

Report of the D020 Task Force  
23 August 2011

Members:

The Rev. Cn. Dr. Lee Alison Crawford  
The Rev. Dr. Ian Douglas (resigned February 2010)  
The Rt. Rev. Wendell Gibbs  
The Rev. Cn. Mark Harris  
Canon Rosalie Simmonds Ballentine, Esq., Chair  
The Rev. Dr. James Simons (appointed February 2010)  
The Rev. Winnie Varghese

The D020 Task Force is a committee of Executive Council formed to guide Executive Council in its charge from General Convention 2009, by Resolution D020, to “prepare a report to the 77th General Convention of the Episcopal Church that includes draft legislation concerning this Church’s response to an Anglican Covenant.” Executive Council also assigned to this task force the work of preparing reports on the responses from within The Episcopal Church to the iterations of the Anglican Covenant, as per the second resolve of that resolution.

The full resolution is as follows:

*Resolution:* D020  
*Title:* Provincial Acceptance of the Anglican Covenant

*Resolved*, the House of Bishops concurring, That the 76th General Convention of the Episcopal Church commend the Anglican Covenant proposed in the most recent text of the Covenant Design Group (the “Ridley Cambridge Draft”) and any successive drafts to the dioceses for study and comment during the coming triennium; and be it further

*Resolved*, That dioceses report on their study to the Executive Council in keeping with Resolution 2006-A166; and be it further

*Resolved*, That Executive Council prepare a report to the 77th General Convention of the Episcopal Church that includes draft legislation concerning this Church's response to an Anglican Covenant; and be it further

*Resolved*, That dioceses and congregations be invited to consider the Anglican Covenant proposed draft as a document to inform their understanding of and commitment to our common life in the Anglican Communion.

This report summarizes the work of Executive Council and the task force in relation to the development of final text of the Anglican Covenant, makes a recommendation related to future work of Executive Council, and puts forward draft legislation concerning the Anglican Covenant text for consideration by the 77<sup>th</sup> General Convention.

### *The Basis for Our Work*

The development of an Anglican Covenant began with the Windsor Report,<sup>1</sup> presented to the Primates at their October 2004 meeting. The report was the product of the Lambeth Commission on Communion, appointed by the Archbishop of Canterbury, and charged to address how Anglicans might maintain “the highest degree of communion.” Appointment of the Commission stemmed from a request of the primates at their special meeting in October 2003, called in response to actions taken at The Episcopal Church’s 2003 General Convention and the consecration of the Rt. Rev. V. Gene Robinson. At their 2003 meeting, they asked the Archbishop of Canterbury to form a commission to provide “urgent and deep theological and legal reflection” and report back to the the primates in 12 months. The Windsor Report suggested drafting an Anglican Covenant that would be approved by the provinces of the Anglican Communion and proposed a suggested model in an appendix to the report.

In the Foreword to the Windsor Report, the commission’s chair, the Most Rev. Dr. Robin Eames (Primate of All Ireland) wrote, “This Report is not a judgement. It is part of a process. It is part of a pilgrimage towards healing and reconciliation.” The report sought to answer the question, “What is the nature of communion and how do we live more deeply into communion?”

Foundational to the Windsor Report is the 1998 Virginia Report, submitted to the Lambeth Conference, but never formally received or debated. That report made reference to four instruments of unity — Archbishop of Canterbury, the Anglican Consultative Council, Lambeth, and the Primates’ Meeting — and introduced the notion of subsidiarity by which communion-wide decisions are understood to be the work of such bodies. The idea of a covenant (Appendix Two of the Windsor Report) had been first introduced at the Primates’ 2001 meeting. Later, the Joint Standing Committee of the Primates and of the Anglican Consultative Council would commission a study paper on the same idea in March 2005, [Towards an Anglican Covenant](#).

