

THE PROTESTANT EPISCOPAL CHURCH IN THE UNITED STATES OF AMERICA
BEFORE THE COURT FOR THE TRIAL OF A BISHOP

In the Matter of the Presentment Against
The Right Reverend Edward H. MacBurney,
Retired Bishop of the Diocese of Quincy, Illinois

PRESENTMENT

PREFACE

(1) This Presentment is prepared in accordance with Canons IV.3.43(c), IV.3.44, and IV.3.45 of the Canons of the General Convention.

(2) The Rt. Rev'd Edward H. MacBurney ("Bishop MacBurney" or "Respondent") was formerly the Bishop of the Episcopal Diocese of Quincy, Illinois. Bishop MacBurney retired as Bishop of that diocese in 1994. Bishop MacBurney is now and on June 3, 2007, was a member in good standing of the House of Bishops of the Episcopal Church.

AVERMENTS OF FACT

(3) At all times pertinent to the allegations in this presentment, Bishop MacBurney was not canonically resident in the Diocese of San Diego, California.

(4) In 2007, Bishop MacBurney accepted an invitation from Holy Trinity Episcopal Church (also known as Holy Trinity Parish, and referred to hereinafter as "Holy Trinity") in San Diego, California, to preside at services there on Sunday, June 3, 2007.

(5) Holy Trinity is physically located within the boundaries of the Diocese of San Diego.

(6) On May 14, 2007, the Rt. Rev'd James R. Mathes, Bishop of San Diego, telephoned Bishop MacBurney at his home in Iowa. Bishop Mathes told Bishop MacBurney that Canon Law prohibited him from officiating at services in the Diocese of San Diego without first obtaining permission from the Bishop of San Diego. Bishop Mathes stated that Bishop MacBurney did not

have his (Bishop Mathes's) permission to officiate at services at Holy Trinity or anywhere else within the boundaries of the Diocese of San Diego.

(7) Bishop MacBurney understood and acknowledged during his telephone conversation with Bishop Mathes that he (Bishop MacBurney) would be violating the Canons by officiating at services in San Diego without Bishop Mathes's permission.

(8) On May 15, 2007, Bishop Mathes wrote a letter to Bishop MacBurney in which he reiterated that Bishop MacBurney did not have his permission to perform episcopal acts in San Diego. Bishop Mathes's letter stated in part:

As a matter of mutual respect, charity, and courtesy of a fellow bishop, I ask you not to proceed with these Episcopal acts. ... I have not [granted] and am not granting permission, or issuing a license to you, to officiate at public services of worship or to perform Episcopal acts in the Diocese of San Diego. ... My prayer is that you will reconsider your planned visit and Episcopal acts. As I indicated in my conversation, if you proceed, I would be placed in a regrettable position requiring a response.

(9) Bishop MacBurney did not respond to Bishop Mathes's letter.

(10) On Sunday, June 3, 2007, Bishop MacBurney appeared at Holy Trinity for services at 8:00 and 10:30 a.m. Bishop MacBurney delivered a sermon at each service and performed confirmations during the 10:30 service.

(11) The printed program for the services that day indicated that Bishop MacBurney delivered sermons at both services and performed confirmations during the 10:30 service.

(12) Bishop MacBurney neither sought nor received permission from the Bishop of the Episcopal Diocese of San Diego to preach or confirm at Holy Trinity on June 3, 2007.

(13) Bishop MacBurney never asked for and never received a license to perform

occasional public services in the Diocese of San Diego.

(14) Bishop MacBurney's appearance at Holy Trinity on June 3, 2007, was never authorized by the House of Bishops or the Presiding Bishop.

COUNT I:
VIOLATION OF ARTICLE II.3 OF THE CONSTITUTION OF THE GENERAL CONVENTION

(15) Article II.3 of the Constitution of the General Convention provides:

A Bishop shall confine the exercise of such office to the Diocese in which elected, unless requested to perform episcopal acts in another Diocese by the Ecclesiastical Authority thereof, or unless authorized by the House of Bishops, or by the Presiding Bishop by its direction, to act temporarily in case of need within any territory not yet organized into Dioceses of this Church.

(16) On June 3, 2007, Bishop MacBurney performed episcopal acts at a church within the physical boundaries of the Diocese of San Diego while knowing that the Bishop of San Diego had objected to his actions and expressly withheld his permission.

(17) Bishop MacBurney was not at the time, and has never been, elected to hold ecclesiastical office in the Diocese of San Diego.

(18) Bishop MacBurney was not requested to perform episcopal acts in the Diocese of San Diego by the Bishop of San Diego. Nor was he authorized to do so by the House of Bishops or the Presiding Bishop.

(19) Bishop MacBurney violated the Constitution by deliberately engaging in episcopal acts within the Diocese of San Diego without the permission of—and over the objections of—the Bishop of San Diego.

(20) Bishop MacBurney's offense was intentional, material and meaningful.

**COUNT II:
VIOLATION OF CANON III.12.3**

(21) Canon III.12.3(e) provides:

No Bishop shall perform episcopal acts or officiate by preaching, ministering the Sacraments, or holding any public service in a Diocese other than that in which the Bishop is canonically resident, without permission or a license to perform occasional public services from the Ecclesiastical Authority of the Diocese in which the Bishop desires to officiate or perform episcopal acts.

(22) On June 3, 2007, Bishop MacBurney performed episcopal acts and officiated by ministering the sacraments and holding a public service at a church within the physical boundaries of the Diocese of San Diego while knowing that the Bishop of San Diego had objected to his actions and expressly withheld his permission.

(23) Bishop MacBurney was not at the time, and has never been, canonically resident in the Diocese of San Diego.

(24) Bishop MacBurney did not have permission from the Bishop of San Diego to perform episcopal acts, officiate by preaching, minister the sacraments, or hold a public service in the Diocese of San Diego. Nor did Bishop MacBurney have a license issued by the Bishop of San Diego to perform occasional public services in the Diocese of San Diego.

(25) Bishop MacBurney violated Canon III.12.3(e) by deliberately performing episcopal acts, preaching, ministering the sacraments, and holding a public service within the Diocese of San Diego without the permission of—and over the objections of—the Bishop of San Diego.

(26) Bishop MacBurney's offense was intentional, material and meaningful.

CONCLUSION

For the reasons set forth in this Presentment, it is respectfully prayed:

- (A) That this Presentment be served upon the Respondent, and that a date be fixed for the Respondent to answer;
- (B) That, upon such answer being made, or the time therefore having expired, the matter then be set for trial by the Court for the Trial of a Bishop as provided in Title IV, Canon 5;
- (C) That, at such trial, the Respondent be found by the Court to have violated Canon IV.1(e), which subjects a bishop to presentment and trial if the bishop be found to have violated the Constitution or Canons of the General Convention;
- (D) That, upon conviction, sentence be imposed as provided in Title IV, Canon 12, and as determined by the Court; and
- (E) That the Court order such further relief as it shall deem just and appropriate.

IN ACCORDANCE WITH Canon IV.3.45, this Presentment is dated and signed by the President of the Review Committee.

Dated: _____

24 Jan '08



President of the Review Committee