷ By definition a Personal Prelature is established by the Apostolic See and composed of secular clergy and whose purpose is either to promote a more equitable distribution of priests or “to carry out special pastoral or missionary enterprises in different regions or for different social groups.” (cf. c. 294).

Why would the structure to provide pastoral care for such former Anglicans not be a Prelature? Two things ought to be noted:

(1) A Personal Prelature seems to be primarily viewed as a vehicle for clergy. Indeed the canonical status of laypersons within a Personal Prelature might be seen as almost an afterthought.⁸ My reading of the plain language of the canon views lay persons not as members of or the center of care of a Personal Prelature but rather as associates to its mission. Yet a Personal Prelatures exist “to carry out special pastoral or missionary enterprises.”

⁴ Sacred Congregation for the Doctrine of the Faith., Decree, June 18, 1980 attached to July 22, 1980 Letter of Cardinal Seper (Prefect of the Congregation) to Archbishop John Quinn (President of N.C.C.B.) found at http://www.vatican.va/holy_father/benedict_xvi/apost_constitutions/documents/hf_b-en-xvi_apc_20091104_anglicanorum-coetibus_en.html

⁵ Decree.

⁶ A Roman Catholic scholar has published a similar observation about the relationship between the Pastoral Provision and the personal Ordinariate. Cf. Gianfranco Ghirlanda, “The Significance of the Apostolic Constitution *Anglicanorum Coetibus*.” <http://www.catholicculture.org/culture/library/view.cfm?recnum=9178> accessed 19 July 2011.

⁷ Cf. Canons 294-297.

⁸ Canon 296 states that “lay people can dedicate themselves to the apostolic work of a personal prelature by way of agreements made with the prelature.”

(2) In 1988 John Paul II restructured the Roman Curia via an Apostolic Constitution, *Pastor Bonus*; that document legislated that Personal Prelatures were to be under the jurisdiction of the Congregation for Bishops.⁹ Article I of *Anglicanorum coetibus* states that Personal Ordinariates for the pastoral care of former Anglicans “are erected by the Congregation (cf. Art. I.1). The “Complementary Norms” attached to *Anglicanorum coetibus* state this in even stronger terms: “Each Ordinariate is subject to the Congregation for the Doctrine of the Faith.” (cf., Norms, Art. I.1).

It would seem that the 1980 *Pastoral Provision* viewed the Congregation as a kind of “gate keeper.” While liturgical questions were to be referred to the Congregation for Sacraments and Divine Worship, and while both the Secretariat for Promoting Christian Unity and the Congregation for the Oriental Churches were to be kept informed of all developments, it was to be Congregation that would oversee the process.¹⁰

One must presume that there is a reason why one Roman Congregation rather than another has been mandated to have jurisdiction over former Anglicans. Does the designation of the Congregation, which is admittedly the most important of the offices of the Roman Curia (and the very office in the Curia whose Prefect i.e., head was once Benedict XVI himself), carry an additional significance?

The question is raised because there is a specific mandate for the Congregation. It is found in Art 48 of John Paul II’s Constitution, *Pastor Bonus*: “The proper function of the Congregation for the Doctrine of the Faith is to promote and safeguard the doctrine on faith and morals in the whole Catholic World; so it has competence in things that touch this matter in any way.”¹¹ In what way has the pastoral care of a group seeking full communion with the Church of Rome become a matter that touches upon “the doctrine on faith and morals in the whole Catholic world?”

⁹ John Paul II, Apos. Const., *Pastor Bonus*, 80 as cited in The Code, p. 242 in reference to historical background of canon 294.

¹⁰ Decree, *Pastoral Provision*, V.1.,

¹¹ John Paul II, Ap. Const., *Pastor Bonus*, Art. 48 as quote in E. Caparros, et. al. *The Code*, p. 1215.

It is also important to note in the official teaching of the Roman Catholic Church that "Catholic" and "Roman Catholic" are *de facto* equivalent terms. Since the Second Vatican Council's Dogmatic Constitution on the Church, *Lumen gentium*,¹² it is understood that while the totality of the "Church" as established and intended by Christ has not yet come into being, the most perfect fullness of that ecclesial reality is to be found only in the Roman Catholic Church. To quote directly from the Council (as does *Anglicanorum coetibus*):

This is the one Church of Christ which in the Creed is professed as one, holy, catholic and apostolic, which our Saviour, after His Resurrection, commissioned Peter to shepherd, and him and the other apostles to extend and direct with authority, which He erected for all ages as "the pillar and mainstay of the truth". This Church constituted and organized in the world as a society, subsists in the Catholic Church, which is governed by the successor of Peter and by the Bishops in communion with him, although many elements of sanctification and of truth are found outside of its visible structure.¹³

There is no catholicity apart from the Roman Catholic Church. Any reference to "catholic" within text or commentary must be so understood.

The introductory paragraphs of *Anglicanorum coetibus* depict the image of the Church as a "communion." The present document draws from Vatican II (e.g., *L.G.*, 13) in laying the rich theological imagery. The reader is aware of the varied images of Church from which the author might have drawn such as: "People of God", "Bride of Christ", the "ark", "pilgrim people" among others. "Communion" was chosen. "Communion" is an ecclesiological

¹² *Lumen gentium* provides the theological context for most of the introductory paragraphs of *Anglicanorum coetibus*. It is often referenced within the text.

¹³ *Lumen gentium*, 8. For the full context, cf. The Dogmatic Constitution on the Church, *Lumen gentium*, in W. Abbott and J. Gallagher, ed., *The Documents of Vatican II*, New York: Guild Press, 1966, p. 22-24

concept that is dear to Anglicans. However, do these two churches use the same word to convey a different reality?

Anglicans might reflect upon the meaning of "Communion" as found in *The Windsor Report* of 2004. Communion is something that is shared. It is a reality that enables the communities within the Anglican Communion "...in mutual interdependence, to engage in our primary task, which is to take forward God's mission to his needy and much-loved world.....communion remains God's gift as well as God's command."¹⁴ Communion reveals *interdependence* within the midst of a shared tradition. Communion is viewed as something that "...subsists in visible unity, common confession of the apostolic faith, common belief in scripture and the creeds, common baptism and shared Eucharist, and a mutually recognized common ministry."¹⁵ *The Windsor Report* also makes clear that an Anglican understanding of communion requires its members "...to walk together in synodality. It is by listening to, and interacting with, voices from as many different parts of the family as possible that the church discovers what unity and communion really mean."¹⁶

I would suggest that there is a different theme which flows from the Vatican II foundation into the present text of *Anglicanorum coetibus*. The church is both spiritual and visible reality. Specifically it is a society—"structured with hierarchical organs."¹⁷ While it is unfair to stereotype the Roman Catholic Church as nothing but a hierarchical institution (as if the Anglican and Orthodox traditions of Christianity have preserved an exclusively spiritual understanding of Church as Communion), it is fair to highlight the teaching within this Apostolic Constitution for what it is: Communion entered not with an emphasis on *interdependency* but rather upon *hierarchy*. Church is thus defined:

¹⁴ The Lambeth Commission on Communion, *The Windsor Report*, London: The Anglican Communion Office, 2004, #46, p. 24.

¹⁵ *The Windsor Report*, #49, p. 25.

¹⁶ *The Windsor Report*, #66, p. 32.

¹⁷ Apos. Const. *Anglicanorum coetibus*. quoting *Lumen gentium* 8.

The communion of the baptized in the teaching of the Apostles and in the breaking of the Eucharistic bread is visibly manifested in the bonds of the profession of faith in its entirety, of the sacraments instituted by Christ, and of the governance of the College of Bishops united with its head, the Roman Pontiff.¹⁸

This has been a consistent teaching of the Roman Catholic Church. Several sections from four different decrees from Vatican II as well as canon 205 of the present Code of Canon Law are cited as the source for this statement. The intent is quite clear: while Christian traditions will all recall their roots found in the apostolic teaching and the breaking of bread (cf. the Baptismal Covenant found in the *Book of Common Prayer*, 304), the visible bonds among Roman Catholic believers are created by the threefold ties of common faith, a specific understanding of sacraments, and hierarchical governance. Furthermore it would appear that the aforementioned “faith in its entirety” is only authentically expressed in *The Catechism of the Catholic Church* (cf. below). Are Anglicans able to cite but one authentic expression of faith?

Back in the 1960’s, Vatican II’s Decree on Ecumenism had noted that among the communions and denominations that “still preserved “some Catholic traditions and institutions...the Anglican Communion occupies a special place.”¹⁹ Since the Decree itself never specified what those “traditions and institutions” were, one might reasonably question whether Anglicans are going to maintain their unique voice or whether *The Catechism* would hereafter remain the sole acceptable expression of Christian faith and tradition?

I believe that Anglicans who make this transition will discover that, in spite of many similarities, there are noteworthy differences in the understanding of the Sacraments. Our *Book of Common Prayer* Catechism teaches a distinction between “the two great sacraments of the gospel” (Holy Baptism and Holy Eucharist) in contrast to “other sacramental rites which evolved in the Church

¹⁸ Apos. Const. *Anglicanorum coetibus*, introduction.

¹⁹ The Documents of Vatican II, *Unitatis redintegratio*, 13, p. 356.

(which) include confirmation, ordination, holy matrimony, reconciliation of a penitent and unction.”²⁰ Such a statement stands in line with Article XXV of the *Articles of Religion* (again found in our Prayer Book.)²¹ But the theology of the 1979 *Book of Common Prayer* is at odds with official Roman Catholic teaching. As the source of what is to be believed, *The Catechism of the Catholic Church*, citing the Council of Trent, insists that scripture, apostolic tradition, and consensus of the church Fathers maintain that “the sacraments of the new law were ... *all* instituted by Christ...” and that there are seven sacraments.”²² While this is not the time to resurrect debates dating from the Reformation, Anglicans intending full communion with Rome will need to revise their understanding of this key aspect of their belief system.

Lastly, full communion will bring essential changes in understanding the governing authority within the Church. Any student of the *Constitution and Canons of the Episcopal Church* can parrot teaching concerning the authority of The General Convention, the teaching authority of Bishops, or the jurisdiction of bishops within their own dioceses, etc. Bishops meeting in council, issuing pastoral letters or acting as the chief pastor and teacher within a diocese are a canonical given. Yet even Bishops must share authority especially in the polity of The Episcopal Church.

There is no shared governance in the Roman Catholic Church by any “college” of Bishops acting as a unit of equal members. The Bishops acting as a body *always* includes the Roman

²⁰ *The Book of Common Prayer*, p. 858 and 860.

²¹ Art. XXV. *Of the Sacraments*: “...There are two Sacraments ordained of Christ our Lord in the Gospel, that is to say, Baptism, and the Supper of the Lord. Those five commonly called Sacraments, that is to say, Confirmation, Penance, Orders, Matrimony, and Extreme Unction, are not to be counted for Sacraments of the Gospel, being such as have grown partly of the corrupt following of the Apostles, partly are states of life allowed in the Scriptures, but yet have not like nature of Sacraments with Baptism, and the Lord’s Supper, for that they have not any visible sign or ceremony ordained of God...” cf. *B.C.P.*, p. 874.

²² *The Catechism of the Catholic Church*, New York: Image Books, 1995, #1113 and #1114, p. 315.

Pontiff. Roman ecclesiology demands that there can be *no limit* to papal jurisdiction. Such a view is enshrined in law:

Can. 331 The office uniquely committed by the Lord to Peter, the first of the Apostles, and to be transmitted to his successors, abides in the Bishop of the Church of Rome. He is the head of the College of Bishops, the Vicar of Christ, and the Pastor of the universal Church here on earth. Consequently, by virtue of his office, he has *supreme, full, immediate and universal ordinary power in the Church, and he can always freely exercise this power.* (emphasis added)

Can. 333 §1 By virtue of his office, the Roman Pontiff not only has power over the universal Church, but also has *pre-eminent ordinary power over all particular Churches* and their groupings. This reinforces and defends the proper, ordinary and immediate power which the Bishops have in the particular Churches entrusted to their care.. (emphasis added)

§2 The Roman Pontiff, in fulfilling his office as supreme Pastor of the Church, is always joined in full communion with the other Bishops, and indeed with the whole Church. He has the right, however, to determine, according to the needs of the Church, whether this office is to be *exercised in a personal or in a collegial manner.*²³ (emphasis added)

²³ The Code, Canons 331 and 333, p. 363. Canon 45 of the *1990 Canons of the Oriental Churches* are equally explicit with regard to the Roman Pontiff's supreme authority over the churches: "The Roman Pontiff, by virtue of his office (munus) not only has power over the entire Church but also possesses a primacy of ordinary power over all the eparchies and groupings of them..." One must acknowledge that this standard will apply in the Ordinariate. In essence, nothing from the Roman perspective has in any way changed since the Decree *Pastor Eternus* of Vatican I (D.S. 3064) or from LG 22

Full communion with Rome must include acceptance of a hierarchical structure which is led by a bishop with monarchical authority. The Roman Pontiff has the right to exercise full authority over the church universal or over any particular churches. This would include a particular church such as the *Personal Ordinariate* which former Anglicans would be entering. While some rudiments of Episcopal polity may be preserved, the tradition of shared authority with the Churches of the Anglican Communion will find no home. In Roman Catholic Canon Law, there are procedures and institutions mentioned where the Diocesan Bishop may consult with clergy and laity. There are even some circumstances when consultation is required. There are, however, very few circumstances where the consent of a council is required before a Bishop is allowed to act. In the same way, the Pope acting as supreme pastor of the church or through the functioning of the various offices of the Roman Curia may choose to consult with the local Bishop. However, there is no obligation to do so.