At the 75th General Convention of 2006, The Episcopal Church committed itself to monitoring and responding to drafts of a proposed Anglican Covenant as called for by the 2004 Windsor Report. The 2006 General Convention resolution A166 (in Appendix 1 at the end of this document) said that The Episcopal Church supports the process of developing a covenant “that underscores our unity in faith, order, and common life in the service of God’s mission.” At its March 2007 meeting, the Executive Council of The Episcopal Church clarified that “responding to the draft covenant does not presuppose agreement with the terms and principles advanced in the draft.”

The first draft of the Anglican Covenant, the Nassau Draft (April 2007), prompted Executive Council’s International Concerns Committee (INC) to craft a resolution (INC 021, in Appendix 1) that directed the presiding officers of Executive Council to appoint a task force that would serve for the duration of the triennium. This task force, chaired by Rosalie Simmonds Ballentine, Esq., provided several opportunities for members of The Episcopal Church to respond to the three drafts of a covenant that were published between 2007 and 2009.

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<sup>1</sup> <http://www.anglicancommunion.org/commission/covenant/index.cfm>. Subsequent references to related reports and covenant drafts can be found at this same link.

During the spring of 2007, all Episcopalians, and especially deputies to General Convention, bishops, and members of Committees, Commissions, Agencies and Boards of the General Convention were invited to consider a series of questions created by the task force as they reflected on the Nassau Draft. By June 2007, the task force received more than 500 responses from all provinces of The Episcopal Church: individuals (the majority of whom were lay people), parish study groups, vestries, diocesan committees and councils, deputations to General Convention, bishops, and regional groupings of dioceses. Responses were quite varied and demonstrated great differences of opinion. From that material, Executive Council submitted its comments and critique of the Nassau Draft to the Covenant Design Group.<sup>2</sup>

The second iteration, called the Saint Andrew's draft, was issued in February 2008. Again, the Executive Council INC 021 Task Force drafted a study guide with questions. The focus this time was on bishops, with the hope they could study the document before going to the Lambeth Conference that summer. Deputations also were encouraged to use the same guide. Thirty-three Dioceses had discussions and provided written responses. The task force collated the material and submitted in December 2008 Executive Council's second commentary and critique of the draft.<sup>3</sup>

In this response, the task force addressed the three questions posed by the Joint Standing Committee of the Primates and the Anglican Consultative Council, noting in particular, an outline of The Episcopal Church's process which would have to be undertaken in order to adopt the covenant. As with the Nassau Draft, opinions were varied, but, three-quarters of the responses indicated some level of discomfort with the Appendix in which a disciplinary process was proposed. (None of the responses were from dioceses belonging to the Network of Anglican Communion Parishes and Dioceses, also known as the Anglican Communion Network.) The report of November 2008 stated, "TEC commits itself to the process but this commitment does not implicitly commit TEC to ultimate approval of a covenant."

The penultimate draft, the Ridley Cambridge draft, appeared in April 2009. The 14<sup>th</sup> meeting of the Anglican Consultative Council in Jamaica in May 2009 considered this draft. The Anglican Consultative Council by and large accepted the first three sections of the Ridley Cambridge draft but expressed concerns about Section 4. The INC 021 task force created a study guide asking diocesan deputations to the 2009 General Convention to read the Ridley Cambridge Draft Covenant paying particular attention to Section 4 in the light of the whole.

At the 2009 General Convention, deputies and bishops approved resolution D020 which further committed The Episcopal Church's engagement with the draft covenant process.

After General Convention, Executive Council's INC 021 Task Force received 34 responses to the Six Study Questions from diocesan deputations and individual deputies. The majority of deputations and individual deputies that responded were not convinced that the covenant in its current form would bring about deeper communion, nor did they support the fourth section of the draft covenant. This said, the task force's letter cited 2009-D020 as a sign of The Episcopal

<sup>2</sup> [http://episcopalchurch.org/79901\\_91392\\_ENG\\_HTM.htm](http://episcopalchurch.org/79901_91392_ENG_HTM.htm)

<sup>3</sup> [http://www.episcopalchurch.org/79901\\_104589\\_ENG\\_HTM.htm](http://www.episcopalchurch.org/79901_104589_ENG_HTM.htm)

Church's firm commitment to continuing in the discernment process of the creation of an Anglican Covenant.<sup>4</sup>

Meanwhile, in response to concerns raised at the Anglican Communion Consultation-14, a small working group, appointed by the Archbishop of Canterbury, was set up to fine-tune Section Four. That group met in November 2009, considered 18 responses received from the provinces, and revised Section 4 in light of these responses. The final version of the covenant received approval from the Standing Committee and was released in mid-December 2009 for final consideration for adoption by constituent provinces through appropriate processes.

