

**ANNOTATED CONSTITUTION
AND CANONS
Episcopal Church
1981 EDITION
VOLUME I**

VOLUME I




BY EDWIN AUGUSTINE WHITE, D.D., D.C.L.


Second Edition, Revised, 1954
BY JACKSON A. DYKMAN, D.C.L.

1981 EDITION
Revised and Updated by the Standing Commission on
Constitution and Canons of the General Convention





**ANNOTATED
CONSTITUTION AND
CANONS**
for the Government of the
Protestant Episcopal Church
in the
United States of America
otherwise known as
The Episcopal Church



Adopted in General Conventions
1789-1979

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FOREWORD TO THE 1997 REPRINT

In 1976, the General Convention directed the editing, updating, publication and sale of a revised edition of the *Annotated Constitution and Canons* first written by Edward Augustine White and updated in 1954 by Jackson A. Dykman.

Under the able and loving guidance of Fred C. Scribner, Jr., D.D. of Maine, now deceased, Volume I of this revision was published in 1982 and was followed in 1985 with Volume II, both of which covered the actions of the General Convention through 1979 and which annotated the *Constitution and Canons* as existing and printed in 1979.

In 1989, 1991 and 1996, Supplements to the 1981 Edition were produced, which included the constitutional and canonical legislation enacted by the 1982, 1985, 1991, and 1994 General Conventions. These have been produced in a soft-cover format and are distributed to the subscribers to the 1981 edition.

Attention is respectfully called to the Foreword in Volume I of the 1981 Edition for the complete history and philosophy behind that revision. The following excerpts from that Foreword succinctly state the goal of the work:

This book has been produced as a source book for those who share the responsibility within the Church of explaining and interpreting the provisions of its Constitution and Canons. It is not history. It is not a textbook. It is a reference book giving background, color, and life to Church policies established by the General Convention over many decades.

This annotation is respectfully submitted to supply needed information as scholars seek to ascertain when and why new canons were written and old ones amended or repealed, to fill a void that now exists in the written history of the Church's Constitution and Canons, and as an authoritative expression of the meaning of the Constitution and Canons of the Episcopal Church as they exist at this time.

One thousand copies of the hard-cover 1981 Edition were produced and issued to the Church. This has proved to be an inadequate supply to keep sufficient copies available and in the hands of the Church leadership that has succeeded those who purchased the original copies of that Edition. In fact, many of today's leaders do not have ready access to this most valuable resource.

The Executive Officer of the General Convention, with the cooperation and support of Church Publishing Incorporated, has undertaken to reprint Volumes I and II of the 1981 Edition in soft-cover binding to once again make this most valuable resource available to the Church. The 1997 printing taken together with the 1996 Supplement provides full and complete annotated coverage of the *Constitution and Canons* adopted at the General Conventions from 1789 through and including 1994.

Given the extensive revisions to the Canons since 1979, both as to substance and organization, plans are now underway for a complete revision of the *Annotated Constitution and Canons* to be issued immediately following the 73rd General Convention in 2000.

In the meanwhile, this reprint coupled with the 1996 Supplement should continue to provide support for and assistance to those who share the responsibility within the Church of explaining and interpreting the provisions of its Constitution and Canons.

Robert C. Royce, Esq., Editor
White & Dykman Supplements

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FOREWORD



In 1924, Dr. Edwin A. White published his study on the Constitution and Canons of the Episcopal Church, covering the period from the first General Convention through 1922. This handbook brought together, for easy reference, materials required by students, historians, and all who were interested in the Church's legislation.

Unfortunately, following the publication of Dr. White's work, no procedure was adopted to keep it updated and revised as changes were made by General Convention.

Recognizing a need and the demand for a revision and updating, the 1937 General Convention authorized the appointment of a joint commission to procure a person or persons to revise Dr. White's study. This commission and successor commissions reported to the next four General Conventions, but no material was published during the twelve-year period.

The 1949 Convention added Dr. Jackson A. Dykman, at that time the Church's leading authority on its Constitution and Canons, to the joint commission, and he undertook the work required, completing a manuscript that was based on and supplemented the material covered in Dr. White's book. Reviewed and authorized by the 1952 Convention, this new edition was published in 1954.

Much of the text of the 1954 edition (now known as White & Dykman), as it related to events which occurred prior to 1922, came from Dr. White's work, changes being made in those expositions which had become outdated by subsequent actions of General Convention.

Dr. Dykman and those associated with him knew that, without an updating, the thoroughly researched 1952 annotation would soon be outdated and of limited value. The 1952 Convention, therefore, created a joint committee on supplements to White & Dykman, and succeeding conventions continued this joint committee, which published a series of triennial pocketparts following the 1955, 1958, and 1961 General Conventions.

Following the 1964 Convention a cumulative supplement to White &

Dykman was published by The Seabury Press. No supplementary material has been published since that date.

As the 1952 work became more and more outdated, a new generation of people charged with carrying out the provisions of the Constitution and Canons made clear the need to bring the annotation up to date.

The 1976 Convention, noting that White & Dykman was the regularly accepted authoritative statement of the history and background of the Constitution and Canons of the Church, and that this important resource material was out of print, not generally available, and had not been supplemented for many years, urged the Joint Standing Committee on Constitution and Canons, if such were established, or the Executive Council, to supervise and arrange for the editing, updating, publication, and sale of a revised edition of White & Dykman.

This resolution provided the stimulus for the authorization by the Convention of a standing commission on Constitution and Canons.

At the first meeting of the commission, a committee composed of Fred C. Scribner, Jr., Chairman, George L. McGonigle, and Reynolds S. Cheney was appointed to plan and supervise all the work necessary to bring this new publication into being. In 1979, Robert C. Royce replaced Mr. Cheney as a member of the committee.

The Rev. Canon Charles M. Guilbert, who retired as secretary-treasurer of the General Convention in 1976, having served for eighteen years as secretary of the General Convention and of the House of Deputies, possesses invaluable knowledge of General Convention activities beginning with the Convention of 1955 and ending with that held in 1973. Responding to the urging of the commission, he, with the assistance of his daughter, Mrs. Elizabeth G. Jennings, undertook the laborious and demanding task of reviewing, and supplementing out of his own knowledge, the facts set forth in the Journals of Convention.

Canon Guilbert fully understood the need of a complete and accurate updating of White & Dykman, and these new volumes will attest to his unique contribution to the history of the Church.

The commission reported to the 1979 General Convention that Canon Guilbert and Mrs. Jennings had made substantial progress in their task, and that the commission expected to complete its work during the next triennium. The Convention thereupon authorized the commission to publish its new edition.

Howard E. Galley, Jr., a student of Church history with outstanding credentials, who had given valuable assistance in the drafting of the 1979 Book of Common Prayer, and who had participated in the editing of the Journals of several General Conventions, took the responsibility of producing the 1981 revision of White & Dykman. It was his task to take the information supplied by Canon Guilbert and others, and set it

forth in the style of the previous editions. Mr. Galley also undertook the research needed to clarify the legislative history of a number of the canons. These volumes reflect both his scholarship and his understanding of the Church.

The commission also set as a goal the securing of an outstanding scholar whose detailed knowledge of the Church and its decisions would enable him to produce a major contribution in this field by commenting on the changes that have been made in the Constitution of the Church since the time it was originally drafted. The Rev. Canon Powel M. Dawley, Ph.D., D.D., Emeritus Professor of Ecclesiastical History of the General Theological Seminary, was asked to undertake this task and brought enthusiasm and skill to this section of these volumes.

This edition of White & Dykman is, in large part, the product of the devoted services and the unique skills of Canon Guilbert, Mr. Galley, and Canon Dawley.

But it is also true that this revision is not the work of one scholar, or of three or four skilled writers, or of a small group of researchers. Scores of individuals, bishops, priests, and lay people, have commented and written summaries and expositions which appear in these volumes. Many also furnished helpful suggestions to Canon Dawley as he wrote of constitutional changes. In the second volume of this edition, the contributions of individuals who have participated will be acknowledged, with references in many instances to the sections of this work to which their contributions relate.

We repeat here with approval the following paragraph which appears on page vii of the Foreword to the 1954 edition:

Those using this book should bear in mind that the Canon Law of the Church of England and the body of tradition of the Catholic Church in England (*i.e.*, Anglican) both before and after the Reformation is of weight in the decision of questions in the Protestant Episcopal Church of the United States of America, except where conditions have altered, or when the relevant regulation or custom has fallen into desuetude, or the General Convention has occupied the field by legislation. They should also bear in mind that civil cases cited in the text must be considered in the light of the civil law of the jurisdiction in which they were decided.

The members of this commission were fortunate to have the opportunity to serve under the skilled leadership of Bishop Duncan M. Gray, Jr., who served six years as chairman of the standing commission, and who gave leadership and enthusiastic support to the drafting committee. We are most grateful.

The commission also had the support of the Presiding Bishop, the Rt. Rev. John M. Allin, his associate, Bishop Milton Wood, the staff of the Presiding Bishop, and of the Rev. Canon James R. Gundrum, Secretary of the House of Deputies and Executive Officer of the General Convention, and all in the General Convention office who took great interest in the work as it went forward.

Reaching the printing stage, we placed our material in the hands of Edward J. Bermingham, president of The Seabury Press, and the skilled people who serve that organization. The physical appearance of the annotation and the lasting qualities this book possesses reflect the care and judgment brought to this task by The Seabury Press.

Early financial support for this project came from the Church Hymnal Corporation, acting on behalf of the Church Pension Fund, under the leadership of its president, Robert A. Robinson, and his associate, the Rev. Craig W. Casey. Through the efforts of Robert C. Royce, Esq., a member of the commission, the trustees of the George Mercer, Jr., Memorial School of Theology of Long Island made \$10,000 available on a matching fund basis. The Rt. Rev. Ned Cole, Bishop of Central New York, was also most helpful, securing a gift from a foundation in his diocese. The 1979 General Convention appropriated \$15,000 to assist the commission. Finally, through the efforts of John D. Cochran, a member of the commission, three churches of the Diocese of Indianapolis, Christ Church Cathedral, Trinity Church, and St. Paul's, gave a total of \$30,000 to make possible the publication and sale of the new two-volume work at a reasonable price.

This is indeed an updating and revision of White's handbook as it was supplemented by Dykman's annotations. Wherever possible, we have preserved and used the original language and emphasized points which were given importance by White in 1924 and Dykman in 1954. This book has been produced as a source book for those who share the responsibility within the Church of explaining and interpreting the provisions of its Constitution and its Canons. It is not a history. It is not a textbook. It is a reference book giving background, color, and life to Church policies established by General Conventions over many decades.

This annotation is respectfully submitted to supply needed information as scholars seek to ascertain when and why new canons were written and old ones amended or repealed, to fill a void that now exists in the written history of the Church's Constitution and Canons, and as an authoritative expression of the meaning of the Constitution and Canons of the Episcopal Church as they exist at this time.

This has been a team effort of the commission, and I acknowledge with thanks the work, interest, and support of all its members. This is their production and the commission's response to the Convention's direction to produce an updated annotation. I trust it will be found to be a worthy successor to White & Dykman, 1954.

Fred C. Scribner, Jr., *Chairman*
White & Dykman Committee

As chairman of the Standing Commission on Constitution and Canons for the past six years, I would like to express my deep appreciation, and the appreciation of the entire commission, for the excellent job done by Fred C. Scribner, Jr., as chairman of our White & Dykman committee. Mr. Scribner has been in charge of the project from its beginning, and it is due to his untiring efforts and generous giving of his time and his talents that this work has finally come to fruition. We are indebted to him for his faithful service and devotion to this task, and we feel that the entire Church should be aware of this debt. Without him there would have been no such publication.

(The Rt. Rev.) Duncan M. Gray, Jr., *Chairman*
Standing Commission on Constitution and Canons



CONSTITUTION
of the
Episcopal Church



CONSTITUTION



PREAMBLE

Name of Church. The Protestant Episcopal Church in the United States of America, otherwise known as The Episcopal Church (which name is hereby recognized as also designating the Church), is a constituent member of the Anglican Communion, a Fellowship within the One, Holy, Catholic, and Apostolic Church, of those duly constituted Dioceses, Provinces, and regional Churches in communion with the See of Canterbury, upholding and propagating the historic Faith and Order as set forth in the Book of Common Prayer. This Constitution, adopted in General Convention in Philadelphia in October, 1789, as amended in subsequent General Conventions, sets forth the basic Articles for the government of this Church, and of its overseas missionary jurisdictions.



As originally adopted in 1789, the Constitution had no introductory matter, the heading being simply, "The Constitution of the Protestant Episcopal Church in the United States of America." Early in the nineteenth century it was expanded to read "Constitution of the Protestant Episcopal Church in the United States of America. Adopted in General Convention, in Philadelphia, October, 1789." By 1844 this had been reduced to, "Constitution. Adopted in General Convention, in Philadelphia, October, 1789."

In the Convention of 1895, a partial report was received from the revisers of the Constitution, including the heading:

Constitution and Canons for the Government of that portion of the Catholic Church known in Law as the Protestant Episcopal Church in the United States of America.¹

Though proposed for adoption in 1895, it failed to pass in the Convention of 1898.² The revision of the Constitution adopted in 1901 returned to the heading that had been in use since 1844, adding thereto the words, "As Amended in Subsequent General Conventions." In the Convention of 1907, a long and rambling Preamble was proposed that affirmed the adherence of the Episcopal Church to the four essential constituent elements of the historic Church as set forth in the Lambeth Quadrilateral, though the Quadrilateral was not mentioned by name.³ It failed to be adopted in 1910, and the heading of 1901 remained until it was incorporated within the text of the present Preamble, proposed in 1964 and adopted at the Convention of 1967.

EXPOSITION OF THE PREAMBLE

The immediate occasion of the composition of the Preamble was a resolution submitted to the House of Bishops at the Convention of 1964 by its committee on memorials and petitions. The committee, having received memorials from the Dioceses of Chicago, Montana, New Jersey, and South Florida, petitioning for a change of the name of the Church, requested permission to prepare

a simple resolution on the subject, to be presented to the House at the next session thereof, without explanatory material, and to be voted on without debate.

Permission was granted, and the following resolution was submitted, moved, and adopted:

Resolved, the House of Deputies concurring, that the official name of this Church be changed by expunging the word "Protestant" from its title; and that steps be taken to effect the necessary constitutional and canonical changes in harmony therewith.⁴

The resolution was the last in a series of efforts to change the name of the Church that had extended over almost ninety years. The first direct attempt was made in the House of Deputies in the Convention of 1877. It was defeated overwhelmingly.⁵ For forty years before 1877, however, the matter had been the subject of debate and often acrimonious controversy in the church press, the High Churchmen of the day advocating a change lest the term "Protestant" obscure the Catholic

1. *Journal of the General Convention*, 1895, p. 222.
2. *Journal*, 1898, p. 296.
3. *Journal*, 1907, p. 531.
4. *Journal*, 1964, pp. 262-63.
5. *Journal*, 1877, pp. 139-40.

heritage of Anglicanism, while their Evangelical opponents clung tenaciously to a name which they felt affirmed the Reformation experience of the Church of England.⁶

The controversy projected itself, at least indirectly, into the Convention of 1844. The church press reported that the Rev. Dr. Samuel F. Jarvis of Connecticut, an eminent, if somewhat abrasive, historical scholar, who had been one of the first two professors at the General Theological Seminary in 1819, had presented credentials in the House of Deputies describing himself as a "Presbyter of the Reformed Catholic Church." His right to be seated was challenged by a lay deputy from Ohio, then a diocese reflecting the strong Evangelical opinions of Bishop McIlvaine, on the grounds that Dr. Jarvis had "joined another Church." Jarvis was seated, but the episode produced a resolution offered in the House of Deputies:

That the practice of omitting the full name of the Church in printed Documents, or of substituting any other, is derogatory to the Protestant character of our Church, and of evil tendency.⁷

Action on the resolution was postponed, and it was subsequently withdrawn by its proposer.

The rejection of the move to change the name of the Church in 1877 did not halt the agitation. On the contrary, the issue appeared regularly in Convention thereafter, having a longer life in Convention discussions than any other in the history of the Church. In 1886, for example, one resolution proposed to expunge the words "Protestant Episcopal" from the Church's name as "too narrow and exclusive a designation of a Branch ... of the One Holy Catholic and Apostolic Church," and, therefore, "pernicious and harmful," while another resolution sought to change the name to "The American Catholic Church."⁸ Change was defeated in this Convention by a much smaller margin than in 1877, but "The American Catholic Church" persisted as a suggested alternative and appeared again in 1901.⁹ In that Convention, as in 1895 and later in 1910, the attempt to change the name was extended to appropriate alterations on the title page of the Prayer Book and in the Declaration of Conformity prescribed by Article VIII of the Constitution.¹⁰

6. An exhaustive study of the controversy is contained in *The Origin and Meaning of the Name "Protestant Episcopal"* by Robert W. Shoemaker, New York, 1959.

7. *Journal*, 1844, p. 25.

8. *Journal*, 1886, pp. 175-76.

9. *Journal*, 1901, pp. 19, 193, 298.

10. *Journal*, 1895, pp. 79, 289-90; 1910, p. 294.

Partisan controversy gradually diminished after 1910, and efforts to substitute other names for the Church's official designation were abandoned in favor of simply removing the word "Protestant." In 1955, for example, a resolution was offered and defeated in the House of Deputies that illustrates the changes sought in the final years before 1964. It was moved that

The name of this Church shall be *The Episcopal Church in the United States of America*; That Article VIII of the Constitution be amended by omitting from the Declaration required of those to be ordained or consecrated the word "Protestant" ... That the title page of the Book of Common Prayer ... be amended to describe the Church as *The Episcopal Church in the United States of America*.¹¹

When the resolution passed by the House of Bishops in 1964 proposing the removal of the word "Protestant" reached the House of Deputies, it was referred to the committee on amendments to the Constitution. By that time, the abatement of past churchmanship controversies left the chief obstacle to such change the possibility of legal complications, a matter that had been raised as early as 1877.¹² The committee requested its chairman, the Very Rev. John C. Leffler of Olympia, and its secretary, Mr. David E. Bronson of Minnesota, to draft a suitable amendment that would avoid any legal problems. During the ensuing deliberation they accepted a proposed amendment offered privately by Dr. Clifford P. Morehouse of New York, President of the House of Deputies. This consisted of the Preamble in the exact form in which it was later adopted. The committee approved the proposed Preamble unanimously and presented it to the House of Deputies. After defeating two amendments which were offered during the debate, one of which sought to substitute the resolution as originally presented and the other to amend the text by changing the order of the first two lines, the House of Deputies voted to recommend to the Convention of 1967 the adoption of the Preamble.¹³ The House of Bishops concurred.

When adopted by the House of Deputies in the Convention of 1967 by a very large majority in both orders, an action with which the Bishops concurred, the Preamble became, in the words of the resolution presenting it, "an integral part of the Constitution."¹⁴

Out of the long and often acrimonious controversy over the name of the Church, came not only a peaceful resolution of that issue, but also a valuable and succinct definition of the nature and structure of the Anglican Communion, with an affirmation of the constituent membership of the Episcopal Church therein.

11. *Journal*, 1955, p. 197.

12. *Journal*, 1877, pp. 85-86.

13. *Journal*, 1964, pp. 262-64.

14. *Journal*, 1967, pp. 379-80.

There remained the matter of the use of the word “Protestant” in the Declaration of Conformity and on the title page of the Prayer Book. In the Convention of 1976, the House of Bishops proposed the deletion from the title page of the proposed Prayer Book the words “Protestant Episcopal Church in the United States of America otherwise known as.” The Deputies concurred, and the effect was to leave simply the words “According to the use of The Episcopal Church.” The proposed amendment was adopted by both houses in the Convention of 1979.¹⁵ Likewise, in 1976 the Committee on Amendments to the Constitution of the House of Deputies proposed an amendment to Article VIII of the Constitution, striking the word “Protestant” before the words “Episcopal Church.” It was adopted by the House of Deputies and the House of Bishops concurred. Both houses gave final approval in the Convention of 1979.¹⁶

15. *Journal*, 1976, C-25; 1979, C-9-10.

16. *Journal*, 1976, C-76; 1979, C-37.



ARTICLE I.

General Convention. Sec. 1. There shall be a General Convention of this Church, consisting of the House of Bishops and the House of Deputies, which Houses shall sit and deliberate separately; and in all deliberations freedom of debate shall be allowed. Either House may originate and propose legislation, and all acts of the Convention shall be adopted and be authenticated by both Houses.

House of Bishops. Sec. 2. Each Bishop of this Church having jurisdiction, every Bishop Coadjutor, every Suffragan Bishop, and every Bishop who by reason of advanced age or bodily infirmity, or who, under an election to an office created by the General Convention, or for reasons of mission strategy determined by action of the General Convention or the House of Bishops, has resigned his jurisdiction, shall have a seat and a vote in the House of Bishops. A majority of all Bishops entitled to vote, exclusive of Bishops who have resigned their jurisdiction or positions, shall be necessary to constitute a quorum for the transaction of business.

Election of Presiding Bishop. Sec. 3. At the General Convention next before the expiration of the term of office of the Presiding Bishop, it shall elect the Presiding Bishop of the Church. The House of Bishops shall choose one of the Bishops of this Church to be the Presiding Bishop of the Church by a vote of a majority of all Bishops, excluding retired Bishops not present, except that whenever two-thirds of the House of Bishops are present a majority vote shall suffice, such choice to be subject to confirmation by the House of Deputies. His term and tenure of office and duties and particulars of his election

not inconsistent with the preceding provisions shall be prescribed by the Canons of the General Convention.

Succession in case of resignation, death, or disability. But if the Presiding Bishop of the Church shall resign his office as such, or if by reason of infirmity he shall become disabled, or in case of his death, the Bishop who, according to the Rules of the House of Bishops, becomes its Presiding Officer, shall (unless the date of the next General Convention is within three months) immediately call a special meeting of the House of Bishops, to elect a member thereof to be the Presiding Bishop. The certificate of election on the part of the House of Bishops shall be sent by the Presiding Officer to the Standing Committees of the several Dioceses, and if a majority of the Standing Committees of all the Dioceses shall concur in the election, the Bishop elected shall become the Presiding Bishop of the Church.

House of Deputies. Sec. 4. The Church in each Diocese which has been admitted to union with the General Convention shall be entitled to representation in the House of Deputies by not more than four Presbyters, canonically resident in the Diocese, and not more than four Lay Persons, communicants of this Church, in good standing in the Diocese but not necessarily domiciled in the Diocese; but the General Convention by Canon may reduce the representation to not fewer than two Deputies in each order. Each Diocese shall prescribe the manner in which its Deputies shall be chosen.