There is little known addendum to *Lumen gentium* entitled "Prefatory Note of Explanation" which appears under the signature of Cardinal Felici who had been the Secretary General of the Council. In those early days of "aggiornamento" already there was concern to preserve those structures that, for some, had been regarded as reflecting the changeless intended will of Christ concerning authority within the His Body. In four carefully crafted points of explanation, the author leaves little doubt that while ordination to the episcopacy makes one a member of the "college" of bishops and allows that person to participate in the "sacred functions" of the episcopacy, "...for such ready power to be had, it needs canonical or juridical determination by hierarchical authority."²⁴ Communion is defined within the context of a specific hierarchical structure. Cardinal Felici reiterated this point several times. "Therefore, it is significantly stated that *hierarchical* communion is required with the head of the church, and with its members."²⁵ Again, "in every instance it is clear that the union of

²⁴ *Lumen gentium*, Prefatory Note, p. 99.

²⁵ *Lumen gentium*, Prefatory Note, p. 99.

the bishops with their head is contemplated, and never any action of the bishops taken independently of the Pope...this hierarchical communion of all the bishops with the Supreme Pontiff is undoubtedly a recurring feature of tradition.”²⁶ This Constitution assumes such an ecclesiology.

Article I

Individuals or groups of Anglicans will enter into full communion and will be considered as members of a Personal Ordinariate. (For the purpose of clarity, I shall refer to such a juridical creation as an “Anglican Ordinariate” even though the phrase, to my knowledge and belief, does not appear in any document.) What is proposed is a *territorial* reality insofar as these canonical structures will be located within the boundaries of national bishops’ conferences and some specific diocese. However it is also a *personal* entity in that only former Anglicans are eligible for membership within. The law will establish these Ordinariates as the creation of the Congregation, and as such, the Apostolic See does not need the permission of any conference of bishops nor any particular bishop to create such an entity within their diocesan boundaries. Art 1.1 states that the Congregation for the Doctrine of the Faith erects such Ordinariates within the territory of a specific national conference “in consultation with that same conference.” As we have seen, such “consultation” does not require the “consent” of the Bishops of the local Episcopal Conference. The Congregation may act contrary to any local recommendation.²⁷

²⁶ *Lumen gentium*, Prefatory Note, p. 101

²⁷ To be fair, merely because one must consult with any group rather than seek its consent does not automatically open the door to arbitrary or autocratic decisions. Canonical norms have enshrined the seriousness of consultation:

Canon 127§2. When it is established by law that in order to place acts a superior needs the consent or counsel of certain persons as individuals:

1. if consent is required, the act of a superior who does not seek the consent of those persons or who acts contrary to the opinion of all or any of them is invalid;
2. if counsel is required, the act of a superior who does not hear those persons is invalid; *although not obliged to accept their opinion even if unanimous, a superior is nonetheless not to act contrary to that opinion, especially if unanimous, without a reason which is overriding in the superior’s judgment.* (emphasis added)

Membership in an Anglican Ordinariate (Art. 1:4) will be composed of clergy, laity and members of religious orders (“Institutes of Consecrated Life and Societies of Apostolic Life”) who had at one time been members of a church within the Anglican Communion and have now entered into full communion with the Church of Rome. Also any person who receives the Sacraments of Christian Initiation (i.e., Baptism, Confirmation and Holy Eucharist) with the intention of entering the Ordinariate is to be considered a member.

Using the Congregation’s recent Decree of Erection of the Personal Ordinariate of Our Lady of Walsingham in England as a guide, we read that membership will include “...those faithful of every category and state of life who originally having belonged to the Anglican Communion are now in full communion with the Catholic Church or who have received the Sacraments of Initiation within the jurisdiction of the Ordinariate itself or who are received into it because they are part of a family belonging to the Ordinariate.”²⁸

Thus the children of members of a particular Ordinariate who have received these sacraments “within the jurisdiction of the Ordinariate” remain members of the Ordinariate. A question arises: teens have been known to possess a group mentality and often express their independence from their parents by acting out in conformity with one other. If the next generation within the Ordinariate must receive *all three* Sacraments of Christian Initiation “within the jurisdiction of the Ordinariate,” would the adolescent daughter of a former Anglican who convinces her parents to allow her to be confirmed with her other “regular” Roman Catholic schoolmates by the local diocesan bishop lose her membership in the Ordinariate when she is confirmed? There seems to be a process to enter the Ordinariate. There must also develop a process for withdrawing from the Ordinariate into “regular” Catholic life. This is still a work in progress.²⁹

²⁸ Cf., *Decree of Erection of the Personal Ordinariate of Our Lady of Walsingham*, #1, January 17, 2011 found at: <http://communio.stblogs.org/2011/01/decree-of-erection-of-the-pers.html>

²⁹ Decree of Erection, #10

Art 1.5 specifies that there is but one “authoritative expression” of the faith professed by Roman Catholics which must likewise be professed by members of the Ordinariate. This is to be found only in *The Catechism of the Catholic Church*. The place of importance as well as a detailed examination of this document within the context of the history of religious formation for all Christians (and not merely Roman Catholics) is worthy of its own paper. When John Paul II issued the document (also an Apostolic Constitution) *Fidei Depositum* on the occasion of the publication of *The Catechism*,³⁰ in 1992, he left no doubt about the dogmatic importance of this text and its role in preserving the deposit of faith entrusted to the church or to The Catechism’s role in completing the reforms of Vatican II.

The Catechism of the Catholic Church, which I approved June 25th last and the publication of which I today order by virtue of my Apostolic Authority, is a statement of the Church’s faith and of catholic doctrine....I declare it to be a sure norm for teaching the faith and thus a valid and legitimate instrument for ecclesial communion.³⁰

Clergy and laity are called to receive the text “in a spirit of communion and to use it assiduously in fulfilling their mission of proclaiming the faith...”³¹ Knowledge of and adherence to *The Catechism* has been mandated within the Congregation’s Decree creating the Ordinariate in England:

The Anglican Faithful who wish to be received into full communion with the Catholic Church through the Ordinariate must manifest this desire in writing. There is to be a program of catechetical formation for these faithful ... with content established by the Ordinary in agreement with the Congregation for the Doctrine of the Faith so that the

³⁰ John Paul II, Apos. Const., *Fidei Depositum*,³⁰ as cited in *The Catechism of the Catholic Church*,³⁰ New York: An Image Book, Doubleday, 1995, p. pp. 5-6.

³¹ *Fidei Depositum*, p. 6

faithful are able to adhere fully to the doctrinal content of the *Catechism of the Catholic Church*, and therefore, make a profession of faith.³²

The Catechism must now supplant any catechetical materials attached to or associated with *The Book of Common Prayer* which have been any part of an Anglican expression of Christian tradition. It has been noted that *The Book of Divine Worship* (the service book used by those former Anglican congregations in the U.S.A. that had taken advantage of the earlier Pastoral Provision) doesn't include any traditional Anglican catechetical material. One might still ask, would catechetical texts that have been previously used be deemed acceptable if they are judged to be in conformity with *The Catechism*? The deeper question in all this is how Anglicans will accept a single vehicle to interpret doctrine. This is a concrete manifestation of hierarchical communion.

Article II – Controlling Law for these Communities

Article II of *Anglicanorum coetibus* specifies how these Personal Ordinariates are to be governed. As the norms are listed, there is a logic to their presentation. Groups of former Anglicans will be subject to:

(1) The general law of the Roman Catholic Church as such applies to any Roman Catholic. This includes all the liturgical, structural, property, sacramental etc. norms found in the 1983 Code of Canon Law of the Roman Catholic Church and in all authentic interpretations of that law.

(2) This Apostolic Constitution

(3) The Executive degrees, mandates and any expression of administrative authority by primarily the Congregation (as we noted above) and then of all the other “dicasteries” (i.e., offices) of the Roman Curia “in accordance with their competencies”. It is my belief that the Congregation will be the primary source of governance as it is given a pre-eminent place in this article.

³² Congregation for the Doctrine of the Faith., Decree of Erection, #3,

(4) This Constitution was issued along with another document from the Congregation entitled: “Complementary Norms for the Apostolic Constitution Anglicanorum coetibus.” This is an interpretive document and, as such, explanations or directives contained within are to be seen as authoritative interpretations of the Apostolic Constitution. As an example, this Article II has a comment that directs the person who has pastoral and jurisdictional authority over a given community (its “Ordinary”) to follow any “directives” from the local national conference of bishops “insofar as this is consistent with the norms contained in the Apostolic Constitution...”³³ If there is a conflict in jurisdiction or with any pastoral directives the Constitution and all its interpretative organs takes precedence over any pastoral practice or canonical procedure normative within the Conference of Bishops where the Ordinariate may be located.

On the surface this makes sense. The law created for a special group would usually regulate the lives of that group. What about the reverse? How will the general community view special laws for a special group contained within its boundaries? The thorny question of mandatory clerical celibacy might yet remain an issue. What is required of any applicant who wishes to enter Holy Orders as a priest in the Catholic Church of the Latin Rite may not be required for candidates who are ordained to serve in an Anglican Ordinariate. (cf. below)

(5) Finally there is the possibility that specific groups among these Anglican Ordinariates may need special norms to apply to their specific situation.

Is the listing of norms ranked in order of priority? There are potentially five sets of laws that would apply to members of an Anglican Ordinariate. The impression from the list would indicate to me that the groupings are ranked from most general to most specific. If that is the case, then it seems that those former Anglicans entering into communion with Rome are going to assume the discipline of the general law of the Roman Catholic Church. The groups of norms listed below this are seen as exceptions to or particular applications

³³ Congregation for the Doctrine of the Faith, “Complementary Norms”, Art 2

of the general law. However, if this Constitution and its interpretative vehicles are seen as the primary law of members of this Ordinariate, then you enshrine into law a segregated community within the larger community.

The issue might well be raised that such parallel canonical realities *already* exist. There are those “uniate” Eastern Churches who submit to the authority of the See of Rome and yet have their own canonical structures, disciplinary norms and liturgical history and practices. Would Rome treat these Anglican Ordinariates as a kind of western uniate church?

In his thought provoking review of the Constitution, Anglican scholar Norman Doe found at least one Vatican source that seemed to dismiss such a notion. In footnote 97, Doe cites G. Ghirlanda who had already published “The Significance of the Apostolic Constitution *Anglicanorum Coetibus*” on the Vatican website on Nov. 9, 2009. Ghirlanda indicates that however these Ordinariates are going to be viewed, “they cannot be considered as Particular Ritual Churches since the Anglican liturgical, spiritual and pastoral tradition is a particular reality within the Latin Church.”³⁴

Article III—Liturgical Life

Even the popular press had noted that former Anglicans were going to be allowed to maintain something of their liturgical patrimony found *The Book of Common Prayer*. In fact this is a subtle permission. The article begins with the reminder that members of an Anglican Ordinariate may always follow the usual liturgy of the Roman Rite if they were to choose to do so. Only then does it mention that these communities are being given:

the faculty to celebrate the Holy Eucharist and the other Sacraments, the Liturgy of the Hours and other liturgical celebrations according to the liturgical books proper to the Anglican Tradition, which have been approved by the Holy

³⁴ N. Doe, “The Apostolic Constitution *Anglicanorum Coetibus*: An Anglican Juridical Perspective,” as found at www.law.cf.ac.uk/cir/research/

See, so as to maintain the liturgical, spiritual and pastoral traditions of the Anglican Communion within the Catholic Church..."³⁵

There are two points worth noting. There is no blanket permission that grants unquestioned or permanent right to use these approved liturgical books which are still connected to the *Book of Common Prayer*. A "faculty" to so celebrate is being granted to the Ordinariate. A "faculty" is permission, and permissions may be denied. In Roman canon law, even habitual faculties are treated as a "delegated power."³⁶ What is delegated may be removed from the scope of authority of the person to whom the faculty is granted.

The second and obvious focal point is the fact that all liturgical books are going require the approval of the Holy See. Now Article X of the *Constitution* of The Episcopal Church provides an example of how seriously The Episcopal Church oversees matters of liturgy from the process of liturgical change, the publication of *The Book of Common Prayer* and essentially the authority by which our liturgical life is regulated. This is the purview of the General Convention. Rome views these issues as the prerogative of the highest authority of the church, as does The Episcopal Church, but that authority is not a shared one. Even a diocesan bishop has only that authority which is formally granted by law. For the most part, liturgy is a matter for the central authority of the church.

Can. 838 §1 The ordering and guidance of the sacred liturgy depends solely upon the *authority of the Church, namely, that of the Apostolic See and, as provided by law, that of the diocesan Bishop.*

§2 It is the *prerogative of the Apostolic See* to regulate the sacred liturgy of the universal Church, to publish liturgical books and review their vernacular translations, and to be

³⁵ Apos. Const. *Anglicanorum coetibus*, Art. III.