### *The Work of the D020 Task Force*

Executive Council's D020 Task Force spent significant time considering the proposed Anglican Covenant and prepared study materials which were distributed to each diocese in September 2010.<sup>5</sup> The task force asked that responses be submitted by Easter 2011 although the task force continued to receive and consider responses well after the deadline. While the materials were distributed to bishops and deputies, responses were also encouraged from congregations and individuals. Twenty-nine dioceses submitted responses; 18 congregations and 19 individuals also responded. Some of the responses were lengthy; others a simple paragraph.

The task force purposely left it to the discretion of each diocese as to how its study of the proposed Anglican Covenant would take place and, in particular, who in the diocese would participate in the study. Some dioceses conducted their study only with their deputies to General Convention while others held open forums. Some studied it at a series of meetings; others at only one meeting.

While the responses cannot be quantified because there are so many variations, several general observations can be made:

1. Overwhelmingly, the responses indicated that participation in the larger Anglican Communion was important. There was a commitment to our common life with other provinces even as we may disagree on matters of importance.
2. There was the widely expressed opinion that we seek to continue to deepen our relationships with the other provinces of the communion. Even those responses that recommended the rejection of the Anglican Covenant in its entirety expressed the hope that dialogue and relationships would continue.
3. Most of those who responded would accept the first two sections of the covenant and expressed the opinion that these sections were satisfactory statements about the church and our common life.
4. Many of the responses took issue with portions of Section Three. A number of dioceses perceived the covenant to show a disregard for the historic role of the laity in the governance of this church (3.1.3-4). Many dioceses expressed concern

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<sup>4</sup> [http://episcopalchurch.org/79901\\_115409\\_ENG\\_HTM.htm](http://episcopalchurch.org/79901_115409_ENG_HTM.htm)

<sup>5</sup> <http://generalconvention.org/ec>

regarding Section 3.2.5 and the sections following which discuss avoiding conflict and, when conflict arises, how to proceed with conflict mediation.

5. The vast majority of responses objected to and rejected Section Four in its entirety. Questions about provincial autonomy, decision-making in cases where there was conflict and the implications of a document that appears to codify certain disciplinary measures were all cited as concerns.
6. None of the dioceses who were reported in the press to have approved the covenant communicated this action to Executive Council.
7. A significant number of responses raised the question about the effectiveness of the covenant as a way of holding the communion together when some of the provinces which had initially supported the need for a covenant appeared no longer to support it.
8. Reading through the responses, the task force noticed what it came to call “covenant fatigue.” In some cases, open diocesan forums attracted only a handful of participants and some congregations who studied the covenant as a series of Christian Education classes reported noticing a drop-off in attendance as the weeks progressed.

At the request of Executive Council, the Standing Commission on Constitution and Canons examined the covenant with respect to its implications for our Constitution and Canons. Its report was issued February 15, 2011 and can be found in Appendix 2 to this report. The Commission stated:

“... the SCCC is of the view that adoption of the current draft Anglican Covenant has the potential to change the constitutional and canonical framework of TEC, particularly with respect to the autonomy of our church, and the constitutional authority of the General Convention, bishops and dioceses.” However, the report did not explore the implications of particular constitutional or canonical changes that would be required for adoption of the covenant.

### *Conclusion*

The Executive Council of The Episcopal Church remains committed to continuing engagement in thoughtful dialogue within the Anglican Communion around issues that may be divisive. We appreciate the labor of those who have sought to create a document intended to insure unity, while respecting autonomy and mutual responsibility. However, Executive Council cannot at this time recommend adoption of the covenant in its present form.

