

CONSUMED BY LITIGATION: TEC IN SOUTH CAROLINA (PART TWO)

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In the first part of this article we addressed questions of good faith and canonical integrity arising from TEC's actions in South Carolina. We concluded that those actions raise troubling questions about the good faith of many church leaders in their dealing with Bishop Lawrence, including the Presiding Bishop, the Disciplinary Board, other TEC bishops and some diocesan clergy. We also concluded that TEC's position is canonically incoherent: either its actions in South Carolina are in open contempt of its own canons or TEC has undermined the legal basis of its position by acknowledging that the Diocese has indeed left.

In Part Two we consider issues of ecclesiology and pastoral care. We are concerned that:

- TEC is acting contrary to basic principles of Anglican ecclesiology and ancient norms of the universal church; and
- It is sacrificing the genuine pastoral needs of its members to advance doubtful litigation goals.

Anglican Ecclesiology

For over a decade now TEC has complained to the wider Communion that other Anglican churches were violating ecclesial principles and commitments by engaging in pastoral and missionary work within the boundaries of TEC's own dioceses. This involved groups like AMiA, CANA and so on, where churches in Rwanda, Nigeria and elsewhere set up churches and ordained clergy within the geographical boundaries of existing TEC dioceses. And when the Lambeth Commission and later the Windsor Continuation Group, among other official Anglican Communion groups, called for a "moratorium" on both such "cross-border" interventions and on the ordination of partnered gay clergy, TEC played tit-for-tat on this basis: why should TEC observe self-restraint on sexuality matters when other Anglican churches would not limit their incursions into her geographical territories?

The ecclesial principle at work here was assumed: Anglican Communion churches must not, without permission, engage in work within the territorial boundaries of another Communion-recognized church. This notion of “recognizability” among sister churches is important, and its meaning was informed by shared Christian commitments and the bonds of affection. If we are a “Communion” of churches, then we respect the ministry and mission of our sister Anglican churches where they are located and we do not try to compete with them or undermine their ministry by setting up rival churches and ministries. TEC now seems to have cast away the principle itself, and this fact raises serious questions about its own recognized place within the Anglican Communion.

As we noted in Part One of this article, there are two possible canonical interpretations behind TEC’s actions in South Carolina. On one view, the Presiding Bishop has determined the Diocese of South Carolina has *not* left TEC: “dioceses cannot leave TEC, only individuals can,” as she has insisted at other times. The problem with holding to this view is that, if true, it would mean that she has no right canonically to intervene by setting up a new episcopal structure within the diocese; indeed, the current bishop, Mark Lawrence, is *still* the bishop and his disciplined status has not yet been resolved. On the other possible view, the Presiding Bishop has determined that the Diocese has in fact left TEC, leaving the geographical territory “unorganized”. In that case, TEC can, as it were, “start from scratch” and start a whole new diocese. While this may appear canonically legitimate, we must ask if it is legitimate in terms of agreed Anglican polity.

So let us assume that the Diocese of South Carolina *has* legally withdrawn from TEC. Does this make its territory ecclesially “unorganized” from an *Anglican* (and not just TEC canonical) perspective? Not at all. For the withdrawn diocese has not disappeared; it is still functioning under its bishop and Standing Committee, and that bishop and diocese is still recognized as such within the Anglican Communion. The Diocese of South Carolina, that is, is now an extra-provincial Anglican diocese, having made no move to affiliate itself with some other rival “province” (e.g. ACNA) and hence in no way in competition with TEC. For TEC now to start a whole new diocese of its own in this area would be exactly like Nigeria starting its own diocese in Virginia—something TEC has long objected to.

What then are the fundamental principles of Anglican ecclesiology by which TEC should act in relation to the Diocese of South Carolina, now withdrawn from TEC? These principles were succinctly summarized in the Windsor Report (2004) when it addressed the issue of other Anglican bishops acting inside TEC dioceses to oversee parishes and establish missions: “The Anglican Communion upholds the ancient norm of the Church

that all the Christians in one place should be united in their prayer, worship and the celebration of the sacraments.”

Addressing bishops that had “exercised episcopal functions without the consent of the relevant diocesan bishop” the Windsor Report concluded:

This goes not only against traditional and often-repeated Anglican practice (as reaffirmed most recently by, for example, resolutions at Lambeth 1988 and 1998), but also against some of the longest-standing regulations of the early undivided church (Canon 8 of Nicaea).