³⁶ Canon 132:2 "Habitual faculties are governed by the provisions concerning delegated power.", *The Code*. 147.

watchful that liturgical regulations are everywhere faithfully observed.³⁷ (emphasis added)

Episcopalians view liturgical change as a matter of study, prayer, scholarly presentation and then a matter of extended discussion, debate and legislation from its highest authority: the General Convention. While the process is quite similar, the last stage in the Roman Catholic Church is quite different. It becomes matter of approval mandated from outside the particular community as well as from above it.

It should be interesting to view the “finished product” of such approved liturgical books. Will these books reflect the theology of the 1979 *Book of Common Prayer* (USA) or the 1989 *New Zealand Prayer Book* or perhaps the 1662 *Book of Common Prayer* (England)? Will the *Book of Divine Worship*, which has been in use in the U.S.A. since the 1980 *Pastoral Provision*, remain in force? Will this work give way to a different liturgical manual? On the other hand, will it become the norm for Anglican Ordinariates outside the U.S.A.? The *Decree of Erection* of Our Lady of Walsingham in England does not even mention liturgical books.

There are more specific issues. What elements will be stressed or changed in the celebration of Holy Communion? Will the pattern of Eucharistic Prayers that are in use in the various *Books of Common Prayer* continue? Other questions can be raised. In case of emergency, is any person authorized to baptize a person (Roman Teaching) or would only any baptized Christian authorized to confer an emergency baptism (Anglican teaching)?³⁸ What will be the place of “indulgences” in the prayer life of members of the Ordinatee? Must former Anglicans accept the sole interpretation of the mass as a *sacrifice*? Will those ordained for the Ordinatee be required to “offer mass” for the intentions of a specific person or group, and if so, what does the financial stipend indicate? Can this be reconciled with any Eucharistic theology with which Anglicans are comfortable? Again it must be asked: who will give final approval

³⁷ *The Code*, Canon 838:1 and 2, p. 549.

³⁸ J. Macquarrie, *A Guide to the Sacraments*, NY: Continuum Pub., 1997, p. 51.

for these new liturgical books? Will this fall under the authority of the Congregation for Divine Worship and Discipline of the Sacraments or would this be reserved to the Congregation? What will be the justification for the choice? The questions are many.

Article IV and V—Pastoral Leadership

The pastoral care for all members of an Anglican Ordinariate is the responsibility of an ordained man referred to in law as “an Ordinary” who is appointed by the Roman Pontiff³⁹ not chosen by any assembly of clergy and laity. This entire Article is merely one sentence, but it contains much for reflection. Referral to the “Complimentary Norms” is essential.

Not surprisingly, the Ordinary is not elected by houses within a synod but will be appointed “*ad nutum Sanctae Sedis*,” i.e., at the disposition or pleasure of the Roman Pontiff. As explained in the first paragraph of Article 4 in the “Complimentary Norms”, the person may be either a priest or bishop chosen from list of names presented to Rome by the Ordinariate’s “Governing Council” (see below). What is envisioned is that a council will ultimately nominate several candidates (and presumably outline their qualifications, CV’s, etc.) and present those names to the Holy See. The language states that the choice will ultimately be a free one based upon a “*terna*” (list) presented by the Governing Council.”⁴⁰ *Based upon* does not necessarily mean the choice *must come from* such a list. The Holy See is free to request a second or even third listing of nominees. That the appointed Ordinary would not come from any list presented to the Holy See but would be someone else chosen for this particular ministry for a specific Ordinariate is not beyond the realm of possibility. The appointment is “*ad nutum*” with all that this term conveys.

The “Norms” also indicate the Ordinary will possess all the authority and responsibility of a Diocesan Bishop in the Roman Catholic Church. A series of canons which describe the ministry of a

³⁹ Apos. Const. *Anglicanorum coetibus*, Art. IV

⁴⁰ Congregation for the Doctrine of the Faith, “Complimentary Norms” Art. 4.1.

local bishop are said to apply to this Ordinary. The following presents a sampling of his pastoral charge:

- being “solicitous” for all of Christ’s faithful entrusted to his care
- provide for the pastoral care of any faithful who reside within his territory but who are of a differing rite (canon 383). (This leaves unanswered many questions if this canon were made to apply to this Ordinary).
- foster ecumenism and act with charity to those who are not in full communion with the Church of Rome
- lead a life of witness before all the unapprised
- have special concern for his clergy, and make sure his priests have the means for their spiritual and intellectual life as well as their livelihood and social welfare
- foster vocations to various ministries, especially priestly and missionary life
- teach the truths of the faith which must be believed and lived out in one’s daily life
- preach frequently
- make sure that the laws of the Church regarding ministry of the word and catechetical instruction are “faithfully observed.”
- firmly defend the integrity and unity of the faith
- promote a holy life among those entrusted to his care
- once functioning, he must offer one mass for the intentions of his people on each Sunday and holy day of obligation
- foster discipline and press for the observance of all ecclesiastical laws
- work to prevent abuses in the preaching, sacramental and liturgical life within his pastoral charge
- represents the Ordinariate in all “juridical transactions”
- encourage forms of apostolic work and Christians to do them within his jurisdiction
- required to visit all or some of the institutions (parishes, schools, etc) within his territory so that within a five year period, he would have visited the entire Ordinariate

- such Episcopal visitation applies to all persons, catholic institutions and “sacred things and places” within the territory of his pastoral responsibility.⁴¹

The responsibilities for pastoral care given to the Ordinary will be nothing less than those of any local bishop within the larger Roman community.⁴²

The “Complementary Norms” proceed to mandate that the Ordinary possesses another faculty similar to that of a diocesan bishop: “the faculty to incardinate” those wishing to be ordained.⁴³ Briefly, as a response to the abuses of so-called “wandering clerics” during the middle ages, the Roman Catholic Church has enshrined in law the notion that an ordained person belongs to a specific local church (diocese). This requirement is absolute:

Can. 265 Every cleric must be incardinated in a particular church, or in a personal Prelature, or in an institute of consecrated life or a society which has this faculty: accordingly, acephalous or 'wandering' clergy are in no way to be allowed.

Can. 266 §1 By the reception of the diaconate a person becomes a cleric, and is incardinated in the particular Church or personal Prelature for whose service he is ordained.⁴⁴

By law, any man seeking ordination within an Anglican Ordinariate must be incardinated in (belong to) that Ordinariate. This also

⁴¹ Congregation for the Doctrine of the Faith, “Complementary Norms”, citing canons 383-388, 392-394 and 396-398 of the Code of Canon Law. Cf. *The Code*, p. 303-307, 308-310 and 311-312.

⁴² I must admit that I found it curious that missing from among the listed canons in the above cited footnote is canon 395 which demands that a bishop reside in his diocese. The canon also specifies times when the bishop may not be absent from his diocese. Why wouldn't this be mandated as well?

⁴³ Congregation for the Doctrine of the Faith., “Complementary Norms”, Art 4:2.

⁴⁴ *The Code*, p. 223-224..

means that such a priest cannot leave or transfer out of the Ordinariate without going through the mandated canonical procedures. This is the subject for another paper, but for those Anglican clergy who are used to applying to parishes and moving into differing dioceses, this mandated stability will mark a change. Roman Catholic clergy are incardinated in (belong to) a specific diocese. It is extremely rare for clergy to move from one diocese to another.

Who may be incardinated by the Ordinariate? The words are carefully chosen. First of all, former Anglican “ministers” (not “priests”) who have now entered into full communion as well as lay persons who present themselves as candidates and are about to begin the ordination process. The thrust of this article leaves no doubt that Anglican orders remain null and void in the Roman mindset. At best, ordained Anglicans are considered not validly ordained “ministers.” The Roman Catholic Church has consistently held this view since the pontificate of Leo XIII. Are those seeking full communion and wishing to remain in the ordained ministry prepared to declare their prior ordination null and void? Are they prepared to acknowledge that all prior sacramental ministrations were without effect? Even if one were never forced to do so in a public statement, the fact of participating in a second ordination ceremony carries this implication.⁴⁵

The “Complementary Norms” allow for the organizing of this Anglican Ordinariate into “territorial deaneries” whereby someone delegated by the Ordinary may exercise pastoral supervision⁴⁶. This is similar to the structure found within any diocese under the Bishop’s authority.

Finally when describing the authority (“power”) that the bishop or priest would exercise as the “Ordinary” of this community, the Constitution is specific. Power is *ordinary* meaning that it is linked to the office being held and not the person. Once

⁴⁵ Congregation for the Doctrine of the Faith, *Pastoral Provision*, #3.3 declared: “Re-ordination of the Episcopalian clergy, even those who are married, shall be allowed in accord with the customary practice, after the examination of each individual case by the Congregation for the Doctrine of the Faith.” (emphasis added),

⁴⁶ Congregation for the Doctrine of the Faith, “Complementary Norms”, Art 4:3

leaving this ministry, the person loses all related authority. It is *vicarious* because it is “exercised in the name of the Roman Pontiff” who has appointed the Ordinary rather than in the name of the bishop/priest himself. Finally it is *personal* because such jurisdiction is held *only* over members of the Ordinariate.⁴⁷

The Ministry of Clergy within the Ordinariate

Who may be called to the ordained ministry and will serve in these Ordinariates? The general law of the Roman Catholic Church provides the overall context for this article. Those who “ministered as” (the document would *never* use the phrase “were *ordained* as”) Anglican clergy *may* be accepted as candidates for Holy Orders provided that they do not suffer from any of the canonical irregularities or impediments that would inhibit a man from generally becoming a candidate for Orders in the Roman Catholic Church.⁴⁸

A reading of canons 1026 – 1049 reveals many similarities and concerns which Anglican and Roman traditions share regarding the preparation of candidates for the ordained ministry. There are some very specific offenses which would disqualify the candidate without a dispensation, if one is capable of being granted.

- any psychological “infirmity” that might lead to a judgment that this person is not capable of fulfilling ministry
- has committed the offense of heresy, apostasy or schism
- committed a homicide
- procured or positively cooperated in an abortion
- mutilated himself or another
- attempted suicide
- exercises some office which is forbidden to clerics (listed in another section of the Code)
- is married (except when dispensed)
- a neophyte ⁴⁹

⁴⁷ Apos. Const. *Anglicanorum coetibus*, Art. V.

⁴⁸ Apos. Const. *Anglicanorum coetibus*, Art. VI:1.

⁴⁹ See *The Code*, Canons 1041 and 1042, p. 649-651.

Regarding the Roman tradition of mandatory clerical celibacy for those who will be ordained this document presents a complex scheme. In general, the situation of those who will serve in these Anglican Ordinariates reflects a situation that already exists in the Roman Catholic Church. Married “ministers” will be dispensed from the norm of clerical celibacy. If his wife were to die, the ordained must remain unmarried and celibate. An unmarried minister who is ordained as Roman priest must accept celibacy as a requirement for ordination⁵⁰

The reader must keep in mind that the norm of clerical celibacy is mandated within the canons of the Roman Catholic Church:

Can. 277 §1 Clerics are obliged to observe perfect and perpetual continence for the sake of the kingdom of heaven and therefore are bound to celibacy which is a special gift of God by which sacred ministers can adhere more easily to Christ with an undivided heart and are able to dedicate themselves more freely to the service of God and humanity.⁵¹

The present generation of married Anglican clergy will seemingly be granted the permission to serve while married. What of the next generation of priests? Article VI.2 requires careful scrutiny:

§ 2. The Ordinary, in full observance of the discipline of celibate clergy in the Latin Church, as a rule (*“pro regula”*) will admit only celibate men to the order of presbyter. He *may* also petition the Roman Pontiff, as a derogation from *can. 277, §1*, for the admission of married men to the order of presbyter on a *case by case basis*, according to objective *criteria approved by the Holy See*. (emphasis added)

⁵⁰ Apos. Const. *Anglicanorum coetibus*, Art. VI.1

⁵¹ *The Code*, Canon 277, p. 231-2321.

Clearly, it is the intention of the Holy See that a male celibate priesthood remain the norm throughout the Roman Catholic Church. Canon 277 is cited as the standard from which the Ordinary *may* request a dispensation. “Only celibate men” will be admitted as candidates under normal circumstances. The Ordinary *may* apply for a dispensation to permit a married man to apply, or he may not. The dispensation *may or may not* be granted which would allow a married man to serve as a priest. The criteria for these decisions will be established on a case by case basis, but nothing is yet published. There is no guarantee that there would be both a married as well as celibate clergy serving in these Ordinariates several years from now.

