

# An Appraisal of the Diocese of Pittsburgh's "Withdrawal" of Consent to Inclusion in Province III



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**I**n the wake of the 75<sup>th</sup> General Convention, we have seen a series of coordinated actions by traditionalist dioceses requesting “alternative primatial oversight” from the Archbishop of Canterbury. Only one diocese, Pittsburgh, has also spoken about its participation in the life of its province within The Episcopal Church. The Diocese of Pittsburgh said, in its June 28 press release:

The Standing committee [of the Diocese of Pittsburgh] also published its intent (pending ratification by the diocesan convention this November 3–4) to “withdraw its consent, pursuant to Article VII of the Constitution of the Episcopal Church, to be included in the Third Province of the Episcopal Church” envisioning the drawing together of a new Windsor-compliant Tenth Province in the Episcopal Church.

The actual resolution passed, which was included later in the press release, was stronger. It reads, in part (emphasis added):

RESOLVED FURTHER, that the Episcopal Diocese of Pittsburgh, *pending final ratification by its 141<sup>st</sup> Annual Convention, withdraws its consent*, pursuant to Article VII of the Constitution of the Episcopal Church, to be included in the Third Province of the Episcopal Church, seeking emergence of a new Tenth Province of the Episcopal Church which is fully Windsor compliant, positioned with that part of the Episcopal Church determined to maintain constituent status in the Anglican Communion.

The purpose of this document is to examine this action of the Standing Committee of the Diocese of Pittsburgh in light of the constitution and canons of The Episcopal Church and to explore its implications.

## Legal and Historical Context

The idea of grouping dioceses into larger units was raised early in The Episcopal Church's history and was a frequent source of proposals during the final third of the nineteenth century. Various arguments were made, pro and con, for the often quite different proposals for grouping dioceses. Serious concerns about creating distinct churches within the church discouraged the acceptance of the idea of provinces, and, even when provinces were established, they were given only limited powers. Provinces play a minor role in the church today.

The constitution of The Episcopal Church provides for provinces in Article VII—the article cited by the Standing Committee—which was adopted in 1901. The article reads as follows (emphasis in original):

Dioceses may be united into Provinces in such manner, under such conditions, and with such powers, as shall be provided by Canon of the General Convention; *Provided, however,* that no Diocese shall be included in a Province without its own consent.

The above excerpt from the constitution is the *complete* Article VII. The article authorizes the creation of provinces but leaves it to the General Convention to provide, through canons, all details governing them, subject only to the restriction that dioceses be included in their provinces with their consent. An enabling canon was not enacted until 1913, when eight provinces were established. Various changes were made to the provincial system in 1919 and subsequently, most of which involved the composition of provinces extending beyond the contiguous 48 states. Details of how the provincial mechanism has been implemented are found in Canon I.9 (Of Provinces). The scope of Canon 9—the number has changed from time to time as the canons have been amended—is apparent from its organization:

- Section 1: How Constituted
- Section 2: (a) New Dioceses  
(b) Transfer of Dioceses
- Section 3: Synodical rights and privileges
- Section 4: Provincial Synod
- Section 5: All bishops have seat and vote
- Section 6: (a) President of Province  
(b) [provision for a President other than a bishop]
- Section 7: Representatives of Dioceses
- Section 8: Powers of Provincial Synod
- Section 9: May take over administration of work
- Section 10: To consider subjects referred by General Convention

Notice that there is a provision for incorporating new dioceses into the provincial system, as well as a provision for transferring a diocese from one province to another (Section 2). There is no explicit provision for removing a diocese from the provincial system completely, and there is a presumption that each diocese belongs to a province. Although this presumption is never made explicit, every domestic diocese has always been in a province since provinces were created. This cannot be said for offshore dioceses, for which geographic convenience is not always so readily achieved. At least one canon, Canon IV.4.37, makes explicit provisions for a case where a diocese is extra-provincial. Additional powers and prerogatives of provinces are dealt with elsewhere, and more will be said about them in due course.

