

## AN OPEN LETTER TO THE HOUSE OF BISHOPS

6 July 2012

The Most Reverend Katharine Jefforts Schori  
Presiding Bishop  
The Episcopal Church  
815 Second Avenue  
New York, NY 10017

Dear Presiding Bishop:

We write to address allegations that have been made against us—both those made by Bishops Ohl and Buchanan in their letter of yesterday and unknown others made in Title IV disciplinary complaints that we have not seen. Bishops Ohl and Buchanan have asked that the record be set straight. That is our intention in this letter.

No charge is more serious to us than the one that we have acted against our own Church—in other words, that we have been disloyal. We assure each of you that we have acted out of a profound loyalty to this Church we love. We knew our decision to file an *amicus* brief in Texas and affidavits in Illinois authenticating our earlier statement on Church polity would be controversial. We took these actions, however, precisely because we thought it our duty to do so in order to uphold the doctrine, discipline and worship of The Episcopal Church as we all have pledged to do. We hope that if you agree with us about nothing else, you will recognize that upholding the constitutional polity of the Church as we understand it is not disloyalty.

Because our views have been mischaracterized, we welcome this opportunity to clarify what we believe and what we have said in our legal submissions. Our primary concern is that the polity that has defined this Church for two centuries is being transformed due to momentary legal objectives in the secular courts. We do not question these objectives. We only believe that the constitutional polity of the Church—the discipline we pledge to uphold—should not be sacrificed in pursuit of these goals.

We can summarize what we were taught years ago and still believe about our governance as follows:

- The Episcopal Church is a hierarchical church and the hierarchical authority for matters within a diocese is the Ecclesiastical Authority of the diocese, which according to our Constitution is the diocesan bishop. Ours is not a metropolitanical church, but a church

with a dispersed hierarchy. We did not invent this understanding of our governance. It has a long and venerable pedigree. For example, in “The Church’s Teaching” series volume on polity, Canon Powel Mills Dawley of General Seminary (working with a committee of church leaders under the auspices of the Church Center) concluded that:

“the dioceses possess an independence far greater than that characteristic of most other Churches with episcopal polity....Diocesan participation in any national program or effort, for example, must be voluntarily given; it cannot be forced. Again, while the bishop’s exercise of independent power within the diocese is restricted by the share in church government possessed by the Diocesan Convention or the Standing Committee, his independence in respect to the rest of the Church is almost complete.”

- As noted, we are not a metropolitan church. Our Constitution has no “Supremacy Clause”; it specifies no office or body with supremacy or hierarchical authority over the Ecclesiastical Authority of the diocese for matters within a diocese. And as bishops, we take no vow of obedience to any other office or body. Priests and deacons pledge conformity to the doctrine, discipline and worship of the Church *and* obedience to the diocesan bishop. Bishops only give the Declaration of Conformity. This was a matter of extreme importance to our founders. Church of England bishops give an oath of “Due Obedience” in which they “profess and promise all due reverence and obedience to the Archbishop and to the Metropolitan Church of Canterbury [York] and to their Successors.” Our founders very intentionally rejected such an oath for The Episcopal Church. We pledge obedience neither to an archbishop nor to a metropolitan church. We pledge to uphold the doctrine, discipline and worship of the Church, but each diocesan bishop is the Ecclesiastical Authority in the diocese.
- Under the First Amendment, secular courts may not make extensive and searching inquiries into, and thereby interfere with, church doctrine or polity in order to decide secular legal cases. This is standard Supreme Court jurisprudence.

If you do not immediately agree with all these points, we invite you to read our Bishops’ Statement on the Polity of The Episcopal Church, which we published in April 2009. It is a comprehensive examination of these issues.

This puts succinctly what we have said in our court submissions. We made these submissions, however, only after we became concerned that the courts were misinterpreting—and thereby forever changing—our constitutional polity based on what we believed was erroneous information about our history and governance.