It is my suspicion that the 1980 *Pastoral Provision* has already prepared for the elimination of any married clergy in the future: “To married Episcopalian priests, the following stipulations apply: they may not become bishops and they may not remarry in case of widowhood. *Future candidates for the priesthood must follow the discipline of celibacy.*”⁵²(emphasis added)

One must read *Article 6* of the “Complementary Norms” along side *Article VI* of *Anglicanorum coetibus* to fully comprehend how one might serve as an ordained cleric within the Ordinariate. The Ordinary must be given the prior *consent* of his Governing Council⁵³ before admitting a candidate to Holy Orders. Giving “consideration” to the tradition from which this candidate has come, “the Ordinary *may* present to the Holy Father a request for the admission of married men to the presbyterate in the Ordinariate.”⁵⁴ A process of discernment is foreseen. Not only “objective criteria” but also “the needs of the Ordinariate” will determine whether the request will be granted. It is finally stated that these criteria will be developed by the Ordinary (leaving the possibility that differing Ordinariates may have some differing criteria) after he consults with the local Conference of Bishops. The criteria must be approved by the Holy See.⁵⁵ Anglicans need to be aware that the any process of receiving a dispensation from the requirement of mandatory

⁵² Sacred Congregation for the Doctrine of the Faith., Decree, *Pastoral Provision*, ii.3

⁵³ See Article X of Apos. Const. *Anglicanorum coetibus* regarding Governing Council

⁵⁴ Congregation for the Doctrine of the Faith, “Complementary Norms”, Art 6.1

⁵⁵ Congregation for the Doctrine of the Faith, “Complementary Norms”, Art 6.1.

celibacy (the norm of the Roman Catholic Church) is a complicated one. The granting of such a dispensation is reserved to the Holy See. It seems reasonable that any conversation about this process should include the experience of eastern rite catholic clergy who have been dealing with this issue for years.

There are two categories of individuals mentioned who may be serving as Anglican priests at present but upon being received by the Roman Catholic Church would be disqualified from applying for ordination: (a) those who were previously ordained in the Roman Catholic Church and had subsequently been received into a Church within the Anglican Communion; and (b) those clergy who are in accordance with Roman Canon Law living in "irregular marriage situations."⁵⁶ This latter category addresses those clergy who have been divorced or are married to a woman who has been divorced. One would hereby have to enter into the canonical world of marriage impediments, church tribunals, and the processes leading to a possible declaration of nullity of a prior marriage. Presumably if an Anglican priest were to be received into the Roman Catholic Church and were to submit his (or his spouses') marriage to an investigation and judicial procedure leading to a possible declaration of nullity of that prior marriage, then the former priest would be able to begin the process leading to (re)ordination since once that marriage were declared null, he would not longer be "in (an) irregular marriage situation." But the "Complimentary Norms" do not state this specifically. Would such a person then be permanently excluded from the ordination process? Over and above this, one wonders how any person would be received into the Roman Catholic Church in the first place if she or he were living in an irregular marriage situation. Neither marriage partner is permitted to receive Holy Communion in the Roman Catholic Church. What would be the point of entering into *de facto less-than- full* communion with the Roman Catholic Church? Further issues of clergy living in same-sex relationships or clergy living in a heterosexual non-marital relationship will have to be faced as these

⁵⁶ Congregation for the Doctrine of the Faith, "Complementary Norms", Art 6.2

relationships are incompatible with Roman Catholic moral teaching or acceptable behavior for clergy.

The remaining paragraphs of Article VI encourage those priests who will serve in these Ordinariates to “cultivate bonds of unity” with their counterparts among the regular diocesan clergy. There is the hope that, with the agreement of the local Diocesan Bishop and of the Ordinary of an Anglican Ordinariate, certain pastoral and charitable activities might occur through the common action of all the clergy.⁵⁷

Regarding seminary preparation for these candidates who are preparing for (re)ordination, the Apostolic Constitution encourages that they study “the areas of doctrinal and pastoral formation” alongside the other regular students. With regard to “their particular needs” and especially when it is a matter of “formation in Anglican patrimony,” the Ordinary *may* also establish a program or house of formation which is attached to the existing theological faculty.⁵⁸ Thus it appears that theological formation which will somehow take into account Anglican heritage and customs is being addressed. A certain flexibility seems to be the norm. The Ordinary will need to work out some arrangement with the local Bishop and local diocesan seminary (if there is one) as well as possibly establish a separate House of Formation “expressly for the purpose of transmitting Anglican patrimony.”⁵⁹ Whatever program of priestly formation is developed must be approved by the Holy See. This requirement is in conformity with the general law of the Roman Catholic Church. Article 10.3 of the “Complementary Norms” references the specific canon.⁶⁰ That clergy participate in a

⁵⁷ Apos. Const. *Anglicanorum coetibus*, Art. VI.4

⁵⁸ Apos. Const. *Anglicanorum coetibus*, Art. VI.5

⁵⁹ Congregation for the Doctrine of the Faith, “Complementary Norms”, Art. 10.2

⁶⁰ *The Code of Canon Law*, Canon 242 §1. “Each nation is to have a program of priestly formation which is to be established by the conference of bishops, attentive to the norms issued by the supreme authority of the Church, and which is to be approved by the Holy See. This program is to be adapted to new circumstances, also with the approval of the Holy See, and is to define the main principles of the instruction to be given in the seminary and general norms adapted to the pastoral needs of each region or province.” p. 211. The *Decree of Erection* for Our Lady of Walsingham states: “there is to be a specific programme of theological formation as well as spiritual and pastoral

continuing education program of some sort has also been prescribed.⁶¹

Article VII of *Anglicanorum Coetibus* opens the possibility that, with approval from the Holy See, the Ordinary may establish various forms of formal communal religious life within the Ordinariate.⁶² The Constitution allows for the possibility of those who are already living such a life within the Anglican Communion and who wish to enter into full communion with Rome to be placed under the jurisdiction of the Ordinary as long as both parties agree to this.⁶³ Those Anglicans living in religious life who wish to transfer to Rome must “manifest this desire in writing.”⁶⁴

The Ordinary, as any Roman Diocesan Bishop, will be allowed to establish parishes with all the rights, duties and structure of any territorial parish. However these parishes would include only those who are members of this Anglican Ordinariate parish no matter where they actually reside. Specific territorial boundaries that usually distinguish one parish from another would not be a consideration. These parishes are “personal.”⁶⁵ In order to canonically erect such a new personal parish the Ordinary needs to hear the opinion of the local Diocesan Bishop beforehand, but in any event must have prior approval of the Holy See to do this.⁶⁶

Those priests serving as pastors of such personal “Anglican” parishes will possess all the rights and obligations of any pastor of a Roman Catholic parish as specified by the *Code of Canon Law* as well as those prescribed in Article 14 of the “Complementary Norms.” Having a priest associate appointed to help the pastor, the mandated advisory council of lay parishioners (“pastoral council”), the

preparation prior to ordination in the Catholic Church. (Art 4). But nothing is specified.

⁶¹ Congregation for the Doctrine of the Faith, “Complementary Norms”, Art 10.5

⁶² The varied categories of religious orders are known as either: “Institutes of Consecrated Life” and “Societies of Apostolic Life.” The law governing Consecrated Life is an entire course taught at any Canon Law faculty.

⁶³ Apos. Const. *Anglicanorum coetibus*, Art. VII

⁶⁴ Apos. Const. *Anglicanorum coetibus*, Art. IX

⁶⁵ Apos. Const. *Anglicanorum coetibus*, Art. VIII.1

⁶⁶ Apos. Const. *Anglicanorum coetibus*, Art. VIII.1

mandated “financial council” are all mentioned in the Norms.⁶⁷ It is impressive to note the detail for pastoral care that was given to this section. For example, should the pastor of this Anglican/Roman pastor die or become incapacitated, arrangements are foreseen which would allow the local Roman pastor to exercise pastoral care as necessary.⁶⁸

Another among the responsibilities of the Ordinary is to “ensure that adequate remuneration be provided to the clergy” of his Ordinariate.⁶⁹ It is the responsibility of this Ordinary to make sure that there will be not only an adequate salary for his clergy but also provision for their disability, old age and illness⁷⁰. It is also his responsibility to tap into the resources of the local national Conference of Bishops which “might be made available” to them.⁷¹ This is laudable. The Apostolic Constitution is less clear about the opposite side of this coin. A Roman Catholic Ordinary possesses the right to impose tax on communities within his jurisdiction “for diocesan needs.” (canon 1263). There is also the responsibility to support through special collections various diocesan, national and international projects. Such Anglican parishes that align with the Roman Catholic Church will be reasonably expected to support works of education, charity, justice and mercy.

Although unmentioned in the Apostolic Constitution, the “Complementary Norms,” made specific reference to married former Anglican Bishops who make this spiritual journey to Rome. There has been an attempt to incorporate such men into the life and ministry of a Roman Bishop, but within limits⁷²:

- such men are “eligible” to be appointed by the Roman Pontiff as an Ordinary for one of these Anglican Ordinariates.

⁶⁷ Congregation for the Doctrine of the Faith, “Complementary Norms,” Art 14.1

⁶⁸ Congregation for the Doctrine of the Faith, “Complementary Norms,” Art 14.2

⁶⁹ Congregation for the Doctrine of the Faith, “Complementary Norms,” Art 7.1

⁷⁰ Congregation for the Doctrine of the Faith, “Complementary Norms,” Art. 7,1

⁷¹ Congregation for the Doctrine of the Faith, “Complementary Norms”, Art 7.2

⁷² Congregation for the Doctrine of the Faith, “Complementary Norms”, Art 11

- If the former bishop is so appointed, he will be ordained a priest and then will be able to exercise the full pastoral care and ministry as the Ordinary.
- If he is not appointed as the Ordinary, he still may be called upon to assist the Ordinary in the administration of the Ordinariate. The specifics would have to be well defined.
- He *may* be invited to attend meetings of the National Bishops' Conference with other Roman Bishops but would have "the status of as retired bishop." This is making some statement about their ability to fully participate in such meetings. It should be noted that in Roman canon Law, there is no specific mention of how a retired bishop might participate in a meeting of the National Conference of Bishops.⁷³
- Lastly, as a courtesy, even if the former Bishop is never ordained a bishop in the Roman Catholic Church, he "may request from the Holy See to use the insignia" of his office.

The Administration of an Anglican Ordinariate

Both the Apostolic Constitution and the accompanying "Complementary Norms" conclude by establishing the mechanisms by which these Ordinariates will function. In effect, they are being erected as would any Diocese within the Roman Catholic Church. I have already touched upon the concept of *hierarchical communion* as it defines the relationship between the Bishop of a diocese (or in this case the Ordinary of this special "personal" diocese of former Anglicans) and the supreme authority of the Roman Catholic Church as exercised by the Roman Pontiff.

The typical American view of the separation of powers (i.e., executive, legislative and judicial) is not embedded within the Canon Law or longstanding traditions of the Roman Catholic Church. To be fair, such a concept is only partially accepted within the structure of the Episcopal Church which has no truly

⁷³ By way of analogy, however, canon 443:2 permits retired bishops to have a deliberative vote when they participate in "particular councils." I would suspect that questions of voice and/or vote for former Anglican Bishops will need to be clearly delineated.

independent judiciary and was originally structured without a strong executive branch. For the entire Roman Catholic Church the Roman Pontiff is legislator, administrator, and supreme judge from whose final decision there is no appeal. However, as seen from this study, the Roman Pontiff also works through the various Congregations, Councils and Tribunals of the Holy See. This is the model which is followed within any local diocese. The Bishop, within his particular church, is lawgiver, administrator and chief judge limited by the territory of his diocese and the general law of the Roman Catholic Church. The local Bishop works with and through various consultative bodies (and on limited occasions, he must obtain *consent*).

Since this is the government of the Church of Rome, one ought not to be surprised that this is the model which will be followed for the administration of these Anglican Ordinariates. Various (mostly) consultative bodies must be established to assist the Ordinary in his work by giving counsel. When such a body actually has a deliberative decision, it will be specified in the clearest terms.

*A Governing Council*⁷⁴

Article X of the Apostolic Constitution mandates the creation of a board of “at least six priests” who will take on the usual roles of two separate bodies within Roman dioceses called the Council of Priests and the College of Consultors. In an Anglican Ordinariate this committee or board is to be called the Governing Council. The Council must have its own “statutes” (by-laws, governing rules, etc) which must be approved by both the Ordinary and the Holy See. Footnotes 17-19 in Article X of the Constitution cite the twelve canons from general law of the Roman Catholic Church with which the General Council must be in agreement. Those footnotes reference specific organisms within a Roman diocese. The Governing Council will be expected to do the work of two specific clerical bodies that are mandated by law to assist the

⁷⁴ Apos. Const. *Anglicanorum coetibus*, Art. X

Bishop. However the two councils which are to be found in every Roman diocese perform very different functions.

The first of these bodies to be replaced by the Governing Council is a *Council of Priests* (a.k.a. "Presbyteral Council"). It is a body composed of priests of the diocese. Some are elected; some belong by virtue of their office, and the Bishop is free to appoint a portion of the membership.⁷⁵ The council's role is consultative. Its mission is to assist the Bishop in the governance of the diocese, but it has no authority to act either without the Bishop or in opposition to the Bishop. In no way should the Priest's Council be viewed as an equivalent to the *Standing Committee* in an Episcopal Diocese. It is a further manifestation of hierarchical communion:

Can. 500 §1 It is for the diocesan bishop to convoke the presbyteral council, preside over it, and determine the questions to be treated by it or receive proposals from the members.

§2. The presbyteral council possesses only a consultative vote; the diocesan bishop is to hear it in affairs of greater importance but needs its consent only in cases expressly defined by law.