Section 1 of Canon 9 specifies the nine current provinces and their constituent dioceses. That list, which places “the Dioceses within the States of Pennsylvania, Delaware, Maryland, Virginia, West Virginia, and the District of Columbia” in “The Third Province” (usually referred to as Province III) is introduced as follows:

Subject to the proviso in Article VII of the Constitution, the Dioceses of this Church shall be and are hereby united into Provinces as follows:

Provinces have always been intended to be regional groupings, and the “proviso in Article VII” was almost certainly intended to keep everyone happy in the initial partition of dioceses into geographically convenient provinces. Significantly, Section 2(a), which deals with new dioceses that might be created, provides a formula for assigning a diocese to a province, without mention of any concern for the “consent” of the new diocese. (Presumably, consent is a condition of diocesan creation and was not expected to be a source of dispute.) Likewise, no provision is made for *not* assigning a diocese to a province:

When a new Diocese or Area Mission shall be created wholly within any Province, such new Diocese or Area Mission shall be included in such Province. In case a new Diocese or Area Mission shall embrace territory in two or more Provinces, it shall be included in and form part of the Province wherein the greater number of Presbyters and Deacons in such new Diocese or Area Mission shall, at the time of its creation, be canonically resident. Whenever a new Diocese or Area Mission shall be formed of territory not before included in any Province, the General Convention shall designate the Province to which it shall be annexed.

Section 2(b), added in 1976, provides for the transfer of a diocese from one province to another. It reads:

By mutual agreement between the Synods of two adjoining Provinces, a Diocese or Area Mission may transfer itself from one of such Provinces to the other, such transfer to be considered complete upon approval thereof by the General Convention.

Only one transfer between provinces has been effected within the dioceses in the United States. In 1979, the Diocese of Missouri was transferred from Province VII to Province V. (The Diocese of West Missouri retained its place in Province VII.) Dioceses outside the United States have been transferred between provinces and have occasionally been extra-provincial. For example, what is now the Diocese of the Virgin Islands was added to Province II in 1952, removed to the newly created Province IX in 1964, withdrawn from Province IX in 1969—the request was made to and granted by the General Convention—and was returned to Province II in 1976.

## Analysis

The Diocese of Pittsburgh and its bishop, the Rt. Rev. Robert Duncan, have a history of advancing unconventional canonical theories to further their objectives. The repetition of these arguments by various people in assorted circumstances tends to make them seem credible—that is, until the arguments are analyzed carefully and their specific errors pointed out. What follows is a careful, perhaps even definitive, analysis of what the Standing Committee and the Pittsburgh diocese have said and implied regarding withdrawing of consent to be included in Province III.

First, it is clear that the particular action we are examining is less about getting *out* of Province III than it is about getting *into* an association of like-minded traditionalists officially recognized by The Episcopal Church (unlike, for example, the Network of Anglican Communion Dioceses and Parishes or the American Anglican Council). An Episcopal Church province “fully Windsor compliant, positioned with that part of the Episcopal Church determined to maintain constituent status in the Anglican Communion” would be a step toward the “realignment” that Bishop Duncan repeatedly advocates.

Since the idea was first articulated formally by the 1930 Lambeth Conference, the composition of the Anglican Communion generally has been seen as determined by the Archbishop of Canterbury. Subsequent developments, such as the establishment of the Anglican Consultative Council, have made the makeup of the Communion more ambiguous, but the Archbishop of Canterbury still invites whom he wants to the Lambeth Conference. The authority of Canterbury increasingly is being challenged, however. Certain Anglican primates would obviously like to expel The Episcopal Church from the Anglican Communion and to recognize, in its place, some more “orthodox” entity. It is unclear that the lack of authority for doing this and the absence of

any legitimate mechanism for doing it will be sufficient to discourage these primates from acting. What *is* clear is that, should The Episcopal Church create the proposed Province X, it immediately would become a candidate for alternative recognition by those seeking expulsion of The Episcopal Church.

Because Province X does not yet exist, there hardly seems any urgency in removing the Diocese of Pittsburgh from Province III. The motivation for the action of the Pittsburgh Standing Committee, therefore, does not seem to be the desire to “clear the deck” for transferring the diocese into an “orthodox” province, so much as it is a desire to obtain publicity for the Province X idea itself. That none of the other dioceses that have asked for alternative primatial oversight have said anything about removing themselves from their provinces suggests that the Pittsburgh move is a trial balloon for an idea not hitherto floated by the traditionalists.