We do not make this recommendation lightly. We believe that when the church is faithful, the unity of the church is reflective of the unity that is in God, divinely ordered and discernable on earth. We seek to be faithful to this unity by honoring the diversity of ministries in The Episcopal Church in multiple forms: our tradition of empowerment of all orders of ministry in governance; our identification of the interpretation of Scripture as the work of all Christian communities; and

our heeding the work of the Spirit in new understandings of how we are called to be in community and relationships. We believe our unity is best expressed in our efforts to be a church that fully welcomes those who have not always been welcomed. This understanding of who we are as a church does not allow the Executive Council to support any covenant that might jeopardize this vocation.

In addition, the responses from our church indicate the following:

1. It is clear that the vast majority of those who responded to our request for feedback are not in favor of adopting the covenant in its entirety. While some have suggested that the church adopt specific sections (most notably the first two) we believe that this would not honor the intention of the covenant's creators that the document stand as a whole. We also do not believe that using language such as "receive" the covenant without approving it honors the intention of the document.
2. The Standing Commission on Constitution and Canons has pointed out that to adopt the current version would mean changes to both the Constitution and Canons which would significantly alter our current understanding of what it means to be an autonomous province. If the church wants to adopt the proposed Anglican Covenant, we would need ample opportunity to explore the constitutional and canonical implications. The first reading and approval of the constitutional changes would be in 2015 with the second in 2018. Consequently, the covenant could not be adopted before 2018.
3. The covenant consistently ignores the importance of the role of the laity and their full expression of ministry in all spheres of the life of the church.

### *Recommendation*

It has become apparent to this committee in the course of its work that the church requires a new study of the foundations and boundaries of our polity and governance as we seek to deepen our Communion-wide engagement and equip the leadership of the church.

Accordingly, Executive Council recommends that the Presiding Officers appoint a task force comprised of members of the Executive Council, the Standing Commission on Constitution and Canons and at least one church historian. Their work would include:

- documenting the specific changes that would need to be made to the Constitution and Canons of the church in order to adopt the covenant;
- providing an analysis of how those changes may alter our identity from theological, philosophical and polity perspectives;
- considering other such matters as the committee believes helpful to our continued engagement with other churches in the communion around issues of unity;
- reporting its findings back to the Executive Council.

*Resolution*

*Resolved*, the House of \_\_\_\_\_ concurring, That this 77th General Convention express its profound gratitude to those who so faithfully worked at producing the Anglican Covenant; and be it further

*Resolved*, that The Episcopal Church commit itself to continued participation in the wider councils of the Anglican Communion and to continued dialogue with our brothers and sisters in other provinces to deepen understanding and to insure the continued integrity of the Anglican Communion; and be it further

*Resolved*, that The Episcopal Church recommit itself to dialogue with the several provinces when adopting innovations which may be seen as threatening to the unity of the Communion; and be it further

*Resolved*, that The Episcopal Church is unable to adopt the Anglican Covenant in its present form.

CONFIDENTIAL

APPENDIX 1

**Resolution A166**

Anglican Covenant Development Process

Adopted by the House of Deputies

The House of Bishops concurred

Proposer: Special Commission on The Episcopal Church and the Anglican Communion

*Resolved*, the House of Deputies concurring, That the 75th General Convention of the Episcopal Church, as a demonstration of our commitment to mutual responsibility and interdependence in the Anglican Communion, support the process of the development of an Anglican Covenant that underscores our unity in faith, order, and common life in the service of God's mission; and be it further

*Resolved*, That the 75th General Convention direct the International Concerns Standing Committee of the Executive Council and the Episcopal Church's members of the Anglican Consultative Council to follow the development processes of an Anglican Covenant in the Communion, and report regularly to the Executive Council as well as to the 76th General Convention; and be it further

*Resolved*, That the 75th General Convention report these actions supporting the Anglican Covenant development process, noting such missiological and theological resources as the Standing Commission on World Mission and the House of Bishops' Theology Committee to the Archbishop of Canterbury, the Joint Standing Committee of the Anglican Consultative Council and the Primates, and the Secretary General of the Anglican Communion; and that the Presiding Bishop of the Episcopal Church report the same to the Primates of the churches of the Anglican Communion.