Deputies of Missionary Diocess. The Church in each Missionary Diocese beyond the territory of the United States of America, which shall have been established by the House of Bishops or by the Constitution, and the Convocation of the American Churches in Europe, shall be entitled to representation in the House of Deputies equal to that of other Dioceses, subject to all the qualifications, and with all of the rights, of Deputies, except as otherwise provided in this Constitution. Each such Missionary Diocese, and the Convocation of the American Churches in Europe, shall prescribe the manner in which its Deputies shall be chosen.

Quorum. To constitute a quorum for the transaction of business, the Clerical order shall be represented by at least one Deputy in each of a majority of the Dioceses entitled to representation, and the Lay order shall likewise be

represented by at least one Deputy in each of a majority of the Dioceses entitled to representation.

Majority On any question, the vote of a majority of the Deputies
Vote. present shall suffice, unless otherwise ordered by this Constitution; or, in cases not specifically provided for by the Constitution, by Canons requiring more than a majority; or unless the Clerical or the Lay representation from three or more Dioceses require that the vote be taken by orders.

Vote by In all cases of a vote by orders, the two orders shall vote
Orders. separately, each Diocese and Missionary Diocese having one vote in the Clerical order and one vote in the Lay order; and the concurrence of the votes of the two orders shall be necessary to constitute a vote of the House. No action of either order shall pass in the affirmative unless it receives the majority of all votes cast, and unless the sum of all the affirmative votes shall exceed the sum of other votes by at least one whole vote.

Adjournment. Sec. 5. In either House any number less than a quorum may adjourn from day to day. Neither House, without the consent of the other, shall adjourn for more than three days, or to any place other than that in which the Convention shall be sitting.

Time and Sec. 6. The General Convention shall meet not less than
place of once in each three years, at a time and place appointed by
meeting. a preceding Convention; but if there shall appear to the Presiding Bishop, acting with the advice and consent of the Executive Council of the Church or of a successor canonical body having substantially the powers now vested in the Executive Council, sufficient cause for changing the place or date so appointed, he, with the advice and consent of such body, shall appoint another place or date, or both, for such meeting. Special meetings may be provided for by Canon.



“There shall be a General Convention of the Protestant Episcopal Church in the United States of America ...” With this assertion, the primary article of the Constitution of 1789 created a national legislative body for the governance of the Episcopal Church. It was the first Church outside the British Isles in what would later become a fellowship of Churches called the Anglican Communion.

At the close of the American Revolution, the leaders of the former Church of England in the colonies accomplished a task of heroic proportions, and one for which there were few, if any, ecclesiastical precedents. They organized the separate and scattered Anglican parishes into independent Churches in each of the new states. This was done in the face of prejudice and hostility, and despite the crippling loss of financial support from former legal establishments, and of grants from the Society for the Propagation of the Gospel, as well as the withdrawal of many of the Society's clergy and the loss of hundreds of Loyalist church members by their emigration to the British colonies in Canada and the West Indies. Yet the early leaders not only organized their Churches, but also secured an episcopate, and in 1789 crowned their achievements by the federation of the Churches in the several states into a national body of Episcopalians, bound together by the Church order and discipline enshrined in their Constitution and Canons, and united in the faith and practice of their Book of Common Prayer. Thus, an independent and self-governing Anglican Church was formed, faithful to its heritage from the Church of England, yet distinctively American in the ethos of its Church life and in some aspects of its ecclesiastical polity.

This distinctiveness in polity was revealed at the outset in the character of the General Convention. "The Church in each State shall be entitled to a representation of both Clergy and Laity..." With this declaration the second article of the original Constitution proclaimed the adherence of the Episcopal Church to the principle that those who are to be governed by ecclesiastical laws have a right to participate in their formulation, and that this right belongs to the laity as well as the clergy. The inclusion of laity as members of a national legislative body was maintained from the beginning of negotiations for the union of the separate Churches, and was recommended in the "Principles of Ecclesiastical Union" drawn up in 1784. "Without the order of laity permanently making a part of our assemblies," noted Bishop White, "it were much to be apprehended, that laymen would never be brought to submit to any of our ecclesiastical laws."¹

This principle may have become more clearly defined in the minds of the framers of the Constitution by the fact that, for a hundred and eighty years, the colonial parishes, technically under the jurisdiction of the distant Bishop of London, were in fact without any effective episcopal supervision. In this situation, laymen assumed responsibilities for the

1. William White, *Memoirs of the Protestant Episcopal Church*, Philadelphia, 1820, pp. 78-79.

care and governance of the parishes on a scale completely unknown in England. Lay representation in the Church's legislative body was a radical departure from the polity of the English Church. The ancient provincial Convocations of Canterbury and York were composed of bishops and priests. It was not until the Church Enabling Act of 1919 created the Church Assembly — a body composed of three houses: Bishops, Clergy, and Laity — that the English laity were given a voice in the determination of Church affairs, save that those touching matters of theology were reserved to the Convocations. American laity in General Convention, however, possess not only a voice and vote equal to those of the bishops and clergy in all forms of Church legislation, but by means of the vote by orders in the House of Deputies, the same veto possessed by the other orders.

Another principle of polity embodied in the Constitution of the Episcopal Church is the equal representation of dioceses in the House of Deputies of General Convention. Before their adherence to the Constitution united the Churches in the several states into a national body, each was completely independent. Equality of representation was the only ground upon which they would have consented to unite. Irrespective of size, or numbers of clergy and people therein, each Church was granted the same representation in each order, and in the event of a vote by orders, one vote in each order. Thus the early phrase "suffrages by States," and still today a vote by orders is also a vote by dioceses.

Attempts to alter this original arrangement by introducing some scheme of proportionate representation, to correct what appeared to the larger dioceses as an unjust provision, have often been made in the House of Deputies. No change has been made, however, in what the committee on amendments to the Constitution once described as the intention of

the framers of the Constitution ... to establish the principle of Diocesan equality as the foundation upon which the Church in the United States was to be built.²

Whether or not it was true, as was said in the debate that followed the committee's report, that "to destroy that equality would be to destroy the very foundation upon which the Church in the United States has been built up," is perhaps a matter for the wisdom of the Church a century later to decide.

2. *Journal*, 1877, p. 98.

EXPOSITION OF ARTICLE I

As it stands in the present Constitution, Article I: (1) establishes a General Convention of the Episcopal Church, consisting of a House of Bishops and a House of Deputies, each house having the right to originate and propose legislation, and requires that all acts of the Convention be adopted and authenticated by both houses; (2) prescribes the composition of the House of Bishops, and the manner whereby a quorum for the transaction of business is determined; (3) provides for the election of the Presiding Bishop of the Church both in the normal course of the expiration of a Presiding Bishop's term of office, and in the event of a vacancy due to resignation, disability, or death; (4) fixes the representation in the House of Deputies of each diocese, each missionary diocese, and the Convocation of the American Churches in Europe at not more than four presbyters and four lay persons, or, should the General Convention so order by canon, not fewer than two deputies in each order. The manner of determining a quorum in the House of Deputies is prescribed, as well as the method of voting by dioceses in each order when required by the Constitution or canons, or when requested by the clerical or lay deputies of three or more dioceses. The article also (5) regulates the adjournment of either house; and (6) requires a meeting of the General Convention not less than once in three years, prescribing also the manner in which the time and place of such meetings shall be determined.

Article I first appeared in its form of six sections in the extensive revision of the Constitution proposed in 1898 and adopted in 1901. These sections incorporated and expanded the first three articles of the Constitution of 1789. Reference is made below to these articles of what might be called the "old Constitution" by Arabic numerals — Articles 1, 2, and 3. Subsequent alterations and additions to the six sections in the Constitution of 1901 have resulted in Article I as it now stands.

SECTION 1

The first section establishes the General Convention in its two houses, each having the right to originate and propose legislation, with the concurrence of both houses being necessary to adopt any act. The section is composed of the first few words of Article 1 and a portion of the substance of Article 3 of the old Constitution. Section 1 today reads exactly as adopted in 1901, having remained unchanged for eighty years.

The Constitution approved in Philadelphia in the August session of the Convention of 1789 gave the House of Deputies, then termed "the Convention," the power to originate and propose legislation. The House of Bishops, which was to come into being when "there shall be three

or more” bishops, was a “House of revision,” without the right to originate and propose legislation. Acts of the Convention were to be submitted to the bishops for their concurrence. Should they fail to concur, the proposed legislation could become law if three-fifths of the deputies adhered to it.³ The Constitution was signed by William White, Bishop of Pennsylvania and President of the Convention, and the clerical and lay representation of the Churches in New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, and South Carolina.

The Churches in the states of New England were not represented in this session of the Convention, chiefly because “Bishop Seabury lay under some misapprehensions concerning an entry in the minutes of a former convention, as intending some doubt of the validity of his consecration.” Informed of this, the Convention resolved unanimously “That it is the opinion of this Convention, that the consecration of the Right Rev. Dr. Seabury to the Episcopal office is valid.”⁴

The Convention adjourned on August 8 to meet again on September 29, at which time they proposed to confer with Samuel Seabury, Bishop of Connecticut, and representatives of the Churches in Massachusetts, New Hampshire, and Connecticut, “for the purpose of settling articles of union, discipline, uniformity of worship, and general government among all the Churches in the United States.” When the Convention reassembled, Bishop Seabury and “the eastern gentlemen,” as Bishop White called the New Englanders, objected to the subordinate position proposed for the House of Bishops. Such a “frame of ecclesiastical government could hardly be called episcopal” in their opinion.⁵ On October 2, the Rev. Dr. William Smith, chairman of a committee appointed to confer with the New England representatives, reported to the Convention that they would enter the union if the third article of the Constitution

be so modified as to declare explicitly the right of the Bishops, when sitting in a separate House, to originate and propose acts for the concurrence of the other House of Convention, and to negative such acts proposed by the other House as they may disapprove.⁶

The members of Dr. Smith’s committee, “impressed with the importance of an union to the future prosperity of the Church,” recommended “a compliance with the wishes of their brethren.” The Convention, therefore, amended Article 3, striking out the phrase “House

3. *Journals of the General Convention 1785-1853*, ed. F. L. Hawks and W. S. Perry, Philadelphia, 1861, I, p. 93.

4. *Journals*, ed. Hawks and Perry, I, p. 71.

5. White, *Memoirs*, pp. 174-75.

6. *Journals*, ed. Hawks and Perry, I, p. 95.

of revision” and granting the House of Bishops the right to originate and propose legislation. There was objection, however, to giving the Bishops a full negative [veto] upon acts of the House of Deputies. Bishop White records that such a negative would have been allowed but for the firm opposition of a deputy from Virginia, who assured the Convention that “it was so far beyond what was expected by the church in his state, as would cause the measure to be disowned.”⁷

A compromise was effected, to which Bishop Seabury and his companions gave reluctant consent. The vote in the House of Deputies necessary to pass a measure over the non-concurrence of the Bishops was increased to four-fifths, and a resolution was passed:

That it be made known to the several State Conventions, that it is proposed to consider and determine in the next General Convention, on the propriety of investing the House of Bishops with a full negative upon the proceedings of the other House.

On October 2 the amended Constitution was signed, the third article now reading:

The Bishops of this Church, when there shall be three or more, shall, whenever General Conventions are held, form a separate House, with a right to originate and propose acts for the concurrence of the House of Deputies, composed of Clergy, and Laity; and when any proposed act shall have passed the House of Deputies, the same shall be transmitted to the House of Bishops, who shall have a negative thereupon, unless adhered to by four-fifths of the other House; and all acts of the General Convention shall be authenticated by both Houses.

And in all cases the House of Bishops shall signify to the Convention their approbation or disapprobation, the latter with their reasons in writing, within three days after the proposed act shall have been reported to them for concurrence, and in failure thereof, it shall have the operation of a law. But until there shall be three or more Bishops as aforesaid, any Bishop attending a General Convention shall be a member *ex officio*, and shall vote with the clerical deputies of the State to which he belongs; and a Bishop shall then preside.

With Bishop Seabury’s adherence to the Constitution, the Church now had the requisite number of bishops. On October 2 he and Bishop White (Samuel Provoost, Bishop of New York, was absent) formed the first House of Bishops.

When the question of granting the bishops a full veto came before the Convention of 1792, strong opposition caused it to be deferred. In 1795 and 1799, the bishops indicated their willingness to allow the restriction to stand, and the matter was again postponed. Finally, in 1804 both houses concurred in a proposed amendment to strike the words “unless adhered to by four-fifths of the other House.” The amendment received final adoption in the Convention of 1808, the

7. White, *Memoirs*, p. 174.

question in the House of Deputies “being taken by States,” a phrase describing the vote by orders.⁸ The House of Bishops was given a veto upon acts of the deputies, but their non-concurrence was subject to the limitation of what became known as the “three days clause” in the second paragraph of Article 3, whereby

in all cases the House of Bishops shall signify to the Convention their approbation or disapprobation, the latter with their reason in writing, within three days after the proposed act shall have been reported to them for concurrence, and in failure thereof, it shall have the operation of a law.

At this same Convention of 1808, a question of some interest seemed likely to arise. Of the five bishops in the Church then, only two were present, Bishop White and Bishop Claggett of Maryland. Claggett was ailing “with considerable degree of indisposition,” and Bishop White was asked whether a single bishop could constitute the house. He replied that he “was prepared to sustain the affirmative, as being the most agreeable to the letter of the constitution; and because, on the contrary supposition, there could have been nothing done.”⁹ Bishop Claggett, however, remained in attendance despite his illness.

After 1808, only two alterations were made in old Article 3 before the revision in which our Section 1 was adopted at the end of the century. In 1838 the word “State” was changed to “Diocese” in the last sentence of the article, an alteration that applied everywhere the term occurred in the Constitution and Canons. When the Convention of 1838 made provision for the Diocese of Western New York to be erected out of part of the territory of the Diocese of New York, the words could no longer be used interchangeably. The matter is discussed more fully in the exposition of Article V governing the admission of new dioceses.

The other amendment was proposed in 1883 and adopted in 1886. By it the word “Convention” in line 12 of Article 3 (as well as in line 14 of Article 2) was changed to “House of Deputies.” The time had long passed when it was thought, as often before 1808, that the clerical and lay deputies constituted the Convention, and the bishops a house adjunctive to it.¹⁰

Repeated attempts were made before 1901 to effect a third change by striking out the “three days clause” that limited the full negative of the House of Bishops, notably in 1859, 1874, 1877, and 1886. In the latter Convention, it was argued that the requirement was unjust, for it “compelled one House ... to pursue a certain course, within a certain

8. *Journals*, ed. Hawks and Perry, I, p. 302.

9. White, *Memoirs*, p. 250.

10. *Journal*, 1883, pp. 263, 279-80.

and short time, or forfeit its right under a previous clause to negative any proposed act.” The Committee on Amendments to the Constitution of the House of Deputies in 1886 made a long and detailed report, defending even the retention of the clause in Article 3 stating that, “until there be three or more Bishops, etc.” on the grounds that “it is an interesting historical note.”¹¹ Confronted with a resolution to repeal the requirement that the bishops give their reasons for non-concurrence, and that within three days, the committee referred the house to a report made to the Convention of 1877 when the same questions had arisen. There it was stated:

The reason for this limitation is obvious. The House of Bishops, in the exercise of its undoubted prerogative, chooses to sit with closed doors. By its own order, its action cannot be known to this House except as it chooses to communicate it. If it does not concur in any Act of the House of Deputies, therefore, its non-concurrence and the reasons thereof can be known only by and through its own communication. The House of Deputies is not permitted to override its non-concurrence. Surely it is right that the small privilege of knowing the reason of such non-concurrence should not be abrogated, if for no other than educational reasons. As to the provision requiring the House of Bishops to act negatively within three days, the Committee do not say as to whether the time might not be wisely enlarged; but surely some time ought to be fixed; for otherwise, any Act of the House of Deputies might be nullified in the House of Bishops, not after a consideration of its merits, but without any consideration, and simply because of a primary indisposition to enter upon its consideration. It is not meant to be implied that in any event the House of Bishops would do less than their whole duty; but at the same time, this constitutional provision, agreed to by the Bishops themselves, is not to be lightly repealed, which renders it impossible that any part of this House’s legislation could be defeated by mere non-action.”¹²

The “three days clause” remained, and in the Convention of 1853 an interesting question had arisen as to the construction of this provision. A canon had been passed by the deputies on the last day of the sessions of the Convention of 1850 and sent to the House of Bishops on the same day. The bishops laid it on the table. The question was whether the phrase “within three days” required that there be three days of sessions subsequent to the action reported to the House of Bishops to make this constitutional provision operative. The report of the committee on conference, which was accepted by both houses, was that by the terms of Article 3 the canon had acquired the force of law. The House of Deputies, however, in 1874 reversed this interpretation by the adoption of the following declaration:

No act of this House can take effect as an act of the Convention by the failure of the House of Bishops to concur or non-concur within the specified time, unless this House shall continue its session during the whole of that time, and that by an earlier final

11. *Journal*, 1886, pp. 274-75.

12. *Journal*, 1877, pp. 114-15.

adjournment all acts of legislation not completed by the concurrence of both Houses fall to the ground.¹³

The “three days clause” disappeared when the revision of 1901 produced the present Section 1 of Article I.

SECTION 2

This section prescribes the composition of the House of Bishops, who shall have a seat and vote therein, and whose presence is necessary to constitute a quorum for the transaction of business. As it now stands, Section 2 is the result of amendments made to the form in which it first appeared in the revision of the Constitution adopted in 1901.

Before that date, in accordance with the first words of Article 3 of the old Constitution, the house was composed of “The Bishops of this Church.” Consequently, from 1789 to 1901 the house included diocesan bishops and, at various times, assistant bishops, missionary bishops, and foreign missionary bishops. At one period of almost ten years, occasioned by the suspension of Bishop Onderdonk of New York, it included a “Provisional Bishop.” The changing status of missionary bishops, for territories both within the United States and overseas, with respect to a seat and vote in the House of Bishops, may be traced through canons enacted by successive Conventions in the nineteenth century.

A brief explanation of the term “Assistant Bishop” as used before 1895 is appropriate, inasmuch as there is now awaiting adoption by the Convention of 1982 an amendment proposed in 1979 to add the words “every Assistant Bishop” to the list of members of the house set forth in Section 2. The office and duties of such a bishop, appointed by a diocesan to assist him, are outlined in Title III, Canon 20, enacted by the Convention of 1979.

An “Assistant Bishop” before 1895 was virtually what is now termed a “Bishop Coadjutor,” a designation that was substituted for “Assistant Bishop” in the canons of that year, and also proposed for inclusion in Section 2 of Article 1 of the Constitution.¹⁴ In the nineteenth century, the assistant bishop was elected and consecrated to assist the bishop of a diocese who was “unable by reason of old age, or other permanent cause of infirmity to discharge his Episcopal duties.”¹⁵ This enactment was expanded in 1871 by the addition of the words “or by reason of the extent of his diocese,” to meet the needs of the large dioceses of Texas and California. The assistant bishop was to succeed his diocesan “in case

13. *Journal*, 1874, p. 53.

14. *Journal*, 1895, App. xx, p. 716; xxi, p. 721.

15. *Journal*, 1829, p. 91.

of surviving him,” and, therefore, there could not be more than one in a diocese at the same time. There were a number of assistant bishops subsequent to the consecration of John Henry Hobart of New York with that title in 1811, and invariably instruments of their consecration contained the following words, or their equivalent:

to assist the Bishop of the Church in said State [Diocese], in the duties of the Episcopal office, and to succeed him in case of survivorship.¹⁶

An interesting circumstance arose when the members of the Convention of 1829 were asked to sign the testimonials for the consecration of William Meade, who had been elected by the Virginia Convention

as an Assistant Bishop, who is not to be considered as entitled to the succession.¹⁷

Assistant bishops had been elected for nearly twenty years without legislation establishing the office, and the Convention was confused and perturbed when confronted with a provision ruling out the customary right of succession. The deputies found it “highly inexpedient and wholly inadmissible” to approve the consecration until “the Convention of Virginia have resolved that the Assistant Bishop shall succeed the Diocesan,” yet they agreed to sign the testimonials if their view was made known. Doubtless they agreed with the bishops that Meade was “eminently deserving of the confidence and approbation of this House.” The bishops’ hesitancy was due to the fear that were Meade not elected upon the death of Bishop Moore, the Church would have a bishop without a diocese. Meade was consecrated, however, and the usual clause granting succession was embodied in the certificate of consecration. The Convention thereupon adopted a canon on assistant bishops, providing that they shall “in all cases succeed the Bishop, in case of surviving him.”

In the Convention of 1874, a resolution was offered in the House of Deputies proposing an amendment to Article 2 of the old Constitution as follows:

The House of Bishops shall consist of all the Bishops of this Church having Diocesan or Missionary jurisdiction, and all Assistant Bishops of this Church ...¹⁸

The committee on amendments to the Constitution did not recommend its passage, perhaps partly because it was not thought necessary, and partly because it was linked with an amendment to Article 3, striking out the “three days clause” discussed in the exposition of Section 1.

16. *Journal*, 1853, App. L.

17. *Journal*, 1829, pp. 13-14.

18. *Journal*, 1874, p. 39.

From 1829 to 1904, the canons forbade the election of suffragan bishops, and only one instance of the use of the term appears in the early records. In 1814 James Kemp of Maryland was consecrated “a Suffragan to the Bishop of the Church in said State,” but as he was to assist “in the duties of the Episcopal office, and to succeed in case of survivorship,” it is evident that he was an assistant bishop.

When proposed in 1898 and adopted in the Convention of 1901, Section 2 reads as follows:

Every Bishop of this Church leaving jurisdiction, every Bishop Coadjutor, and every Bishop who by reason of advanced age and bodily infirmity arising therefrom has resigned his jurisdiction, shall have a seat and vote in the House of Bishops. A majority of all Bishops entitled to vote, exclusive of Foreign Missionary Bishops and of Bishops who have resigned their jurisdictions, shall be necessary to constitute a quorum for the transaction of business.¹⁹

The first amendment to Section 2 originated in the House of Bishops of that same Convention. By it the word “or” was substituted for “and” between the words “advanced age” and “bodily infirmity,” and the words “arising therefrom” were struck out.²⁰ With the concurrence of the House of Deputies, the amendment was proposed to the Convention of 1904 by which it was adopted. The change was made to permit a bishop, not being *both* of advanced age and bodily infirmity, to resign the jurisdiction which he was exercising in name only, to his coadjutor, without losing his seat and vote in the house.

The Convention of 1919 adopted a proposed amendment of 1916 by which the words, “or who, under an election to an office created by General Convention,” were inserted after the word “infirmity.”²¹ This amendment created a new category of bishops with seat and vote in the House of Bishops, and was made to meet the case of a bishop who had resigned his jurisdiction to accept the office of President of the Board of Missions to which he had been elected by the General Convention.