In any case, the Diocese of Pittsburgh already has little to do with Province III, so its “withdrawal” will only be noticed if the diocese makes a fuss about it. The Standing Committee did not suggest how Province X might be created. As the constitution and canons of The Episcopal Church make clear, only the General Convention can create a province. Doing so would require a change to Canon I.9.1, as well as a re-conceptualization by the church of the purpose of provinces, not something likely to happen. Were the Network to insist on bringing its convocations—collections of parishes from diverse dioceses—into the new province, it would present an even greater challenge to church polity. Having the diocesan convention ratify the action of the Standing Committee, as is contemplated in the recent resolution, would be of no avail, since the action is not within its purview—or that of the Standing Committee, for that matter—although the convention could propose a canonical change for consideration by the 76<sup>th</sup> General Convention in 2009.

Those who attended the 75<sup>th</sup> General Convention in Columbus have seen that the mood of both the House of Bishops and the House of Deputies inclines toward reconciliation and maintenance of the church’s unity and integrity. It is highly unlikely that any upcoming General Convention would create a province whose sole purpose was to accommodate the traditionalist coalition led by Bishop Duncan—a coalition whose commitment to the wider church has all but evaporated. Political considerations aside, the desired province would be unlikely to receive favorable consideration because its creation would violate the regional principle that has informed the organization of provinces from the beginning. Provinces, at least insofar as they have contained dioceses within the contiguous 48 states, have always been associations of adjoining dioceses, a great convenience for institutions that carry out their business through meetings. A province of the dioceses of the Network, on the other hand, would contain such widely dispersed dioceses as South Carolina and San Joaquin. The other major reason for *not* creating a Province X is that, as a province defined by (a specific minority) theology, rather than by geography, it would immediately create a “church within a church”—an “orthodox” ghetto likely only to preclude any eventual reconciliation. Network supporters have often used the phrase “a church within a church” as a description of what their association is intended to be, but this is also the undesirable outcome that was largely responsible for delaying the General Convention’s authorizing of provinces for so many years during the 1800s.

The Pittsburgh Standing Committee cited Article VII of the constitution, rather than Canon I.9 because (1) it *seems* to suggest that a diocese can unilaterally remove itself from a province, and because (2) Canon I.9 suggests nothing of the sort. Taken alone, Article VII could be viewed as ambiguous. The word “included” could refer to a diocese’s being placed into a province, or it could refer to a diocese’s continued membership in a province; it could mean both. For reasons stated earlier, however, it is more likely that “included” refers to the initial assignment of a diocese to a province. Since Article VII defers to the canons for its implementation, and since Canon I.9 clearly does not admit of the second interpretation of Article VII, the only consistent

reading of the constitution and canons is contrary to the interpretation being used by the Standing Committee.

Although the Standing Committee did not mention the fact in its resolution, its members apparently believe that there is a precedent for what they claim to have done. It was explained to *Pittsburgh Post-Gazette* reporter Steve Levin that the Diocese of Missouri once removed itself unilaterally from Province VII and later, after being in no province at all for a number of years, joined Province V. (Levin mentioned the Missouri case in his story about the resolution.)

Robert Brown, Communications Director of the Diocese of Missouri has provided clarifying details of this “precedent.” The Diocese of Missouri, prior to 1974, had been in Province VII. At the 1963 diocesan convention, a resolution was passed to the effect that the diocese would neither participate in Province VII affairs nor contribute to their support. There seems to have been a perception that participation was not helpful and that the diocese had less in common with dioceses of Province VII than with Midwestern dioceses. Beginning on January 1, 1964, the Diocese of Missouri no longer participated in the affairs of Province VII, but, in fact, it was never officially removed from that province, no change having been made to Canon I.8.1— Canon 8 of Title I is now Canon 9—which placed the diocese in Province VII. At the 1979 General Convention, without fanfare and according to Section 2(b), which had been added in 1976, the Diocese of Missouri was transferred from Province VII to Province V. The legislative history, taken from the Convention *Journal* is as follows:

