

From: Les Alvis [lalvis@tsixroads.com]
Sent: Monday, February 21, 2011 6:15 PM
To: Clayton Matthews
Subject: HOB Title IV Task Force

Clay,

The Runyan-McCall paper claims that the duties given to the Presiding Bishop in new Title IV conflict with Article II, Sec. 3, of the constitution, which provides that a Bishop must confine the exercise of the office to his or her own diocese. There is a very important constitutional answer to this objection that is not made in the Bayne-Hutchinson-Delafield paper. I mentioned this briefly on the conference call last week, but I did not realize then that their paper would be made public so soon and I was not able to reach them before the final version of the paper was released.

The sixth paragraph of Article IX of the constitution provides:

None but a Bishop shall pronounce sentence of suspension, or removal, or deposition from the Ministry, on any Bishop, Presbyter, or Deacon; and none but a Bishop shall admonish any Bishop, Presbyter, or Deacon.

This is a constitutional exception to the limitations of Article II, Sec. 3. Under this exception in Article IX, it is plainly constitutional for one Bishop to pronounce sentence upon and to admonish another Bishop. The constitution does not provide how one Bishop may sentence or admonish another. Title IV does. Thus, where Title IV provides for the Presiding Bishop to pronounce sentence on and to admonish another Bishop (and for the vice-chair of the House of Bishops to pronounce sentence on and to admonish the Presiding Bishop), it does so consistently with Article IX of the constitution and without offending Article II, Sec. 3. The constitution itself clearly contemplates Bishops disciplining Bishops. The Runyan-McCall position reads Article II, Sec. 3, in isolation; to the contrary, it has to be read in the context of the whole constitution.

I have conferred with Joe Delafield (the primary author of the constitutionality paper) about this argument, and he agrees that it needs to be added in support of Title IV's constitutionality. I think at some point soon the paper will be updated to include it. Until then, I wanted you and the task force to be mindful of this point. Because it derives not from the canons but from the constitution itself, it is a particularly important one.

Les

Les Alvis
Riley, Caldwell, Cork & Alvis, P.A.
207 Court Street
Post Office Box 1836
Tupelo, Mississippi 38804
Tel. 662 842 8945
Fax 662 842 9032