§3. The presbyteral council is not able to act without the diocesan bishop who alone has charge of making public those things which have been established according to the norm of §2.⁷⁶

The second group found in every Roman Catholic diocese is the *College of Consultors*. This body exists within a diocese as a body chosen from the membership of Presbyteral Council. The Bishop alone chooses its members. This board was a creation of the 1983 revised Code of Canon Law. As a group, it *must* be consulted by the Bishop in the case of certain extraordinary administrative acts. It

⁷⁵ *The Code*, Canon 497:1, p. 365-366.

⁷⁶ *The Code*, Canon 500, p. 367. In fact, there is only one act with which the Priest's council has any deliberative choice: to create a sub-committee from which the Bishop must, as needed, choose priests to become involved in the lawful process of removal of a pastor from ministry, cf. canon 1741.

must give its consent to the incardination of clergy. It is the board that elects the temporary diocesan administrator should the see become vacant due to the death or transfer of the Bishop.⁷⁷ The point is that this committee by its nature has more deliberative authority than any Council of Priests.

In an Anglican Ordinariate how will the Governing Council function? The Governing Council “will have the rights and responsibilities accorded by the Code of Canon Law of the College of Consultors and the Presbyteral Council.”⁷⁸ This means that it will have both an advisory and a deliberative role. Half the membership is to be elected by the priests of the Ordinariate.⁷⁹ Presumably the rest of the membership will either be appointed by the Ordinary or belong ex-officio. This is not made clear. There is only a brief reference to the statutes of this council in the *Decree of Erection* of the Ordinariate of Our Lady of Walsingham.⁸⁰

The Governing Council will function as a kind of senate of priests whose advice in certain matters may be requested, or not. The Norms simply state that “concerning the pastoral activities of the Ordinariate and the principles governing the formation of clergy, the Ordinary is to consult the Governing Council.”⁸¹ In other matters this body must intervene and its consent will be required. Those areas where the *consent* of the Governing Council must be given are named in Article 12:

- admitting a person as a candidate to Holy Orders
- establishing or “suppressing” a personal parish (within the Ordinariate)
- establishing or suppressing a house of formation of clergy
- approving the program for the formation of clergy

⁷⁷ *The Code*, p. 1552.

⁷⁸ Congregation for the Doctrine of the Faith, “Complementary Norms”, Art 12

⁷⁹ Congregation for the Doctrine of the Faith, “Complementary Norms”, Art 12:5

⁸⁰ Art. 12: “The Ordinary will ensure that the statutes of the Governing Council and the Pastoral Council, which are subject to his approval, are drawn up.”

⁸¹ Congregation for the Doctrine of the Faith, “Complementary Norms”, Art 12:3

- choosing from the clergy of the Ordinariate a “terna” (list) which is to be submitted to the Holy See from which the Roman Pontiff is free to choose (or not) the new Ordinary
- proposing any changes to these Complementary Norms
- formulating its own statutes as well as those for the other mandated bodies.⁸²

The Finance Council

The second of the three mandated councils which must be created to assist the Ordinary in the administration of this community is the Finance Committee. The Apostolic Constitution merely states that such a council must be established in accordance with the general law of the church.⁸³ Interestingly, the “Complementary Norms” are silent. Therefore canons 492 – 494 of the *Code of Canon Law* must be read to interpret the Council’s make up and responsibilities. The following points are a summary of the materials found in those canons:

- a finance committee *must* be established and is presided over by the Bishop or his delegate.
- its membership is *appointed by the bishop*
- the council is made up of at least three of “Christ’s faithful”⁸⁴ who are experts in both civil law and financial affairs
- members are appointed for five year terms, and may be reappointed.
- any person who is in a family or marriage relationship with the Bishop “up to” first cousin is excluded from membership on the council.
- the council is responsible for all matters covered in Book V of the Code which governs the administration and alienation of temporal goods of the Church

⁸² Congregation for the Doctrine of the Faith, “Complementary Norms”, Art 12

⁸³ Apos. Const. *Anglicanorum coetibus*, Art. X:3

⁸⁴ Although one usually encounters this phrase when a reference is made to lay persons, the phrase may also refer to any of the baptized, whether lay or clergy.

- Under the Bishop's direction, the council prepares the annual budget for the coming year and gives a report at the end of the fiscal year to account for income and expenditures.⁸⁵

Canon 494 specifies the appointment and duties of a *Financial Administrator* for each Diocese who would be separate from the Bishop. The footnotes in the Apostolic Constitution cite canon 494 when it specifies of the duties of the Finance Council. I do not know whether such an appointment is merely presumed or whether this office will not be mandated for an Anglican Ordinariate. The canonist in me wishes that the Congregation's Norms would have addressed finances.

*The Pastoral Council*⁸⁶

The final consultative organ that must be established will be a Pastoral Council. Canons 511 -514 govern the make-up and duties of this council. This council is to be made up of clergy, members of religious orders and lay persons. It functions under the Bishop's authority and its make up should reflect the diversity of social conditions, geographic make up, different professions etc. which make up the diocese. Its purpose is to study issues that concern the pastoral life within the Diocese as well as to offer practical solutions. But this council is *not* the equivalent of any Episcopal Diocesan Standing Committee as the following two citations clearly demonstrate:

Can. 512 §1 A pastoral council consists of members of the Christian faithful who are in full communion with the Catholic Church—clerics, members of institutes of consecrated life, and especially laity—who are designated in a manner determined by the diocesan bishop.

§3 No one except members of the Christian faithful outstanding in firm faith good morals, and prudence is to be

⁸⁵ *The Code*, Canons 492-493, p. 361-2.

⁸⁶ Apos. Const. *Anglicanorum coetibus*, Art. X:4

designated to a pastoral council.

Can. 514 §1 A pastoral council possesses only a consultative vote. It belongs to the diocesan bishop alone to convoke it according to the needs of the apostolate and to preside over it; it also belongs to him alone to make public what has been done in the council.⁸⁷

Again, the concept of “Communion” is a hierarchical one. Presbyters or lay persons have limited deliberative authority. The norms of law make the chief executive (whether this is the Roman Pontiff for the universal church or the Bishop within his Diocese) the chief legislator who has virtually full authority. The times when the Ordinary will need consent from any organ will be limited. Even instances when consultation is required, remember: advice is not consent. The “Complementary Norms” make this quite clear: “The Pastoral Council, constituted by the Ordinary, offers advice regarding the pastoral activity of the Ordinariate.”⁸⁸

Other Issues

This paper began with the admission that it would not be an authoritative commentary of *Anglicanorum Coetibus*, and clearly it is not. There is so much material within the canons of the Roman Catholic Church that was not cited due to spatial constraints. The writer has not touched upon a number of issues which will have to be “unpacked” as these groups of new Roman Catholics are incorporated into what is called “full” communion. There are some additional considerations which may be the basis for the writing of term papers in any of the Roman Faculties of Canon Law or perhaps even in Anglican seminaries as well.

- a vestry in The Episcopal Church has truly deliberative authority and responsibilities. We have seen that there isn’t

⁸⁷ *The Code*, Canons 512 and 514, p. 375-377.

⁸⁸ Congregation for the Doctrine of the Faith, “Complementary Norms”, Art 13:1

any organ within the Roman Catholic Church that has such authority. How will this model of authority be accepted in parish life? A parish council is not a vestry.

- As mentioned above, those divorced and remarried (“living in an irregular marriage”) would not be permitted to receive Holy Eucharist. Nor would men living in such a relationship be permitted to enter the priesthood. They would have to submit their marriage to the judgment of a church tribunal.⁸⁹ There is an entire judicial ministry examining the validity of marriages about which most Anglicans are unacquainted. Indeed even most Roman Catholics are terribly misinformed about the process.
- While this may not be an issue for those wish to unite with Rome, any notion the ordination of women is not even open to discussion. However there is another principle that may not have been considered: how well will Anglicans who seem used to giving their opinions deal with an ecclesial structure that will absolutely close the conversation on some issues. Certain issues are simply withdrawn from discussion and debate.
- Not one mention has been made of the official Roman teaching regarding artificial contraception. Again, married couples practicing artificial birth control will be told that they are living in sin. They are excluded from the Eucharist. Let the pastors of Anglican/Roman parishes speak with their regular Roman counterparts about the ramifications of this issue.
- Ours is a culture, for better or worse, which seems to desire “transparency” as a value. We don’t deal well with notions of secret processes or secret archives. Both of these concepts do exist on various levels in the Roman Catholic Church. On the one hand, one may argue for respecting confidentiality. On the other, there are those who have

⁸⁹ This is foreseen in the Apostolic Constitution in Article XII. In the Ordinariate of Our Lady of Walsingham, provisions are already being made for the workings of a canonical judicial system until the Ordinariate has established a Court system of its own. (cf. [Art. 8](#))

complained that basic fundamental rights to due process have not always been upheld. While it would be silly and close minded to fear that former Anglicans are submitting themselves to a Machiavellian ecclesiology, one must be aware that they are going to enter a very different ecclesial culture.

- Book Three of the Code of Canon Law details the necessity and the process of submitting one's theological work to the scrutiny of the ecclesial authority before it may be published. Roman scholars know well the implications of having an *imprimatur* withdrawn. Anglican authors who enter the Roman Catholic Church are about to have a new experience.

N. Doe's address from 2010 at the *Consociatio Internationalis Iuris Canonici Proviendo* has provided even more issues for consideration and speculation:

- What will be the canonical consequences for any Anglican seeking admission in the Roman Catholic Church? "It is sometimes difficult to ascertain whether loss of a particular status terminates membership of the institutional church itself..."⁹⁰ Would joining an Ordinariate constitute an offense (from the Anglican perspective) and as such, would this constitute a schism?⁹¹
- What would be the legal consequences of those groups who insist on retaining their own parish buildings and property? After all, aren't they a part of the "liturgical patrimony" which they may wish to bring to Rome?⁹² These battles are being fought in the civil courts in the U.S.A. Is international litigation and further controversy inevitable?
- A delightful corollary from this issue: what about issues of copyright insofar as the integration of liturgical materials

⁹⁰ Doe, "The Apostolic Constitution"

⁹¹ Doe, "The Apostolic Constitution"

⁹² Doe, "The Apostolic Constitution"

into Roman manuals from *The Book of Common Prayer* may well lead to legal battles over use and ownership of these texts.⁹³ Since the American Book of Common Prayer has never been copyrighted, this may not be an issue for the Episcopal Church.

- Doe addressed another possible issue. What if some who leave for Rome desire to attend worship occasionally or be married or buried from the local Anglican Church?⁹⁴ Writing from the perspective of the Church of England, Doe admits that it is most likely that this is not a right that would be claimed. To his credit, the author has pointed to a scenario with which parish priests must deal. Church “members” seem to want to exercise their right to worship when and where they choose. I suspect few would use the formal term, but aside from issues of sexuality, most other church dividing “stuff” is so often viewed as “adiaphora.” What would be the canonical consequences of those who leave but not fully?

Conclusion

It believe it is fair to conclude that the Apostolic Constitution is neither as diabolical as its opponents may suspect nor as clear as its defenders might have wished. For those who must, for conscience sake, make this journey to Rome, there will be many changes and challenges that must be faced. The exact description of the Anglican patrimony that will be preserved is still unclear. Many issues will need future clarification.

⁹³ Doe, “The Apostolic Constitution”

⁹⁴ Doe, “The Apostolic Constitution”

The Evolving Role of Cathedrals in The Episcopal Church

A. Theodore Eastman¹

The editor of the Journal invited me to explore the complicated ways in which cathedrals are organized in The Episcopal Church and to write an article on what I discover. This task has been more daunting than I imagined when I accepted the assignment.

I began my exploration by reviewing the historic place of cathedrals in Western Christianity, especially in the Church of England which provided in general a cathedral model to be followed, adapted or rejected by the church in the United States. I reviewed some of the eighteenth-century thinking about cathedrals as the Episcopal Church was coming into being. I wrote to fifteen diocesan bishops whose dioceses, both large and small, had cathedrals, asking them to respond to a few basic questions or to delegate someone to respond in their behalf.² Responses came from seven bishops or their designees. I referred to diocesan canons and cathedral by-laws in each case. To these seven I added the Cathedral Church of Saint Peter and Saint Paul, commonly referred to as Washington National Cathedral. I have observed this cathedral close at hand in various capacities for more than fifty years. Its story is unique among American cathedrals.

¹ The Rt. Rev. A. Theodore Eastman was elected Bishop Coadjutor of Maryland in 1982 and served as Diocesan Bishop from 1986 to 1994. Subsequently, he served as Provost and later as Vicar of Washington National Cathedral.

² The questions were: When was your cathedral established? Was it formerly a parish church? What is its canonical relationship with the bishop? The Diocese? The diocesan convention? Is its governance organized on a cathedral chapter model or a parish vestry model? How is the governing body chosen? Do representatives of the diocese at large serve on this governing body? How are they chosen? How is the dean selected? I also asked for copies of cathedral by-laws and pertinent diocesan canons. I offered to buy a copy of the cathedral's history, if any.

I also wrote to twelve bishops, whose dioceses do not have cathedrals, asking them to explain why their diocese had no interest in a creating a cathedral. Five of those bishops responded, several with extensive, instructive comments.

Professor Prichard, the editor, offered additional historical material as the article was edited into its final form, for which I am very grateful.

