

The  in The Diocese of Central New York

July , 1973

The Right Reverend John E. Hines
Episcopal Church Center
815 Second Avenue
New York, N. Y. 10017

Dear Bishop Hines:

We respond to your letter of July , 1973 requesting our views on the procedural aspects of the consideration by the General Convention of proposals for the ordination of women to the priesthood and to the episcopate.

It has been variously suggested that the authorization, if any, for such ordination could be accomplished by way of (1) constitutional amendment, (2) canonical amendment, or (3) resolution of interpretation. Perhaps more important for present purposes is the question -- How shall it be determined whether constitutional amendment is necessary or whether the result can be accomplished by canonical amendment or interpretive resolution? We set forth our views on these matters for whatever assistance they may be to you.

Constitutional amendment. In our opinion, whatever may be said of the arguments grounded in history (as to which we express no opinion), the language of the Constitution and the Ordinal does not require a constitutional amendment (*i.e.*, favorable concurrent action of both the House of Bishops and the House of Deputies at two successive General Conventions) for authorization of ordination of women to the priesthood or to the episcopate.

Arguments that constitutional action would be required are based, as we see it, on the use of masculine pronouns in the Constitution and in the Ordinal. The editorial use of the masculine form to refer to both genders is familiar in the drafting of regulatory provisions. In the Constitution, in the provisions dealing with ordination, the pronouns used all refer to nouns which carry no denotation of gender (as contrasted, for instance, to the use of the supposedly explicit masculine noun, "laymen", in the former description of Deputies, Art. I, former Sec. 4).



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In the Ordinal, we note the similar use of masculine pronouns of reference. In this case the nouns of description are "Bishop", "Priest", "Deacon", "person", and "servant", again none carrying any denotation of gender. We are aware of the single use of the word "man" in the order for Consecration of a Bishop (the presentation of "this Godly and well-learned man"), and the use in two instances of "Brother". But again we note that the more frequent use is to "person" and "servant". Additionally, we observe that in an address to the congregation the term "Brethren" is used to include all its members, male and female.

It is the normal custom and the frequent practice, of course, in both secular and ecclesiastical diction, to use the masculine form to include both genders. The slightest reflection calls to mind the editorial and phonetic clumsiness which would attend uniform insistence on the parallel use of both masculine and feminine forms in each instance. Additionally, today it might even raise the diversionary issue as to which comes first, feminine or masculine!

It cannot be said that the issue is explicitly clear, but what strikes us as a compelling argument against the necessity for Constitutional amendment is the action of General Convention and the practice of our Church with reference to ordination of women to the diaconate. Precisely the same arguments in favor of constitutional action, based on the use of masculine pronouns in both Constitution and Ordinal, could have been urged to prove that amendment of the Constitution and the Book of Common Prayer was a necessary prerequisite to the ordination of women to the diaconate. This evidently was not the view of the 1970 General Convention, however, when it acted to adopt Title III, Canon 26; and the subsequent practice of our Church has confirmed this determination of the General Convention. We view the action with reference to ordination of women to the diaconate as a most persuasive precedent.

Resolution of Interpretation. At the other end of the procedural spectrum, proponents of the ordination of women have long contended that all that is needed, indeed all that can be consistent with history and theology, is to interpret the Prayer Book, Constitution, and Canons, without any amendment, as now authorizing the ordination of women both to the priesthood and to the episcopate. We have no doubt that in matters of interpretation of the Constitution, and to the extent that there can be a final arbiter in matters of the interpretation of the Prayer Book, the final arbiter is the General Convention itself. Proposals for such interpretation, however, do not commend themselves to us.

Again, this course was open when it came to authorization for the ordination of women to the diaconate, but General Convention chose explicitly to amend the Canons. Also, in our view, the interpretive course would be likely to raise diversionary considerations in the minds of at least some members of Convention, and to offer a less clear-cut issue for the consideration and action of General Convention.

Canonical Amendment. In our view this is the proper focus for the General Convention. Amendments of the Canons, suited to frame the issue explicitly, and worded expressly to authorize the ordination of women to the priesthood and the episcopate, if adopted by appropriate action of the General Convention, would serve to accomplish the objective. Concurrent action in both Houses would be necessary, and a vote by orders could readily be had if called for in the House of Deputies.

How Will the Decision be Made? As you are fully aware, the views we are expressing are only our own. Others will, doubtless, differ with us. As your letter of inquiry recognizes, however, our Church has no means for a separate, conclusive, adjudication as to whether constitutional amendment will be required, or whether canonical amendment or interpretive resolution would suffice. The final arbiter as to the procedure to be followed, as well as the substantive result to be reached, will be the General Convention itself.

More important, in our judgment, than any individual pre-Convention expression of opinion as to whether constitutional amendment is necessary or not, is careful attention to the procedures by which General Convention could be enabled to consider and to resolve the issues.

We understand that responsibility for initiating legislative action on the subject of ordination of women to the priesthood and to the episcopate has been assigned in the first instance to the House of Bishops. Although one can never predict with confidence exactly what will be the course of any piece of legislation in the General Convention, two alternative courses appear probable to us. If the Committee of the House of Bishops to which the matter is referred for substantive consideration determined to recommend that ordination of women to the priesthood and to the episcopate be authorized, depending on the collective view of its members, the Committee may then propose amendment of the Constitution, or of the Prayer Book, or of both, on the one hand, or it may propose amendment of the Canons as appropriate for the implementation of its substantive recommendation.