APPENDIX 2

**MEMORANDUM**

TO: The Executive Council

FROM: The Standing Commission on Constitution and Canons

DATE: February 15, 2011

Background

This Memorandum constitutes the report requested from the Executive Council regarding constitutional and canonical issues arising from the text of the draft Anglican Covenant. We have been asked to focus on Section 4 of the draft Covenant. A close reading of the Covenant, and especially Section 4.4.1, makes it clear that the text of the Preamble and of the Introduction to the Covenant must be considered as part of the Covenant itself, despite some confusing language to the contrary. The Commission is mindful of recent actions and statements by the Archbishop of Canterbury, our Presiding Bishop, and other primates of the Communion which provide some perspectives on the subject of future disputes and the understanding of roles and authority.

As developed further in this report, the SCCC is of the view that adoption of the current draft Anglican Covenant has the potential to change the constitutional and canonical framework of TEC, particularly with respect to the autonomy of our Church, and the constitutional authority of our General Convention, bishops and dioceses.

Provisions of the Introduction and Preamble;  
Potential Concerns for Constitutional Autonomy

Paragraph 1 of the Introduction speaks of the biblical treatment of the “communion in Jesus Christ.” It includes the “Communion of the life of the Church,” as the basis for the existence and “ordering of the Church.” A fair interpretation of this text is that our “Communion in Jesus Christ” coexists with our Communion as constituent members of the Anglican Communion. The implication may be that the continuation of our communion in Jesus Christ requires accession to the particular ordering of the church described in the draft Covenant, or which may be described from time to time by various elements of the Anglican Communion (e.g., “Instruments of Communion”). If so, this may be seen as superseding the respective Constitutions and Canons of the constituent members of the Anglican Communion, including TEC. This conclusion, if well-founded, may be of concern to those who believe that the history of the flexibility and growth of the churches of the Anglican Communion has been largely attributable to our traditional structures and their local adaptations.

The implied nexus between biblical notions of communion with the Anglican Communion is developed further in paragraphs 2 and 3 of the Introduction. These paragraphs

begin to illuminate the drafters' simultaneous expectations of sharing in God's communion in Jesus Christ, recognizing responsibilities for our common life, and living out this relationship "in mutual deference." Depending on the means and manner by which these expectations are made manifest in actions at the Communion level, it may be of concern to TEC and any individual constituent church within the Communion that any given "Instruments of Communion" could define "responsibilities of our common life," and that invocation of Section 4 is the consequence for alleged breaches of such defined responsibilities.

Paragraph 4 provides that the Provinces will "covenant together as churches of this Anglican Communion to be faithful to God's promises through the historic faith we confess, our common worship, our participation in God's mission, and the way we live together." Again, depending on the forms that this language, if adopted, may take, this provision may challenge the autonomy of each church and the uniqueness by which some believe that the Church has received and understands the Scriptures and understands the Divine (in ways beyond the descriptions of the 1662 Book of Common Prayer). Arguably, Provincial conformity to this promise within the Covenant may proscribe or limit any doctrinal actions of the General Convention or changes to the Book of Common Prayer, a constitutional prerogative.

Finally, the juxtaposition in paragraph 5 of "the character of this Anglican expression of Christian faith" with "the common understanding of faith and order we have received" spotlights the potential tension of simultaneously honoring Anglican tolerance for variation of expression and understanding with the new structure which may circumscribe and limit our faith journey in new understandings. The thrust of the Covenant, that, under certain circumstances, new expression by a constituent member of its understanding of faith and order may be subject to the judgment (and assent) of other members of the Communion, may challenge the authority of the General Convention, under the provisions of our Constitution and Canons, in identifying and articulating new understandings of our faith and doctrine.