We began this letter by reiterating, however briefly, what we *did* say because most of the objections seem to be directed at things we *did not* say. Turning now to the specific charges

made by Bishops Ohl and Buchanan, we can only say that none of them accurately describes what we actually said in our submissions.

1. We do not represent or argue that “dioceses can unilaterally leave.” We stated explicitly on the first page of our *amicus* brief that “the *amici* oppose the decision by the Appellants (“Diocese of Fort Worth”) to leave The Episcopal Church, but in its ruling against them the court has misunderstood, and thereby damaged, the constitutional structure of The Episcopal Church.” We do not address in the brief whether withdrawal is permitted under the Constitution. Indeed, some in our number have at great cost ruled such proposals out of order in their own dioceses. Our legal submissions are concerned only with the nature of authority in our Church; we do not address the exercise of that authority by Bishop Iker or any other bishop.
2. We do not “deny the Dennis Canon.” In fact, we do not address property issues at all. The Dennis Canon and property trusts are not even mentioned in our *amicus* brief. The Episcopal Church parties in the Texas litigation have presented extensive argumentation to the Texas Supreme Court that they are entitled to the disputed property even under neutral principles of law. We do not address this issue at all, but our legal analysis that secular courts must use neutral principles of law if they cannot readily identify the nature of a church’s hierarchical authority can hardly be prejudicial to the Episcopal Church parties when they argue themselves that they win under such a standard.
3. We neither deny that this Church can “recognize its own bishops” nor claim that Bishop Iker is still the bishop of the diocese recognized by our Church. In fact, we explicitly state in the *amicus* brief that “The Episcopal Church clearly has the constitutional right to select a new bishop.” We recognize Bishops Ohl and Buchanan as the bishops of the TEC-recognized dioceses. Indeed, one of our number participated in the installation of Bishop Ohl’s predecessor. We acknowledge that Bishop Iker was the Ecclesiastical Authority of the diocese until the vote to withdraw, which is the crucial time period in this dispute, but that is undeniable. We conclude that if the court applies a deference to hierarchy standard—an issue on which we explicitly take no position—the Ecclesiastical Authority at the time of the vote to withdraw was Bishop Iker. We consider that conclusion inescapable given our polity. To the extent that this is a question of nomenclature, the Texas Court has previously ruled that Bishop Ohl and his diocese are not yet entitled to claim the name of “The Episcopal Diocese of Fort Worth” pending the final result of this litigation. Thus, Bishop Iker and his diocese continue to use this name. This ruling, however, plays no role in our analysis. It is not our concern.
4. Strangest of all is the claim that we have violated episcopal jurisdiction. We have performed no episcopal acts in another diocese. All we have done is exercise our civic—not ecclesiastical—rights to petition the government. To our knowledge, no one has ever before suggested that petitioning the legislatures or courts in Washington or state capitols—our brief was filed in Austin, not Fort Worth—requires the consent of the local bishop. To the extent that the claim really is that our submission might have an effect in

another diocese, we would reply that we are simply responding to submissions by others that will themselves have what we believe to be very profound and harmful effects on all our dioceses, not only in Texas but across the Church. And we note that we are not the first bishops of our Church to file an *amicus* brief this year with the Texas Supreme Court. Others filed a brief in another property dispute involving Bishop Ohl's former diocese. Clearly, it is the views we express, not the act of filing a brief, to which objection is taken.

This brings us back to where we started. We are convinced that the venerable polity of our Church is under threat due to the temporary exigencies of secular litigation. However much we may understand and sympathize with these objectives, we consider it our greater duty to uphold our constitutional polity. Whether or not you agree with our interpretation—and we all must acknowledge that our polity is in some ways obscure—we hope you will recognize that we are doing our duty to uphold the good order of the Church as we perceive it and that it is no small part of the burden of that duty to know that others take offense from our actions.

Faihfully,

The Rt. Rev. Paul E. Lambert

The Rt. Rev. William H. Love

The Rt. Rev. D. Bruce MacPherson

The Rt. Rev. Daniel H. Martins

The Rt. Rev. Edward L. Salmon

The Rt. Rev. James M. Stanton