If the Committee chooses the path of constitutional amendment, as we see it, there will be no procedural opportunity in the course of consideration and action on the constitutional proposals to consider the narrower issue as to whether constitutional action is actually required. No one could raise a point of order to challenge the necessity for constitutional action, because whether constitutional action be necessary or not, it could never be said to be inappropriate or out of order. Thus consideration and action with respect to constitutional amendment would proceed to final resolution in the House of Bishops, with the issue of necessity for constitutional action still unresolved.

We would add one footnote. If the issue does come before the House of Bishops in the form of a constitutional amendment, care should be taken to make it abundantly clear exactly what issue is being voted on -- namely, whether women should be ordained to the priesthood and to the episcopate and whether constitutional amendment is appropriate to that end, not whether constitutional amendment is necessary to achieve that objective.

On the other hand, if the Committee chose to propose that its substantive recommendation be accomplished by canonical amendment, a different procedural situation would follow. [For that matter, precisely the same procedural situation would be presented if, following action on a proposal for constitutional amendment, a separate proposal is thereafter introduced (from any proper source) for authorization for ordination by canonical amendment. As we see it, whether the proposal for constitutional action had been adopted or rejected, such adoption or rejection would not foreclose introduction of a distinct proposal for canonical amendment. That is, there is no necessary inconsistency in favoring both constitutional and canonical amendment, nor in opposing achievement of the objective by constitutional amendment and favoring accomplishment of the same objective by canonical amendment.]

When the proposal for canonical amendment came before the House (as a recommendation from the Committee, or from the floor), as presiding officer, either with or without a specific request therefor, you would probably wish to request the advice of the House's Committee on Amendments to the Constitution (and advice, as well, from other sources thought helpful to you) as to whether in fact the proposal for ordination of women did present an issue of constitutional dimension making it inappropriate to take action by canonical amendment only. On the basis of advices to you, and particularly your own judgment in the matter, you would then, as presiding officer, rule that the canonical proposals either were or were not in order.

An appeal could, of course, be taken from your ruling. In that manner, full and open opportunity would be afforded for deliberation and action on the narrow procedural question and the House of Bishops could express its final judgment as to the necessity for constitutional action.

If the determination of the House were to require constitutional action, the proposals for canonical amendment would have effectively been ruled out of order, and that would be the end of the canonical amendment avenue of approach.

On the other hand, if the House were to determine that the matter could properly be disposed by canonical amendment, the House of Bishops would then proceed to consider and take action on the proposed canonical amendments.

Whatever the action of the House of Bishops, whether constitutional or canonical, or both, such action would then be communicated to the House of Deputies, and the latter House would proceed to its separate deliberation and action.

As we see it, the threshold issue of the necessity for constitutional action can be reached only when a proposal for canonical amendment is before the House. Because of what may be the major importance of this issue in the minds of some of the members of the House and because some may feel that this issue must first be confronted and resolved, it might therefore be desirable, if otherwise practicable, to bring up first for consideration in the House proposals for canonical amendment.

Whatever may be the action of the House of Bishops (to adopt proposals for both constitutional and canonical amendment, or to adopt one and reject the other, or to reject both), the House of Deputies will be confronted with nearly identical procedural problems. The action of the House of Bishops, unless it reject all proposals on the subject, will be communicated to the House of Deputies by appropriate message, and the action in the House of Deputies will be on concurrence, concurrence with amendment, or non-concurrence. If the House of Bishops reject all proposals, the House of Deputies may nonetheless consider and take action on proposals which originate in the House of Deputies. We would note, too, that if both Houses (and thus General Convention) took action favoring both constitutional and canonical amendment there would be only an apparent incongruity, since, as stated above, we think there would be no inconsistency in such parallel action. The authorization for ordination, however, would turn on the effective date of the canonical

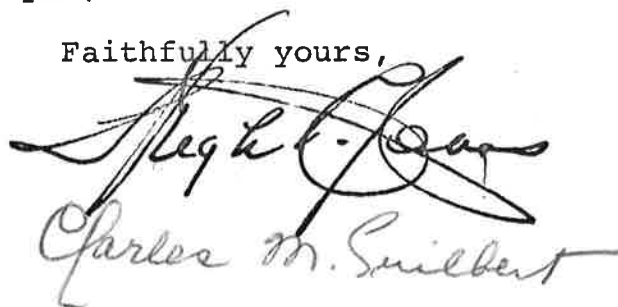
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amendments. Should the constitutional amendments fail of second passage at the next General Convention, the canonical authorization, duly adopted by one Convention, would nonetheless stand undisturbed.

These procedural matters could well take some other course, we recognize. In our view, however, it will be enormously important that the procedure followed be as open and explicit as possible so everyone will fully understand what is occurring, the alternatives, and particularly the significance of casting yes and no votes. All of us cannot be expected to agree with the eventual disposition, whatever it may be, but it would be unfortunate if any justification were given for a view that the procedures had been confused, unclear, or unfair.

We trust these comments are responsive to your inquiries, and useful to you,

Faithfully yours,

A handwritten signature in cursive script, appearing to read "Charles M. Guilbert". The signature is written in dark ink and is positioned below the typed name.