Though the canonical prohibition of electing suffragan bishops was repeated in 1904, and though provision was made for the office in Article II of the Constitution in 1910, suffragan bishops were without vote in the House of Bishops. Agitation on this matter appeared in a number of Conventions, and finally, at the Convention of 1925, the Joint Commission on the Office and Standing of Coadjutor and Suffragan Bishops proposed amendments to remedy this. Section 2 was to be amended by the insertion of the words “every Suffragan Bishop” after

19. *Journal*, 1901, p. 196.

20. *Journal*, 1901, p. 92.

21. *Journal*, 1919, p. 275.

the words “every Bishop Coadjutor,” and Article II was to be amended to accord. The bishops adopted the resolution of the joint commission, but the House of Deputies refused to concur.²² In 1934, the joint commission recommended a return to the old system of having diocesan bishops and assistant bishops, but evidently the report pleased few, for no action was taken by the Convention.

It was not until 1940 that concurrent resolutions were adopted by both houses proposing, to the Convention of 1943, an amendment that included suffragan bishops among those entitled to vote in the house.²³ The Convention of 1943 adopted the proposed amendment. Then, having given the vote to the suffragan bishops (partly at least in the House of Deputies on the grounds that it was unjust to allow inactive retired bishops the vote, while withholding it from active suffragans) the Convention proceeded to propose to the Convention of 1946 an amendment in the following words, depriving the retired bishops of their vote:

Every Bishop of this Church having jurisdiction; every Bishop Coadjutor; every Suffragan Bishop, and every Bishop who under an election to the office created by the General Convention has resigned his jurisdiction, shall have a seat and vote in the House of Bishops, but every Bishop who by reason of advanced age or bodily infirmity has resigned his jurisdiction shall have a seat without vote, in the House of Bishops; a majority of all Bishops entitled to vote, exclusive of the Foreign Missionary Bishops, shall be necessary to constitute a quorum for the discussion of business.²⁴

The amendment was not adopted by the House of Bishops in 1946, possibly because it was certified to that Convention with the word “transactions” in place of “discussion,” a substitution that had failed to pass in the House of Deputies, but was nonetheless erroneously certified.

At the Convention of 1949 an attempt was made to take the vote away from all bishops who had resigned, save those who had relinquished their episcopal duties to accept election to an office created by the General Convention. The proposed amendment, passed by concurrent resolution in 1949, failed to pass the House of Deputies in 1952, despite a recommendation in favor of its adoption by its committee on amendments to the Constitution.

Another attempt to achieve this end was made in the Convention of 1955, this time conjoined with a change in the determination of a quorum. A concurrent resolution proposed to the Convention of 1958 the following amendment of Section 2:

22. *Journal*, 1925, pp. 280, 320.

23. *Journal*, 1940, pp. 255-56.

24. *Journal*, 1943, p. 192.

Every Bishop of this Church having jurisdiction, every Bishop Coadjutor, every Suffragan Bishop, and every Bishop, who holds an office created by the General Convention shall have a seat and a vote in the House of Bishops. All other Bishops, who have resigned their positions shall have a seat and a voice, without vote, in the House of Bishops. A majority of all Bishops entitled to vote exclusive of Bishops serving with the Overseas Department of the National Council shall be necessary to constitute a quorum for the transaction of business.

In 1958 the House of Bishops reversed its action and rejected the amendment. It was not, therefore, presented in the House of Deputies. Both houses, however, concurred in a resolution, originating in the House of Bishops, proposing an amendment to the portion of Section 2 which defined a quorum for the transaction of business in the House of Bishops. The second sentence of Section 2 had remained unchanged since 1901. By this proposed amendment foreign missionary bishops were included in counting the number of bishops whose presence was necessary to constitute a quorum:

A majority of all Bishops entitled to vote, exclusive of Bishops who have resigned their jurisdiction or positions, shall be necessary to constitute a quorum for the transaction of business.

Adopted in the Convention of 1961, it remains the regulation governing the determination of a quorum in the House of Bishops.

In the Convention of 1967, the latest change was proposed in Section 2. A resolution, originating in the House of Bishops and concurred in by the House of Deputies, proposed to the Convention of 1970 the addition of another category of bishops entitled to a seat and vote in the house. Before the words "has resigned his jurisdiction" it was proposed to add the words "or for reasons of mission strategy determined by the action of the General Convention or of the House of Bishops."²⁵

The amendment was ratified at the Convention of 1970, bringing Article I, Section 2 to its present form.

Six categories of bishops are now entitled to a seat and vote in the house: bishops having jurisdiction, coadjutor bishops, suffragan bishops, retired bishops, bishops elected to an office created by General Convention, and bishops who have resigned for reasons of mission strategy determined by the General Convention or the House of Bishops. A seventh category, as mentioned earlier, that of assistant bishops in the modern sense, is proposed for inclusion should an amendment of 1979 be adopted in 1982.

25. *Journal*, 1967, p. 390.

SECTION 3

Provision is made in this section for the election of a Presiding Bishop of the Church by the House of Bishops, the confirmation of such election by the House of Deputies, and for the manner in which the office shall be filled in the event of the resignation, disability, or death of a Presiding Bishop.

Canonical legislation governs the particulars of a Presiding Bishop's election, the resignation of his previous jurisdiction, his term of office, duties, responsibilities, and other matters relative to the office. Title I, Canon 2, should be read in conjunction with this section of Article I.

The Constitution made no provision for the office of Presiding Bishop until the revision of 1901. The use of the title, however, had been common in the canons and elsewhere for many years, and the duties and responsibilities gradually attached thereto brought the office into existence long before it appeared in the Constitution. The authority for such an office rested originally upon a rule of the House of Bishops, making its senior member in point of consecration its presiding officer.

In the first, or August, session of the Convention of 1789, there not being at that time the "three or more" bishops in union with the Convention necessary to form a separate house, Bishop White acted as president of the Convention. In that office, he opened the adjourned session on September 29. When on October 2 Bishop Seabury's adherence to the amended Constitution completed the requisite number of bishops, he and White withdrew from the Convention to sit as a separate House of Bishops. They agreed upon a rule of seniority, and Seabury, whose consecration antedated that of Bishop White and Provoost by more than two years, became "president of the house."²⁶

Three years later the rule was changed to one whereby "the office of President of this House shall be held in rotation, beginning from the North." This brought Bishop Provoost to the presidency. White's turn came in 1795, and in the absence of the bishop whose turn it was in 1799 he continued in the office. There being some confusion at the next Convention as to the way in which rotation was to take place, Bishop White was requested to remain Presiding Bishop. This he did, and in 1804 the house, with four of its six members present, revived the standing rule that the presiding officer shall be the senior bishop. As Bishop Seabury had died in 1796, William White continued in the office until his death in 1836 at the age of eighty-eight.

26. White, *Memoirs*, p. 178.

The growth of the Church during the nineteenth century and the rapid expansion of its activities steadily increased the responsibilities of the Presiding Bishop. From being simply the president of the House of Bishops he was becoming the Presiding Bishop of the Church. In the last decades of the century, it was apparent to many that the office had become a heavy burden upon an aging bishop whose own diocese demanded the greater part of his time and failing strength. At a special session of the House of Bishops in October 1887, John Williams, Bishop of Connecticut, who had become Presiding Bishop six months earlier on the death of the eighty-year old Alfred Lee, brought the matter forcibly to the attention of the House. "In the early days of the Church," he said,

when Dioceses and Bishops were few in number and very widely separated, the duties attaching to the office of the Presiding Bishop were few and easily discharged, the plan ... of seniority commended itself as natural and satisfactory ... it is only the wonderful growth and expansion of the Church, and the consequent increase in the duties pertaining to the presidency of this House, that would warrant an attempt to change the method and order of a century. But such an increase has come ... with no light burden to the Presiding Bishop.

Under such circumstances, to lay a burden on the shoulders of the oldest Bishop of this House, one likely to be the oldest in years as well as by consecration, is surely something which would not be thought of in parallel cases in political, judicial, or business arrangements. And when, in addition to all that has been mentioned, the person compelled to assume those duties is, as often must be the case, one who has passed the limits of three-score years and ten, and is already carrying a burden as heavy as he can bear, the arrangement would seem to be not only unwise, but almost cruel.²⁷

Williams did not exaggerate his statistics. Six bishops had held the office between William White and himself. The youngest died at the age of seventy-six, the oldest at ninety. One had become Presiding Bishop when he was sixty-eight; all the others had been in their seventies at the beginning of their term of office.

Though he made no specific proposals for change or relief, Bishop Williams asked for the appointment of a committee to consider his remarks. The result was an amendment in 1889 of the standing rule of the House of Bishops governing the election of a chairman, whereby the Presiding Bishop was authorized to assign to the chairman "any duties connected with his office from which, from time to time, he may desire to be relieved." This was not enough for Bishop Williams. At the next Convention, when he had reached the age of seventy-five, he again addressed the bishops, contending that the action of the house in 1889

does not reach the point which ... ought to be reached in this matter. The office of Presiding Bishop is the only one which I know, that cannot, under the present

27. *Journal*, 1889, p. 538.

arrangements, be declined. Whether he will or not, whatever may be his conditions physical or mental, he on whom this office falls is compelled to accept it. And only by death, deposition, or resignation of his jurisdiction, and that *not* "for reason of advanced age and bodily infirmity arising therefrom," can he resign it. I cannot see how these restraints can be regarded as otherwise than handicaps.²⁸

Again a special committee appointed to consider the matter reported to the House of Bishops, this time with resolutions declaring that, in the opinion of the house, the Presiding Bishop might devolve all the duties pertaining to his office upon the chairman of the House; that any bishop might decline to enter upon the office of Presiding Bishop; and any bishop holding the office might resign at his discretion. Provision was also made for declaring the Presiding Bishop incapable of performing the duties of his office, and the calling of a special meeting of the house to deal with such an emergency. The report was adopted and there the matter rested. Bishop Williams remained Presiding Bishop until his death in 1899 at the age of eighty-two.

In the extensive revision of the Constitution, proposed by the Convention of 1898 and adopted by that of 1901, the office of Presiding Bishop finally achieved constitutional authority. Article I, Section 3 of the Constitution of 1901 read:

The Senior Bishop of this Church in the order of consecration, having jurisdiction within the United States, shall be the Presiding Bishop of the Church. He shall discharge such duties as may be prescribed by the Constitution and the Canons of the General Convention. But if the Presiding Bishop shall resign his office as such, or if he shall resign his episcopal jurisdiction, or if by reason of infirmity he shall become disabled, the Bishop next in seniority by consecration, having jurisdiction within the United States, shall thereupon become the Presiding Bishop.²⁹

In this same Convention of 1901, however, Thomas March Clark, Bishop of Rhode Island, who had succeeded Bishop Williams as Presiding Bishop at the age of eighty-seven, appealed to the bishops to consider making the office elective. "May I be allowed," he said,

to suggest to the House that there is an indefiniteness in the nature and character of the office of Presiding Bishop, which not infrequently has occasioned me some embarrassment? For the most part the work to be discharged is simply perfunctory, but there are certain important things which the Presiding Bishop is required to do which call for the exercise of careful judgment and great discretion ... to leave such important affairs as these to the sole discretion of an aged man who may not be competent to exercise proper judgment in matters of importance, seems to me unwise; and I trust that the House of Bishops will take into consideration making the office of Presiding Bishop elective, instead of leaving it to be determined by the simple fact of seniority.³⁰

28. *Journal*, 1892, p. 12.

29. *Journal*, 1901, pp. 28, 36.

30. *Journal*, 1901, pp. 15-16.

From the immediate and varied proposals that followed, it is evident that there was wide support for amending the Constitution just adopted by abandoning the principle of seniority in favor of an election to the office of Presiding Bishop. There was considerable disagreement, however, upon the length of an elective term of office, the advisability of an age qualification for election, and the question of whether election by the bishops should be “subject to the approval of the House of Deputies.”³¹

Concurrence of both houses was finally reached on a proposed amendment to Section 3 to be referred to the Convention of 1904 for adoption. The amended section read as follows:

The House of Bishops, by vote of a majority of all the Bishops entitled to a seat in the said House, shall elect one of the Bishops having jurisdiction within the United States to be nominated for confirmation by the House of Deputies to be the Presiding Bishop of the Church. The Presiding Bishop shall hold office for three years. He shall discharge such duties as may be prescribed by the Constitution and the Canons of the General Convention.

But if the Presiding Bishop shall resign his office as such, or if he shall resign his episcopal jurisdiction, or if in the judgment of the House he shall become disabled by reason of infirmity, or if for any other reason a vacancy in the office shall occur, the senior Bishop by consecration having jurisdiction within the United States shall thereupon become the Presiding Bishop until the House of Bishops shall elect an acting Presiding Bishop who shall hold office until the next meeting of the General Convention, at which the Presiding Bishop shall be elected.³²

This first attempt to make the office elective failed, for in the Convention of 1904 the House of Bishops reversed its action and rejected the proposed amendment. Both houses agreed upon the appointment of a joint committee to report on the matter at the next Convention. Consequently, in 1907 the joint committee reported an amendment providing for the election of the Presiding Bishop by the General Convention.³³ Approved by both houses, it was rejected by the bishops in 1910. New amendments were proposed in the conventions of 1910 and 1913, but each failed of adoption in the succeeding Convention. Finally, in 1916, an amendment free of defects and omissions was approved by both houses and received final adoption in 1919. The long journey to an elective office of Presiding Bishop was at last completed. Section 3 was amended to read:

Upon the expiration of the term of office of the Presiding Bishop of the Church, the General Convention shall elect the Presiding Bishop of the Church. The House of

31. *Journal*, 1901, p. 139. See also pp. 41, 54, 211.

32. *Journal*, 1901, pp. 55, 151.

33. Other proposals reflecting a growing desire among the deputies for direct participation in the election of the Presiding Bishop appeared in the House of Deputies in 1925, 1955, and 1967.

Bishops shall choose one of the Bishops having jurisdiction within the United States to be the Presiding Bishop of the Church by a vote of the majority of all the Bishops entitled to vote in the House of Bishops, such choice to be subject to confirmation by the House of Deputies. His term and tenure of office and duties shall be prescribed by the Canons of the General Convention.

But if the Presiding Bishop of the Church shall resign his office as such, or if he shall resign his Episcopal jurisdiction, or if by reason of infirmity he shall become disabled, or in case of his death, the Senior Bishop of this Church in the order of Consecration, having jurisdiction within the United States, shall thereupon become the Presiding Bishop of this Church until an election of a Presiding Bishop be held by the General Convention.³⁴

The first election under the new provision did not take place until 1925. Daniel Sylvester Tuttle, Bishop of Missouri, who had become Presiding Bishop under the rule of seniority in 1903, retained the office until his death at the age of eighty-six, six months after the Convention of 1922. Bishop Garrett of Dallas, then ninety-one years old and senior bishop, became Presiding Bishop *pro tempore*. He died in February, 1924, and seniority brought the office to Bishop Talbot of Bethlehem until the Convention of 1925, when Bishop Murray of Maryland became the first elected Presiding Bishop of the Church.

In 1925 three amendments were proposed for final action in 1928. The first removed the qualification "having jurisdiction within the United States," making any "Bishop of this Church" eligible for election. Another struck out the words "or if he shall resign his episcopal jurisdiction," thus allowing a Presiding Bishop to resign his diocesan responsibilities. The resignation of previous jurisdiction was made mandatory by the adoption of a new canon in 1943. At that time, Henry St. George Tucker, Presiding Bishop since 1938, promptly resigned as Bishop of Virginia, "in order," he declared, "to establish the principle embodied in the Canon."³⁵

The third amendment of 1925 provided for the election of a Presiding Bishop should a vacancy in the office occur more than three months before a General Convention. In such case the senior bishop shall

call a special meeting of the House of Bishops to be held within two months to elect a Bishop having jurisdiction in the United States to be the Presiding Bishop. The Bishop so elected shall serve until the next General Convention.³⁶

These amendments were adopted in 1928. Three years later the two houses concurred in proposing a change whereby retired bishops not present in the house at the time of a Presiding Bishop's election were

34. *Journal*, 1919, p. 275.

35. *Journal*, 1943, pp. 28, 135-36.

36. *Journal*, 1925, pp. 241, 281. See also p. 312.

excluded from the number counted to determine a majority of all bishops, unless two-thirds of the members of the house were present. This was adopted in 1937, and in 1943 a new opening sentence was proposed for Section 3:

At the General Convention next before the expiration of the term of office of the Presiding Bishop, it shall elect the Presiding Bishop of the Church.

The adoption of this amendment in 1946 brought the first paragraph of Section 3 to its present form.

The second paragraph of Section 3 received its present form when the Convention of 1967 adopted a proposal which had received the concurrence of both houses in 1964. This amendment significantly altered the procedure of 1931, governing the filling of a vacancy in the office occurring more than three months before a General Convention. The special meeting of the house to elect a new Presiding Bishop was to be called "immediately," and by "the Bishop who, according to the Rules of the House, becomes its Presiding Officer." The qualification "having jurisdiction in the United States" was eliminated, as it had been in 1931 from the first paragraph of the section. The election was to be for the canonical term of office, confirmation being given by the concurrence in the election of a majority of the standing committees of all the dioceses.

The amendment of the second paragraph to read as follows brought the whole of Article I, Section 3 into its present form:

But if the Presiding Bishop of the Church shall resign his office as such, or if by reason of infirmity he shall become disabled, or in case of his death, the Bishop who, according to the Rules of the House of Bishops, becomes its Presiding Officer, shall (unless the date of the next General Convention is within three months) immediately call a special meeting of the House of Bishops, to elect a member thereof to be the Presiding Bishop. The certificate of election on the part of the House of Bishops shall be sent by the Presiding Officer to the Standing Committees of the several Dioceses, and if a majority of the Standing Committees of all the Dioceses shall concur in the election, the Bishop elected shall become the Presiding Bishop of the Church.³⁷

One further matter perhaps deserves comment here. At the Convention of 1940, the Joint Committee to Consider the Matter of a See for the Presiding Bishop, acting upon the response of the diocesan convention of Washington to a request from the General Convention of 1934 that it give sympathetic consideration to a proposal to place the official residence of the Presiding Bishop in Washington, recommended:

- (1) That the Cathedral at Washington be designated as the seat of the Presiding Bishop.
- (2) That the Presiding Bishop be given a seat in the Cathedral commensurate with the dignity of his office.

37. *Journal*, 1967, p. 380.

(3) That he be given the right to use said Cathedral for occasions incident to his office as Presiding Bishop...³⁸

This arrangement was approved by a concurrent resolution of both houses, and on October 22, 1941, the Presiding Bishop was formally given his seat by the Bishop of Washington, acting by and with the consent of the Cathedral Chapter and the Diocese of Washington.

While this action enhanced the dignity of the Presiding Bishop's office and symbolized its relation to the national Church, there was considerable opinion that a separate see should be established for the Presiding Bishop. In the Convention of 1943, a resolution was introduced in the House of Deputies proposing a new section to be added to Article I of the Constitution, providing that:

The General Convention may establish a See for the Presiding Bishop, which, with the consent of the diocese or dioceses whose territory or territories are affected, may embrace the whole or part of one or more dioceses...³⁹

After consideration of this proposal, referred to it by the house, the committee on amendments to the Constitution recommended that it be referred to the Joint Committee to Consider the Matter of a See for the Presiding Bishop to report at the next Convention. This was done, and the House of Bishops took similar action in a resolution, in which the House of Deputies concurred, that the joint committee be authorized

to conduct negotiations with any Diocese that may be willing to enter into some arrangement for the purpose of establishing such a designated See...

The joint committee reported in 1946, recommending the creation of such a see, but a resolution to that effect was defeated in the House of Bishops, in which action the House of Deputies concurred.

The difficulties of erecting a diocese for the Presiding Bishop proved to be virtually insuperable, even had it been advisable, and by 1946 opinion was strong that the idea should be dropped. Territorial jurisdiction, even over a small diocese, would burden the office with responsibilities from which it had been recently freed by the canon requiring resignation of previous jurisdiction upon election. To provide the Presiding Bishop with anything like an archbishop's traditional jurisdiction was impossible. Metropolitan jurisdiction over a province of the Church and the dioceses therein, arming the metropolitan or archbishop with visitatorial and juridical powers, could not be artificially grafted upon a national Church, the polity of which still reflected its origin in a federation of equal and independent Churches in the several states. Even while the idea of a

38. *Journal*, 1943, p. 447.

39. *Journal*, 1943, p. 197.

see for the Presiding Bishop was being explored, there was a growing conviction that “the Presiding Bishop already has a jurisdiction which though not territorial is real and defined by Canon.”⁴⁰ The expansion of Canon 2, Section 4, in the Conventions of 1967 and 1976, reflected a reinforcement of this conviction, and the matter of the provision of territorial jurisdiction for the Presiding Bishop was abandoned.

SECTION 4

Section 4 prescribes the composition of the House of Deputies, the manner of determining a quorum for the transaction of business, and the method of voting therein. The greater part of the material of Section 4 as it appeared in the revision of the Constitution in 1901 was originally the substance of Article 2 of the Constitution of 1789 which read as follows:

The Church in each State shall be entitled to a representation of both the Clergy and the Laity, which representation shall consist of one or more Deputies, not exceeding four of each Order, chosen by the Convention of the State: and in all questions, when required by the Clerical or Lay representation from any State, each Order shall have one vote; and the majority of suffrages by States shall be conclusive in each Order, provided such majority comprehend a majority of the States represented in that Order. The concurrence of both Orders shall be necessary to constitute a vote of the Convention.

If the Convention of any State should neglect or decline to appoint Clerical Deputies, or if they should neglect or decline to appoint Lay Deputies, or if any of those of either Order appointed should neglect to attend, or be prevented by sickness or any other accident, such State shall nevertheless be considered as duly represented by such Deputy or Deputies as may attend, whether Lay or Clerical. And if, through the neglect of the Convention of any of the Churches which shall have adopted, or may hereafter adopt this Constitution, no Deputies, either Lay or Clerical, should attend at any General Convention, the Church in such State shall nevertheless be bound by the acts of such Convention.

Only three amendments were made to Article 2 before the revision of 1901. As noted earlier, the words “State” and “States” were replaced by “Diocese” and “Dioceses” in 1838, and the word “Convention” at the end of the first paragraph was changed to “House of Deputies” in 1886.

The third amendment was proposed by the Convention of 1853 and adopted in 1856. By it, lay deputies were required to be “Communicants in this Church, residents in the Diocese” they represent.⁴¹

In recasting old Article 2 into Section 4 of Article I, the revision of 1901 made a number of changes, the principal ones being as follows:

40. *Journal*, 1943, p. 448.

41. *Journal*, 1856, p. 179.