#### **LEGISLATIVE HISTORY**

**Author:**

**Originating House:** House of Deputies

**Originating Committee:** Committee on Structure

House of Deputies

On the eighth day, the Committee on Structure presented its Report #19 on Resolution B-57, and recommended adoption without amendment:

*Whereas*, the 138th Convention of the Diocese of Missouri has indicated its desire to be transferred from Province VII to Province V; and

*Whereas*, the Synods of the aforesaid Provinces have now given their approval to this transfer; therefore be it

*Resolved*, That the Diocese present the following Resolution to the Secretary of the General Convention for its action; to wit:

*Whereas*, the Convention of the Diocese of Missouri meeting at Christ Church Cathedral, St. Louis, on January 26 and 27, 1978, expressed a desire to be transferred from Province VII to Province V; and

*Whereas*, the Synod of Province VII, meeting in Dallas, Texas, on December 1, 1977, has agreed to said transfer; and

*Whereas*, the Synod of Province V, meeting in Chicago on April 14, 1978, has also agreed to said transfer; be it therefore

*Resolved*, the House of Bishops concurring, That the General Convention approve the said transfer; and be it further

*Resolved*, the House of Bishops concurring, That Title I, Canon 8, Sec. 1 be amended so that the 6th paragraph thereof reads as follows:

The Fifth Province shall consist of *the Diocese of Missouri and of the Dioceses within the States of Ohio, Indiana, Illinois, Michigan and Wisconsin*; and be it further

*Resolved*, the House of Bishops concurring, That Title I, Canon 8, Sec. 1 be amended so that the 8th paragraph thereof reads as follows:

The Seventh Province shall consist *of the Diocese of West Missouri, and of the Dioceses within the States of Arkansas, Texas, Kansas, Oklahoma, and New Mexico.*

Resolution adopted  
(Communicated to the House of Bishops in HD Message #123)

House of Bishops

On the ninth day, HD Message #123 on Resolution B-57 (Transfer of the Diocese of Missouri to Province V) was received.

The House concurred  
(Communicated to the House of Deputies in HB Message #175)

Thus, there is indeed precedent for a diocese effectively withdrawing from a province, but only informally, and, ultimately, as a way of enhancing, not diminishing, its integration with the larger church. Neither the constitution and canons of The Episcopal Church nor those of the Diocese of Pittsburgh suggest that the Standing Committee of the diocese could withdraw the diocese from Province III, and certainly not by “withdrawing its consent” to be in it.

### Why Did They Do It?

Why, one might ask, did the Standing Committee do what it did, and why might Network dioceses want to unite in a Province X?

Bishop Duncan is a leader of a group of Episcopalians who are distressed at what they characterize as “liberal” or “revisionist” trends in the church. They believe that their views are not respected by the majority of the church. They would like to return the church to the way some imagine it to have been in previous generations. As they lack the ability to transform it as they would like, they seek, at minimum, to retain what control they have over dioceses, parishes, and associated property and, by some means, to isolate themselves from the rest of church while remaining in the Anglican Communion. In the past, similarly disaffected groups have simply abandoned The Episcopal Church and created their own “continuing” churches. They have left property behind and started over, retaining many Anglican characteristics, but sacrificing communion with Canterbury and, thereby, their membership in the Anglican Communion.

What is distinctive about the current dissidents is that they are not willing just to walk away from wealth and power, as others have done, or to formalize their *de facto* rejection of relationships with the rest of the church, yet they long to be in some theologically “pure” Episcopal Church. Although they have a strong desire to be part of the Anglican Communion—certainly, as long as its majority appears to agree with them—one must wonder if this is not as much a deeply held desire as it is a strategy for enlisting other churches of the Communion in their cause. Uniting like-thinking dioceses in any kind of officially sanctioned union would make it easier—though certainly not proper—for those dioceses to receive recognition, at some later time, by their international Anglican allies. A Province X of the sort contemplated by Pittsburgh would be a step toward such a “realignment.” Since at least one Anglican primate presently has been speculating on removing the Church of England from the Anglican Communion—a rather oxymoronic notion, under the circumstances—expelling The Episcopal Church while recognizing a Province X as the legitimate Anglican church in America does not seem so farfetched. Claiming to withdraw from Province III seems an excuse to promote, in a very public way, the larger agenda of uniting dissidents and securing for them a “safe” membership in the Anglican Communion.