The 1988 Lambeth Conference Resolution cited in the report:

reaffirms [the Conference’s] unity in the historical position of respect for **diocesan boundaries and the authority of bishops within these boundaries**; and ...affirms that it is deemed inappropriate behaviour for any bishop or priest of this Communion to exercise episcopal or pastoral ministry **within another diocese** without first obtaining the permission and invitation of the **ecclesial authority** thereof. (Emphasis added.)

The 1998 Resolution stated:

This Conference, committed to maintaining the overall unity of the Anglican Communion, including **the unity of each diocese under the jurisdiction of the diocesan bishop**, believes such unity is essential to the overall effectiveness of the Church's mission to bring the Gospel of Christ to all people. (Emphasis added.)

The canons of Nicaea are to the same effect: both canons 8 and 16 emphasize the authority of the diocesan bishop, not that of a national or provincial church.

We certainly do not suggest that these principles were articulated in the context of the extraordinary circumstances faced by the church in South Carolina. Indeed, each of these formulations was made in response to different challenges. What they have in common, however, is their shared commitment to the essence of catholic ecclesiology: the people of God are united in one local church by their communion with their recognized bishop, and through the communion of all the bishops in a college of bishops the people of God around the world are joined in one communion.

And this ecclesiology creates the presumption that the extra-provincial Diocese of South Carolina is the legitimate expression of Anglican unity in that area. Catholic ecclesiology

does not acknowledge an ecclesial version of manifest destiny—that a particular configuration or province of dioceses has inherent and exclusive territorial rights throughout the continent. To be sure, national churches have played a large role in Anglicanism, but that is an historical and political anomaly, not a matter of first ecclesiological principles. It is a bug, not a feature. In this light it is difficult to justify TEC's apparent ecclesiological objectives in South Carolina, even assuming its behavior were otherwise blameless and in strict accord with its own canons.

We should observe that the particular ecclesial and missionary principles noted here have significant ecumenical implications. But it is impossible for Anglicans to pursue them constructively with other churches if, among themselves, they cannot achieve coherent implementation. To this degree, TEC's actions, along with those of other Anglican churches over the course of the past decade, have drastically weakened our ecumenical capacities.

To summarize: the Presiding Bishop appears to be pursuing a strategy of ecclesial organization that goes against the consistent understanding of church mission held by the Anglican Communion over the past decades: seeking to compete with and legally subvert an already organized Anglican diocese that is recognized by much of the Communion.

If the Diocese of South Carolina has withdrawn from its association with The Episcopal Church, it nevertheless remains an extra-provincial Diocese within the larger Anglican Communion. It has not disappeared into thin air. Therefore, one cannot create a new diocese where it now is without violating the principles it has argued are to be upheld in the Communion at large.

But if TEC follows its own canons, it cannot treat the Diocese of South Carolina as if it is still in TEC while simultaneously creating a new diocese with new diocesan officers inside an existing diocese. It cannot set up a diocese where there already is one.

On what basis does TEC judge South Carolina no longer to be such a recognized Communion diocese? If there is no such basis, what is TEC's view of the Communion's own ecclesiological foundations?

Other Anglican leaders around the world need to ask for a response from the Presiding Bishop here and to listen carefully. TEC's own understanding of her place within the Anglican Communion is clearly at stake.

Pastoral Considerations

In our previous discussion of the way in which The Episcopal Church has become consumed by litigation we noted that the litigious, calculated and secretive course now being pursued effectively “trumps” and so harms the pastoral care TEC owes its people. The harm done becomes apparent as soon as two matters come to mind.

First, it is clear that there are congregations and individuals in South Carolina that support the positions of TEC and wish to remain within it. The anguish that accompanies a minority position of this sort within the State of South Carolina cannot be overestimated. The pastoral care of these dissenters should be a top priority in everyone’s mind. For his part, Bishop Lawrence has recognized the pain involved and has, accordingly, made clear that he will release these congregations from the Diocese so that they can remain in TEC if they so choose. Had this course been followed, the pastoral needs of these congregations could have been, and would have been, resolved quickly in one phone call between Bishops Lawrence and Waldo. Bishop Waldo, with little fuss or bother, could have assumed pastoral oversight. Nevertheless, the priorities of litigation were deemed to demand that a TEC diocese remain claiming the title of “The Diocese of South Carolina.” The sad fact is, however, that this course of action results in an entity with no effective leadership and a mere dozen congregations.