The Preamble identifies the purpose of the Covenant "to proclaim more effectively in our different contexts the grace of God revealed in the Gospel, to offer God's love in responding to the needs of the world, to maintain the unity of the Spirit in the bond of peace, and together with all God's people to attain the full stature of Christ. Recent actions and statements from the Archbishop of Canterbury, our Presiding Bishop, and the primates of the Anglican Communion illustrate the difficulty of simultaneously recognizing "our different contexts" with the goal "to maintain the unity of the Spirit . . ." This invites the inevitable question of whether the expectations of being "in Communion" or subscribing to the Covenant may be more valuable and useful from the "30,000 foot level" rather than expecting consensus or acceptance of differing understandings or actions on the ground. Should the mutual expectations and accountability for membership in the Anglican Covenant be limited to broader theological tenants and traditions without conformity and the more detailed level?

#### Particular Issues in Section 4

One matter to be considered in assessing the Covenant is the weight to be accorded the Windsor Report. Although some members of the Anglican Communion consider the Windsor Report to be authoritative in its own right, the text of the Windsor Report states that it is intended

to be a document for discussion and study. Some students of the Covenant may be concerned that it accords the so-called “Instruments of Communion” a degree of authority and responsibility arguably never historically accorded them by the collective membership of the Communion. Some observers of the recent history of the Communion may question why primacy seemingly has been given to the recommendation that a Covenant be adopted, while it may appear that other provisions having been largely ignored. Others, however, take the position that the adoption of a Covenant was, in fact, the “prime directive” of the Windsor report, with other considerations, although meriting mention in the Report, being secondary to considerations of promoting adoption of a Covenant. To some, the idea of a Communion-wide Covenant may appear to be anomalous, when the underlying document, the Windsor Report, has never itself been adopted or approved.

Section 4.1 of the Covenant reflects tensions between the concepts of theological harmony within the Communion and Provincial autonomy. Some may view as contradictory the charge of the Covenant for each covenanting church to take the steps to implement the stated principles and procedures and the Covenant’s claim that it does not intentionally alter “any provision of the Constitution and Canons of any church of the Communion, or to limit its autonomy of governance.” Similarly, some may be concerned that the Covenant could be seen as promoting a concept of “interdependence of life which is consistent with its own life and with the doctrine and practice of the Christian faith as it has received them, “proscribing actions which may be taken unilaterally by any of the Instruments of Communion” or the Standing Committee of the Anglican Communion to sanction any constituent member whose expression of doctrine or practice of the Christian faith is deemed objectionable to an unspecified number of other members of the Communion. To others, however, the principal thrust of the Covenant is to articulate principles of theological comity and harmony that have been historically understood throughout the spread and development of Anglicanism, but whose explicit articulation has been made necessary by the divergent actions of various Provinces. Undoubtedly, however, the Covenant promotes a disciplinary structure which has not existed, heretofore in the history of the Anglican Communion. The adoption of a Communion-wide system of discipline may be, in practice, difficult to establish or conduct, in light of the fact that each Province has a history and role not related to any concept of such a formal Communion-wide structure. The governing Provincial bodies represent a coincidence of how representatives of the Church gather and how we partner in ministry that is quite distinguishable from a governance function. There is no consensus as to the actual authority of the Instruments of the Communion. If the adoption of a Covenant creates a limited governance authority in the Instruments, our Constitution would need to be amended to acknowledge accession to that authority. Some may argue that if autonomy is really understood and respected, so that conformity on any given issue of doctrine or practice is only important as a prerequisite to staying in the Communion, what is the reason for the Communion? Others however, may view the concept of such Communion-wide harmony as being inextricably bound to the nature of being “in communion.”

It is necessary, before embracing any Communion-wide structure, to resolve the issue of how being in the Communion itself informs or changes our Church’s ability to receive the doctrine and practice of the Christian faith?

Paragraph 4.1.3 provides that

. . . such mutual commitment does not represent submission to any external ecclesiastical jurisdiction. Nothing in this Covenant of itself shall be deemed to alter any provision of the Constitution and Canons of any church of the Communion, or to limit its autonomy of governance. The Covenant does not grant to any one church or any agency of the Communion control or direction over any church of the Anglican Communion.