The words “which has been admitted into union with the General Convention” were added after the words “The Church in each Diocese” in the first line.

The representation of each diocese was made to read “not more than four Presbyters, canonically resident in the Diocese, and not more than four Laymen, communicants of this Church, having domicile in the Diocese.” A new sentence was added giving the General Convention power to enact a canon reducing the representation to “not fewer than two Deputies in each order.”

In the provision of a quorum for the transaction of business, former Article 1 required “a majority of the Dioceses which shall have adopted this Constitution shall be represented before they proceed to business.” In 1901 the quorum was made the substance of a paragraph in Section 4, requiring that each order be represented by at least one deputy in each of a majority of the dioceses entitled to representation. The text of this paragraph today is identical with that of the Constitution of 1901.

The provision for a vote by orders was unchanged in substance, but carefully rewritten and freed from ambiguities.

Finally, the provision that dioceses unrepresented in any General Convention were nevertheless to be bound by the acts of such Convention was omitted, presumably because the time when it had any useful application had long since passed.

Section 4 as it appeared in 1901 read as follows:

The Church in each Diocese which has been admitted to union with the General Convention shall be entitled to representation in the House of Deputies by not more than four Presbyters, canonically resident in the Diocese, and not more than four Laymen, communicants of this Church, having domicile in the Diocese; but the General Convention by Canon may reduce the representation to not fewer than two Deputies in each order. Each Diocese shall prescribe the manner in which its Deputies shall be chosen.

To constitute a quorum for the transaction of business, the Clerical order shall be represented by at least one Deputy in each of a majority of the Dioceses entitled to representation, and the Lay order shall likewise be represented by at least one Deputy in each of a majority of the Dioceses entitled to representation.

On any question, the vote of a majority of the Deputies present shall suffice, unless otherwise ordered by this or, in cases not specially provided for by the Constitution, by requiring more than a majority, or unless the Clerical or the Lay representation from any Diocese require that the vote be taken by orders. In all cases of a vote by orders, the two orders shall vote separately, each Diocese having one vote in the Clerical order and one in the Lay order; and the concurrence of the votes of the two orders, by not less than a majority in each order of all the Dioceses represented in that order at the time of the vote, shall be necessary to constitute a vote of the House.

As it now stands, Section 4 is the result of alterations and additions made to this text during the last eighty years. Amendments placed before the Conventions, though not always proposed or adopted, centered upon four main topics of concern: (1) the substitution of some form of proportional representation for the original principle of diocesan equality in the House of Deputies; (2) the representation of missionary districts or dioceses, together with the voting rights granted them; (3) the method of tabulating the vote by orders whereby divided votes, being non-affirmative, become in effect negative votes; and (4) the admission of women as lay deputies.

Amendments relating to these four concerns were often offered simultaneously in successive Conventions. To deal with them topically, however, each one in turn, will make it easier to follow the efforts to effect changes in each area, whether attended by success or failure.

1. Proportional Representation

The provision for equal representation of the dioceses in the House of Deputies has been challenged repeatedly in General Convention by advocates of proportional or, as it was sometimes called a century ago, "graduated" representation. Discussion was provoked by the reception of memorials from dioceses, by reports of special committees, and by resolutions proposing amendments abandoning the principle of diocesan equality. Before the middle of the last century, resolutions appeared in the House of Deputies proposing that the size of the representation of a diocese be determined by reference to the number of clergy and parishes therein. Though action on such resolutions was consistently postponed, the issue continued to be raised, largely because of dissatisfaction in the larger dioceses when measures they supported were defeated by the votes of the smaller dioceses.

In 1874 a resolution in the House of Deputies requested its committee on amendments to the Constitution to consider and report whether Article 2 ought not to be so amended

as to make the representation from the several Dioceses accord in some degree with the numerical strength of the Parishes, Clergy, and Communicants of each Diocese.⁴²

In this same Convention, a resolution proposed an amendment that would reduce the representation of each diocese from four to three deputies in each order. Though promptly tabled, the proposal for reduction appeared with increasing frequency. As it is unlikely in a day when Conventions were leisurely paced and lasted three weeks that a house of approximately four hundred members (considerably less than

42. *Journal*, 1874, p. 56. See also p. 179.

half the present size) would be thought too large, the attempts to reduce the representation to an odd number in each order were possibly intended to eliminate the divided vote in a vote by orders. This was frankly admitted when the same proposal was made in 1970.

In 1877, the committee on amendments offered a long report on the subject of proportional representation, a portion of which is quoted above in the introduction to this exposition of Article I. The committee emphasized the fact that it was the intention of the framers of the Constitution to establish the principle of diocesan equality as the foundation upon which the Church was to be built, and, they asserted firmly, “upon which it has been built.”⁴³

Despite an overwhelming vote in the House of Deputies in 1880 to postpone the matter indefinitely, it appeared again in 1883. At that time, a resolution was offered that Article 2 be amended so as to give each diocese at least one deputy in each order, and additional deputies up to a total of four in each order, depending upon the number of clergy in the diocese. The committee on amendments to the Constitution, to which the resolution was referred, reported that it did not

feel prepared to advise so radical a change ... in the fundamental principles on which the General Convention was originally constituted, and which have been continued in harmonious and successful operation for well-nigh a century.⁴⁴

The house sustained the report of the committee, and at the same time dismissed another proposal to reduce the representation from each diocese to three deputies in each order.

In 1895, virtually the same proposal to make the number of deputies from a diocese dependent upon the number of clergymen in the diocese failed of approval in the House of Bishops during a discussion of the early drafts of a revised Constitution.⁴⁵

When proportional representation was brought up in the House of Deputies in 1913, a special committee was appointed to report at the next Convention.⁴⁶ It did so in 1916, and a resolution was presented proposing an amendment by which each diocese would be entitled to three deputies in each order, and in addition, one deputy in each order for each one hundred clergymen or major fraction thereof up to a total representation of six in each order.⁴⁷ It was overwhelmingly defeated.

43. *Journal*, 1871, pp. 97-98.

44. *Journal*, 1883, p. 210. See also pp. 164, 193.

45. *Journal*, 1895, p. 29.

46. *Journal*, 1913, p. 259.

47. *Journal*, 1916, pp. 228-29.

Recent attempts to achieve proportional representation have sought to do so by changing the canons, not the Constitution. By a concurrent resolution of both Houses in 1964, the provincial synods were directed to consider the matter and return their findings to the Joint Commission on the Structure of General Convention for its report to the Convention of 1967. Various plans for proportional representation were offered by memorials from several dioceses, and in the reports of the studies by the provinces. The one presented in the House of Deputies took advantage of the constitutional provision allowing the Convention to reduce the representation to not fewer than two deputies in each order. It was proposed that dioceses with a communicant strength up to 15,000 would be entitled to two deputies in each order; from 15,001 to 60,000 three deputies would be allowed; and over 60,001 four in each order.

The proposal was tabled in 1967 in the House of Deputies, only to be revived in the next Convention as an amendment to Title I, Canon 1. It provoked prolonged debate and two substitute resolutions, one of which would have reduced the representation of each diocese to three deputies in each order. One substitute was defeated, and the other, together with the original motion, was tabled.

The defeated substitute motion in 1970 made plain the fact that proportional representation was now closely linked with attempts to reduce the size of the house “thought by many to be presently cumbersome,” and “to eliminate what many deem to be the iniquity of the negative effect of an evenly split vote in an order when voting by orders ... by simply reducing the number ... to which each Diocese is entitled from an even number to an odd number.”

Further attempts to achieve proportional representation based upon diocesan communicant strength, and to reduce the number of deputies to three in each order, were defeated in the Convention of 1973. There the matter has rested. It is unlikely, however, that an issue which has been before Conventions for well over a century will not appear again, whether linked with the size of the House of Deputies—now over nine hundred—or not. Today the dioceses within the United States, to say nothing of the smaller missionary dioceses outside, exhibit an inequality in communicant strength ranging from under 3,000 to nearly 70,000. A principle of diocesan equality established nearly two hundred years ago in the union of ten dioceses appears to many to be increasingly indefensible in the face of a disparity as great as that which exists today.

2. *Missionary Districts or Dioceses*

In the Convention of 1895, the Joint Commission on the Revision of the Constitution and Canons recommended the adoption of a

constitutional provision granting representation in the House of Deputies to missionary districts and a Convocation of American Churches in foreign lands. Each district and any Convocation was to be entitled to one delegate [sic] in each order, “subject to all the qualifications and with all the rights of deputies except the right to vote.”⁴⁸ Three years later, when final action was taken on the revision proposed for adoption by the Convention of 1901, the bishops refused to concur with this provision, pointing out that “its purpose is amply provided for by a Standing Order.”⁴⁹

The standing order to which the bishops referred had been adopted by the House of Deputies in 1871. By it, one clerical and one lay delegate from each missionary jurisdiction within the United States were given seats in the house, and voice “on any question specifically affecting their respective jurisdiction and on no others.”⁵⁰ The order was amended three times: in 1880 by removing the restriction on subjects on which the delegates had voice; in 1883 by striking out the words “within the limits of the United States” and thus providing for a representation from missionary districts overseas; and in 1889 by adding the words “or chosen by a similar Convocation of the Churches in Europe.”⁵¹

When provision for a representation of missionary districts did not receive inclusion in the Constitution of 1901, both houses in the Convention of 1901 proposed an amendment to Article I, creating a new Section 6, to read:

One Clerical and one Lay Deputy chosen by each Missionary District of the Church within the boundaries of the United States shall have seats in the House of Deputies, subject to all the qualifications and with all the rights of Deputies, except the right to vote when the vote shall be taken by orders.⁵²

The former Section 6, which related to the time and place of the meeting of General Convention was renumbered Section 7.

The Convention of 1904 adopted the proposed amendment, and itself proposed an expansion of Section 6 to include the words, “and one Clerical and one Lay Deputy chosen by the Convocation of American Churches in Europe,” which was adopted in 1907.⁵³

48. *Journal*, 1895, p. 144.

49. *Journal*, 1898, p. 158.

50. *Journal*, 1871, pp. 198-99.

51. *Journal*, 1880, p. 192; 1883, p. 290; 1889, pp. 263-64.

52. *Journal*, 1901, pp. 138-39.

53. *Journal*, 1907, pp. 284-85.

The committee on amendments to the Constitution, when requested in the House of Deputies to define the meaning of the words “within the boundaries of the United States” as used in new Section 6, reported a resolution adopted by the house that the words “are intended to include all the territory and possessions within the jurisdiction of the United States.”

Within a decade, the provision for representation of missionary districts within the boundaries of the United States had been returned to form the second paragraph of Section 4, and the provision for a vote by orders in the fourth paragraph had been amended to grant each such missionary district “a one-fourth vote in the Clerical order and a one-fourth vote in the Lay order.” This created the fractional votes that appear in subsequent tabulations of the vote by orders. The representation of one deputy in each order from each missionary district “beyond the territory of the United States of America,” and from the Convocation of the American Churches in Europe, remained governed by Section 6. The right of these deputies to vote “when the vote shall be taken by orders” was still withheld.

The Convention of 1940 proposed an amendment, striking the words “within the boundaries of the United States” from the second and fourth paragraphs of Section 4. A second amendment proposed the removal from Section 6 of the limitation on the voting rights of deputies from foreign missionary districts and the Convocation of the American Churches in Europe. When adopted by the Convention of 1943, the effect was to give equal voting privileges to all missionary districts and the Convocation of the American Churches in Europe.⁵⁴

A resolution introduced in the House of Deputies in 1943 proposing an amendment which would increase the representation from missionary districts to two deputies in each order failed to pass. During the next two decades, however, support for the increase of the representation of missionary districts increased, and in 1967 such action was taken.

The Convention of 1967, which proposed the nomenclature change from “District” to “Diocese,” also proposed the final step in bringing the status of missionary districts to a parity with that of dioceses in respect to representation and voting rights. By concurrent resolution, both houses proposed for adoption in 1970 an amended form of the second paragraph of Section 4, reading:

The Church in each Missionary Diocese beyond the territory of the United States of America, which shall have been established by the House of Bishops or by the Constitution,

54. *Journal*, 1943, p. 187.

and the Convocation of the American Churches in Europe, shall each be entitled to representation in the House of Deputies equal to that of other Dioceses, subject to all the qualifications, and with all of the rights, of Deputies, except as otherwise provided in this Constitution. Each such Missionary Diocese, and the Convocation of the American Churches in Europe, shall prescribe the manner in which its Deputies shall be chosen.⁵⁵

Adoption of this amendment in the Convention of 1970 brought the second paragraph of Section 4 to the form in which it appears today.

The same amending resolution of the Convention of 1967 provided for the replacement of "Missionary District" by "Missionary Diocese" in the fourth paragraph of Section 4, and for the repeal of Section 6, now made unnecessary by the inclusion of foreign missionary dioceses and the Convocation of the American Churches in Europe in the amendment to Section 4 quoted above.

Later in the session in the Convention of 1967, the committee on amendments to the Constitution proposed a change in the second sentence of the last paragraph of Section 4, congruent with the proposed amendments above:

In all cases of a vote by orders, the two orders shall vote separately, each Diocese and Missionary Diocese having one vote in the Clerical order and one vote in the Lay order; and the concurrence of the votes of the two orders shall be necessary to constitute a vote of the House.

The adoption of these amendments by the Convention of 1970 established the provisions concerning the representation and voting rights in the House of Deputies of missionary dioceses and the Convocation of the American Churches in Europe as they now exist in Section 4 of Article I.

3. Vote by Orders: The Divided Vote

Section 4 has been subject to frequent attempts at amendment in its provisions governing the vote by orders. Divided votes have been the crux of the controversy. From the beginning, the Constitution has been construed as requiring that a divided vote in a diocesan deputation in the House of Deputies, being non-affirmative, be counted in the negative.

Dissatisfaction with this was occasionally expressed in Conventions before 1901. A number of unsuccessful resolutions in nineteenth-century Conventions, proposing the reduction of deputies to three in each order from each diocese, as noted earlier in the discussion of proportional representation, were possibly designed less to reduce the size of the house than to establish an uneven number of deputies, thus eliminating the possibility of a divided vote when a full deputation was present.

⁵⁵. *Journal*, 1967, pp. 385-86.

After 1901, attempts to change the method of counting divided votes appeared with increasing frequency.

In the Convention of 1916, a resolution was offered proposing, as an amendment to Section 4, the substitution of a new sentence for that beginning “In all cases of a vote by Orders....” The new sentence read:

In all cases of a vote by Orders, the two Orders shall vote separately; each Diocese, and each Missionary District within the boundaries of the United States, having the same number of votes in each order, who are present and voting; and the concurrence of the votes of the two Orders, by not less than a majority in each Order of all votes cast in that Order, shall be necessary to constitute a vote of the House.⁵⁶

The Committee on Amendments to the Constitution of the House of Deputies, refraining from comment on the radical character of the proposal or on the lack of clarity in its formulation, reported politely that “it is unable to reach an affirmative conclusion in regards to the merits of said proposal.” By vote of the house it was laid upon the table.

In the Convention of 1925, a resolution in the House of Deputies proposed an amendment affecting the divided vote, the substance of which appeared in a number of succeeding Conventions. By it, a divided vote would be counted one-half in the affirmative, and one-half in the negative. It failed of passage in 1925, as it did when offered again in the House of Deputies in the Convention of 1928. At that time, the committee on amendments to the Constitution in their report gave reasons for their objections:

The Committee deems this proposal inexpedient because a vote by Orders is a vote by representation of the Dioceses and Missionary Districts who vote in their representative capacity and not in their individual capacity. In so voting it is the Dioceses and Districts which vote and from the establishment of the General Convention down to the present date it has always been the requirement that there must be an affirmative majority to carry a measure. Not only is this the case because the action is that of Dioceses and Districts and not of individuals, but also because it is desirable on important matters that something more than a mere majority of voices should be necessary for the adoption of the matter in hand.⁵⁷

In this same Convention of 1928, by concurrent action of both houses, an amendment to Section 4 was proposed which changed the wording of the clause beginning “and the concurrence of the vote of the two orders...,” and added a new sentence at the end of the paragraph. It read:

... and the concurrence of the votes of the two Orders shall be necessary to constitute a vote of the House. No action of either Order shall pass in the affirmative unless it receives the majority of all votes cast, and unless the sum of all the affirmative votes shall exceed the sum of all other votes by at least one whole vote.

56. *Journal*, 1916, p. 215.

57. *Journal*, 1928, p. 265.

Adopted by the Convention of 1931, this is still the concluding portion of the paragraph in Section 4 governing the vote by orders.

In the Convention of 1934, the House of Deputies adopted a resolution proposing an amendment reducing the value of a divided vote: "In case the clerical or lay vote of a diocese is divided, it shall be counted as half a vote in the negative." In the House of Bishops it was referred to the committee on amendments. As it was not reported on, the bishops did not vote.

The Cleveland Convention of 1943 was a war-time streamlined gathering devoted almost wholly to business, one controversial item of which were proposals to amend the canons governing Holy Matrimony. The defeat of such proposals by votes by orders in the House of Deputies intensified the dissatisfaction with the rule concerning the divided vote. Opponents of the divided vote rule offered a resolution to amend the relevant paragraph of Section 4 so that divided votes "shall not be counted in determining the result." When the committee on amendments to the Constitution offered a substitute resolution incorporating the familiar one-half affirmative, one-half negative count of divided votes, the matter was tabled without further action.

Success, however, attended the advocates of this proposal in the Convention of 1946. Two resolutions were offered in the House of Deputies. One proposed an amendment which was so worded as to eliminate the vote by dioceses and make voting by orders in the House of Deputies of the General Convention similar to such vote in a diocesan convention. It read:

In all cases of a vote by orders, the two orders shall vote separately, each deputy having one vote; and the concurrence of the votes of the two orders shall be necessary to constitute a vote of the House.

The other resolution, on which the committee on amendments to the Constitution reported favorably, proposed an amendment adding the sentence:

Where the vote of a diocese in either order is equally divided, one-half of such vote shall be recorded as cast in the affirmative and one-half in the negative.

The committee added its own resolution to its favorable report, amending the last sentence of Section 4 to be congruent with the proposed way of recording divided votes, by striking out the word "other" and substituting the words "all the negative," thus making the sentence read:

... the sum of all the affirmative votes shall exceed the sum of all the negative votes by at least one whole vote.

The amendments contained in the favorable report of the committee and its own resolution were proposed by both houses for adoption by the Convention of 1949.

In 1949, the amendments proposed by the Convention of 1946 were ratified in the House of Bishops, but were rejected by the House of Deputies. There the vote by orders was:

Clerical: Ayes 35 3/4; Noes 34 1/2; Divided 8
Lay: Ayes 35; Noes 34 1/4; Divided 9

A division of the divided votes between affirmative and negative would not have affected the result.

In the Convention of 1952, the Joint Committee on Structure and Organization of the General Convention recommended a change, apparently motivated by the hope of preventing amendments to the canons from being often defeated in a vote by orders in the House of Deputies. The committee on amendments to the Constitution approved, and a resolution was offered providing that a divided vote should be recorded one-half in the affirmative and one-half in the negative

except only that in case of a proposal to amend the Constitution or to revise the Prayer Book such a divided vote shall be counted as a vote against the proposed amendment or revision.

The resolution was defeated.

It was not until the Convention of 1970 that another attempt was made to change the rule concerning divided votes. The pattern followed then was that of 1946-49; that is, a successful proposal in one Convention which failed of adoption in the succeeding Convention.

In the Convention of 1970 the committee on structure recommended to the House of Deputies the adoption of a resolution introduced by the Diocese of Southern Ohio, seeking to prevent the negative effect of a divided vote, and citing in support of the proposal the Church's affirmation in other connections of the political principle of "one man, one vote." The resolution proposed an amendment of Section 4 by the insertion of the following sentence:

When the vote of the Deputies in either order in any Diocese is evenly divided, the vote of such order in each Diocese shall be received and recorded as one-half vote for the affirmative and one-half vote for the negative of the question or action on which the vote is taken.⁵⁸

Despite the recommendation of the committee on amendments to the Constitution that the proposal be rejected, the House of Deputies adopted it with the following vote:

58. *Journal*, 1970, pp. 267-68.

Clerical: Yes, 50; No, 27 3/4; Divided, 12.

Lay: Yes, 58; No, 22 3/4; Divided, 9.

The House of Bishops concurred and the amendment was proposed for final adoption in 1973.

In the Convention of 1973 the committee on amendments of the House of Deputies again recommended the rejection of the proposed amendment. When the committee's motion to reject was lost, the amendment was moved for adoption.⁵⁹ The house rejected the amendment by the following vote:

Clerical: Yes, 45; No, 46; Divided, 21.

Lay: Yes, 46; No, 46; Divided, 19.

The chairman of the committee on amendments then moved the adoption of a resolution proposing an amendment to the final paragraph of Section 4 striking out the provision that the representation in either order from any one diocese might require a vote by orders, and substituting the following:

... unless the Clerical or Lay representatives from three or more Dioceses require that the vote be taken by orders.

The House of Deputies, which had rejected a similar proposal in the Convention of 1958, now adopted the resolution and the House of Bishops concurred.

In the Convention of 1976, when this amendment was adopted by concurrent resolutions of both houses, the provisions governing the vote by orders in the House of Deputies in Section 4 of Article I received the form in which they exist today.

The committee on structure, however, pursued the matter further in an extended report presented to the Convention of 1979. On the basis of this report the committee offered a resolution in the House of Deputies proposing further amendment of Section 4, making the last portion of the fourth paragraph read:

A concurrent affirmative majority of two-thirds of those Dioceses and Missionary Dioceses voting in each order shall be required. For this purpose an equally divided vote within an Order of a Diocese or Missionary Diocese shall not be counted as a vote.

On motion the resolution was tabled and no further action taken.

4. The Admission of Women as Lay Deputies

The issue of the admission of women as lay deputies to General Convention was raised as early as the Convention of 1916. At that time,

59. *Journal*, 1973, pp. 192-93.

a memorial was presented in the House of Deputies proposing the removal of any bar to the eligibility of women for membership in the house. It was referred to the committee on amendments to the Constitution which reported, "that with the highest appreciation of the work and influence of women in the Church, the proposed amendment is, in its judgment, inexpedient."⁶⁰ The report was laid upon the table.

In the Convention of 1925, the committee again reported to the House of Deputies unfavorably on the matter, and appears to have been discharged from further consideration of it.

During the years after the Convention of 1925, the issue was raised more frequently, provoking a controversy in which both the advocates of the admission of women as lay deputies, and their opponents, became ardent and determined in defense of their positions.

