

**Proposed Amendment of Article II, Section 2 of the Constitution
submitted by
The Rev. Elmer L. Sullivan**

Statement by the Proposer

The first sentence of Article II, Section 2, as it now stands is printed below:

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

It provides for the Bishop of the Diocese to have a seat and vote in the Convention and permits “other bishops” to have a seat and vote only “to the extent provided by canon.” The only other bishops to whom this would apply are bishops coadjutor and bishops suffragan. Oddly, there is no canon at present that provides seats and votes to such bishops. They used to be included in Article II, but they were removed from it in 1995 and no canon has been adopted to fill the gap.

Perhaps the reason for this neglect is that the Diocese has not had a bishop suffragan or a bishop coadjutor in the interim. However, this omission should be corrected and the best time to do it is when no election is in the offing.

Bishops suffragan and coadjutor should certainly have a seat and vote in the Convention, and they hold leadership positions of such importance that it is appropriate to provide for this in the Constitution. Therefore, it is proposed that the first sentence of Article II, Section 2 be amended by substitution as follows:

“The Bishop of the Diocese; the Bishop Coadjutor, if there be one; and Suffragan Bishops, if there be any, shall each have a seat and vote.”

A Proposed Amendment of Article II, Section 2 of the Constitution

submitted by
The Rev. Elmer L. Sullivan

It is proposed that Article II, Section 2 of the Constitution be amended by adding a new fourth sentence, as follows: (replacing the fourth sentence now printed there in italic)

"The Ecclesiastical Authority of the Diocese may, at the Ecclesiastical Authority's discretion, direct that a member of the clergy of the Evangelical Lutheran Church in America who serves a congregation of the Diocese of New Jersey be included in the roll of clergy entitled to seats and votes in the Convention; *Provided, however,* that clergy so listed shall not be deemed qualified to serve as members of the Standing Committee of the Diocese."

Statement by the Proposer

The purpose of this amendment is to provide in a simple and direct way for clergy of the Evangelical Lutheran Church in America (ELCA) who serve a congregation of the Diocese to have a seat and vote in the Convention. The means employed is the list of voting clergy drawn up by the Bishop in accordance with Canon 2.

You will notice that this status is conferred at the discretion of the Bishop. Different dioceses and different bishops have different opinions on this subject. It is a point on which reasonable people can and do differ and it is a matter with many facets still unsettled. Our present Bishop favors it. Thus, the proposed amendment is drafted in such a way that the he will be able to administer the legislation at his discretion, whatever the future may bring.

You will also notice that the proposed amendment specifies that ELCA clergy are not eligible to serve on the Standing Committee. Without such a provision, they would be eligible, because the only qualification for clerical members of the Standing Committee set forth in Article VII of the Constitution is that they "must be of those entitled to seats in the Convention." Because this is part of the Constitution, only another part of the Constitution can countermand it.

Such a safeguard is important, because the Standing Committee can, under some circumstances, become the Ecclesiastical Authority of the Diocese. Moreover, because canonical residency is a requirement for holding most other offices in the Diocese, it seems inconsistent to permit ELCA clergy (who cannot be canonically resident) to serve on the Standing Committee when they are not eligible for most other offices.

The 2008 Amendment Should Be Abandoned

This proposed amendment is intended to replace an amendment adopted on first reading at the 2008 Convention. Both the content of the 2008 amendment and the process by which it was adopted were seriously flawed, and for that reason it should be abandoned. Discussion of that point follows below.

The Wording of the 2008 Amendment is Too Broad

The impetus for legislation on this subject is the Concordat agreed to by The Episcopal Church (TEC) and the ELCA, and the presence of ELCA clergy serving congregations in the Diocese. There is no need to make this legislation so broad that it includes clergy of the Old Catholic Churches of the Union of Utrecht, the Philippine Independent Church, and the Mar Thoma Syrian Church of Malabar (as the 2008 amendment does). We do not have a Concordat with these Churches, nor do their clergy serve congregations in our Diocese, nor is this likely to happen.

As for clergy of other provinces of the Anglican Communion, extensive provision is made for them to be received into our Church in TEC Canons, Title III, Canon 10, Sections 1 and 2. There is no need for local canons on this subject nor is there any need for the 2008 amendment to be worded so broadly as to include all "[m]embers of the clergy ordained by bishops of churches in communion with The Episcopal Church."

Moreover, the canonical amendment proposed by the Committee on Constitution and Canons limits the scope of the legislation to clergy who are serving as vicars within the Diocese. However, when you consider the fact that Episcopal Church Canons specifically prohibit clergy of other Anglican provinces to "take charge of any congregation" unless they present Letters Dimissory and become canonically resident, it becomes apparent that such clergy must come in through the canonical residency door, and that the attempt of the Committee to include them in a different way is pointless.

The Process Was Seriously Flawed

At the 2008 Convention, the Committee on Constitution and Canons proposed the following amendment of Article II, Section 2, and it was represented as being a proposal of the Committee:

"Members of the clergy ordained by bishops of churches in communion with The Episcopal Church shall have seat and vote to the extent provided by canon."

This version of the proposed amendment was reckless because it opened the door for future action that would make hundreds of clergy around the world eligible to have a seat and vote in our Diocesan Convention – an idea that is unsound to say the least.

This fault was noted by a member of the Convention who offered from the floor an amendment by substitution that narrowed the scope of the proposal to "clergy who are serving parishes in this Diocese at least half time with the consent of the bishop (sic)."

Another amendment by substitution was then offered by a member of the Committee on Constitution and Canons who "advised [that it] had been previously approved by members of the Committee." In the midst of this confusion, the Convention adopted the substitute amendment of the substitute amendment. Its text appears below:

"Members of the clergy ordained by bishops of churches in communion with The Episcopal Church who are serving in the Diocese but who are not canonically resident in the Diocese shall have seat and vote to the extent provided by canon."

Conclusion

The simple fact is that whether clergy vote or not depends on whether they are canonically resident or not. Period. How, when, why, and by whom members of the clergy were ordained has no bearing whatsoever on whether or not they vote. It is pointless and confusing to introduce that topic into legislation about clergy voting. ELCA clergy serving in the Diocese are the only exception, and it is an exception. Voting rights extended to them are based not on canonical residency but on the Concordat between the two denominations.

I urge the adoption of the amendment I propose because it is based on the Concordat and provides in a simple and direct way for clergy of the Evangelical Lutheran Church in America who serve a congregation of the Diocese to have a seat and vote in the Convention.