Given the paucity of congregations wishing to remain within TEC, the inescapable reality is that there will never again be a separate TEC diocese in the low country of South Carolina, just as there will never be a separate TEC diocese in San Joaquin, Fort Worth or Quincy. None of these entities has the resources to operate as an independent diocese. When the storm of litigation is over and there is no longer any reason to pretend otherwise these “continuing dioceses” will quietly be merged into neighboring ones. That being the case, no good purpose can be served by prolonging a charade in South Carolina that is pastorally damaging and far less than transparent. Rather than creating a shell diocese, the appropriate pastoral response on the part of TEC would be to render all possible assistance in effecting the change in pastoral oversight Bishop Lawrence has offered.

A second and more far-reaching consideration of pastoral importance concerns the negative effects a process this morally and canonically dubious has upon the ethos of The Episcopal Church as a whole. An assumption that shapes the pastoral vision of the *Book of Common Prayer* is that the spiritual health of each person is best served by participation in a shared form of life centered in common worship and given daily expression through devout and holy living. The primary purpose of both the structure and ethos of a church is to foster this form of life.

The present struggle within TEC centers on its constitutional and canonical structure. Both the outcome of this struggle and the manner in which it is carried out must be evaluated in relation to its effects on the form of life these arrangements are meant to support. The judgments rendered in this struggle by the Presiding Bishop and the Disciplinary Board for Bishops seek to define the public space of The Episcopal Church as that of a corporation hierarchically organized under the authority of a General Convention. ACI has consistently opposed this interpretation of TEC's constitution, and we have contended that a number of the changes in its disciplinary canons are unconstitutional.

Sadly, resolution of this dispute now rests in secular courts.

Given the heat of the moment, it is easy to overlook the fact that the way in which this struggle is conducted is as important, and we believe more important, than its final resolution. The way in which it is carried out gives expression to and/or establishes the way in which The Episcopal Church addresses its internal conflicts. The way in which differences are resolved within the church shapes the character of its common life and so also the lives of its individual members.

The ethos of a church is its most powerful pastoral instrument. It does more to shape the lives of its members than countless hours of pastoral counseling. But what moral characteristics do the actions of the Presiding Bishop, the Disciplinary Board for Bishops and the other Bishops, Presbyters and Lay Persons involved in TEC's maneuvers display about the way in which they are prepared to prosecute their cause? At best there is a troubling lack of transparency. At worst we may be dealing with calculated mendacity and law-breaking.

These are not trivial failings. The religious leadership of South Africa understood that reconciliation was impossible apart from truth. Mercy and truth are like Siamese twins that cannot be separated without doing fatal damage to both. In short, the way in which this struggle is carried out will establish the ethos in which differences and conflicts are addressed within the common life of The Episcopal Church. It cannot be pastorally helpful to wink at an ethos that makes room for the cloak of secrecy and/or for the distortion of truth. Allowances of this sort can do nothing but mal-form lives.

The Christian faith is in large measure about reconciliation. Reconciliation ought to have been the goal all along in the conflicts that have so torn the fabric of our church and our communion. Reconciliation, despite denials to the contrary, does not seem to have been the purpose of those responsible for pursuing TEC's interest in South Carolina. Had it

been, negotiations would have been more transparent, truth more plainly spoken and the spiritual health of the church and its individual members better served.

To summarize: arrangements for the alternative pastoral care of those congregations in the Diocese of South Carolina that are at odds with Bishop Lawrence, the Standing Committee, and the diocesan convention were easily at hand, and could have been readily resolved in the discussions already underway before actions against Bishop Lawrence were initiated. Why did the Presiding Bishop not embrace these arrangements instead of pursuing a strategy of adversarial attack, especially when the result will be new arrangements for TEC's congregations in South Carolina made in a hostile, expensive and pastorally impoverished context? Add to this the now prolonged sequence of TEC actions based on forms of life inimical to the Gospel's call to the habits of reconciliation. Explanations are due as to why all this does not add up to pastoral irresponsibility.