What follows is a distillation of my findings with analytical comments along the way and conclusions at the end.

I.

Historical Background

Historian Stanford Lehmborg provides a simple definition of a cathedral in his *English Cathedrals: A History*: “a cathedral . . . is a church, usually a large one, in which a bishop has his throne.” He explains that the name cathedral “derives from the Latin, *cathedra*, chair or seat, in this case a reference to the bishop’s throne or place of honour within the building.”³

The institution dates to the fourth century, when Christianity first became legal in the Roman Empire and the Church began to take on some of the organizational patterns of Roman society. Bishops presided in the liturgy from a seated position and assumed the same posture to render theological, administrative, and judicial judgments. The association of a bishop with a chair was not an idea original to the church, however; some have suggested that it was borrowed from an earlier academic use. Schools of the Roman Empire, like today’s universities, identified the teachers of certain subjects by the chairs they held.⁴

Fourth and early fifth century cathedrals and the complex of buildings around them could be quite elaborate. Augustine of Hippo’s cathedral complex, for example, included 120 rooms.⁵

³ Stanford Lehmborg, *English Cathedrals: A History* (London: Hambledon and London, 2005), xi.

⁴ Dairmaid MacCulloch, *Christianity: The First Three Thousand Years* (New York: Viking, 2009), 197.

⁵ Peter Brown, *the Rise of Western Christendom*, 2d edition (Malden, MA: Blackwell, 2003), 78

With the collapse of the Western Roman Empire in the fifth century and the drop in urban population, it became more difficult to sustain such elaborate buildings and in some places—notably the Celtic churches of Ireland and Wales—Christians developed organizational patterns with wandering bishops who lacked fixed cathedrals.

The Roman mission that began in Canterbury in 597 brought the first cathedral to England. By the end of the following century seven additional cathedrals (Rochester, London, York, Winchester, Lichfield, Hereford, and Worcester) had followed the example of Canterbury.⁶

Most English cathedrals remained modest affairs until after the Norman Conquest (1066). Buildings and the staffs that administered them grew rapidly more complex in the following two centuries, a period that some historians have referred to as “the age of Cathedrals.”⁷

Late medieval England had nineteen cathedrals, of which ten were organized as monasteries and nine were secular. Secular cathedrals were staffed by a group of clergy who were known as canons (after the rule or canon that they followed in their daily lives) or prebendaries (after the endowments or *prebends* that provided their income).⁸ They were led by a dean (the chief officer), a precenter (chief musician and liturgical officer), a chancellor (in charge of education and record keeping), and a treasurer. Large cathedrals had a variety of additional personnel. These included subdeans, succentors (assistants to precenters), vice-chancellors, and vicars choral (assistants to canons in the daily round of worship, also known as minor canons or petty canons).⁹

Monastic cathedrals were, in contrast, staffed by monks, who were as a rule more numerous than the canons of the secular cathedrals. They were led by priors, who were assisted by sub-priors. In addition there were a whole host of officers who filled the

⁶ Lemberg, *English Cathedrals*, 1-4.

⁷ George Duby cited in MacCulloch, *Christianity*, 378.

⁸ These clergy could be either resident or non-resident. At a later period, some distinguished verbally between the two by reserving the name canon for those who were resident, while using the title prebendary for those who were non-resident.

⁹ Lemberg, *English Cathedrals*, 82-90.

special functions needed for large monastic communities. These included sacristans, precenters, circas (officers in charge of policing behavior in the area in and around the cathedral), clerks of the works (concerned with the fabric of cathedrals and associated buildings), receivers (collectors of revenue), hordarians and cellarers (collectors and dispensers of food), refectorians (those in charge of the refectory or dining hall), chamberlains (providers of clothing), infirmarians, almoners, and hostellers.¹⁰

Cathedrals were administered by cathedral chapters composed of the bishop and the canons (secular cathedrals) or the bishop and the monastic chapter (monastic cathedrals). Theoretically, the bishop supervised the chapter, and the chapter gave the bishop advice on the running of the diocese. In fact, neither happened with much consistency. The bishop had more symbolic than actual authority over the dean or prior who was the chief administrator of the cathedral and its holdings, and the bishop showed little interest in consulting the chapter on diocesan affairs.¹¹

Cathedral chapters often held and exercised the right to select the candidates to fill certain positions—such as teaching positions in schools associated with the cathedral or clergy in neighboring parishes.

From as early as the tenth century, cathedral chapters claimed the right to elect bishops (replacing an earlier and more amorphous practice according to which “the clergy and the people” were the electors), but the chapter role was generally more symbolic than real. Until the thirteenth century, it was usually the monarch who made the actual choice; after that time popes increasingly claimed the right of appointment.¹²

At the Reformation, the monastic cathedrals were converted to the secular pattern. In addition, as the result of the Reformation, “the relationship between the cathedral establishments and the lay communities which surrounded them had changed in subtle ways,” Stanford Lehmborg explains, “but generally cathedrals continued to

¹⁰ Lehmborg, *English Cathedrals*, 92-95.

¹¹ Robert E. Rodes, *Ecclesiastical Administration in Medieval England: the Anglo-Saxons to the Reformation* (Notre Dame: The University of Notre Dame Press, 1977), 101-02.

¹² Rodes, *Ecclesiastical Administration*, 12, 174-75.

provide significant services which were appreciated by many. These included education and charity, as well as preaching, prayer and praise.”¹³

English cathedrals were stressed and damaged during the Civil War and Commonwealth of the mid-seventeen century. Virtually all cathedral clergy lost their positions and homes during this period.

The Restoration of the monarchy in 1660 facilitated the restoration of the cathedrals as well. Destroyed fabric was restored. Large numbers of canons and choristers were replaced. Bishops had been generally supportive of the monarchy during the Civil War, and the new king returned the favor, giving a great deal of attention to the cathedrals, which were the bishops’ administrative and liturgical centers. Charles II was personally active in nominating canons, and deans.¹⁴

In the main, cathedrals were not considered parishes—i.e. they were not the primary churches for all the residents of a fixed geographical area—though by the seventeenth century there were some exceptions. With no regular cure of souls at most cathedrals, services were attended by family members of the staff, by visitors, and by certain “persons of quality.” Minor canons performed baptisms, marriages and burials, often of local nobility.¹⁵

The canons of the Church of England included specific provisions about cathedral chapters, deans, canons, and prebendaries. This was the case, for example, with Canons 42 to 44 of 1603/1604.¹⁶ In addition, Parliament adopted legislation. Henry VIII’s Parliament passed a significant law about cathedrals in 1539, as did James I’s Parliament in 1707. Parliaments would continue to shape legislation for English cathedrals long after the American Revolution. Parliament acted, for example, in 1840, 1931, 1934, and

¹³ Stanford E. Lehmborg, *Cathedrals Under Siege: Cathedrals in English Society 1600-1700* (University Park: The Pennsylvania State University Press, 1996), 1.

¹⁴ Lehmborg, *Cathedrals under Siege*, 57-75.

¹⁵ Lehmborg, *Cathedrals under Siege*, 211-13. Lehmborg provides examples of seven cathedrals that had parishes in the 17th century.

¹⁶ Gerald Bray, *The Anglican Canons 1529-1947* (Bury St. Edmunds, Suffolk: St. Edmundson Press for the Church of England Record Society, 1998), 328-33.

1963. Cathedrals in the established Church of England today are governed by “The Cathedrals Measure of 1999.”

The legislation was not always as clear as one might hope. Canonical scholar Robert Rodes has, for example, called the 1707 legislation “so ambiguous that it kept the courts busy off and on for the rest of the century.” Disputes over the respective authority of deans, bishops, and chapters long predated the Reformation. With no clear legislation to adjudicate such disputes after the adoption of the 1707 law, eighteenth-century England was marked by cathedral fights—again quoting Rodes -- that were “pursued with a pertinacity and gusto that had scarcely been seen since the great jurisdictional battles of the early Middle Ages.”¹⁷ Such disputes did little to increase the popularity and prestige of cathedrals during the years leading up to the creation of an independent Episcopal Church.

During the eighteenth century at least some cathedrals were also following a financial policy that would contribute to the poor public perception of cathedrals occasioned by legal bickering. Many had by that point introduced admission fees for general entrance. In the majority of cases the fees would remain in place until the early part of the 20th century.¹⁸

II.

The American Experience

As members of the Church of England emigrated to the American colonies, missionaries and other clergy accompanied them. Congregations were formed and churches were built. In the absence of resident bishops, however, no cathedrals were needed or established until the formation of the Protestant Episcopal Church and the election of bishops to serve it.

¹⁷ Rodes notes a parallel rise in jurisdictional battles in universities. See Robert E. Rodes, *Law and Modernization in the Church of England: Charles II to the Welfare State* (Notre Dame: University of Notre Dame Press, 1991), 44.

¹⁸ Even after the abolition of general admission fees in the early 20th century, some cathedrals retained fees for visits to select areas, such as bell towers. See Alex Bruce, *The Cathedral “Open and Free”: Dean Bennett of Chester* (Liverpool: Liverpool University Press, 2000), 82-93.

Even after the creation of an American church with its own bishops, Episcopalians had considerable reservations about the episcopate. William White, a leading cleric in Philadelphia, wrote an influential essay in 1782, entitled *The Case of the Episcopal Churches in the United States Considered*. In it he advocated the creation of a national Episcopal church, free of any political ties with Great Britain or ecclesial ties with the Church of England. He argued that the new American church should have bishops, but the office would differ markedly from the monarchical model in the English Church. In White's plan, the election of a bishop would no longer be the responsibility—theoretical or actual—of a cathedral chapter. Clergy and elected lay representatives from throughout the diocese would elect the bishops.

White worried that a tendency in some sectors of the Church of England to accord divine authority to bishops might taint the office in America. He was willing to make considerable compromises to deal with such American sensitivities. He wrote, for example, that if the title of bishop were offensive to some, another designation, such as superintendent or overseer, could be used.

White did not believe that Americans would favor giving cathedrals rights and privileges that ordinary parishes would lack. In the regional groupings of churches (dioceses) over which bishops would preside, he proposed, therefore, "an equality of churches; and not, as in England, the subjection of all parish churches to their respective cathedrals."¹⁹

White's essay became a generally accepted blueprint for the creation of the Protestant Episcopal Church in 1785. He was elected Bishop of Pennsylvania in 1787, the second bishop in the Episcopal Church. He also served as the church's presiding bishop from 1795 to 1836, while retaining the Pennsylvania post.

White and most other early Episcopal bishops had parochial bases—in his case the united parishes of Christ Church and St. Peter's in Philadelphia—over which they continued to serve as rector

¹⁹ *The Case of the Episcopal Churches Considered*, Chapter II, in Perry, William Stevens, *Journals of General Conventions of the Protestant Episcopal Church*, 3 vols. (Claremont, NH, The Claremont Manufacturing Company, 1874), 3:422-24.

after consecration to the episcopate. The churches in White's care remained a united parish, however, with the same rights and responsibilities as other parishes. There would be no cathedrals of any kind in The Episcopal Church during White's lifetime.

With no cathedrals there would be no reason for The Episcopal Church to reproduce the provisions in English canons governing the life of cathedrals. American disestablishment of religion similarly meant that Congress would not legislate for cathedrals in a way parallel to the English Parliament.²⁰ To this day the organizational uniformity found in England is absent in The Episcopal Church in the United States, for there are no national canons to govern the life and governance of cathedrals. When later established, American cathedrals would be governed by diocesan and local regulation.

III.

Dioceses without a Cathedral

Those who are aware of the unease of Bishop White and other early Episcopal leaders about replicating English-style cathedrals should not be surprised to learn that to this day more than a dozen dioceses in The Episcopal Church have no cathedrals.²¹ Resistance to the creation of cathedrals in those dioceses is based on a number of factors:

²⁰ However, Congress did grant the charter of the Cathedral of St. Peter and St. Paul in Washington, DC.

²¹ When David A. Kalvelage wrote his *Cathedrals of the Episcopal Church in the U.S.A.* (Cincinnati: Forward Movement, 1993) he listed 20 dioceses without cathedrals. More recently David W. Virtue and Mary Ann Mueller listed 18 dioceses in their "The State of Episcopal Church Cathedrals in the US: A Special Report" (December 16, 2010) <http://www.virtueonline.org/portal/modules/news/print.php?storyid=13659>.