If the desired Province X could indeed be created, it would provide certain advantages to its member dioceses, even if one limits attention to The Episcopal Church. Church canons often use provinces to assure that church bodies are, in some way, representative of the whole church.

Provincial status would guarantee traditionalists more opportunity to influence the direction of the church. Provincial representation is provided for on the Standing Commission on Ministry Development (Canon I.1.2(n)(7)), on the Joint Nominating Committee for Election of the Presiding Bishop (Canon I.2.1(a)), and on the Executive Council (Canon I.4.1(c)). The Rules of Order of the House of Bishops provide that province presidents (or vice-presidents, in cases where the president is not a bishop) make up the Presiding Bishop's Council of Advice (General Rules for Meetings of This House, XXVI). The Rules of Order of the House of Deputies provide for representatives of all provinces, whenever possible, on house committees (9) and for youth representation as part of the Official Youth Presence at the General Convention (60(a)). The Joint Rules of Order of the House of Bishops and the House of Deputies provide for provincial representatives on the Joint Standing Committee on Program, Budget, and Finance (10(a)). Other provisions provide additional opportunities for provinces to wield influence. Province presidents have a minor role in determining the time and place of the General Convention (Canon I.1.14.(c)), the proposed budget of the General Convention is shared with province presidents (Canon I.4.6(e)), and provinces may introduce resolutions in the House of Deputies (Rules of Order of the House of Deputies, 21).

One suspects that a Province X might be desired more for its degree of isolation from the wider church than for any opportunity to influence it. Because the Network dioceses that would make up Province X already have ideological bishops in firm control of their sees, one might ask what is to be gained by uniting into a province. The answer is that Canon I.9 provides for a provincial synod and budget, as well as other trappings that make an Episcopal Church province, taken in isolation, look very much like an independent church. Combined with other mechanisms the Network already has put in place—a retirement plan and a relief fund, for instance—this would make it easy, from an organizational point of view, though not from a legal one, for the province to declare its independence and seek recognition from the Anglican Communion or from individual provinces thereof.

## Conclusions

Dioceses cannot simply opt out of their provinces within The Episcopal Church. Suggesting otherwise—and, certainly, acting as if such a thing were actually possible—increases tensions within the church, exacerbates existing divisions, and puts those who do so at great risk of losing their ministries within The Episcopal Church. Dioceses are free to eschew participation in their provinces—there is little in the rules of the church that force dioceses to take an active role—but only the General Convention, through canonical change, can alter the assignments of dioceses to provinces. That the Pittsburgh Standing Committee acted as it did suggests a self-serving reading of rules consistent with the behavior we have seen repeatedly from traditionalist dissidents in the church.

Announcing withdrawal of the diocese's consent to be included in Province III is, in the end, purely a publicity tactic aimed at promoting the idea of a theologically circumscribed Province X. Actually forming such a province would indeed offer institutional advantages to its constituent dioceses, but only at a high cost to the church. There is little chance that the General Convention would grant a request for such a province were it seriously to be proposed. Province X—and perhaps even the *idea* of the Province X—could play a significant role in the unfolding global politics of the Anglican Communion, however.

Whether the Pittsburgh reading of the constitution is sincere is difficult to judge, but the resolution passed by the Standing Committee was surely motivated by the desire for publicity advancing a long-range program of schism. Such actions are unnecessary and unhelpful. What we need, instead, is a commitment to doing the hard work of reconciliation within The Episcopal Church and among Anglicans throughout the Communion, and to further Christ's mission in the world.