In the Convention of 1949, a resolution was offered in the House of Deputies granting women a small place in a diocesan deputation. It proposed to amend the final paragraph of Section 4 by substituting the words "Lay Persons" for "Laymen," and adding the words "provided, however, that no more than one woman should represent any Diocese or Missionary District." The resolution was lost in the vote of both orders, the opposition in the lay order being considerably greater than that in the clerical order.

Three years later, in the Convention of 1952, the Joint Commission to Consider the Problem of Giving the Women of the Church a Vote in the Legislation of General Convention presented a report in the House of Deputies recommending the adoption of an amendment that would allow the election and seating of women deputies. The joint commission concluded its report with the following:

Because of the theological and historical positions stated above, and after careful consideration of their practical implications, this Commission states that it believes there is no basis of distinction in principle between men and women as lay persons in the Church.⁶¹

The report was referred to the committee on amendments, together with memorials from the Dioceses of Massachusetts and Washington, and a resolution which proposed the amendment of Section 4 by substituting the words "Lay Persons" for "Laymen" in the first paragraph, and "Lay Person" for "Layman" in the fourth paragraph. The committee presented the resolution, making no recommendation concerning its adoption or rejection. Unlike its predecessor in the Convention of 1949,

60. *Journal*, 1916, pp. 225, 321.

61. *Journal*, 1952, p. 672.

this resolution contained no limitation on the number of women in a diocesan deputation.

In the ensuing vote by orders, the resolution passed by a narrow majority in the clerical order, but was rejected in the lay order. The form employed in this resolution—the substitution of the words “Lay Persons” and “Lay Person” in the appropriate places of Section 4—was the form employed in the same effort at the next five Conventions.

In the Convention of 1955 a different approach was attempted. The Diocese of Massachusetts presented a memorial seeking a ruling that the word “laymen” in the Constitution and Canons be interpreted to include lay women. The committee on amendments to the Constitution, to which the memorial was referred, reported:

Your Committee recommends that the proposal made by the Diocese of Massachusetts that “the word ‘laymen’ in the Constitution, Canons and other official documents of the Church” be interpreted to include lay women as well as lay men, be not adopted or implemented for the reason that, as submitted, the proposal for interpretation is too broad in its application, and the Committee moves that it be discharged from further consideration of the matter.

The committee was discharged of the matter, and a resolution was offered proposing the substitution of words as in the Convention of 1952. This time the resolution failed to pass in both orders.

In this same Convention of 1955, the clerical and lay deputies of the Diocese of Massachusetts offered a resolution, possibly inspired by the fact that a large number of deputies in the house were either retired, or laymen who could afford to be absent from their business or professional work for the sessions of a Convention, and, therefore, might be assumed to be of advanced age. The proposal was an amendment of Section 4 by the addition of the following:

After December 31, 1960, no one who has attained the age of seventy-two shall be eligible to serve as a clerical or lay deputy.

Despite a favorable recommendation from the committee on amendments, the resolution was not adopted by the House of Deputies.

The controversy over the admission of women deputies grew in intensity as, in the Conventions of 1958 and 1961, the familiar resolutions for amendment by the substitution of words were again defeated in the House of Deputies. Demonstrations occurred, and voices protesting discrimination against women grew more shrill. On the other side, dire prophecies warned that, were women admitted as deputies, they would soon replace the men; the ablest women would desert the organization of the Women of the Church for places in the House of Deputies; or,

once seated as deputies, the next move would be toward the ordination of women.

The House of Deputies in the Convention of 1961, after defeating the usual proposal for amendment, directed the Joint Commission on the Structure of General Convention and Provinces to consider a communication from the Triennial Meeting of the Women of the Church dealing with the matter, as well as a number of memorials and petitions, and report in 1964.

The joint commission reported as requested to the Convention of 1964 that it

believes that the time has come to face squarely the fact that equality of opportunity is being denied the women of the Church to be members of its legislative body. Further, a substantial number of dioceses now seat women delegates in their diocesan conventions; yet, as the Constitution is presently interpreted, these same dioceses are restricted in their right to choose the representation they wish in the General Convention.⁶²

The joint commission recommended the adoption of the amendment that had been rejected by the four preceding Conventions. The committee on amendments to the Constitution, considering the report, as well as memorials from four dioceses favoring the admission of women, presented to the House of Deputies the usual resolution for amendment by the substitution of appropriate words. Passed by a comfortable margin in the clerical order, it was lost in the lay order.

In the Convention of 1967, the efforts on behalf of the women finally met with success. The committee on amendments to the Constitution and the committee on structure, responding jointly to a resolution offered by the Joint Commission on the Structure of General Convention and Provinces, and more than a dozen memorials, including one from the Triennial Meeting of the Women of the Church, all requesting the authorization of the election and seating of women as lay deputies, presented the following resolution to the House of Deputies:

... that Section 4 of Article I of the Constitution be amended so as to change the word "Layman" wherever the same appears in said Section, to "Lay person," and so as to change the word "Laymen," wherever the same appears in said Section to "Lay Persons"...

A substitute resolution was moved which included not only more extensive revision, but also the following:

Clerical Deputies shall be selected from Presbyters, canonically resident in the Diocese, the wives of such Presbyters, wives of Bishops, persons who are full-time employees of the National Church, of a Diocese, or of a Parish, and their spouses, all of whom shall be communicants of the Church, having domicile in the Diocese.

62. *Journal*, 1964, p. 929.

Lay Deputies shall be selected from Lay persons, communicants of this Church, having domicile in the Diocese, excepting such Lay persons as are eligible to be selected as Clerical Deputies.⁶³

The substitute motion was defeated, and the original question moved and adopted. The House of Bishops concurred, and the amendment was proposed for final action in 1970.

In the Convention of 1970, the issue brought before the Convention a half-century earlier was finally settled with complete harmony. When the adoption of the amendment was moved, together with a resolution that it become effective at once, it was passed by a unanimous vote of the dioceses in the clerical order, and with only one dissenting vote, that of the Diocese of Rhode Island, in the lay order. There were no divided votes. The House of Bishops concurred with a unanimous vote, and the first paragraph of Section 4 was amended accordingly.

Two of the prophecies made at the height of the controversy have proved thus far to be groundless. The leadership in the Episcopal Churchwomen has not been impaired by the preference of some women to participate in the legislative activity of General Convention. The suggestion that men would withdraw, leaving the lay deputations to be filled by women, is not borne out by the fact that, in the Convention of 1979, approximately thirty-six percent of the lay deputies were women.

Another amendment to Section 4 was proposed by the Convention of 1976. It concerned the requirement that lay deputies be domiciled in the diocese they represent. A problem had emerged in two conventions in the Diocese of Massachusetts, and could arise elsewhere in the Church, whereby communicants of border parishes who do not live within their respective dioceses were barred from serving as lay deputies in the General Convention. The committee on the Constitution proposed an amendment to the first paragraph, eliminating the words "having domicile in the Diocese," and inserting the words "in good standing in the Diocese but not necessarily domiciled in the Diocese." It was adopted by the House of Deputies, and the House of Bishops concurred. When the amendment was ratified by concurrent resolution in both houses in the Convention of 1979, Section 4 of Article I received the form in which it now exists.

The Convention of 1979 has proposed amendments which if adopted in 1982 will make further changes in Section 4. One proposes the admission of deacons as clerical deputies. Substantially the same as an

63. *Journal*, 1967, p. 392.

amendment which failed of adoption in 1976, it makes the description of the clerical representation of a diocese read “by not more than four ordained persons, Presbyters or Deacons, canonically resident in the Diocese.”

The other proposed amendment makes no substantial changes, but merges the first two paragraphs of Section 4, now repetitious, into one, and removes the description of some dioceses as “Missionary Dioceses.” The amendment, if ratified in the Convention of 1982, would make the new paragraph read:

The Church in each Diocese which has been admitted to union with the General Convention, and the Convocation of the American Churches in Europe, shall be entitled to representation in the House of Deputies by not be more than four Presbyters, canonically resident in the Diocese, and not more than four Lay persons, communicants of this Church in good standing in the Diocese but not necessarily domiciled in the Diocese; but the General Convention by Canon may reduce the representation to not fewer than two deputies in each order. Each Diocese, and the Convocation of the American Churches in Europe, shall prescribe the manner in which its Deputies shall be chosen.

Congruent with this is the deletion in the fourth paragraph of Section 4 of the words “and Missionary Diocese.” Were these changes to be adopted by the Convention of 1982, presumably the provision concerning deacons would be incorporated in the new paragraph.

SECTION 5

The text of Section 5 governing the adjournment of either house of the General Convention reads today exactly as it was adopted by the Convention of 1901. Its meaning is clear and requires no comment.

SECTION 6

From 1901 to 1904, Section 6 governed the time and place of the meeting of General Convention. From 1904 until 1970, however, this matter was contained in Section 7. Section 6 then regulated the representation and voting privileges in the House of Deputies of foreign missionary districts, and, after 1907, of the Convocation of the American Churches in Europe as well. In 1970, when these deputations were granted the same rights and privileges as dioceses and were listed with them in Section 4, the provisions governing the time and place of the meetings of General Convention were again numbered Section 6, and Section 7 disappeared.

Article 1 in the Constitution of 1789 fixed the time of the triennial meeting of the General Convention as the second Tuesday of September. In 1804 this was changed to the third Tuesday in May. From 1823 until 1841, the date of the meeting was omitted from Article 1, and it was

provided that the Convention should meet “at such time in every third year, and in such place as shall be determined by the Convention.” During these years, Article 1 also contained the following words after the first sentence:

and in case there shall be an epidemic disease, or any other good cause to render it necessary to alter the place fixed on for any meeting of the Convention, the presiding Bishop shall have it in his power to appoint another convenient place (as near as it may be to the place so fixed on) for the holding of such Convention.

An amendment proposed by the Convention of 1838, fixing the date of the meeting as the first Wednesday of October, was adopted in 1841.⁶⁴ There it remained until the end of the century. Proposals to move the meeting to an earlier date in September or October failed of consideration or adoption.

The Convention of 1901 made this portion of former Article 1 into Section 6 of Article I of the revised Constitution, amending it to read:

The General Convention shall meet in every third year on the first Wednesday in October, unless a different day be appointed by the preceding Convention, and at the place designated by such Convention; but if there shall appear to the Presiding Bishop of the Church sufficient cause for changing the place so appointed, he may appoint another place for such meeting. Special meetings may be provided for by Canon.⁶⁵

The Convention of 1955, by concurrent resolution of both houses, proposed for adoption in 1958 an amendment to Section 6 [since 1904 numbered Section 7], the purpose of which was to relieve the Presiding Bishop of the burden of deciding by himself when to change the place of the General Convention.

The Convention of 1955 had originally been set for Houston, Texas. On learning that the non-segregated facilities expected could not be assured, the Presiding Bishop moved the place of the Convention to Honolulu, Hawaii. The additional expense involved occasioned considerable criticism, and the Convention, in Honolulu, proposed an amendment requiring the advice and consent of the National Council to a change in either the place or the date of the Convention. Adopted in 1958, it read as follows:

The General Convention shall meet in every third year on the Wednesday after the First Sunday in October, unless a different day be appointed by the preceding Convention, and at the place designated by such Convention; but if there shall appear to the Presiding Bishop, acting with the advice and consent of the National Council of the Church or of a successor canonical body having substantially the powers now vested in the National Council, sufficient cause for changing the place or date so appointed, he, with the advice and consent of such body, shall appoint another place or date, or both, for such meeting. Special meetings may be provided for by Canon.

64. *Journal*, 1838, p. 167; 1841, p. 22.

65. *Journal*, 1901, p. 197.

The Convention of 1964, having amended Title I, Canon 4, making changes in the composition and size of the Executive Council, proposed an amendment to this section changing the name “National Council to “Executive Council” where such words first appear in the section, and substituting the word “therein” for the phrase “in the National Council” in the following clause. These changes were adopted in 1967. The purpose was to avoid confusion of the Episcopal Church’s council with the National Council of Churches.

In the Convention of 1967, the committee on amendments to the Constitution and the committee on structure both presented reports recommending favorable action on a resolution of the Mutual Responsibility Commission calling for an amendment so as to permit the holding of General Conventions more frequently than every three years. Both houses concurred in proposing that the opening clause of Section 6 [still numbered Section 7] be made to read:

The General Convention shall meet not less than once in each three years, at a time and place appointed by a preceding Convention...

The Convention of 1970 adopted this amendment. As it also amended Section 4 to include therein the provisions governing the representation and rights of deputies from missionary dioceses beyond the territory of the United States and from the Convocation of the American Churches in Europe, the matter governing the time and place of meetings of General Convention was again numbered Section 6. The text of the section remains today as adopted in 1970.



ARTICLE II.

- Election of Bishops.* Sec. 1. In every Diocese the Bishop or the Bishop Coadjutor shall be chosen agreeably to rules prescribed by the Convention of that Diocese. Bishops of Missionary Dioceses shall be chosen in accordance with the Canons of the General Convention.
- Required age.* Sec. 2. No one shall be ordained and consecrated Bishop until he shall be thirty years of age; nor without the consent of a majority of the Standing Committees of all the Dioceses, and the consent of a majority of the Bishops of this Church exercising jurisdiction. But if the election shall have taken place within three months next before the meeting of the General Convention, the consent of the House of Deputies shall be required in place of that of a majority of the Standing Committees. No one shall be ordained and consecrated Bishop by fewer than three Bishops.
- Consecration.*
- Jurisdiction of Bishops.* Sec. 3. A Bishop shall confine the exercise of his office to his own Diocese or Missionary Diocese, unless he shall have been requested to perform episcopal acts in another Diocese or Missionary Diocese by the Ecclesiastical Authority thereof, or unless he shall have been 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 or Missionary Dioceses of this Church.
- Suffragan Bishops.* Sec. 4. It shall be lawful for a Diocese, with consent of the Bishop of that Diocese, to elect one or more Suffragan Bishops, without right of succession, and with seat and vote in the House of Bishops. A Suffragan Bishop shall be

consecrated and hold office under such conditions and limitations other than those provided in this Article as may be provided by Canons of the General Convention. He shall be eligible as Bishop or Bishop Coadjutor of a Diocese, or as a Suffragan in another Diocese, or may be elected by the House of Bishops as a Bishop of a Missionary Diocese.

May become Ecclesiastical Authority. Sec. 5. It shall be lawful for a Diocese to prescribe by the Constitution and Canons of such Diocese that upon the death of the Bishop a Suffragan Bishop of that Diocese may be placed in charge of such Diocese and become temporarily the Ecclesiastical Authority thereof until such time as a new Bishop shall be chosen and consecrated; or that during the disability or absence of the Bishop a Suffragan Bishop of that Diocese may be placed in charge of such Diocese and become temporarily the Ecclesiastical Authority thereof.

Resignation. Sec. 6. A Bishop may not resign his jurisdiction without the consent of the House of Bishops.

Suffragan Bishop for Armed Forces. Sec. 7 . It shall be lawful for the House of Bishops to elect a Suffragan Bishop who, under the direction of the Presiding Bishop, shall be in charge of the work of those chaplains in the Armed Forces of the United States who are ordained Ministers of this Church. The Suffragan Bishop so elected shall be consecrated and hold office under such conditions and limitations other than those provided in this Article as may be provided by Canons of the General Convention. He shall be eligible as Bishop or Bishop Coadjutor or Suffragan Bishop of a Diocese, or he may be elected by the House of Bishops as a Bishop of a Missionary Diocese.

Election of Bishops and Bishops Coadjutor to other jurisdictions. Must have served five years. Resignation procedure must be followed. Sec. 8. A Bishop exercising jurisdiction as the Ordinary, or as the Bishop Coadjutor, of a Diocese or Missionary Diocese, may be elected as Bishop, Bishop Coadjutor, or Suffragan Bishop, of another Diocese, or may be elected by the House of Bishops as a Bishop of a Missionary Diocese; *Provided*, that he shall have served not less than five years in his present jurisdiction; and *Provided always*, that before acceptance of such election he shall tender to the House of Bishops his resignation of his jurisdiction in the Diocese in which he is then serving, subject to the required consents of the Bishops and Standing Committees of the Church, and also, if he be a Bishop Coadjutor, his right of succession

therein, and such resignation, and renunciation of the right of succession in the case of a Bishop Coadjutor, shall be consented to by the House of Bishops.

*Compulsory
retirement
age.*



Sec. 9. Upon attaining the age of seventy-two years a Bishop shall tender his resignation from his jurisdiction.

The nine sections of Article II contain: (1) provisions governing the election of bishops and the consents required thereto, their consecration, the exercise of their office and jurisdiction, and the conditions under which they may accept election to other jurisdictions or episcopal responsibilities; (2) the eligibility of suffragan bishops for election to the same office in another diocese or as bishops having jurisdiction, the circumstances in which a suffragan bishop may become temporarily the Ecclesiastical Authority in a diocese, and the regulations providing for the election of a suffragan bishop to be in charge of the work of Episcopal chaplains in the armed forces; and (3) the provisions governing the resignation and retirement of bishops.

The brief fourth article of the Constitution of 1789 relating to bishops was rewritten and expanded in the revision of the Constitution in 1901, drawing upon material previously contained in the canons. The four sections in which Article II appeared in 1901 correspond closely to the present Sections 1, 2, 3, and 6. The additional five sections now present result from amendments made during the last eighty years.

Title III, Canons 14 to 16 and 18 to 20, should be read in conjunction with this article.

EXPOSITION OF ARTICLE II

SECTION 1

Article 4 of the Constitution of 1789 read in its entirety as follows:

The Bishop or Bishops in every State shall be chosen agreeably to such rules as shall be fixed by the Convention of that State. And every Bishop of this Church shall confine the exercise of his Episcopal office to his proper Diocese or District, unless requested to ordain or confirm or perform any other act of the Episcopal office, by any Church destitute of a Bishop.¹

The few changes made in this article before 1901 require no special comment. The Convention of 1838 struck out the words "or District," and, as already noted in the exposition of Article I, substituted the word

1. *Journals 1785-1853*, ed. Hawks and Perry, I, p. 100.

“Diocese” for “State” wherever it occurred in the Constitution and Canons.² In place of the final words, “by any Church destitute of a Bishop,” the Convention of 1874 inserted the phrase “in another Diocese by the Ecclesiastical Authority thereof.”³

In the revision of 1901, the first sentence of Article 4 was altered by the substitution of the words “or the Bishop Coadjutor” for the words “or Bishops.” It is still the first sentence of Section 1, and it affirms the ancient association of a bishop with an area in which he is to exercise jurisdiction, and in which, by procedures that have varied at different times and in different places, he is elected.

The second sentence of Section 1 is now the same as in 1901, save that the words “Missionary Bishops” have been replaced by the words “Bishops of Missionary Dioceses,” an amendment proposed by the Convention of 1967 and adopted in 1970. For many years, however, the section contained another sentence interpolated between the two already mentioned. Proposed by the Convention of 1901 and adopted in 1904, it read:

Provided, however, that when a Diocese shall be formed out of a Missionary District, the Missionary Bishop in charge of said District shall become the Bishop of said Diocese, if he shall so elect.⁴

The amendment was made to prevent an injustice to a missionary bishop when a diocese was organized within his jurisdiction. Its removal was proposed by the Convention of 1967 when the change of nomenclature from “district” to “diocese” was begun and the process of bringing former missionary districts to constitutional equality with the dioceses was under way. The Convention of 1970 adopted the proposed amendment and Section 1 was brought to its present form.

SECTION 2

The provisions of Section 2 govern the age which one must reach before being ordained and consecrated bishop, the number of a bishop’s consecrators, and the manner of obtaining the consents necessary to such consecration.

Section 2 had no counterpart in the Constitution of 1789. It presents an example of canonical provisions being incorporated into constitutional legislation in 1901. With one exception, the section reads today exactly as it did in 1901. An amendment proposed by the Convention of 1958 and adopted in 1961 struck out the words “within the United States” after the words “Bishops of this Church exercising jurisdiction.”⁵

2. *Journal*, 1838, p. 24.

3. *Journal*, 1874, p. 164. See 1871, p. 161.

4. *Journal*, 1904, p. 162.

5. *Journal*, 1958, p. 242.

The effect of this amendment was to include bishops exercising missionary jurisdiction outside the territory of the United States in the calculation of a majority of episcopal consents to the election of a bishop.

The provision that “no one shall be ordained and consecrated Bishop until he shall be thirty years of age” adheres to an ancient rule of the Church. Part of the canon law of the Church of England, and included in the Preface of the first English Ordinal at the time of the Reformation, the requirement appeared in Canon 4 of 1789. The provision was dropped from the canons after its inclusion in the Constitution. It should be noted that the age requirement applies to the consecration, not the election of a bishop. In recent years there have been at least two instances of priests elected to the episcopate before their thirtieth birthdays, and thus consecration was delayed until after that date.

The provision requiring the consent of a majority of the standing committees of all the dioceses to the consecration of a bishop, if the election of such bishop shall have taken place more than three months before the General Convention, was first enacted as part of Canon 2 of the canons of 1799. Before the enactment of this canon, bishops could be consecrated only during the session of General Convention, or after the adjournment thereof, for the former canons required the consent of the Convention to the consecration of a bishop. Recognizing that this might impose unnecessary hardship in some circumstances, provision was made whereby the consent of a majority of standing committees would take the place of the consent of the House of Deputies. Inasmuch as standing committees included a representation of laity as well as clergy, their consent was judged equivalent to that of the House of Deputies.

The requirement of “the consent of a majority of the Bishops of this Church exercising jurisdiction” has, from time to time, raised the question as to what bishops are included in that category. Clearly, bishops of dioceses and missionary dioceses exercise jurisdiction. Just as clearly, suffragan bishops, assistant bishops, and bishops who have resigned their jurisdiction do not. The question concerns bishops coadjutor. Article I, Section 1, in listing bishops who shall have a seat and vote in the House of Bishops, appears to separate coadjutors from bishops exercising jurisdiction, for the opening words read “Each Bishop of this Church exercising jurisdiction, every Bishop Coadjutor, every Suffragan Bishop...”

The phraseology of Section 2 of Article I was considered by a special committee of the House of Bishops appointed in 1913 to explore a number of questions respecting the legislation concerning bishops.⁶ In the extensive report presented to that house in the Convention of 1916, the committee concluded that the wording of Article I, Section 2, excluded bishops coadjutor from voting on consents to episcopal elections, inasmuch as in that section they are “distinguished from Bishops having jurisdiction.”⁷ The committee held that the assignment of duties to a coadjutor by a diocesan bishop [then Canon 9, II (1); now Title III, Canon 14, Sec. 2 (a)] need not include jurisdiction. Jurisdiction would be conferred, maintained the committee, if the assignment consisted of the whole charge of a diocese or of a portion thereof, or of matters of discipline, including transfer.

