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PT9 Polity and Canon Law of the Episcopal Church
Easter 2017

An Introduction to the Governance of the Episcopal Church

This is an outline of some of the themes and concepts that a typical “Canon Law 101” type of course that seminary students might cover. This course is intended as an overview of some of the more obvious concepts of which a parish priest should be aware. **Reading of the Constitution and Canons will be required along with some secondary sources..** At times various handouts or articles on reserve in the library must be read in order to “fill in” what the lectures can only lightly touch.

Course requirements:

1. **Be present and on time for all the class sessions.**
2. **Take an Active part in any discussion. Please ask questions but not to waste time. Please feel free to disagree with me or each other but please do so respectfully**
3. **There are NO WRITTEN PAPERS for this course. Simply read the required texts. Required reading is introduced by the phrase: “please read”. Any other text marked as “suggested” will give you more information about a topic. That reading is a matter for your personal interest, your own schedule and time and your conscience.**
4. **Finally at the conclusion of the course, there will be one final 7 – 10 minute ORAL EXAM – for reasons which I will share with the entire group.**

A. Law and Church?

Please read: Livingston, E.A. ed. “Canon Law” in The Oxford Dictionary of the Christian Church. 3rd Ed. Oxford: Oxford Univ. Press, 1997. p. 277.

Suggested Reading:

Dulles, Avery. Models of the Church. New York: Image Books, 1974, p. 3
Corriden, James. Introduction to Canon Law. Ch 1
Avis, Paul, “Polity and Polemics: The Function of Ecclesial Polity in Theology and Practice,” in Ecclesiastical Law Journal, 18(2016), p. 2-13
Stevich, Daniel, Canon Law, p. 6-17

---What is Law? What does a legal system try to do? Law as Reactive.
 ---different types (philosophies) of law: Roman Civil Law vs. Common Law. “Divine Law”
 Positive Law. “natural” law civil law, ecclesial law, etc
 ---What is Canon Law and what does it mean?
 ---Why does the Church have a “legal” system? Why “Canon” Law?
 ---Law and Theology: How they Interplay.
 ---Ecclesiology as the Theological Foundation of Church Law: (*Your ecclesiological model will inform and interpret church law*) (cf. Dulles’ MODELS)

--- A very brief examination of the final version Anglican Covenant: The Ridley- Cambridge Text aka: the “November 2009 Text” What, if anything, would such a document declare about who WE are and what WE are as a “church” and as a “province” within the Anglican Communion. An examination of a section “To Maintain the Covenant and Resolve Disputes.”

--- Scope and Purpose of law within the Life of the Church
 ---Types of Law we clergy work with: National, Diocesan, Parochial, (Provincial)?
 (Anglican Communion “Law?”), Civil Law: Your State’s Religious Corporation Law. (*Bring in your parish’s Articles of Incorporation and By-Laws and read them*)

B. A Brief History of Canon Law: Our roots stretch back “down” from Philadelphia to Rome and Canterbury. (*You have to know where you’ve been to know where you’re going!*)

Please Read

Stevich, Daniel B. “Canon Law” in The Study of Anglicanism. Rev. ed., S. Sykes, J. Booty, and J. Knight. Minneapolis, MN: Fortress Press, 1998. p. 216 – 245

Suggested reading: Ammentrout, D. and Slocum, R.B. Documents of Witness – A History of the Episcopal Church 1782 – 1985. New York: Church Hymnal Corp., 1994, p. pp. 14-15 and 24-26.

---“Law” in the Early Church (*Roots in Scripture and Church Fathers – not patristics, again!*)

---Collections of Laws: Decretal letters and Councils (Regional and “Ecumenical”)

---The Collectio Dionysiana

---Forgeries (*you have got to be kidding!*)

---Gregorian reform

---Canon Law and the Eastern Churches

---“The Decretum by John Gratian (*How did he do this without a computer?*)

---Post Gratian Developments

---The Corpus Juris Canonici (a final product?)

---Canon Law since the Reformation: Continent, England, Scotland, etc. –
suspicion!! (yet we kept it)

---Never forget Richard Hooker and his *Laws of Ecclesiastical Polity*

---Setting up the Governance of this newly formed USA Episcopal Church: The 9 Article Constitution of TEC from the First General Convention

---How Canon Law has influence contemporary Jurisprudence: -- *you’d be surprised!*

---Regulae Juris - little norms we often live by.

C. Introduction to The Constitution and Canons

Please look over the Index, the table of contents
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---how to **READ** this book. What do those numbers mean: Title, Canon, Section?

---some basic legal principles of interpretation: legal texts like scriptural texts have a history and a culture. How does one interpret law? What do the words mean?