- As Bishop White pointed out in the formative days of the Episcopal Church, the idea of having one church superior to the rest is essentially undemocratic.
- The culture of a region and of the church rooted in that culture can contribute to the wariness about the non-egalitarian character of a cathedral. Traditionally low-church dioceses, mostly in the South, are well represented among those dioceses that lack cathedrals, but they are not the only ones. Douglas Theuner, Retired Bishop of New Hampshire comments on this factor in his history of that diocese. “Alone among the dioceses of New England, New Hampshire has no cathedral; not a place set aside for the bishop’s seat. By tradition, the President of the Standing Committee, cleric or lay person, opens the convention at which the legislative session is presided over by a lay moderator, although this is a modern innovation. No original portraits of bishops hang on the walls of the Diocesan House.... The diocese is devoid of physical monuments to its bishops, none of whom have on their gravesites elaborate markers testifying to their episcopal achievements.... In a state in which the governor’s prerogatives are limited by the existence of an Executive Council, a residual from colonial times, a healthy skepticism about the concentration of power and authority is ingrained in the social fabric.”²²
- One can justify the lack of a cathedral by making an appeal to antiquity in at least two ways—by citing the example of Bishop White and The Episcopal Church prior to 1860, or by citing the example of the Early Church prior to the conversion of Constantine. According to this line of argumentation there is no need for an elaborate building or a complicated ecclesial structure. Wherever a bishop presides there is his cathedral. Michael Marshall, an English

²² Douglas Theuner, *Choose Life* (Concord, NH: The Diocese of New Hampshire, 2003), ix-x.

bishop who has traveled and spoken widely in the United States, once suggested that a bishop carry a folding stool in the boot of his car and set it up as his cathedra in each parish he visits, thus making every parish a cathedral.²³

- As we have seen in the case of eighteenth century England, cathedrals can become centers of tension and conflict. Even those bishops who played a role in the later founding American cathedrals in the second half of the nineteenth century would recognize this. Bishop Daniel Sylvester Tuttle, for example, though author of a rationale for having cathedrals and participant in founding two of them (first in Salt Lake City, then in St. Louis), foresaw problems. As the Rev. Frederick Quinn explains in his history of the Episcopal Church in Utah, “Bishop Tuttle knew bishop-dean relations could be fraught with potential tension. ‘Troubles thick as blackberries are likely to interfere,’ he wrote, adding that a cathedral risks becoming ‘a very storm-center of disunity and disharmony.’”²⁴ Quinn’s book documents how bishop-dean conflicts played out in Utah in succeeding years.
- Cathedrals are in general more complicated and expensive to run than ordinary parishes, and Americans—especially in the early years of The Episcopal Church—often lacked the endowments that support English cathedrals.

Some dioceses continue to see the wisdom in arguments that Bishop White advanced about cathedrals more than 200 year ago.

IV.

Arrangements of Some American Cathedrals

The first American Episcopal cathedral, the Cathedral of Our Merciful Saviour, was organized in Faribault, Minnesota, in 1862 and consecrated in 1869. By that time a number of factors had

²³ Cited in correspondence from Wallis Ohl, former Bishop of the Diocese of Northwest Texas, which has no cathedral, July 15, 2010.

²⁴ Frederick Quinn, *Building the ‘Goodly Fellowship of Faith* (Logan, Utah: University Press, 2004), 18.

changed since the days of Bishop White's early opposition to cathedrals.

- One of the chief causes for this break with Bishop White was the strong influence of the catholic-oriented Oxford Movement (which emphasized the importance of the episcopate and the pre-Reformation heritage of the Church of England) and the Cambridge Camden Society (which emphasized the importance of medieval architecture and ritual). One of the principal supporters of the cathedral at Faribault was James Lloyd Breck (1818-76), who had been exposed to both the Oxford and Cambridge influences while a student at the General Theological Seminary in New York.
- A second possible cause for change in American interest in cathedrals was the reform that had taken place in mid-century England. The Ecclesiastical Commissioners Act of 1840 streamlined English cathedrals and provided a less expensive model to emulate. The Act set the maximum number of residential canons at no more than six; allowed for no more than the same number of minor canons; and phased out salaries for non-resident canons.²⁵
- At the same time initial steps were being taken in England to remove the annoying entrance fees. St. Paul's Cathedral, London would be one of the first English cathedrals to do so, dropping its fees for general entrance in 1841.²⁶

The design for the cathedral in Faribault included plans for a theological seminary—Seabury Divinity School. A building was begun for it in 1869, the year in which the first service was held in the cathedral.²⁷

The example of Minnesota was soon emulated by other dioceses. By the 20th century the diocese with a cathedral had become the norm, rather than the exception. The Minnesota pattern

²⁵ Rodes, *Law and Modernization*, 154-55.

²⁶ Bruce, *The Cathedral "Free and Open,"* 85.

²⁷ Kalvelage, *Cathedrals of the Episcopal Church*, 58.

of connecting a school of some kind with a cathedral also had become common, though the school was generally not a theological seminary. Another early cathedral was All Saints Cathedral, Albany, New York, which claims to be “the first Episcopal cathedral conceived and built on the English model of church, hospital, convent and school.” In its case, the initial educational institution was a school for girls.²⁸

In some extraordinary cases, dioceses came to have multiple cathedrals. This would be the case in Minnesota. Both the divinity school (merged with Western Theological Seminary and move to Chicago in 1933) and the diocesan office (transferred to Minneapolis) eventually left Faribault. In 1941 the Diocese of Minnesota designated St. Mark’s Parish, Minneapolis as the new cathedral. The Faribault cathedral, however, kept its status, leaving the diocese with the curious circumstance of having two cathedrals and two deans.

Supporters of American cathedrals often proclaimed their interest in following ancient English cathedrals as models. Despite such assertions, however, American cathedrals differ significantly from them. This will be clear in the following review of a select number of American cathedrals.

Of the cathedrals examined in this study, we will start with the easternmost and move west, as The Episcopal Church itself ventured from east to west during its nineteenth century expansion. The Cathedral Church of St. John the Divine, New York, will be followed by the Cathedral Church of Saint Peter and Saint Paul, Washington, DC; the Cathedral of St. Philip, Atlanta; Christ Church Cathedral, St. Louis; St. John’s Cathedral, Denver; the Cathedral Church of St. Mark, Salt Lake City; The Cathedral of St. John the Evangelist, Spokane and Trinity Episcopal Cathedral, Portland. The policies of each cathedral and their diocesan structures were probed with a series of questions. The distinctions among them highlight the variety of arrangements American cathedrals have made in relationship to their bishops and dioceses.

²⁸ The Cathedral of All Saints in the City and Diocese of Albany, New York, “History,” <http://www.thecathedralofallsaints.org/history/> (accessed March 1, 2011).

A. Cathedral Congregations

Before looking at issues of governance of Episcopal cathedrals in America, it would be well to look at one area in which there is growing uniformity, although that uniformity is of recent vintage. All of the Episcopal cathedrals in the United States that I surveyed for this article now have continuing congregations, something that was not the case of most eighteenth century English cathedrals. Most American cathedrals either evolved from pre-existing parishes and or had congregations from the time of their founding. Each of those in this study that started as a stand-alone cathedral has either begun to act like a parish (Salt Lake City) or added a parish-like entity to its corporate life (New York and Washington).

New York. In 1828, a generation after the official formation of the Protestant Episcopal Church, a conversation took place in Manhattan between the Bishop of New York, John Henry Hobart, and the Mayor of New York City, Philip Hone, an Episcopal layman, about the feasibility of building a cathedral in the city. The mayor was receptive but wary for political and financial reasons, so the question was not pursued further for many years.

The cathedral was eventually established in 1872 by action of the diocesan convention on the initiative of Bishop Horatio Potter. It was chartered subsequently by the legislature of the state of New York. No building was undertaken until nearly two decades later.

The New York cathedral intended to follow the pattern of English cathedrals, without parish status or intentions. However, toward the end of the twentieth century a parish was created within the cathedral organization, using the cathedral facility but with its own vicar and vestry. It was named "The Congregation of St. Saviour at the Cathedral."²⁹

Washington. The Protestant Episcopal Cathedral Foundation of the District of Columbia was created by an act of Congress on January 6,

²⁹ Correspondence with Susan A. Cannon, Assistant to the Dean of the cathedral, November 18, 2010.

1893.³⁰ This was two years before the Diocese of Washington was carved out of the Diocese of Maryland. The first Bishop of Washington, Henry Yates Satterlee, wasn't consecrated until 1896. So the cathedral idea was in the works before there was a Washington diocese with its own bishop. Bishop William Paret of Maryland, who had previously been rector of the Church of the Epiphany in Washington, was the prime mover in getting the cathedral foundation and the new diocese established.

The cornerstone of the cathedral was laid in 1907. Construction continued sporadically until its completion in 1990. The cathedral functioned without a resident congregation for the first hundred years of its life, and was the last American cathedral to function in this way. Under the deanship of Samuel T. Lloyd III (2005-2011), however, a strategic plan was adopted by the chapter, one feature of which was the establishment of a resident cathedral congregation.

Atlanta. An Episcopal congregation was formed in Atlanta in 1846 and admitted to union with the Diocese of Georgia a year later as St. Philip's Church. In 1894, the Bishop of Georgia, Cleland K. Nelson, moved his see city from Savannah to Atlanta, and named St. Philip's as pro-cathedral³¹ of the diocese. Georgia split into two dioceses in 1907, and Bishop Nelson chose to go with the northern diocese of Atlanta as its first bishop. Subsequently, the parish was named The Cathedral of St. Philip, retaining its parochial congregation.

St. Louis. The congregation of Christ Church was organized in 1819. It is claimed to be the first Episcopal Church west of the Mississippi River. After the departure of the first rector two years later, the parish ceased to function. It was reorganized in 1825. As the parish grew, three churches were built in succession, each one larger than the last. In 1886, Bishop Daniel Sylvester Tuttle, Bishop of Montana

³⁰ An Act to incorporate the Protestant Episcopal Cathedral Foundation of the District of Columbia, Public Law 14, Fifty-second Congress: Second Session.

³¹ A pro-cathedral is a parish that functions as a location for diocesan and episcopal functions in the place of or in addition to a cathedral.

Utah and Idaho, was elected Third Bishop of Missouri. Two years later Tuttle declared Christ Church to be the cathedral of the diocese.

Denver. The first Episcopal service in Denver was held in January, 1860, in a dirt-floored log cabin. It was called St. John's in the Wilderness. A month later Denver became a part of the newly formed Missionary District of the North-West, which included Montana, Wyoming, the Dakotas, Nebraska, Colorado, Utah and Nevada. Its bishop, Joseph Cruikshank Talbot, called himself, with some justification, "The bishop of all outdoors." In 1866 Talbot was succeeded by Bishop George M. Randall, whose shrunken jurisdiction encompassed Colorado, Wyoming, Idaho and Montana. New Mexico was added later. Bishop Randall also served concurrently as rector of St. John's in the Wilderness. His successor, Bishop John Franklin Spalding, took action in 1880 to create a formal corporation known as "The Bishop and Chapter of the Cathedral of St. John the Evangelist. The bishop hoped that this new foundation would mirror English cathedrals, which he understood to mean that all other parishes would be subsidiary to the cathedral and all rectors would serve as cathedral canons. The attempted implementation was blocked later by the vestry of St. John's, which was more interested in parish affairs than the grand design of the bishop.³²

Salt Lake City. Bishop Daniel Sylvester Tuttle, who has already appeared in this report in St. Louis, was named Missionary Bishop of Utah (with Montana and Idaho). He was twenty-nine years old, one year shy of the minimum canonical age for the episcopate. Under Tuttle's leadership, the cornerstone was laid in 1870 for the Cathedral Church of St. Mark, a cathedral from the outset rather than a successor to a parish church. But in almost every way it functions as a parish. Indeed, the by-laws of the cathedral makes

³² Robert Irving Woodward, *St. John's in the Wilderness* (Denver: Prairie Publisher, 2001), 26-27.

this statement: “The *Parish* shall commonly be known as the Cathedral Church of St. Mark.” (Italics added.)³³

Spokane. The Cathedral of St. John the Evangelist was formed in 1928 out of the merger of three churches, St. Peter’s, St. James’ and the pre-existing All Saints Cathedral. It is incorporated as a non-profit corporation, with a worshipping, supporting congregation functioning in the fashion of a parish.

Portland. The cathedral was formerly Trinity Church, a parish founded in 1851 and built in 1853. At the time it was thought to be the only Episcopal Church building north of San Francisco and west of St. Paul.³⁴ In 1993 it was consecrated as the cathedral for the Diocese of Oregon.

It is the case that there is now no Episcopal cathedral in the United States without its own resident community.

B. Governance Dynamics of Dioceses, Cathedrals, Bishops and Deans

New York. The Bishop of New York chairs the cathedral’s board of trustees and has the power to nominate a limited number of trustees to be elected by the board. The convention of the diocese also has authority to nominate a limited number of trustees. The bishop, the dean, the president of the standing committee of the diocese, and the president of the cathedral school are *ex officio* members of the board. The board elects the dean, the residentiary canons and the executive vice president³⁵ of the cathedral upon nomination of the bishop.

The dean, sub-dean, if there be one, residentiary canons, executive vice president, and no more than three other persons, nominated by the bishop and elected by the trustees, constitute the

³³ Article I, Section 1 of the By-laws of The Cathedral Church of St. Mark, Diocese of Utah

³⁴ Trinity Episcopal Cathedral, “A Brief History of Trinity Cathedral,” http://www.trinity-episcopal.org/08TrinitySite/sections/about_trinity/trinity_history.html (accessed November 11, 1010).

³⁵ This officer functions as the business manager of the cathedral.

chapter. The chapter is responsible for the spiritual and temporal interests of the cathedral.