The committee does not seem to have made any judgment concerning the possible implications of the right of a coadjutor to immediate and automatic succession, or in certain circumstances to assume the Ecclesiastical Authority without action by the standing committee, or to become a diocesan without further election in the event of the division of a diocese in accordance with the provisions of Article V. These rights may be interpreted as indicating a jurisdiction inherently, if not explicitly, attaching to the office of bishop coadjutor. While the matter does not appear to be free from doubt, the question is perhaps largely academic, for today most, if not all, coadjutors have specific jurisdiction conferred upon them by the diocesan.

It may be of interest that, among the many proposals that have appeared from time to time to increase the powers of provincial synods, a Special Committee on Enlarged Powers of Provincial Synods recommended to the General Convention of 1919 that Article II, Section 2, of the Constitution be amended to require the consent to the consecration of a bishop-elect only of the synod of the province in which he is to exercise his office. Should the election have taken place more than three months before the meeting of the synod, then the consent of two-thirds of the bishops exercising jurisdiction within the province, and the consent of two-thirds of the provincial standing committees would be required. The Committee on Amendments to the Constitution of the House of Bishops, to which this proposal was referred, expressed “grave doubts of the wisdom” of such an amendment, but recommended its adoption in order to continue the exploration of ways of increasing the powers of provincial synods through the next triennium, at the end

6. *Journal*, 1913, p. 94.

7. *Journal*, 1916, p. 33.

of which final action could be taken, The House of Bishops adopted the proposal, but the House of Deputies refused to concur.⁸

The final provision of Section 2 is that “No one shall be ordained and consecrated Bishop by fewer than three Bishops.” This regulation was included in Canon 7 of 1820, which stated that the Presiding Bishop with any two bishops may, having evidence of the required consents, proceed to consecrate a bishop-elect; or he may delegate the act to any three bishops to whom he shall communicate the testimonials. The relatively late enactment gave canonical force to a practice scrupulously observed in the American Church hitherto. No bishop before 1820 had been consecrated with fewer than three consecrators.⁹

The requirement of at least three consecrators was given universal application in A.D. 325 by the fourth canon of the Council of Nicaea. Three consecrators, all comprovincials of the bishop-elect, were presumed to be a safeguard against a new bishop leading his diocese into schism, as a few years earlier Bishop Melitius had done, for it was assumed that they could vouch for his orthodoxy. “It is most proper,” asserts the canon, “that a Bishop should be constituted [elected] by all the Bishops of the Province.” In cases of urgent necessity or difficulties of travel, at least three bishops should meet, “those who are absent giving their suffrages, and their consent in writing.”¹⁰ Only when the election thus had been affirmed could the consecration take place.

There are obscurities in the wording of the canon which have led Greek Orthodox commentators and western Roman Catholic canonists to differ as to the primary emphasis of the regulation. In the West, as methods of episcopal elections or appointments, and their confirmation, changed over the years, the emphasis came to rest almost entirely upon the number of consecrators.

Consecration by fewer than three bishops, while a departure from established tradition and a violation of the provisions of this section of the Constitution, would not necessarily invalidate the sacramental act. Nicene canons were not always considered binding in circumstances of urgent necessity. At the Convention of 1811, due to serious illnesses among the then six bishops, only two appeared in New Haven, William White and Abraham Jarvis, Seabury’s successor in Connecticut. Bishop White feared that

8. *Journal*, 1919, pp. 191, 222. [See also App. XIII, pp. 564-67.]

9. *Journal*, 1853, App. L, pp. 373-85.

10. See *The Seven Ecumenical Councils*, ed. H. R. Percival, New York, 1900, pp. 11-12 (Vol. XIV of *The Nicene and Post-Nicene Fathers*, Second Series).

the American church would again be under the necessity of having recourse to the mother church, for the episcopacy; or else of continuing it without requiring the canonical number...¹¹

White was determined not to resort to the latter option lest it “be productive of great disorder in future.” With the testimonials for John Henry Hobart and Alexander Viets Griswold signed by the Convention, they all adjourned to New York, where White and Jarvis proposed to hold the service in the bedroom of Bishop Moore, then suffering from a paralytic stroke, if necessary. This interesting possibility did not arise, however, for Bishop Provoost, partially paralyzed, and weak from an attack of jaundice, was persuaded to come out of seclusion and join the others in the consecration at Trinity Church.

In the Roman Catholic Church, Popes have, in the past, granted permission for consecration by one bishop, generally assisted by two priests, in instances where necessary, and particularly in missionary areas.

The classic example of consecration in urgent necessity by fewer than three bishops, and one of special interest to Anglicans, is that performed by St. Augustine, first Archbishop of Canterbury. He was dispatched to England in A.D. 596 at the head of a mission to the Anglo-Saxons. After his efforts had met with considerable success, he was consecrated at Arles and returned to England to consolidate the Church there as far as possible in accordance with Gregory’s original design. Aware of the urgent need of more bishops, he wrote to the Pope asking whether he might consecrate a bishop without other bishops being present. Gregory replied:

In the English Church in which you are as yet the only bishop, it is not possible for you to consecrate a bishop otherwise than alone...¹²

The Pope then instructed Augustine to consecrate bishops for places near to one another, so that “at the consecration of a bishop, other pastors also may easily be present.” After this has been accomplished, “no consecration of a bishop should be performed without the presence of three or four bishops.”

SECTION 3

Section 3 relates to the jurisdiction of bishops. Its provision that prohibits a bishop from intruding into another bishop’s jurisdiction, unless he shall have been requested to perform episcopal acts therein, derives from Article 4 of the Constitution of 1789. The latter portion

11. White, *Memoirs*, p. 277.

12. Bede, *Ecclesiastical History*, i. 27.

of the section was added in the revision of the Constitution of 1901, which made the whole section to read:

A Bishop shall confine the exercise of his office to his own Diocese or Missionary District, unless he shall have been requested to perform episcopal acts in another Diocese or Missionary District by the Ecclesiastical Authority thereof, or in a vacant Missionary District by the Presiding Bishop of this Church, or unless he shall have been authorized and appointed 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 or Missionary Districts of this Church.

The first amendment to the form of 1901 was proposed in the Convention of 1919 and adopted in 1922. By it the words “or in a vacant Missionary District by the Presiding Bishop of this Church” were struck out.¹³ The amendment was made in order that, should it be thought advisable, canonical provision might place a vacant missionary district under the provisional charge of the president of the province in which such district is located.

The Convention of 1967 proposed amendments congruent with the changing nomenclature. The words “Missionary District,” occurring twice, were altered to “Missionary Diocese,” and “Missionary Dioceses” was substituted for “Missionary Districts.” The words “authorized and appointed by the House of Bishops” were replaced by “authorized by the House of Bishops.” When these amendments were adopted by the Convention of 1970, the section read as it does today.¹⁴

The Convention of 1979 proposed amendments to Section 3, striking the words “or Missionary Diocese,” which occur twice, and the words “or Missionary Dioceses.” If adopted by the Convention of 1982 these changes would complete the process of eliminating, in this section, the distinction formerly made between missionary dioceses and other dioceses.

The meaning of Section 3 is plain and needs no further exposition.

SECTIONS 4 and 5

As the provisions of these two sections of Article II relate to the office and ministry of suffragan bishops, it will be convenient to consider them together. The two sections were added subsequent to the revision of 1901, whose concluding Section 4 [now Section 6] governed the resignation of bishops.

Section 4 provides for the election by a diocese of one or more suffragan bishops, without right of succession, with seat and vote in the House of Bishops; and for their eligibility for election as bishops or

13. *Journal*, 1919, pp. 177-78.

14. *Journal*, 1967, p. 386; 1970, p. 260.

bishops coadjutor of a diocese, or as suffragans in another diocese. Proposed by the Convention of 1907, this section was adopted in 1910.¹⁵ As adopted, it contained only one significant difference from its present form. In 1910, suffragan bishops were given seats in the House of Bishops but no vote. The long struggle through many Conventions to gain the vote for suffragans has been detailed in the exposition of Article I, Section 2, relating to the composition of the House of Bishops. It was not until 1943 that the General Convention adopted amendments to both Article I, Section 2, and Article II, Section 4, granting suffragan bishops a vote in the house.¹⁶

An alteration in this section of less significance from the form in which it was adopted in 1910 is the change of the final words from “as a Missionary Bishop” to “as a Bishop of a Missionary Diocese.” Proposed in the Convention of 1967, as were similar changes already discussed, the amendment was adopted in 1970.

The extreme reluctance of the Church to authorize the election and consecration of suffragan bishops, an attitude that lasted until the repeal in 1904 of a canon forbidding such election, deserves some extended comment. Even in 1910, when Section 4 was first presented in the House of Bishops for final adoption, it failed to secure the constitutional majority necessary to its passage. Only upon reconsideration, after adoption by the House of Deputies, did the bishops finally concur.¹⁷

The term “suffragan,” deriving from the medieval Latin *suffraganeus*, was applied to a bishop whose ministry was to support or assist another bishop. In one usage, it designated the diocesan bishops of a province in respect to the obedience and assistance due their archbishop or metropolitan, by whom they were summoned to assist at synods and give their “suffrages.” In another sense, it was applied to a bishop ordained and consecrated to assist his diocesan. This is, of course, the usage in these sections of Article II. A suffragan bishop, performing such duties as may be assigned to him by the diocesan, is without jurisdiction and possesses no right of succession.

Suffragan bishops appeared in the Church in England about the middle of the thirteenth century. They were appointed by the Pope at the request of diocesan bishops, and chiefly because many of the latter were employed by the Crown as officers of state, and thus were absent from their dioceses for long periods. The absent bishop’s officials administered the temporal affairs of the diocese, while the suffragan

15. *Journal*, 1907, p. 371; 1910, p. 77.

16. *Journal*, 1943, pp. 185-86.

17. *Journal*, 1910, pp. 27, 29, 33, 77.

performed the episcopal sacramental acts. With the repudiation of Papal authority at the time of the Reformation, a statute of Henry VIII (26 Henry VIII, cap. 14) provided for the appointment of suffragan bishops by letters patent of the Crown.¹⁸ The statute named twenty-six places in England from which they could take their titles. Thus, for example, still today the suffragan bishop of Norwich bears the title Bishop of Thetford, the suffragan of Ely is titular Bishop of Huntingdon, etc.

Though repealed by the Roman Catholic Queen Mary Tudor in 1554, the Henrician act was revived in 1559 as part of the Elizabethan religious settlement (I Eliz. cap. 1). Suffragan bishops were active until the last decade of the sixteenth century when such appointments ceased. The possible existence of suffragans, however, was assumed in the Canons of 1604.

The early leaders of our Church were reluctant to revive a form of the episcopate that had not only fallen out of use nearly two centuries before 1789, but which also was governed by elements of polity foreign to those of the American Church. Moreover, in English practice, a suffragan's commission was presumed to expire with the death or translation of his diocesan. Unless such commission were renewed by his successor, the Church would be left with a bishop having no relation to a diocese. That this was viewed as highly undesirable is evident from the strenuous objection to the consecration of William Meade in 1829 under the terms desired by the Virginia Convention. Its undesirability was also attested by the fact that, when Section 4 was enacted in 1910, the canon implementing it (Canon 11 of 1910) expressly stated that "the tenure of office of a Suffragan Bishop shall not be terminated on the death or removal of the Bishop of the Diocese."

The first use of the term "suffragan" appeared in 1814 when James Kemp of Maryland was consecrated "a Suffragan to the Bishop of the Church in said State." There was considerable opposition to his consecration, but on careful examination it does not appear to have been grounded in an objection to the old office of suffragan bishop. The term "suffragan" was used, but Kemp was clearly considered an assistant bishop and was consecrated to assist "in the duties of the Episcopal office, and to succeed in case of survivorship."¹⁹ The opposition to Kemp's consecration arose from some partisan wrangling in the Maryland

18. Suffragan Bishops Act, 1534. *Statutes of the Realm*, III, 509. Rpr. Gee and Hardy, ed. *Doc. Ill. Eng. Ch. Hist.*, pp. 253-56.

19. *Journal*, 1853, p. 383.

Convention, and some unfounded allegations concerning his fitness for the episcopate.²⁰

In 1829, however, a situation arose that was the reverse of the Kemp incident. William Meade was elected by the Virginia Convention as an assistant bishop, but the declaration of the convention that he was “not to be considered as entitled to the succession” made him in fact a suffragan.²¹ The case of Meade has been discussed earlier in the exposition of Article I, Section 2. The vigorous objection in both houses of General Convention which caused the diocese to rescind its declaration, and Meade to be consecrated with the usual clause granting succession “in case of survivorship,” was due to the fear that were Meade not elected upon the death of Bishop Moore, the Church would have a bishop with no relation to a diocese. To prevent the recurrence of a similar case, the Convention of 1829 enacted a canon (Canon 5 of 1829) providing that a diocese might have no more than one assistant bishop at the same time, “who shall in all cases succeed the bishop in case of surviving him.” The last sentence of the canon contained the provision that “No person shall be elected or consecrated a Suffragan Bishop.” This prohibition of suffragans remained in force until its repeal in 1904.

An elaborate canon providing for suffragan bishops was proposed in the House of Deputies in the Convention of 1847.²² The proposed canon was designed to give relief to the Diocese of New York whose bishop, Benjamin Onderdonk, was under an indefinite sentence of suspension, and whose request for restoration had been refused by the House of Bishops earlier in the session. The canon was referred to the consideration of a joint committee with instructions to report at the next Convention. No report was made in 1850, however, and instead of authorizing a suffragan for New York, a canon was adopted providing for the election of a “Provisional Bishop” in a diocese “deprived of the services of its Bishop by a sentence of suspension without a precise limitation of time.”²³ The provisional bishop was to perform the duties of an assistant bishop, and succeed the diocesan on his death or resignation.

Twenty-four years later, in the Convention of 1871, a canon proposing the authorization of the office of suffragan bishop was presented in the House of Deputies. The committee on canons reported unfavorably, though a minority of the committee urged its adoption to assist “the more vigorous growth and working of the Church, and the greater

20. White, *Memoirs*, pp. 303-08.

21. *Journal*, 1829, pp. 13-14.

22. *Journal*, 1847, pp. 79-80, 155.

23. *Journal*, 1850, p. 92.

efficiency of the Episcopate as a whole.”²⁴ Later in the session, a move to strike the prohibition of the election of suffragans from the canon on assistant bishops was indefinitely postponed.

The Convention of 1874 witnessed renewed activity on the subject, this time in the House of Bishops. A request from the Diocese of Texas for legislation making possible the appointment of a suffragan bishop to have charge of the Church’s “colored” people in Texas was laid upon the table. When a lengthy canon authorizing the election of suffragans was offered, a substitute proposed the creation of the office of “Special Missionary Bishop” to have responsibility for persons of foreign race and language.²⁵ In the end, the house approved the appointment of five bishops as a special committee to consider and report on the whole subject in the Convention of 1877.

It is entirely possible that this revival of interest in the suffragan episcopate which began in 1871 was influenced by the fact that, in 1870, the Church of England again commenced the appointment of suffragan bishops, a move which the report presented to the House of Bishops in 1877 warmly commended as both wise and expedient.

The report made by the special committee in the Convention of 1877 is of considerable interest. The majority of the committee recommended that provision be made for suffragan bishops. Such bishops would provide the Church with “more of Episcopal care, labour, and supervision than it now receives ... and keep pace with the rapid growth of the Church and of the country.” Moreover, ran the report,

in having Suffragan Bishops we shall have a class of men who can assist us very much in the election of Diocesan Bishops. We shall have in them men of experience, men who have been tried, and whose qualifications are therefore known ... If we have Suffragan Bishops, we can judge by the manner in which they discharge their duties in that capacity how far they are fitted for a wider sphere and weightier responsibility.²⁶

The majority report was favorable to the use of suffragans to provide episcopal care “for congregations of persons speaking different languages from the English, or belonging to races distinct from the European,” though it emphasized that suffragan bishops should not be provided exclusively for that purpose.

A minority report of the committee opposed the authorization of suffragans, citing with approval the objections made in 1829 when the case of Meade’s election was before the General Convention. Furthermore, the minority deplored what it termed “a sort of Sub-Episcopate ...

24. *Journal*, 1871, p. 119.

25. *Journal*, 1874, pp. 255, 283, 362.

26. *Journal*, 1877, App. X, pp. 524-33.

obnoxious to the Scriptural and Apostolical principle of Episcopal parity,” composed of men “with minor qualifications,” and by introducing “jealousies and discords almost inevitable where two or three Bishops, not always in accord, are officiating in the same Diocese,” posing a serious threat to the harmony and peace therein.

The House of Bishops took no action beyond ordering the report printed in the *Journal* and the committee discharged. When a proposal to repeal the canonical provision prohibiting the election of a suffragan bishop came before the House of Deputies in the Convention of 1880, the report of the committee on canons against such repeal was accepted.²⁷ With almost monotonous regularity the matter arose in subsequent Conventions, only to be repeatedly deferred.

Finally, in the Convention of 1904, a memorial from the Diocese of Virginia on the subject “Suffragan Bishops for Colored People” was referred to a Joint Commission on the Memorial from Church Workers among Colored People, while other proposals were referred to a Joint Committee on Suffragan Bishops.²⁸ The commission and the committee were instructed to bring into the Convention of 1907 a harmonized form of proposed amendments to the Constitution.

In 1907, the Joint Committee on Suffragan Bishops submitted for consideration by the House of Bishops a proposed constitutional amendment authorizing the election of suffragan bishops. Meanwhile, from the House of Deputies came an amendment on the same subject with which the Bishops concurred.²⁹ Adopted, therefore, by concurrent resolutions of both houses, it was referred to the Convention of 1910 for final action. Ratified by that Convention, it became Section 4 of Article II in the form described at the beginning of this exposition.

SECTION 5

Section 5 provides that the constitution and canons of a diocese may prescribe that, in the event of the death of a bishop, a suffragan bishop of the diocese may be placed in charge of such diocese and become temporarily the Ecclesiastical Authority until a new bishop shall be elected or consecrated. In the event of the bishop’s disability or absence, a suffragan bishop of the diocese may be granted similar temporary authority.

This section, precisely as it stands today, was recommended to the House of Bishops in the Convention of 1916 by a Special Committee on Legislation Concerning Suffragan Bishops. Its intent was to provide

27. *Journal*, 1880, pp. 49, 60.

28. *Journal*, 1904, pp. 38-39, 130, 351.

29. *Journal*, 1907, pp. 80-82, 161.

greater dignity and a more efficient exercise of power to the office of Suffragan Bishop. It is not compatible with the dignity of the episcopate that, when the Diocesan Bishop is absent or temporarily disabled, a Suffragan Bishop should be made subordinate to a Standing Committee... Whatever may be the opinion of any member of this House on the expediency of having Suffragan Bishops in the Church, it ought to be generally agreed that if we do have Suffragan Bishops, they are Bishops and their office should be invested with such powers as will give it both dignity and efficiency.³⁰

Proposed by concurrent action of both houses, the amendment inserting Section 5 into Article II was adopted by the Convention of 1919.³¹

SECTION 6

The brief statement of Section 6 is unchanged from the form in which it was first adopted as the concluding Section 4 of Article II in the Constitution of 1901. It provides that a bishop may not resign his jurisdiction without the consent of the House of Bishops.

The first resignation of a bishop in the American Church was that of Samuel Provoost of New York, who resigned his jurisdiction at a special diocesan convention in 1801. The convention accepted his resignation and elected Benjamin Moore as his successor. At the General Convention in September of that year, Bishop Provoost informed the House of Bishops by letter that “induced by ill health, and some melancholy occurrences in my family, and an ardent wish to retire from all public employment,” he had resigned “at the last meeting of our Church Convention.”³²

The House of Bishops appeared to be firm in declining “to recognize the Bishop’s act as an effectual resignation of his Episcopal jurisdiction.” They asserted that they could

see no grounds on which to believe that the contemplated resignation is consistent with ecclesiastical order, or with the practice of Episcopal churches in any ages, or with the tenor of the Office of Consecration.

They were confronting an unprecedented situation. While agreeing to consecrate a successor, they wished to be

understood to be explicit in their declaration, that they shall consider such a person as assistant or co-adjutor Bishop during Bishop Provoost’s life.

The house made no statement to the effect that its consent was necessary to validate a resignation, and, despite its declaration, when Moore was consecrated during the Convention it was as “Bishop-elect

30. *Journal*, 1916, p. 57.

31. *Journal*, 1919, pp. 275, 318.

32. *Journals 1785-1853*, ed. Hawks and Perry, I, p. 272. See also White, *Memoirs*, pp. 27-28.

of the Church in the State of New York.” His certificate of consecration said nothing of succession in case of survivorship, the usual phrase for an assistant bishop, but simply that he “hath been elected by the Convention of the said State in consequence of the inability of the Right Rev. Bishop Provoost, and of his declining all Episcopal jurisdiction.”³³

In 1812 Bishop Provoost appears to have had a change of mind. He informed the New York convention that, because of the opinion expressed in the House of Bishops eleven years earlier, he was still Bishop of New York. The convention firmly rejected this claim, asserting that

Bishop Provoost, as Diocesan, did resign his jurisdiction to the Convention of New York, and the Convention did accept it, and elect a Diocesan to succeed him ... the person elected was canonically consecrated into the office of Bishop of the Church in New York, and had ever since performed the duties of Diocesan.

It would appear in this first case that the House of Bishops deplored the resignation of one of their number from what was considered a life-long association with his diocese, but there was yet sufficient uncertainty as to preclude a statement that the consent of the house was essential to make such resignation effectual. This uncertainty probably explains the absence of any legislation on the subject at the time.

By 1831, however, the situation had changed. In that year Philander Chase resigned to his diocesan convention his jurisdiction as Bishop of Ohio and his presidency of Kenyon College, and moved out of the state. The Convention of 1832 strongly condemned Chase’s action. The House of Bishops agreed to consecrate the bishop-elect, Charles McIlvaine, but issued a solemn protestation against it being made a precedent on any future occasion. “The Bishops are deeply impressed,” they said

with a consideration of the evils which may result to the Church, from capricious and unregulated resignations of Episcopal jurisdiction ... the acts of the Right Rev. Bishop Chase ... are not warranted by any regulation of the Protestant Episcopal Church in the United States, nor by any general usage of the Church.

The House of Bishops hope that the House of Clerical and Lay Deputies will concur with them ... in the passage of a Canon prohibiting Episcopal resignation, except on great and urgent occasions ... and also designating the ecclesiastical body to whose approval they shall be subjected.³⁴

Canon 32, adopted in the same Convention, more than fulfilled the bishops’ wish to make the resignation of a bishop exceedingly difficult. Its eight sections provided elaborate procedures for resignation that resembled the process of election and confirmation in reverse. While resignation might still be made to a diocesan convention, the final

33. *Journal*, 1853, App. L, p. 380.