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## Appendix: An Observation

Bishop Duncan has repeatedly observed that the struggle within our church is about the authority of Scripture. Indeed, the faction he represents approaches Biblical interpretation quite differently from most Episcopalians. At the risk of oversimplification, traditionalist advocates seem to combine a selective literalism with a creative constructionism when interpreting Scripture. While ignoring many passages completely, they find a “plain meaning” in other passages, claiming to interpret them literally, but often applying a narrow, simplistic, or distorted filter, while paying no attention to any broader context, be it historical or textual. They often find monumental significance in the “plain meaning” of passages others view as being of only minor importance. They sometimes construct elaborate theological positions from such passages. For example, the Theological Charter of the Network of Anglican Communion Dioceses and Parishes cites passages from Genesis and metaphorical passages describing the church to develop a theology of marriage. They use much the same approach when reading canon law. This can be seen in the resolution from the Pittsburgh Standing Committee, but it has often been in evidence since the 2003 General Convention. I leave it to others to decide what to make of this, but I offer three examples as evidence supporting this hypothesis.

In response to the 74<sup>th</sup> General Convention, Bishop Duncan and others argued that The Episcopal Church had chosen to “walk apart” from the Anglican Communion through its decision to consecrate a gay bishop. Given the fuzziness of the concept of the Anglican Communion, this argument is a stretch, but the bishop seemed to find it compelling. He went on to say that, because the Preamble of the constitution of the General Convention refers to the church as a “constituent member of the Anglican Communion,” The Episcopal Church had thereby violated its own constitution. The argument ignores the fact that the Preamble, adopted in 1967, was primarily about the *name* of the church, putting an end to a controversy that had lasted for nearly 90 years. The Preamble establishes no rights, responsibilities, or consequences—it surely does not suggest that any disaster would befall the church if it *did* remove itself from the Anglican Communion—and it must be interpreted in the larger context of the constitution, which never mentions the Anglican Communion again. (It does refer to churches or provinces in communion with our church, however.) Moreover, the word “constituent” was misconstrued in this argument, suggesting that The Episcopal Church is subordinate to the Anglican Communion and bound by its purported teachings. In fact, however, a “constituent member” is an essential or founding part, not a subservient one, and the Communion has never before asserted that it *has* definitive teachings.

In its diocesan conventions of 2003 and 2004, the Diocese of Pittsburgh amended Section 1 of Article I of its constitution to read:

The Church in the Diocese of Pittsburgh, being a constituent part of the Protestant Episcopal Church in the United States of America, accedes to, recognizes, and adopts the Constitution and Canons of that Church, and acknowledges its authority accordingly. In cases where the provisions of the Constitution and Canons of the Church in the Diocese of Pittsburgh speak to the contrary, or where resolutions of the Convention of said Diocese have determined the Constitution and Canons of the Protestant Episcopal Church in the United States of America, or resolutions of its General Convention, to be contrary to the historic Faith and Order of the one holy catholic and apostolic church, the local determination shall prevail.

The change reputedly allows local provisions to supersede those of the whole church. The article exists in the diocesan constitution because of the requirement of Section 1 of Article V (Admission of New Dioceses) of the church’s constitution, which reads, in part (emphasis added):

After consent of the General Convention, when a certified copy of the duly adopted Constitution of the new Diocese, *including an unqualified accession to the Constitution and Canons of this Church*, shall have been filed with the Secretary of the General Convention

and approved by the Executive Council of this Church, such new Diocese shall thereupon be in union with the General Convention.

Obviously, the reading of the diocese was a very literal one, namely that the constitution only indicates that “unqualified accession to the Constitution and Canons of this Church” is necessary to *become* a diocese. The constitution does not actually say that the unqualified accession provision cannot be removed from the diocesan constitution once the diocese has been admitted. Such a literal reading is surely perverse, however, as it would make no sense to have dioceses pledge fealty to the General Convention and yet be able to withdraw it immediately. The intention clearly is to subordinate dioceses to the General Convention; nothing else in the constitution or canons suggests otherwise. “Accede” actually means more than simply “agree to”; it means to yield to, and accession can hardly be said to be “unqualified” if it can be undone. By its very nature, “unqualified accession” is irrevocable.

Finally, of course, we have the matter of the Standing Committee’s declaring its withdrawal of consent to be included in Province III. The reading here seems to be that Article VII (contrary to the implications of Canon I.9) allows the withdrawal of a diocese from its province at any time because its consent is required for its continued inclusion. Again, the wider context is ignored. As was explained, the history of Article VII and the enabling canon suggest that the interpretation of the Diocese of Pittsburgh is not tenable.