The Constitution

Please Read the following articles of the Constitution: Preamble, Bishops, Standing Committee, Provinces, Requirements for Ordination, Book of Common Prayer

Also:

James Dator, <u>Many Parts, One Body: How the Episcopal Church Works</u>. NY: Church Publishing, 2010, Ch 2. p. 13-53
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Suggested: White and Dykman Commentary on the Preamble

An examination of selected passages:

- The Preamble (Includes a careful reading of [White and Dykman's](#) commentary on the Preamble to demonstrate how a text develops and is fought about over time and through General Conventions)
- Articles on [General Convention](#), [Bishops](#), [The Standing Committee](#), [Formation of New Dioceses](#), [Mission](#), [Provinces](#), [Requisites for Ordination](#), [The Judicial System](#), [The Book of Common Prayer](#), [Amending the Constitution](#)

D. Title I: ORGANIZATION AND ADMINISTRATION

Please read: Canons 1-7, 9-10, 12-14, 16-20
James Dator, Many Parts, One Body: How the Episcopal Church Works. NY: Church Publishing, 2010, Ch 3 and 4. p. 54-109

Shared Governance, p. 19-46

Canon 1 General Convention

- how is General Convention set up
 - Houses of Bishops and Deputies
- Pres and Vice President of House of Deputies
- Secretary of Convention, Executive Office and Executive Officer
- The "[Blue Book](#)": Report sent beforehand (we'll look at a few Reports over time) Where do all these resolutions come from? (*These are just the A resolutions*)
- the Standing Commissions of General Convention and what they're supposed to do: and their reports: different types of resolutions, JSCPBF
- Executive Council and Creation of new task forces and study committees
- How Resolutions become Legislation in Our Church: How General Convention works
- voting: voting "by orders" when required?
- other aspects of General Convention: special meetings, how deputies are chosen, filling vacancies, (Registrar), Historiographer, Recorder, Treasurer, General Convention Executive Officer, etc.
- General Convention and Budget / Assessment of \$\$\$ from Each Diocese and how this impacts your parish. (*what is your home/sponsoring/field education's parish assessment?*)
- historic decisions of prior General Conventions

Please read: Shared Governance, p. 55-62)

- Canon 2 A very brief look at the role of the Presiding Bishop
- Canon 3 Of the Domestic and Foreign Missionary Society: civil law incorporation and baptismal imperative
- Canon 4 Executive Council: Makeup and Purpose
Development of its work from 2015 GC

Please Read: James Dator, Many Parts, One Body: How the Episcopal Church Works. NY: Church Publishing, 2010, p. 93-96

- Make up
- Mandate
- Authority /leadership
- Budget
- Relation to other Bodies
- Reports created by and sent to Executive Council

- Canon 5 Archives of the Episcopal Church
-makeup
-"records"
-the board
- Canon 6 An "Accurate" View of the State of the Church: The **Parochial Report** and the parish priest. (*bring in one... examine it and read materials*)
+ non-parochial reports
- Canon 7 I.7.4 Business Methods of TEC
The "Denis Canon: Property Held in Trust for Church. (*"Hold on to your hats folks, it's going to be a bumpy ride"* – Betty Davis) (see also II.6.2)
Terms: alienation / encumbrance
--audits and record keeping
- History
 - Ownership of church property
 - "perfect storm" of 1979 – esp. Jones v. Wolf (neutral principles of law)

- Resolution D-024 (what will become Denis Canon – TRUST)
- [Bishop of The Episcopal Diocese of Georgia et. Al v. The Rector, Wardens and Vestrymen of Christ Church in Savannah, filed Oct. 27, 2009 – if there is time]
- Fact or myth – there never was a Dennis Canon?

Suggested Reading:

**Lloyd J. Lunceford, A Guide to Church Property Law, cf. Chapter 6
“Considerations Specific to Episcopalians”, pp. 119-136.**

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Additional handouts

Suggested reading: Shared Governance: p. 47-54

- Canon 9 The Provinces of TEC – Provincial Synods and duties
Principles of Diocesan Legal Integrity and “Subsidiarity”
- Canon 10-11 New Dioceses and Missionary Jurisdictions
- Canon 12 Diocesan Standing Committee and its responsibility. When it becomes
“Ecclesiastical Authority”
---how they are constituted
---council of advice
---Duties of S.C.: when S.C.’s CONSENT is required: cf. Title II and III and
Constitution
- Canon 13 Parishes and Congregations.
--boundaries
- Canon 14 Vestries (what you and your vestry must know)!!
---make up
---legal responsibilities
- Canon 16 Congregations entering TEC – and Associated with TEC
- Canon 17 Laity
---WHO is a member of your local parish?
---who is an adult member
---confirmed or received! (cf. B.C.P.)
---“communicants”: adults...in good standing?
---changing congregations: “transferring membership”
canon law vs. Henry Ford!!!

- I.17.5 RIGHTS of Laity – right of access
- refusal of Holy Communion (see, B.C.P., p. 409)
- no open table

Canons 18 and 19 -- Marriage Canons

Suggested reading: (For Early History and development: Webber, Reinventing Marriage. P. 1-162)

Stevich, D. Canon Law, p. 160-163

---a detailed study of both of these canons with a view toward Marriage Preparation as well as ecclesial clarification of the status of a marriage in trouble.