34. *Journal*, 1832, p. 444.

decision on acceptance was to be made by the House of Bishops. Resigned bishops were to lose their seats in the House, and, if they performed any episcopal act contrary to the provisions of the canon, they were liable to trial by five bishops who, governed in the case by their own rules, could, if guilt were found, pronounce sentence of degradation.

The canon of 1832 was replaced by Canon 4 of 1844. The chief difference was that the resignation of a bishop must be made known in the first instance, not to his diocesan convention, but to the House of Bishops for their thorough investigation of the case before acceptance or refusal.³⁵ Subsequent revisions of the canon appeared in 1850, 1859, and 1883. The latter was no less elaborate than its predecessors, but it introduced the provision that a bishop whose resignation “by reason of advanced age and bodily infirmity arising therefrom” shall retain his seat in the House of Bishops “with all the rights and precedence therein to which he would otherwise be entitled.”³⁶

The canon of 1883 remained without amendment until 1901 when, in the revision of the Constitution, the subject of episcopal resignations was made the substance of Article II, Section 4 [now Section 6]. The present canon implementing the constitutional provision is Title III, Canon 18, Sections 8 and 9.

SECTION 7

Section 7 provides for the election by the House of Bishops of a suffragan bishop who, under the direction of the Presiding Bishop, shall be in charge of the work of Episcopal chaplains in the armed forces of this country. Like other suffragans, he is eligible for election as a bishop, a bishop coadjutor, or suffragan bishop of a diocese, or he may be elected by the House of Bishops as a bishop of a missionary diocese.

Experience during World War II convinced the Church of the desirability of providing both administrative supervision and pastoral care of its clergy who joined the armed forces as chaplains. The section was proposed in 1946 and adopted by the Convention of 1949. Save for the alteration of the last words “as a Missionary Bishop” to the words “Bishop of a Missionary Diocese,” the section reads today as it was first adopted in 1949.

An amendment proposed in the Convention of 1979 will, if adopted in 1982, strike the last words, “or he may be elected by the House of Bishops as Bishop of a Missionary Diocese.” The amendment arises

35. *Journal*, 1844, p. 309.

36. *Journal*, 1883, pp. 317, 322.

from the process of eliminating the distinction between former missionary dioceses and other dioceses.

SECTION 8

Section 8 provides that a bishop exercising jurisdiction may be elected as the diocesan, coadjutor, or suffragan of another diocese, or may be elected by the House of Bishops as bishop of a missionary diocese; provided (1) that he shall have served not less than five years in his present jurisdiction; and (2) that before acceptance of such election he shall tender to the House of Bishops the resignation of his jurisdiction in the diocese in which he is then serving, and also, if he is a bishop coadjutor, he shall resign his right of succession in his present jurisdiction, securing the consent thereto of the House of Bishops.

For thirty years after the Convention of 1901 the “translation” of bishops, as their transference from one jurisdiction to another is known in canon law, occupied the attention of numerous Conventions. Reports on the subject were received, discussion was held in both houses, but nearly always there was sufficient hesitancy to defer any favorable action. In the Convention of 1907, for example, a recommendation in the House of Bishops proposing the authorization of translation was framed in such negative terms (it was to be permitted only in instances where there is “great and reasonable cause and a strong and general demand for the translation”) that those who were convinced that translation was “wrong in principle and harmful in practice” easily postponed any decision.³⁷

There appeared to be wide agreement during these years with a statement made in the Convention of 1910 by the Committee on Amendments to the Constitution of the House of Deputies that

more harm than profit would be likely to accrue in a departure from the unbroken tradition and usage of this Church regarding the translation of Diocesan Bishops.³⁸

The lengthy report in 1916 of a special committee appointed to consider questions relating to the episcopal office recommended against any legislation permitting translation.³⁹ A dozen years later, in the Convention of 1928 the consensus in the House of Bishops seems to have been that, while there was no specific constitutional obstacle to the translation of a bishop or a bishop coadjutor, “any departure from the

37. *Journal*, 1907, pp. 123-24.

38. *Journal*, 1910, p. 349. See also p. 119.

39. *Journal*, 1916, p. 31.

long and uniform tradition and practice in this American Church ... would be highly inadvisable."⁴⁰

In 1931, however, sentiment showed a marked change. A committee of the House of Bishops presented a persuasive report favorable to the authorization of translation, based upon a careful consideration of the historical background of the practice, and dealing with the familiar arguments, both pro and con. The report, which is both interesting and instructive, read in part as follows:

The status of the matter of translation of diocesan bishops in this Church may be briefly summarized. No action was taken to provide for such in the first Constitution and Canons ... the relative equality of the dioceses ... gave the question no practical importance. The ancient Nicene canon and others, with the traditional conception of the bishop's relation to his diocese as a marriage, created great opposition to a bishop's resignation, a question that was of course involved in that of translation; and in 1844 a canon was passed prohibiting a resigned bishop from accepting any other diocese. This canon which then clearly indicated the mind of the Church on translation was omitted in the revision of 1904...

The Committee now recommends that action be taken which will make it clear that this Church desires to put no unnecessary obstacles in the way of translation. The feeling of the ancient Church was against the removal of a bishop from one diocese to another. This was made clear in the well-known Nicene canon (which included priests and deacons as well) and in others. But these canons registered a sentiment rather than a rule ... as a rigid rule the sentiment could not be enforced, as it never had been ... In the Middle Ages translation became a matter of course ... In England since the Reformation the practice of translation contained without question...

In every other part of the Anglican Communion the same practice prevails. This practice is important, because outside of England and the sees directly dependent upon Canterbury the bishops are elected, as with us.

The Committee believes we should fall in line with Anglican and Catholic precedent. The primary reason is that which forced the Church in the early centuries to violate in practice its theory, namely, the importance to the Church of using its clergy at the points where they can serve best ...

From time to time there are cases of men chosen in their comparative youth to small dioceses, who may find there a training well fitting them for service in some of the great strategic centers of Church life ...

There are two general objections to the practice of translation. It is felt that the permanence of the bishop's tenure brings a stability much needed under modern American conditions ... Your Committee ... believes that translation by election would be so infrequent, in any case, as in no way to disturb the normal permanency of tenure.

The second objection is that there would be restlessness among the bishops, that politics would be played ... Your Committee believes that the bishops of the Church as a class can be trusted absolutely on such matters, and that no bishop is more likely to seek translation for personal ambition than he would as a priest have sought the episcopate...

40. *Journal*, 1928, p. 61.

Your Committee is satisfied that there is now no constitutional barrier or canonical bar to the election of a bishop or bishop coadjutor to another diocese or missionary district ... The Committee therefore proposes an amendment to Article II of the Constitution...⁴¹

A minority report was submitted by one member of the committee, the Rt. Rev. William T. Manning, Bishop of New York. He was sure that translation would have an unsettling effect upon the whole life of the Church. More important, however, was his firm conviction that the relation between a bishop and his diocese was "sacred and life-long," a contention that will be made again when an amendment requiring the resignation of bishops at the age of seventy-two was proposed.

The Convention of 1931 proposed an amendment to Article II authorizing the translation of bishops and bishops coadjutor. Originating in the House of Bishops, with the concurrence of the House of Deputies, it was referred to the next Convention for adoption.

The Convention of 1934 rejected the proposed amendment. In the House of Bishops it failed to secure the constitutional majority, and in the House of Deputies, though approved in the clerical order, it was lost by a narrow margin in the lay order.⁴²

The issue was kept alive, however, and made sporadic appearances in Conventions subsequent to 1934. The proviso that a bishop might be eligible for election by another diocese after he had served five years in his present jurisdiction was included in a resolution introduced in the House of Deputies in the Convention of 1949. The resolution was not acted upon, but the five-year proviso survived to become part of the amendment by which translation was eventually authorized.

In the Convention of 1964, more than sixty years after the first move to permit translation, an amendment was proposed that was destined for adoption three years later. In the House of Bishops, a resolution was adopted and sent to the House of Deputies in the following form:

Resolved, the House of Deputies concurring, that a Bishop exercising jurisdiction as the Ordinary, or as the Bishop Coadjutor, of a Diocese of the Protestant Episcopal Church in the United States of America, be declared eligible under the Constitution and Canons of the Church to be elected Bishop, or Bishop Coadjutor, or Suffragan Bishop, in another Diocese, or to be elected by the House of Bishops as a Missionary Bishop, subject to the provisions of the Constitution and Canons regarding the resignation of jurisdiction by a Bishop.

The committee on amendments to the Constitution, in agreement with the same committee of the House of Bishops, felt that the desired action should be taken by constitutional amendment rather than by

41. *Journal*, 1931, pp. 549-51.

42. *Journal*, 1934, pp. 21, 264.

resolution. The committee on amendments, therefore, submitted a proposed amendment to Article II to be numbered Section 8, reading as follows:

A Bishop exercising jurisdiction as the Ordinary, or as the Bishop Coadjutor, of a Diocese or Missionary District may be elected as Bishop, Bishop Coadjutor, or Suffragan Bishop, of another Diocese, or may be elected by the House of Bishops as a Missionary Bishop; *Provided*, that he shall have served not less than five years in his present jurisdiction; and *Provided* always that, before acceptance of such election, he shall tender to the House of Bishops his resignation of his jurisdiction in the Diocese in which he is then serving, subject to the required consents of the Bishops and Standing Committees of the Church, and also, if he be a Bishop Coadjutor, his right of succession therein, and such resignation, and renunciation of the right of succession in the case of a Bishop Coadjutor, shall be consented to by the House of Bishops.⁴³

The proposed amendment was approved by the House of Bishops, and received a large majority of the votes in both orders in the House of Deputies. It was adopted by the Convention of 1967 with very little dissent.⁴⁴

The only alterations made in the text of Section 8 since its adoption in 1967 have been those necessary to implement the re-designation of missionary districts as dioceses. Thus "Missionary District" now reads "Missionary Diocese," and the words "elected by the House of Bishops as a Missionary Bishop" have been changed to "elected by the House of Bishops as a Bishop of a Missionary Diocese."

The Convention of 1979 proposed for adoption in 1982 a further amendment to bring the text into accord with the present equality of dioceses, by striking out the words "or may be elected by the House of Bishops as a Bishop of a Missionary Diocese." The canons now provide for the election of bishops of missionary dioceses other than by the House of Bishops.

Several features of Section 8 deserve further comment. Future revision might simplify the language. Further, it might be well to consider the inclusion of the office of assistant bishop in another diocese among the episcopal responsibilities which a bishop might resign his present jurisdiction to accept, inasmuch as provision is made for this in Title III, Canon 20, Section 2(a).

It should be noted that the report made to the House of Bishops in 1916, and discussed earlier in this exposition, held that, as bishops were separated from bishops coadjutor in the first sentence of Article I, Section 2, therefore coadjutors do not exercise jurisdiction unless it be

43. *Journal*, 1964, pp. 268-69.

44. *Journal*, 1967, pp. 382-83.

expressly conferred upon them among the “duties” assigned. There is some doubt concerning the conclusions of the committee, as stated in the earlier discussion. The language of Section 8, however, appears to leave no doubt that bishops coadjutor exercise jurisdiction, for in its opening sentence bishops are described as “exercising jurisdiction as the Ordinary, or as the Bishop Coadjutor, of a Diocese ...” Reconciliation of the implications of this statement with those of the first sentence of Article I, Section 2, is a task for future consideration.

Since the introduction of Section 8 there has been only one instance of translation under its provisions. The Rt. Rev. Willis R. Henton, Bishop of Northwest Texas since 1972, accepted election of the Western Diocese of Louisiana in 1980.

SECTION 9

At the Convention of 1940, an amendment to Article II was proposed, adding a new section, to be numbered Section 7. It read as follows:

Upon attaining the age of seventy-two years a Bishop shall tender his resignation from his jurisdiction.

Now numbered Section 9, owing to the insertions of sections on the provision of a suffragan bishop for the armed forces, and the authorization of the translation of bishops, the amendment was adopted by the Convention of 1943 by a constitutional majority in the House of Bishops and a substantial majority in both orders in the House of Deputies.⁴⁵

The adoption of this amendment produced an immediate outcry in some quarters of the Church, and the agitation was increased by the adoption of a resolution by the House of Bishops, reading as follows:

Whereas, A question has been raised as to whether this provision of the Constitution applies to Bishops already consecrated at the time of its adoption, therefore,

Be It Resolved, That it is the sense of this House that, any provision of the Constitution in regard to the retirement of Bishops should be considered binding upon the present members of the House.⁴⁶

While the resolution seems to have hastened the retirement of less than a score of bishops, the Church press was filled with acrimonious debate on the subject, ranging from pragmatic arguments as to whether age might affect the ability of a bishop to administer his diocese effectively, to the theological issue of whether the wedding of a bishop to his diocese, a concept at least as old as the Council of Nicaea, could be

45. The *Journal* of 1943 errs in its report of the vote in the clerical order in the House of Deputies. The result should read: Ayes, 60 3/4; Noes, 16 1/4; Divided, 1. The lay vote is correctly given.

46. *Journal*, 1943, p. 189.

dissolved for any reason, save by the disability, deposition, or death of the bishop.

Amid these objections, the Presiding Bishop sought opinion from the diocesan chancellors. A number replied that General Convention possessed the power to enact the amendment, though some among them were of the opinion that, in the absence of clear language in the amendment itself, it should not be given an *ex post facto* effect. Others doubted that General Convention had the power to terminate a bishop's jurisdiction solely on the grounds of age. The question of whether an outside authority had the power to require a bishop to resign his jurisdiction was not easily settled. There were those who argued that, however great were the powers of the General Convention, they did not extend to violating an ecclesiastical tradition of great antiquity.

The classic precedent for such action in the history of the Church occurred in 1801 when Pope Pius VII, in accordance with the Concordat made with Napoleon, suppressed and extinguished the ancient French sees in the interests of new episcopal appointments, depriving such legitimate bishops as refused to submit. A number of bishops issued a solemn protest, containing not only a reiteration of traditional Gallican principles concerning the relation of the episcopate to the papacy, but also an express declaration that a bishop's relation to his diocese, founded in primitive Church order, could not be dissolved by an arbitrary act of papal power. The incident gave rise to the schism of *La Petite Église*, led by some of the deprived bishops in exile from revolutionary France.

The dispute over the amendment of Article II, though the same principle was involved, did not reach that magnitude, partly because retirement at the age of seventy-two seemed a very reasonable requirement for bishops as well as for executives in secular occupations. The temper of mind at the time was moving steadily in the direction of placing an age termination on all forms of executive leadership.

The observation is made in the 1954 edition of this work, in a discussion of Article II, Section 9, that the question of the extent of the authority of General Convention might arise in another field, provoking far more difficulty than the determination of the age at which a bishop must retire. This prognostication proved correct when the Convention of 1976 adopted a canonical amendment opening all orders of the ministry to women. The contention that the Convention's action should have been accomplished by constitutional amendment rather than by canonical legislation appeared irrelevant to those who raised the question of whether or not General Convention possessed the right to take such action by any means.

The controversy over the Convention's legislation imposed a severe strain upon the peace and unity of the Church. No brief description can encompass all the complexities of the issue, intensified as they were by the dissension that arose simultaneously over the adoption of a revised Book of Common Prayer. Nor can all the divergent opinions be fairly described, save by extended treatment which is outside the scope of this exposition. Briefly, on one hand there were those who claimed that there was both theological right and moral justice in opening ordination to the priesthood and the episcopate to all qualified adult persons. On the other hand, there were those who believed that General Convention has no power to legislate in matters touching the doctrine of priesthood in such a way as to depart from the principles of Catholic order. It was chiefly from this group that a number of priests and people left the communion of the Episcopal Church and established ecclesiastical bodies claiming continuance with the true Anglican heritage of Catholic faith and practice.⁴⁷

For a large number of those troubled by the action of the General Convention, however, the question was how far the authority of the Convention extends in legislating a departure from a tradition as old as the Church itself. No one will deny that the Convention is the supreme legislative body of this Church. It not only makes the Constitution and amends it, but it also interprets the Constitution. General Convention may limit its own power, and it may remove such limitation at will. The question to which no conclusive answer has yet been given is how far this authority is limited by the very heritage it exists to maintain, by what barriers, in what spheres of tradition, doctrine, or otherwise. It may be that, in the future, an issue will arise permitting a clearer determination of the answer than that of the ordination of women to the ministry of the Church.

47. See the "Report of the Special Meeting of the House of Bishops, 1978," *Journal*, 1979, pp. B-255 and B-256.



ARTICLE III.

Bishops consecrated for foreign lands. Bishops may be consecrated for foreign lands upon due application therefrom, with the approbation of a majority of the Bishops of this Church entitled to vote in the House of Bishops, certified to the Presiding Bishop; under such conditions as may be prescribed by Canons of the General Convention. Bishops so consecrated shall not be eligible to the office of Diocesan or of Bishop Coadjutor of any Diocese in the United States or be entitled to vote in the House of Bishops, nor shall they perform any act of the episcopal office in any Diocese or Missionary Diocese of this Church, unless requested so to do by the Ecclesiastical Authority thereof. If a Bishop so consecrated shall be subsequently duly elected as a Bishop of a Missionary Diocese of this Church he shall then enjoy all the rights and privileges given in the Canon to such Bishops.



Article III provides that, with the approval of a majority of bishops entitled to vote in the House of Bishops, bishops may be consecrated for foreign lands under such conditions as may be prescribed in the canons of the General Convention. The conditions are at present contained in Title III, Canon 17.

Bishops so consecrated are not eligible to the office of diocesan or of bishop coadjutor of any diocese in the United States, nor are they entitled to vote in the House of Bishops. They may perform episcopal acts within the dioceses of this Church only when requested to do so by the Ecclesiastical Authority thereof. A bishop so consecrated, if elected a bishop of a missionary diocese of this Church, shall then have all the rights and privileges given to such bishops in the canons.

EXPOSITION OF ARTICLE III

The Domestic and Foreign Missionary Society of the Protestant Episcopal Church was established by General Convention in 1821. The so-called "Missionary Convention" of 1835 reorganized the Society, providing that every member of the Church should be regarded as a member of the Society. In the interests of greater efficiency in its work, the affairs of the Society were placed under the direction of a Board of Missions. This Convention elected Jackson Kemper as the first missionary bishop, his jurisdiction to include Missouri and Indiana, a supervision soon extended to Wisconsin and other parts of what was later called the "Old West."

Missionary enthusiasm was still strong in the Convention of 1838 where Leonidas Polk was chosen "a Missionary Bishop of this Church to exercise Episcopal functions in the State of Arkansas." The Convention replaced a canon of 1835 with a new one on the subject of missionary bishops, including therein not only provision for such bishops "to exercise Episcopal functions in States and Territories not organized as Dioceses," but also for the election and consecration

of a suitable person to be a Bishop of this Church, to exercise Episcopal functions in any place or places out of the territory of the United States, which the House of Bishops may designate.¹

A large amount of the attention of the Convention of 1841 was occupied with the report of the Board of Missions, which concluded with the following resolution:

Resolved, (as the sense of this Board) that for the administration of the Missionary work in countries beyond the United States, it is expedient that there should be consecrated to the Episcopate, one who shall act as a Missionary Bishop in foreign lands, pursuant to the provisions of the 4th Section of the 2nd Canon of 1838.²

After considerable discussion of the matter in both houses of the Convention, the House of Bishops nominated the Rev. John A. Vaughan of New York, secretary of the foreign committee of the Board of Missions, to be "a Missionary Bishop to exercise Episcopal functions in the Maryland Colony at Liberia, on the western coast of Africa, and in such other place or places out of the territory of the United States as the House of Bishops may designate."

The House of Deputies refused to confirm the nomination, returning to the House of Bishops a resolution stating

1. *Journal*, 1838, p. 70. Canons of 1838, II.
2. *Journal*, 1841, p. 156.

That in the opinion of this House, it is not expedient to elect a Bishop, to perform Episcopal functions in any place out of the territory of the United States, until the authority, rights, duties and responsibility, of such Bishop, *and of those ordained by him*, shall have been declared and established, and a mode provided, by Canon or otherwise, of rendering them amenable to the laws of this Church.³

A joint committee was then appointed “on the subject of a Bishop to perform Episcopal duties in any place out of the United States,” but the committee deemed it too late in the session to act upon the subject.

The House of Bishops then proposed an additional article to the Constitution, to be numbered Article 10, and the House of Deputies concurred. Adopted by the Convention of 1844, the article read:

Bishops for foreign countries, on due application therefrom, may be consecrated, with the approbation of the Bishops of this Church, or a majority of them, signified to the Presiding Bishop; he, thereupon, taking order for the same, and they, being satisfied that the person designated for the office has been duly chosen and is properly qualified. The Order of Consecration to be conformed as nearly as may be, in the judgment of the Bishops, to the one used in this Church. Such Bishops, so consecrated shall not be eligible to the office of Diocesan, or Assistant Bishop, in any Diocese in the United States, nor be entitled to a seat in the House of Bishops, nor exercise any Episcopal authority in said States.⁴

It will be immediately recognized that the conditions of the new article governing the relation to this Church of bishops consecrated thereunder are completely different from those of the canon of 1838 to which the Board of Missions had referred in its report in 1841. The canon granted a bishop consecrated under its provisions a seat in the House of Bishops and eligibility “to the office of Diocesan Bishop in any organized Diocese within the United States.” Article 10 explicitly denied these privileges to a bishop consecrated under its provisions. The substantial difference between the two pieces of legislation is that the canon governed the consecration of a missionary bishop *of this Church* to work in foreign lands, whereas the article governed the consecration of a bishop *for a Church existing* in foreign lands. It is not surprising, therefore, that it was thirty years before a bishop was consecrated under the provisions of Article 10.

In sending bishops of this Church to exercise a ministry outside the United States, the General Convention first established a foreign missionary district of this Church, and then chose a missionary bishop for such district, to be under the direction of the Board of Missions. The Convention of 1844, for example, designated “Amoy and such other parts of the Chinese Empire as the Board of Missions may designate”

3. *Journal*, 1841, pp. 74, 76.

4. *Journal*, 1844, pp. 73-74.

to be a "Missionary Station of this Church." The Rev. William J. Boone was then elected "a Foreign Missionary Bishop, to exercise Episcopal functions" in the designated area. The same Convention established "a Missionary Station" in the "Dominions and Dependencies of the Sultan of Turkey," and elected the Rev. Horatio Southgate "a Foreign Missionary Bishop of the Protestant Episcopal Church."⁵ Similarly, in 1851 the Rev. John Payne was consecrated as "Missionary Bishop of the Protestant Episcopal Mission at Cape Palmas and Parts Adjacent" (Liberia).⁶ Other such designations of areas and consecrations of missionary bishops therefor followed in the later years of the century.