The implementation of the Covenant, and especially of Section 4, could arguably provide a mechanism by which other churches of the community or agencies of the Communion could seek to exert influence if not control and direction over any church of the Communion whose actions (such as ordaining non-celibate gay and lesbian persons or authorizing blessing of same sex unions) was deemed (by said other church or agency) to threaten the relationship of the churches of the Communion. This may create legislative conflict in light of the connectivity of our Constitution and Canons with the Book of Common Prayer, and the special nature of the role we accord to our bishops in defending, but not themselves establishing, the Doctrine, Discipline, and Worship of the Church; and the limited prerogatives of bishops to authorize special forms of worship. Certainly, in considering the adoption of a Covenant, we would have to consider carefully its effect on the discretion historically accorded to diocesan bishops in the Episcopal Church.

Paragraph 4.1.5 presents an intricately defined set of foreseeable circumstances wherein any one of the “Instruments of Communion” might invite another church to adopt the Covenant, and might indeed invite membership in the Communion without the consent or concurrence of other “Instruments of Communion.”

It is not particularly clear what the effect would be for any church deciding not to adopt the Covenant, although paragraph 4.3.1 regarding withdrawal from the Covenant suggests that there would be a continuing relationship of an undefined nature with the Communion. In remarks concerning the Covenant, the Archbishop of Canterbury has likened the relationship between those Provinces not adopting the Covenant to those who elect to adopt it with the present relationship between the Anglican and Methodist Churches.

Section 4.2.1 begins to make clearer the intention that adherence to the Covenant would be a prerequisite to mutual recognition and communion between the respective churches. The adoption of such an explicit structure is a historic and significant departure for the Anglican Communion churches. The constitutional and canonical conundrum arising from this statement is that the positions and actions of the Church (often expressed through its Constitution and Canons) may determine whether the Episcopal Church continues to be recognized as a member of the Anglican Communion, however, there is no agreed standard for compliance any given action by the Episcopal Church could be considered to be offensive by one or more other member churches or by one of the “Instruments of Communion.” The other constituent members of the Communion ascribing to the Covenant would, presumably, be similarly situated. This would give rise to a “dispute” as contemplated in Section 4.2. The matter would be referred to the Standing Committee of the Anglican Communion, which by this Covenant seems to be

granted a new juridical authority without accountability to anyone or any other entity, as the Covenant does not, in its present form, provide for review of or appeal from decisions of the Standing Committee. There is no provision that decisions of the Standing Committee may be appealed to the Anglican Consultative Council. Some may be concerned that the recommendation ultimately rendered by the Standing Committee and the “relational consequences” described within the recommendation may effectively be the banishment or other reduction in status for the offending church.

Section 4.2.3 seems to be the enforcement mechanism for Section 3.2. Section 3.2 has significant consequences concerning our understanding of autonomy and the respect for how a church receives its understanding of the doctrine and practice of the Christian faith. It has been interpreted by some to preclude the right of a church to live into any newly received understanding of the doctrine or practice, including (for example) any changes to the Book of Common Prayer, approval of new liturgies, etc. The process for consideration and approval of such changes is a constitutional element, with no provision therein for deferring to a separate process within the Anglican Communion. Our Constitution might therefore have to be amended to acknowledge a mechanism for deferring to such a separate process if the Covenant is to be approved.

Section 4.2.4 requires referral to the Standing Committee where “a shared mind has not been reached.” However, the Covenant fails to define the criteria for determining if the Communion is of a “shared mind” on any particular theological issue. There is no specific process or timetable within which the Standing Committee of the Communion is expected to act in resolving such questions and no appeal from any undue delay. Accordingly, the constitutional autonomy of the Episcopal Church in its future articulation of doctrine or practice could be compromised by this provision. Referral of the question of “shared mind” to the Anglican Consultative Council and the primates’ meeting “for advice” is beyond any previously established authority or mandate for these groups. The Covenant is also unclear as to whether, in those Provinces that decline to adopt its provisions, individual dioceses may assent to the Covenant. Although some TEC dioceses have purported to adopt the Covenant through legislative action, the effect of such actions is unclear, especially given that TEC has not yet acted as a body on the Covenant.