- conform to state and Eccles. canons
- time to make intentions known
- clergy responsibility toward couple
- declaration of intention
- witnesses
- recording of ceremony
- liturgical resources
- how this canon has changed over the years (cf. White & Dykman)

We'll examine the DECLARATION made by the couple
 Look at Marriage Prep. Programs and some Diocesan Forms used in New York and even a New York State handout with regard to civil requirements.
 --Marriage Ceremonies of those who have been previously married

Canon 20 Churches in Communion with the Episcopal Church

(cf. Actual Covenant Agreement)

Suggested reading: “The Theological Statement on Interreligious Dialogue” by the Standing Commission on Ecumenical and Inter Religious Relations of General Convention - on line

E. Title II WORSHIP

(Please read Title II)

---There are only 6 canons which legislate

- Keeping the Lord's Day Holy (*maybe we need to take a serious look*)
- Authorized Translations of the Scriptures for Public Worship
- How seriously we take the Book of Common Prayer (only 1 "standard")
- The CUSTODIAN of the Standard of the BCP
- Language and worship
- Music and worship
- About our sacred space and buildings
- Procedures for Trial Use and Changes

---a Brief Commentary and History of Title II

F. Title III MINISTRY

please read Title III canons 1,2,4,5,8,9,14 and 15

Canon 1 Ministry of All the Baptized (cf. Catechism: Who are the Ministers of the Church?) rights of laity and ministry (cf. I.17.5)

Canon 2 Commission on Ministry (*what do your Diocesan Canons Say?*)

- Advice
- Assistance
- Assessment
- procedure

Canon 3-4

Leadership

Licensed Ministries ("lay" [?] ministries) (cf. **HANDOUT**)

--licensed ministries in TEC (and their purpose)

--who can be licensed / requirements

--terms of office

--oversight

--the licensed ministries of ECUSA and their duties

--a look at diocesan forms

CANONS 5 – 9 The Ordination Process

Canon 5 --Role of the Bishop in the Discernment and Formation Process

- Role of the Standing Committee
- Role of the Vestry and Sponsoring Parish
- “dispensations” (?)

- Canon 8 Ordination Process (*cf. your Diocesan Canons*)
- what do your diocesan canons say about this time of Postulancy and Candidacy?
 - program for study and formation
 - function of the seminary: its general mandate areas for formation
 - specific areas for theological education
 - training sessions regarding anti-racism and sexual abuse: *Are YOU a “Mandated Reporter?”*
 - Ember Day Letters
 - background investigations
 - evaluations/examinations

- ordination to the Diaconate (*theological questions aside!*) paperwork necessary, consent of standing committee
- ordination to the priesthood: requirements, paperwork, standing committee

- Canon 9 The Life and WORK of Priests (*perhaps I can other rectors to come and speak about some of this*)
- mentoring
 - newly ordained – need for education
 - Assistant Priests
 - Duties of a Parish Priest (notion of spiritual jurisdiction)
 - re: responsibility for buildings and grounds, teaching, sacramental preparation, stewardship, priest as mediator/shadow of the Bishop, *the dreaded* Discretionary funds,
 - licensed for YOUR diocese and respecting parish boundaries
 - priests and/or ministers from “other” churches allowed to officiate
 - Problems b/n priest and parish: reconciliation; dissolution of the relationship

- Canon 14 Religious Orders and Other Christian Communities (*who are these folks who are not so much a part for the structure as they are of the holiness of the Church?*)
- definition of Religious Order
 - recognition of the Order
 - establishment of a “House”
 - Bishop Protector / Visitor
 - ownership of property
 - “Christian Community” v. “Religious Order”

- Canon 15 The General Board of Examining Chaplains (*you know...those folk who give you your dreaded G.O.E. experience!!!!* Purpose and Meaning of GOE’s

- Canon 16 Board of Transitional Ministry: membership, appointment, terms and duties

G. Title IV ECCLESIASTICAL DISCIPLINE

Since this is the darker side of ecclesiastical life, especially in the life of clergy, I believe we must at least be aware of the standards to which we are held, to know there can and should be consequences for such proven misconduct, and that there is a process which attempts to protect the rights of the community and the accused. If possible, I would have one of the Diocesan Vice-Chancellors address some of the issues of substance and process.

Please read: selected sections of Title IV

---some Historical Context

---The prior vs. present (2009) systems of discipline

---principles for Title IV Reform

---What changes did occur in Title IV (2009)

---Principle of Accountability

---Terminology

---Offenses:

IV.3 Being Accountable

IV.4 Standards of Conduct

---Participants w/n the Process: WHO are the players?

---DETERMINATIONS OF THIS PROCESS:

The names of the DECREES and what they mean: ACCORDS orders, Administrative Leave, Pastoral Directions (IV.7)

--rules of evidence (IV.13.8)

---how the process is intended to work:

(IV.6) Intake

(IV.10) Conciliation

(IV.11) Investigation

(IV.12) Conference Panel

(IV.13) Hearing Panel (Highlights)

(IV.15) Review (appeal)

---Some General Provisions c. 19