

**Diocese of New Jersey
Supplementary Report of the
Standing Committee on Constitution and Canons 2009**

Introduction

In addition to other matters contained in the Committee's main Report for 2009, Document 7, there were timely submitted by Fr. Elmer L. Sullivan some additional proposals that he had asked the Committee to defer reporting on until he had had an opportunity to confer with the Diocesan Council and with Bishop Cuncell after his return from sabbatical. Those proposals are now contained in this Supplemental Report.

**Part XI
Canon 21, Section 2**

Fr. Sullivan has proposed three amendments to Canon 21, which governs several diocesan loan funds. These are set forth in Parts XI and XII of this report.

Section 2 of Canon 21 governs the Capital and Revolving Fund:

SECTION 2. The members of the Diocesan Council shall be the trustees of the Capital and Revolving Fund of the Diocese of New Jersey established by resolution of Diocesan Convention in May 1950. The trustees shall hold, manage, invest, reinvest and otherwise administer funds received through the Capital and Revolving Fund Campaign and such other funds as have been and shall be designated, donated, bequeathed or turned over to the Fund. The trustees shall provide grants and interest free loans to parishes, organized missions, chapels or other entities in union with or a part of the Diocese of New Jersey and for such other purposes as may be specifically approved by the Diocesan Convention. The trustees shall administer and manage the Fund subject to such directions and restrictions as may be adopted by Diocesan Convention. No grant shall be made for a sum larger than \$10,000 without the approval of the Convention. The management of the Fund may by resolution of the Convention be transferred to such other entity as the Convention may designate. The trustees shall make a complete financial report to the Convention annually.

His first proposal is to add language to the fifth sentence, as follows:

No grant shall be made for a sum larger than \$10,000 without the approval of the Convention, nor shall the sum total of grants made in any calendar year exceed \$10,000 without the approval of the Convention.

His concern is to avoid depleting the capital of the Fund due to grants made in excess of the Fund's income:

<u>Year</u>	<u>Income</u>	<u>Grants Made</u>	<u>Assets as of Jan. 1</u>
2004	2,277	31,295	572,417
2005	8,604	11,555	541,256
2006	15,881	20,000	538,305
2007	11,402	45,615	534,987
2008*	4,359*	32,412*	500,174
		Assets as of June 30, 2008:	471,946

* 2008 figures are for the first six months of the year only.

Limiting annual grants to \$10,000 unless Convention otherwise specifically directs, argues Fr. Sullivan, will help to stabilize the Fund and protect its capital for future years.

His second proposal is to amend the third sentence of the section as follows:

The trustees shall provide grants and interest free loans for capital improvement purposes to parishes, organized missions, chapels or other entities in union with or a part of the Diocese of New Jersey and for such other purposes as may be specifically approved by the Diocesan Convention.

Again, the object is to limit grants to capital improvements, consistent with the name of the Fund, and not to support operating budgets of congregations.

The Committee has reviewed Fr. Sullivan's proposal and believes that the changes proposed will help protect the continued existence of this Fund by limiting its scope. If the Trustees believe that loans in excess of these guidelines are warranted in specific cases, either as to amount or as to purposes, it is always within their discretion to apply to the Convention for permission to make such loans.

Accordingly, to implement Fr. Sullivan's proposal the Committee moves the following resolution:

Implementing Resolution XI: *Resolved*, That Section 2 of Canon 21 of the Diocese of New Jersey be amended to read as follows (insertions shown by underline):

SECTION 2. The members of the Diocesan Council shall be the trustees of the Capital and Revolving Fund of the Diocese of New Jersey established by resolution of Diocesan Convention in May 1950. The trustees shall hold, manage, invest, reinvest and otherwise administer funds received through the Capital and Revolving Fund Campaign and such other funds as have been and shall be designated, donated, bequeathed or turned over to the Fund. The trustees shall provide grants and interest free loans for capital improvement purposes to parishes, organized missions, chapels or other entities in union with or a part of the Diocese of New Jersey and for such other purposes as may be specifically approved by the Diocesan Convention. The trustees shall administer and manage the Fund subject to such directions and restrictions as may be adopted by Diocesan Convention. No grant shall be made for a sum larger than \$10,000 without the approval of the Convention, nor shall the sum total of grants made in any calendar year exceed \$10,000 without the approval of the Convention. The management of the Fund may by resolution of the Convention be transferred to

such other entity as the Convention may designate. The trustees shall make a complete financial report to the Convention annually.

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

Part XII
Canon 21, Section 5

Fr. Elmer L. Sullivan proposes the addition of a new Section 5 to Canon 21, to deal with the procedure to handle defaulted loans:

Loans in Default

SECTION 5. When any church or other entity that has borrowed funds in accordance with the provisions of this Canon shall fall behind in its repayment obligation, the Diocesan Council may renegotiate the terms of the loan, but any such renegotiation must remain within the limitations prescribed in this Canon. When a loan has been delinquent for five years it shall be deemed to be in default; *provided, however*, that the Diocesan Council may, acting in its discretion, declare a delinquent borrower to be in default before the end of such five-year period. When a loan is in default, the principal and interest due to the issuing loan fund shall be repaid (a) from the assets of the borrower, or (b) from properly approved appropriations from the income or appropriate loan funds of the Diocese, or (c) from moneys allocated in the operating budget of the Diocese, or (d) some combination of the foregoing sources as may be approved by Diocesan Council.

The problem of defaulted loans has become quite serious. The Auditor's report for fiscal year 2007 refers to delinquent loans as "doubtful accounts" and sets the then amount thereof at \$250,203. In some cases, no payment has been made by the borrowers for more than five years. The proposal supplies authorization for the Diocesan Council as trustees of these funds to pursue methods of recovering capital trust assets that are now in jeopardy and possibly avoid such problems in the future.

The Committee has reviewed Fr. Sullivan's proposal and believes that the changes proposed will help protect the continued existence of the Diocesan Trust Funds by giving Diocesan Council tools to obtain repayment of delinquent loans.

Accordingly, to implement Fr. Sullivan's proposal the Committee moves the following resolution:

Implementing Resolution XII: *Resolved*, That Canon 21 of the Diocese of New Jersey be amended by adding a new Section 5 to read as follows:

Loans in Default

SECTION 5. When any church or other entity that has borrowed funds in accordance with the provisions of this Canon shall fall behind in its repayment obligation, the Dioc-

san Council may renegotiate the terms of the loan, but any such renegotiation must remain within the limitations prescribed in this Canon. When a loan has been delinquent for five years it shall be deemed to be in default; *provided, however*, that the Diocesan Council may, acting in its discretion, declare a delinquent borrower to be in default before the end of such five-year period. When a loan is in default, the principal and interest due to the issuing loan fund shall be repaid (a) from the assets of the borrower, or (b) from properly approved appropriations from the income or appropriate loan funds of the Diocese, or (c) from moneys allocated in the operating budget of the Diocese, or (d) some combination of the foregoing sources as may be approved by Diocesan Council.

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

Conclusion

The Committee again reminds members of Convention that proposals for amendments to the constitution or canons must be submitted to the Committee at least sixty days prior to the opening day of the next convention, or by around the beginning of January 2010.

Respectfully submitted,

The Reverend Terence Blackburn, Vice-Chair
The Reverend Frank B. Crumbaugh, III
The Reverend Petrina M. Pyatt
Paul De Sarno, Esq., Secretary
Paul Ambos, Esq., Chair