Paragraph 4.2.8 defines the structure, process, and apparent authority of the Standing Committee, as described in the Covenant, to churches who have adopted or are “in the process of adopting” the Covenant. This provision could be interpreted to supersede any constitutional or other governing provisions of the respective church and of other respective Instruments of Communion regarding their decision-making processes.

Section 4.2 would require substantial Constitutional and canonical action on the part of the Episcopal Church. It would purport to require the Episcopal Church to put into place “mechanisms, agencies, or institutions,” necessary to assure the compliance with the Covenant of all levels of the Church and respective dioceses. It further implies an expectation that the Constitution and Canons of the Episcopal Church be amended to empower the Presiding Bishop to become the Anglican Communion de facto compliance officer for the Episcopal Church, which would clearly exceed her present constitutional and canonical authority.

## The Constitution and Canons of TEC

The Preamble to our Constitution describes a relationship with the Anglican Communion, in that we are a constituent member of a fellowship of dioceses, provinces and regional churches in communion with the Archbishop of Canterbury. There is no accession clause or limitation of jurisdiction or autonomy associated with this relationship. Likewise, there is no accession or deference to the Anglican Communion in provisions of the Constitution and Canons where deference would be relevant.

Article V provides for the creation of new dioceses in the Episcopal Church, with no reference to Anglican Communion approval or consent. New dioceses are also required to include an unqualified accession to the Constitution and Canons of the Episcopal Church, without reference to the Anglican Communion.

Article VIII and IX require compliance by the clergy of the Rules and Canons of the Episcopal Church, with no reference to assent by the Anglican Communion.

In Article X the Book of Common Prayer provisions describe the preservation of the Book of Common Prayer and amendments thereto by the General Convention of this Church, without deference to or assent required by the Anglican Communion.

Article XII provides for procedures for amending our Constitution, without requiring consent or approval by the Anglican Communion.

### Applicable Canonical Provisions

In Title I, Canon 2.4, the role of the Presiding Bishop as chief pastor and primate is described, with no express duty or authority regarding our participation in the Anglican Communion.

Title I, Canon 4.2, provides that the Executive Council will elect a representative to the Anglican Consultative Council.

Title I, Canons 9.2 and 10, describe the process for approving new dioceses, with no accession to or approval by the Anglican Communion.

Title I, Canon 10.4, explicitly provides for the requirement of new dioceses to submit an unqualified accession to the Episcopal Church, with no reference to the Anglican Communion.

Title I, Canon 11.2(b) and Canon 11.3, describe ecumenical missions without requiring accession to or deference to the Anglican Communion.

Title I, Canon 11.4, requires notice to all Archbishops and Metropolitans and all Presiding Bishops of churches in communion with the Episcopal Church of the establishment of any area mission or change in status of any missionary diocese outside the United States, but

with no assent or approval required by the Anglican Communion. That Canon goes on to prescribe the exercise of any jurisdiction by more than one church in communion in the same place except by concordat.

Title I, Canon 15.1, provides for congregations in foreign lands to respect the territory of other churches in the Anglican Communion.

Title I, Canon 20, describes the Episcopal Church as a member of the Anglican Communion with a relationship of full communion with those churches of the historic episcopal succession and with whom it has entered into covenant agreements. It does not otherwise define what being a member of the Anglican Communion means or infer any accession to the Anglican Communion.

Title II provides for authorized translations of the Bible in the Canons or by the diocesan bishop, with no reference to the Anglican Communion.

Title II, Canon 3, provides for the Book of Common Prayer and changes thereto without reference to the Anglican Communion.

Title II, Canon 4, provides for the authorization of special forms of service by the bishop of the diocese without reference to the Anglican Communion.

Title III, Canon 1.2, provides that there shall be no discrimination in access to the discernment process for ordination or licensing, without reference or deference to the Anglican Communion.

Title III, Canon 11, describes the process for the election of a bishop, without reference to the Anglican Communion.