Washington. The Protestant Episcopal Cathedral Foundation, with the Bishop of Washington as its *ex officio* head, is the legal entity that holds all property and funds of the cathedral and the three cathedral schools. The foundation is governed by the Foundation Board of Trustees. The bishop is its chair, *ex officio*. Each of the four institutions has its own governing board that oversees its day-to-day operations. The cathedral board is called the chapter. All officers and members of the chapter and the three school boards must be elected by the foundation board of trustees. The chapter and school boards must report to the foundation board of trustees on a regular basis. Capital fund campaigns and building plans must be approved by the foundation board of trustees.

Oversight is centralized in the foundation, but in routine matters the chapter and school boards work with a great deal of freedom.

The Bishop of Washington and the dean of the cathedral are *ex officio* members of the chapter. Two members of the standing committee of the diocese are elected to the chapter by the foundation trustees. The chair is selected from among the members for nomination to the bishop and the foundation board of trustees. The dean is not automatically the chair. That office is currently held by a member who is a Lutheran cleric.³⁶

The canons of the Diocese of Washington state very briefly that the Protestant Episcopal Cathedral Foundation of the District of Columbia is an institution of the diocese and that the Cathedral Church of Saint Peter and Saint Paul is the cathedral and chief mission church of the diocese.

While it is not the cathedral's official name, "Washington National Cathedral" is used informally for ease of reference, to reflect its national (as well as its local and global) interests and

³⁶ The foregoing organizational information is from the Bylaws of the Protestant Episcopal Cathedral Foundation of the District of Columbia, Composite Version Reflecting Amendments through June 30, 2010, and the Bylaws of the Cathedral Church of St. Peter and St. Paul, as of September 17, 2007.

mission. The cathedral provides a place for the seat of the Presiding Bishop of The Episcopal Church, who has an office in New York City but no cathedral there or anywhere else. The national Episcopal Church, however, provides no funds for and exercises no control over this cathedral. It is interesting to note that a third of the thirty persons named as trustees of the foundation in the Act of Congress, were from places as far south as Virginia, as far north as Vermont and as far west as Illinois, reflecting the rudiments of a national constituency from the outset.³⁷

Atlanta. A diocesan canon is precise but permissive (with the use of the word *may*) when it designates the cathedral as “a place where the diocesan [bishop] may at any and all times administer the duties pertaining to such office, and may officiate at will, in preaching or in any public administration and for said purposes may appoint services to be used.”³⁸ The cathedral is further described as the center of diocesan unity, administration and church extension – educational, social and eleemosynary.

A board of trustees, under the authority of the diocesan council [convention], is the coordinating body in relation to the diocese. The board of trustees is responsible for the maintenance and development of the cathedral in accordance with the purposes declared by the diocesan council, and administers real property conveyed to the trustees for the cathedral. The board has the power to enact by-laws, rules, regulations and statutes for its governance and that of the cathedral, as expedient and not in conflict with the constitution or canons of the diocese. The bishop chairs the trustees. The dean *may* attend meetings and offer advice and consent, as appropriate. The trustees meet on the call of the bishop or the vice chair – not the dean.

The chapter is composed of between three and twenty-one confirmed communicants who are “qualified for the office of *vestry member*.” They are elected by the parish – the word used instead of

³⁷ The names and location or initial trustees were included in the Act to Incorporate the Protestant Episcopal Cathedral Foundation.

³⁸Diocese of Atlanta, *Constitution and Canons*, Canon 40.

cathedral, in this instance – for three year terms.³⁹ The chapter and wardens are invested with rights and charged with duties as in vestries.

The bishop is the chief minister in charge of the cathedral with the power to prescribe liturgical uses in conformity with the *Book of Common Prayer*. The dean is nominated by the bishop and elected by the chapter.

St. Louis. The diocesan constitution “acknowledges” that Christ Church Cathedral is the cathedral of the diocese “with the same rights, privileges and obligations as any parish.”

The convention of the diocese elects one clerical and one lay member to the cathedral chapter each year, neither of whom may be a member of the cathedral parish. The term of service is three years. The diocesan members are elected so that two lay members and two clergy members shall be from congregations within the St. Louis city/county area and one of each from congregations outside the St. Louis city/county area.

The bishop and bishop coadjutor, if any, are members of the chapter. The bishop is president of the chapter. The bishop presents the name of one qualified presbyter to become dean and the chapter elects.

The constitution states that the principal office of the diocese shall be on the cathedral premises, but may be changed at any meeting of the convention by a majority vote and with consent of the ecclesiastical authority of the diocese (the diocesan bishop or, when there is no bishop, the standing committee).⁴⁰

Denver. As noted earlier, the parish of St. John’s frustrated Bishop John Franklin Spalding’s ambitious plans for a diocesan cathedral corporation. Perhaps for that very reason, the diocesan canons make no mention of the cathedral at all, and the dean has no diocesan responsibilities by virtue of his office. The governance of the cathedral is the same as for a parish. There are no representatives

³⁹ Diocese of Atlanta, *Constitution and Canons*, Canon 40.

⁴⁰ Diocese of Missouri, *Constitution and Canons*, Title IV, Article IV.3

from the diocese as such on any cathedral body. The dean is elected by the vestry, though the bishop has veto power, as the bishop does in the election of all rectors and vicars in the diocese. When a priest has been elected as rector of the cathedral, the bishop appoints the new rector as dean.⁴¹

Salt Lake City. Canon 63 of the Diocese of Utah designates the Cathedral Church of St. Mark as the cathedral of the diocese and the seat of the bishop, but the by-laws of the cathedral make no mention of the bishop. The bishop's role in the governance of the cathedral is undefined. The by-laws are similar to those of almost any parish, with all authority resting in the vestry. The dean is selected in the same manner as a rector of any other parish. No representatives of the diocese as such serve on the vestry. There is no separate chapter or board of trustees.

Spokane. The bishop is the president of the cathedral corporation [the cathedral's legal entity] and the dean is the vice president.

The bishop is also rector of the cathedral as a congregation. All staff, including the dean, serve at the bishop's pleasure, but in practice the current bishop delegates supervision of staff to the dean. The cathedral's governing body is called a chapter, but it operates as a parish vestry. The diocese has no role in the governance of the cathedral, but the diocesan budget appropriates about \$9,000 per year to the cathedral in consideration of all the diocesan events held there. The bishop has the right to attend and preside at any meeting of the chapter. The bishop as rector appoints the senior warden of the chapter. The present bishop is unable to attend many chapter meetings, and even when present, he typically invites the dean to preside. In the selection of a new dean, the bishop submits a vetted list of names to the chapter for consideration. Following interviews by the chapter, one candidate is chosen for the bishop to approve and appoint as dean.⁴²

⁴¹ Correspondence with Dean Peter Eaton, December 1, 2010.

⁴² Correspondence with James E. Waggoner, Jr., Bishop of Spokane, November 30, 2010.

Portland. The cathedral chapter consists of a vestry elected by the annual meeting of the congregation, plus three additional members elected by the diocesan convention, one each year for a three year term. The terms “chapter” and “vestry” are used almost interchangeably throughout cathedral documents. The bishop is a member of the chapter, but the dean presides. The dean is elected by the chapter for the bishop’s approval. The bishop must notify the dean when he/she plans to use the cathedral. Diocesan offices may be rented at the cathedral, if space is available.⁴³

V.

Conclusion

Based on these limited samples, it is evident that dioceses have made a variety of arrangements for their cathedrals. The standardization of the English cathedrals has been avoided, though we have seen one commonality—the existence of cathedral congregations.

Motives for establishing cathedrals are not easy to discern. The strong interest and investment of the bishop is a key factor. An element of that desire in some cases is the wish to copy the English system and thus be truly Anglican (e.g, Bishop Spalding in Denver). Envisioning a cathedral as the centerpiece of a missionary strategy is another element. Denver’s Bishop Spalding attempted to implement this idea but did not succeed. Washington designates its cathedral as “the chief mission church of the diocese,” but it is not readily evident how that works out in practice.

Some cathedrals have two or even three governing bodies with different functions. Atlanta has a board of trustees and a chapter; New York has those two plus a vestry for the resident congregation. Washington’s system is tightly structured with a chapter (and three school boards) subsumed under an all-embracing foundation board, issuing in periodic complaints about too many layers of governance. Most have only one governing body, either called a chapter (St. Louis and Spokane) or a vestry (Denver, Salt Lake City and Portland).

⁴³ Correspondence with Dean William B. Lupfer, November 11, 2010.

Authority issues surfaced throughout the study. Dioceses and cathedrals have pursued a variety of strategies to balance their authority with lines of demarcation spelled out in the canons of a diocese and/or the by-laws of the cathedral. Washington's system is the most detailed of those studied.

Bishops and deans provide another arena where control and authority issues are in play. In some cathedrals the bishop presides over the key governing body and is clearly the chief minister (Atlanta and Spokane), while in others the dean presides over the authoritative body of which the bishop is merely a member (Portland). In practice, things seem to work best when legal delineations are moderated by a relationship of mutual trust and respect between the bishop and the dean.

Confusion is reflected in the language used in the area of cathedral governance, such as the use of "vestry" and "chapter" interchangeably. This lack of clarity may be a reflection of ambivalence about the mission of the cathedral in question. Even where terminology is clear, the history of cathedrals in the United States reveals some degree of ambivalence at the outset or along the way. Some parishes that have been approached by a bishop about becoming a cathedral firmly reject the idea, often for narrowly parochial reasons.

Most bishops come to the episcopal office from years in parish ministry and some find it difficult to leave the pastoral ministry behind. In the eighteenth and nineteenth centuries some bishops served concurrently as pastors of their cathedral congregation out of financial necessity, or a combination of both (St. Louis and Denver).⁴⁴ The practice was eventually abandoned in the twentieth century because of the heavy demands of the bishop's work.

Early in the twenty-first century, however, we are seeing a return to the prior practice of a bishop also serving as pastor of a congregation, whether it be in a cathedral or an existing parish. The newly elected Bishop of Western Kansas, a small diocese without a cathedral, will continue to be rector of the parish in the diocese

⁴⁴ Plus, most notably, as mentioned earlier, Bishop White in Philadelphia.

where he presently serves. The idea of a dual vocation like this surfaced in the diocese during the search process for its new bishop, perhaps for financial reasons. The exact details of the arrangement, such as the division of time, duties and salary between the diocese and the parish, have not yet been worked out. In similar fashion, the Bishop of North Dakota has proposed that he become dean of the cathedral in Fargo (which is without a dean at present writing), while remaining diocesan bishop. He is soliciting responses to this idea from members of the diocese before action is taken.

“The times they are a-changing,” sings Bob Dylan. They always do, in the church as well the culture. In the face of demographic shifts or financial exigencies, arrangements made by dioceses, cathedrals, bishops and deans will, of necessity, change. It is hoped that coming changes will enhance the health of the church and advance its mission in the world.

Notes and Resources

- There is an ongoing discussion in The Episcopal Church about the 2009 General Convention's revision of Title IV Canons, which came into effect on July 1, 2011 (Title IV, Canon 20.2). One particular focus of attention has been the increased disciplinary authority that the revision gave to the presiding bishop over diocesan bishops. For an exchange of opinions on the subject see C. Alan Runyan and Mark McCall's position papers on the Anglican Communion Institute website (http://www.anglicancommunioninstitute.com/wp-content/uploads/2010/09/title_iv.pdf and http://www.anglicancommunioninstitute.com/wp-content/uploads/2011/02/title_iv_reply.pdf), and Duncan A. Bayne, Stephen F. Hutchinson, and Joseph L. Delafield response (<http://www.titleiv.org/>).
- The revised Title IV canons created a new body, known as the *Disciplinary Board for Bishops*, "to have original jurisdiction over matters of discipline of Bishops, to hear Bishops' appeals from imposition of restriction on ministry or placement on Administrative Leave and to determine venue issues" (Title IV, Canon 17.3). That body is already considering an important matter related to the Bishop of South Carolina. The website of the Diocese of South Carolina has reported that Bishop Mark J. Lawrence has "received communication from the President of the Disciplinary Board for Bishops that 'serious charges' have been made under Title IV of the canons of The Episcopal Church. These are allegations that he has abandoned The Episcopal Church." The diocese has posted a variety of documents related to the charges on its website. (<http://www.diosc.com/sys/index.php> accessed October 4, 2011)

- The Rt. Rev. Stacy Sauls, former bishop of Lexington and current chief operating officer of The Episcopal Church, made a presentation on September 20, 2011 to the House of Bishops meeting in Quito, Ecuador in which he suggested a sweeping revision of the mission and budget priorities of the national church. The Episcopal News Service's account (http://www.ecusa.anglican.org/80263_130005_ENG_HTML.htm) of a response to the proposal from President Bonnie Anderson of the House of Deputies includes links to the power point and notes that Bishop Sauls used for his presentation to the House of Bishops.
- 2009 General Conventions resolution C056 called upon "the Standing Commission on Liturgy and Music, in consultation with the House of Bishops, [to] collect and develop theological and liturgical resources" for the blessing of same gender relationships. The Standing Commission on Liturgy and Music's C056 Task Group on Canonical and Legal Consideration reported in June that it was working on an "outline of the process for amending the constitution and canons and the BCP (though . . . not recommending taking this step at this time), including a resolution for approving a trial liturgy."
(<http://generalconvention.org/ccab/meetings/248>, accessed October 4, 2011).