The first consecration of a bishop under the provisions of Article 10 took place in 1874. In that year the Episcopal Church entered into a covenant with the independent Episcopal Church in the Republic of Haiti, the creation of the labors of missionaries led by the Rev. James Theodore Holly. In the covenant the Haitian Church was recognized as "a foreign Church to all intents and purposes within the meaning of Article 10 of the Constitution."⁷ The House of Bishops, therefore, requested the Presiding Bishop to take order for the consecration of Bishop-elect Holly as Bishop of Haiti.

A similar, but less successful, venture was undertaken with respect to an independent Church in Mexico. The intermittent agitation for social and political reforms that kept Mexico in turmoil after its independence from Spanish rule was accompanied by a move to establish a Church free from the control of the Roman Catholic hierarchy. The movement, consisting chiefly of a number of disaffected priests and their congregations, was never very strong. It was, however, assisted in its organization by the Rev. Henry Chauncey Riley, an Episcopal priest who had worked among the Mexicans for some years.

In 1875 the independent Mexican Church, then known as "The Mexican Branch of the Catholic Church of Our Lord Jesus Christ," appealed to the House of Bishops for the consecration of a bishop. After considerable investigation, the favorable report of a commission appointed by the House of Bishops led to the consecration in 1879 of Riley as Bishop of the Valley of Mexico, under the provisions of Article 10, and in accordance with a covenant made between this Church and the Mexican Church.⁸

5. *Journal*, 1844, pp. 108-15.

6. *Journal*, 1853, p. 302.

7. *Journal*, 1874, pp. 374-76. The Covenant is printed in full.

8. *Journal*, 1880, pp. 176-81.

It seems evident from questions raised in the House of Deputies in the Convention of 1880, that there were some doubts as to the wisdom of the action of the House of Bishops, based partly upon the suspected instability of the Mexican Church, and partly upon a lack of confidence in Bishop Riley. The latter doubt appears to have had some foundation, for in the Convention of 1883, the House of Bishops, upon the recommendation of its Mexican Commission, asked Bishop Riley to resign his jurisdiction as Bishop of the Valley of Mexico.⁹ He did so, and the venture in Mexico came to a close until some years later a missionary district of this Church was established there.

The third bishop consecrated under the provisions of Article 10 was the Rev. Lucien Lee Kinsolving. In 1889 he and another voting priest of this Church, the Rev. James W. Morris, began a vigorous missionary work at Porto Alegre in southern Brazil. The effort met with such success that within a few years the mission was organized as the independent Protestant Episcopal Church in the United States of Brazil. In the Convention of 1898 the House of Bishops received a request from the Brazilian Church for the consecration of a bishop to provide the necessary episcopal ministrations, a task undertaken unofficially in 1893 by Bishop Peterkin of West Virginia, and in 1897 by the Anglican Bishop of the Falkland Islands. The house acted favorably upon the request, and Kinsolving was "nominated to the Presiding Bishop to be consecrated, with the approbation of a majority of the Bishops of this Church, under the provisions of Article 10 of the Constitution, as a Bishop for the United States of Brazil."¹⁰ He was consecrated in January 1899.

The only alteration made in Article 10 before 1901 was the substitution of the words "Bishop Coadjutor" for the words "Assistant Bishop" by the Convention of 1895.

In the revision of the Constitution adopted by the Convention of 1901, former Article 10 was renumbered Article III and rewritten as follows:

Bishops may be consecrated for foreign lands upon due application therefrom, with the approbation of a majority of the Bishops of this Church entitled to vote in the House of Bishops, certified to the Presiding Bishop; under such conditions as may be prescribed by Canons of the General Convention. Bishops so consecrated shall not be eligible to the office of Diocesan or of Bishop Coadjutor of any Diocese in the United States or be entitled to vote in the House of Bishops, nor shall they perform any act of the episcopal office in any Diocese or Missionary District of this Church, unless requested so to do by the Ecclesiastical Authority thereof.

9. *Journal*, 1883, p. 90.

10. *Journal*, 1898, pp. 97, 110, 113.

The revision made two principal changes in former Article 10. The conditions under which a bishop might be consecrated for foreign lands were described simply as those “as may be prescribed in the Canons.” Also, a bishop so consecrated might perform episcopal acts in any diocese or missionary district of this Church if requested to do so by the Ecclesiastical Authority thereof.

An interesting point arose in the Convention of 1907, when the House of Bishops received a petition from the Brazilian Church that it be constituted a foreign missionary district of this Church. The committee on amendments to the Constitution, to which the matter was referred, reported to the house that “by the provisions of Canon 10, I, the House of Bishops may legally establish a Missionary District in territory beyond the United States,” and “the foreign Church of Brazil can, by vote of the House of Bishops, be established as a Foreign Missionary District.” However, said the Committee, “it is not true

that this House can, by a simple resolution, transform a Bishop “consecrated for a foreign country” into a Missionary Bishop of this Church ... the Bishop for the congregations in Brazil was consecrated ... according to the provisions of Article 10 (now Article III) of the Constitution.

Your Committee, therefore, is of the opinion that the Bishop in charge of the congregations in Brazil must cease to be a Bishop “consecrated for a foreign country” before he can become eligible to be a Missionary Bishop of this Church; in other words, he must resign...

Your Committee ... regard it as imperative that the resignation ... shall be accepted by the House of Bishops before the country of Brazil can be legally established as a Foreign Missionary District...¹¹

With Bishop Kinsolving’s resignation in hand, the committee then presented a series of actions to be taken by the house in the following order: the acceptance of Bishop Kinsolving’s resignation, the establishment of the Brazilian Church as a foreign missionary district, and the decision to elect a bishop for said district, subject to confirmation by the House of Deputies.

Having acted favorably on the committee’s resolutions, the House of Bishops then elected Bishop Kinsolving to be “Bishop of the Foreign Missionary District of Brazil,” and the House of Deputies confirmed the election. Fifteen years later the Convention of 1922 adopted an amendment to Article III, proposed in 1919, which embodied in the Constitution the procedure already acted upon in the election of Bishop Kinsolving as a missionary bishop of this Church. The amendment added the following sentence to the Article:

11. *Journal*, 1907, pp. 58, 72-73.

If a Bishop so consecrated shall be subsequently duly elected as a Missionary Bishop of this Church, he shall then enjoy all the rights and privileges given in the Canons to Missionary Bishops.¹²

The Convention of 1964 witnessed a sequel to the Brazilian venture when our missionary districts there had become strong enough to ask for their ecclesiastical freedom in order to form an independent Brazilian Church. The House of Bishops voted them administrative autonomy.¹³ Today the *Igreja Episcopal do Brasil* is a separate and self-governing member Church of the Anglican Communion.

In the Philippine Islands, the end of Spanish rule brought about a revolt in the Church in which some two million Filipinos rejected control by the Spanish hierarchy. Forming the Philippine Independent Church, they sought to maintain their Catholic traditions. As, however, no bishops joined the priests and their congregations, their bishops were commissioned without episcopal consecration. As close relations developed during the passing years between the Independent Church and the Philippine Episcopal Church, the Independent Church appealed to the House of Bishops to remedy this defect in Catholic order by consecrating some of their bishops. A committee appointed to consider the matter reported to the House as follows:

We considered step by step the provisions of Article III of the Constitution of our Church and the provisions of Canon 42.

We studied seriatim ... questions raised ... and we are satisfied that [they] ... are adequately answered in the documents presented to the Presiding Bishop. We are further satisfied that the provisions of Article III of the Constitution and of Canon 42 are complied with.

We unanimously recommend that the petition of the Philippine Independent Church be granted, and that the Presiding Bishop be requested to work out the details for the conveying of valid orders to the Philippine Independent Church...¹⁴

The report was adopted, and in 1948 three bishops of this Church consecrated to the episcopate the *Obispo Maximo*, Monsignor Isabelo de los Reyes, and two other prelates of the *Iglesia Filipina Independiente*. A relation of full communion between this Church and the Philippine Independent Church was established in 1961.

The remaining alterations in Article III which brought it to its present form were proposed in 1967 and adopted by the Convention of 1970. They are similar to the nomenclature changes made in other articles of the Constitution. The words "in any Diocese or Missionary Diocese"

12. *Journal*, 1919, p. 88; 1922, p. 281.

13. *Journal*, 1964, p. 220.

14. *Journal*, 1949, p. 74.

were substituted for the words “in any Diocese or Missionary District,” and the last sentence, adopted in 1922, was rewritten to read as follows:

If a Bishop so consecrated shall be subsequently duly elected as Bishop of a Missionary Diocese of this Church he shall then enjoy all the rights and privileges given in the Canon to such Bishops.

The Convention of 1979 proposed for final action in 1982 a further amendment to Article III deleting the words “or Missionary Diocese.”



ARTICLE IV.

Standing Committees. In every Diocese a Standing Committee shall be appointed by the Convention thereof. When there is a Bishop in charge of the Diocese, the Standing Committee shall be his Council of Advice. If there be no Bishop or Bishop Coadjutor or Suffragan Bishop canonically authorized to act, the Standing Committee shall be the Ecclesiastical Authority of the Diocese for all purposes declared by the General Convention. The rights and duties of the Standing Committee, except as provided in the Constitution and Canons of the General Convention, may be prescribed by the Canons of the respective Dioceses.



Article IV provides that, in each diocese, a standing committee shall be appointed by the diocesan convention to act as a council of advice to the bishop, and to exercise such rights and perform such duties as are provided in the Constitution and Canons of the General Convention, and as may be prescribed by the canons of the respective dioceses. If in any diocese there be no bishop authorized to act, the standing committee shall be the Ecclesiastical Authority in such diocese.

Numerous canons specify the duties and responsibilities of standing committees. Of these, Title I, Canon 11, and Title III, Canon 18, Sections 5 and 10, should be read in conjunction with this article.

EXPOSITION OF ARTICLE IV

The Constitution made no provision for the existence of standing committees in the several dioceses before its revision in 1901. Reference

to them during the nineteenth century was confined to the canons. The first legislation occurs in Canon 6 of 1789, which dealt with the subject of the testimonials to be produced by candidates for Holy Orders:

Every candidate for Holy Orders shall be recommended to the Bishop by a Standing Committee of the Convention of the State wherein he resides, which recommendation shall be signed by a majority of the Committee...

As evidently in some dioceses no standing committees existed for this purpose, the canon required that

In every State in which there is no Standing Committee, such Committee shall be appointed at its next ensuing Convention...¹

One purpose of introducing standing committees into the legislation of General Convention was that of passing on the qualifications of candidates for Holy Orders, and recommending them to the bishop for ordination.

Conjecture has sought to find the distant ancestry of standing committees in the council of presbyters that assisted a bishop in the early years of the Church's history, or in the cathedral chapters of later centuries, but there is little or nothing to support such a view, and perhaps much to be said against it. A speculative explanation of the origin of standing committees in the American Church was given in 1832 by John Henry Hopkins, Bishop of Vermont. His opinion was that standing committees came into being, in the large and sparsely-settled dioceses of the early years of our Church, because

... the impossibility of convening all the clergy for consultation with their Bishop, dictated the propriety of appointing each year a committee, who, residing convenient to him, could assemble, whenever it might be expedient to give him the benefit of their advice and counsel...²

It sounds plausible, and it is entirely possible that bishops sought the advice of priests and laymen near at hand, but the fact is that the standing committee as an official and canonical body was not designated a council of advice in 1789.

On the other hand, the assertions made in the first edition of this work, and reproduced unchanged in the second edition, that standing committees were "first established for the sole purpose of passing on the qualifications of candidates for Orders," and that "there is not the slightest hint in the Canons of 1789 that they were to exercise any other functions" surely need modification. There are, in fact, other functions explicitly stated.

1. *Journals 1785-1853*, ed. Hawks and Perry, I, pp. 126-27.

2. Quoted in part in White and Dykman, *Annotated Constitution and Canons*, Second edition, 1954, I, p. 66.

Canon 9 of 1789 provides that a clergyman, not a member of this Church, but professing to be episcopally ordained and desirous of officiating in a parish of this Church, must exhibit to the vestry a certificate of the authenticity of his Letters of Orders signed by the bishop of the diocese, or “where there is no bishop, by three clergymen of the Standing Committee of the Convention of that State.” Canon 14, requiring a list of all ministers in a diocese or district to be given to the secretary of the General Convention, asserts that such list is to be delivered by “every Bishop of this Church, or, where there is no Bishop, the Standing Committee of that diocese or district.” Finally, Canon 17 provides that notice of the induction of a minister into a parish be delivered to the Bishop “or to the Standing Committee of the Diocese;” and in the event that “the Bishop, or the Standing Committee, be not satisfied [that the person chosen is a qualified minister of this Church] ... he or they shall ... proceed to enquire into the sufficiency of the person so chosen.”³

These certainly are other functions than that of passing on the qualifications of candidates for Orders. It would seem clear in the Canons of 1789 that, in the case of a vacancy in the episcopate of a diocese, the standing committee is to exercise some of the functions that will later be defined as belonging to the Ecclesiastical Authority.

In 1808 the responsibilities of standing committees were enlarged when the Convention enacted Canon 24, providing that the standing committee, as established in 1808 by Canon 4, shall:

be a Council of Advice to the Bishop ... summoned on requisition of the Bishop, whenever he shall wish for their advice. And they may meet of their own accord, and agreeably to their own rules, when they may be disposed to advise the Bishop.

In the revision of the canons adopted by the Convention of 1832, Canon 4, on standing committees, made a significant addition to their powers by an explicit statement concerning ecclesiastical authority. The third section of the canon read:

Where there is no Bishop, the Standing Committee is the Ecclesiastical Authority for all purposes declared in these Canons.

Thus the powers of an Ecclesiastical Authority, enumerated in respect to certain specific instances in the canons of 1789, were now extended to be of general application “for all purposes declared in these Canons.”

In the Convention of 1841 a joint committee, headed by Bishops Henry U. Onderdonk of Pennsylvania and Jackson Kemper of Missouri and Indiana, and including among its members two priests who were

3. *Journals 1785-1853*, ed. Hawks and Perry, I, pp. 127-30.

later to become bishops, George Upfold and George Burgess, as well as several distinguished laymen, reported on the question of adopting a canon on the subject of ecclesiastical authority in a diocese. No legislation resulted from the report, but it was made clear by the committee in their exhaustive analysis of the canons that the bishop is the Ecclesiastical Authority in a diocese and, where there is no bishop, this power and responsibility falls to the standing committee.⁴

A situation of interest to the canonist arose in 1845 when the trial of Bishop Benjamin T. Onderdonk of New York resulted in a sentence of suspension. As the suspension was for an indefinite term, a sentence then possible under the canons, the question was whether this constituted such a vacancy in the episcopate in New York as to warrant the standing committee becoming the Ecclesiastical Authority. Legal opinion differed on this point, but the standing committee of the Diocese of New York, supported by the diocesan convention, assumed such authority and exercised it until the General Convention of 1850 made it canonically possible to elect a Provisional Bishop “in the case of a Diocese whose Bishop is suspended without precise limit of time.”⁵

The matter now appears to be of academic interest only, for the Convention of 1847 enacted a canon providing that “the penalty of suspension ... shall specify on what terms or at what time, such penalty shall cease,” a provision that is still in the canon law today.⁶ It did not apply to Bishop Onderdonk, however, nor did its enactment induce the House of Bishops to entertain his plea to be relieved of his sentence.⁷ Onderdonk remained under suspension until his death in 1861.

The Onderdonk case is discussed at length in the earlier editions of this work, chiefly for the purpose of urging the desirability of enacting an explicit provision for the exercise of ecclesiastical authority in a diocese “between the time of the suspension of its bishop and the meeting of the diocesan convention.” This proposal would appear to burden the canons unnecessarily, for the present Title III, Canon 18, Section 6 (a) and (b) cover the matter, if not explicitly, then almost certainly by the general powers entrusted to the standing committee.

The substance of the early nineteenth-century canons on the responsibilities of standing committees was incorporated into the first constitutional legislation on standing committees adopted by the Convention of 1901. Article IV of the Constitution of 1901 reads as follows:

4. *Journal*, 1841, pp. 72-73.

5. *Journal*, 1850, p. 93 (Canon 3 of 1850).

6. *Journal*, 1847, p. 92 (Canon 3 of 1847).

7. *Journal*, 1847, pp. 169-70.

In every Diocese a Standing Committee shall be appointed by the Convention thereof. When there is a Bishop in charge of the Diocese, the Standing Committee shall be his Council of Advice; and when there is no such Bishop, the Standing Committee shall be the Ecclesiastical Authority of the Diocese for all purposes declared by the General Convention. The rights and duties of the Standing Committee, except as provided in the Constitution and Canons of the General Convention, may be prescribed by the Canons of the respective Dioceses.⁸

The present Article IV of the Constitution is the same as that of 1901, save for one amendment that was proposed in 1916 and adopted by the Convention of 1919. This amendment inserted the words “or Bishop Coadjutor or Suffragan Bishop canonically authorized to act,” making that portion of the Article read:

If there be no Bishop or Bishop Coadjutor or Suffragan Bishop canonically authorized to act, the Standing Committee shall be the Ecclesiastical Authority...⁹

Article IV establishes some fundamental powers and responsibilities to be exercised by standing committees, leaving their implementation in detail to the canons of General Convention; and such matters as the composition of standing committees, qualifications for membership, their election, and their local powers in diocesan affairs, to the canons of the several dioceses.

8. *Journal*, 1901, pp. 200, 216.

9. *Journal*, 1919, pp. 57, 86.



ARTICLE V.

*Admission of
new Dioceses.*

Sec. 1. A new Diocese may be formed, with the consent of the General Convention and under such conditions as the General Convention shall prescribe by General Canon or Canons, (1) by the division of an existing Diocese; (2) by the junction of two or more Dioceses or of parts of two or more Dioceses; or (3) by the erection into a Diocese of an unorganized area evangelized as provided in Article VI. The proceedings shall originate in a Convocation of the Clergy and Laity of the unorganized area called by the Bishop for that purpose; or, with the approval of the Bishop, in the Convention of the Diocese to be divided; or (when it is proposed to form a new Diocese by the junction of two or more Dioceses or of parts of two or more Dioceses), by mutual agreement of the Conventions of the Dioceses concerned, with the approval of the Bishop of each Diocese. In case the Episcopate of a Diocese be vacant, no proceedings toward its division shall be taken until the vacancy is filled. When it shall appear to the satisfaction of the General Convention, by a certified copy of the proceedings and other documents and papers laid before it, that all the conditions for the formation of the new Diocese have been complied with and that it has acceded to the Constitution and Canons of this Church, such new Diocese shall thereupon be admitted to union with the General Convention.

*Rights of the
Diocesan and
the Bishop
Coadjutor.*

Sec. 2. In case one Diocese shall be divided into two or more Dioceses, the Bishop of the Diocese divided may elect the one to which he will be attached, and he shall thereupon become the Bishop thereof; and the Bishop

Coadjutor, if there be one, may elect the one to which he shall be attached, and (if it be not the one elected by the Bishop) he shall be the Bishop thereof.

Rights of Bishops when new Diocese formed from parts of two or more Dioceses. Sec. 3. In case a Diocese shall be formed out of parts of two or more Dioceses, each of the Bishops and Bishops Coadjutor of the several Dioceses out of which the new Diocese has been formed shall be entitled, in order of seniority of consecration, to the choice between his own Diocese and the new Diocese so formed. In case the new Diocese shall not be so chosen, it shall have the right to choose its own Bishop.

Constitution and Canons of new Dioceses. Sec. 4. Whenever a new Diocese is formed and erected out of an existing Diocese, it shall be subject to the Constitution and Canons of the Diocese out of which it was formed, except as local circumstances may prevent, until the same be altered in accordance with such Constitution and Canons by the Convention of the new Diocese. Whenever a Diocese is formed out of two or more existing Dioceses, it shall be subject to the Constitution and Canons of that one of the said existing Dioceses to which the greater number of clergymen shall have belonged prior to the erection of such new Diocese, except as local circumstances may prevent, until the same be altered in accordance with such Constitution and Canons by the Convention of the new Diocese.

Limit of Presbyters and Parishes. Sec. 5. No new Diocese shall be formed unless it shall contain at least six Parishes and at least six Presbyters who have been for at least one year canonically resident within the bounds of such new Diocese, regularly settled in a Parish or Congregation and qualified to vote for a Bishop. Nor shall such new Diocese be formed if thereby any existing Diocese shall be so reduced as to contain fewer than twelve Parishes and twelve Presbyters who have been residing therein and settled and qualified as above provided.

Cession of diocesan territory. Sec. 6. By mutual agreement between the Conventions Of two adjoining Dioceses, consented to by the Ecclesiastical Authority of each Diocese, a portion of the territory of one of said Diocese may be ceded to the other Diocese, such cession to be considered complete upon approval thereof by the General Convention or by a majority of Bishops having jurisdiction in the United States and of the Standing

General Convention to approve.

Committees of the Dioceses in accordance with the Canons of this Church. Thereupon the part of the territory so ceded shall become a part of the Diocese accepting the same. The provisions of Section 3 of this Article V shall not apply in such case, and the Bishop and Bishop Coadjutor, if any, of the Diocese ceding such territory shall continue in their jurisdiction over the remainder of such Diocese, and the Bishop and Bishop Coadjutor, if any, of the Diocese accepting cession of such territory shall continue in jurisdiction over such Diocese and shall have jurisdiction in that part of the territory of the other Diocese that has been so ceded and accepted.

Section 3 not applicable.

Rights of Bishops of ceding and receiving Dioceses.



Article V sets forth the conditions governing the formation of a new diocese, the exercise of episcopal jurisdiction therein, the admission of such new diocese into union with the General Convention (Sections 1-5), and the cession of a portion of the territory of one diocese to another (Section 6).

Before 1970, the article contained eight sections. The present Section 6 was proposed to the Convention of 1964, acted upon favorably therein and adopted in 1967 as Section 8. In that same 1967 Convention, three other changes were approved which, by their adoption in 1970, brought the article to its present form.¹ By these changes: (1) Section 1 was reworded to conform to the nomenclature change of “District” to “Diocese;” (2) the former Section 5, providing that a missionary district be subject to the same conditions laid down in Section 4 for a diocese, now rendered unnecessary by the change of nomenclature, was repealed; and (3) the former Section 7 was repealed.

The repeal of Section 7 eliminated a requirement, dating from 1871, that before consenting to the erection of a proposed new diocese, the General Convention must have received satisfactory assurance of suitable provision for the support of the episcopate thereof.² When this requirement was adopted, the days had long passed since a bishop was supported, as in the early years of the nineteenth century, by holding the rectorship of a parish within the diocese. The provision of 1871 was enacted with the hope that it would stimulate the raising of endowments for the support of the episcopate, thus relieving parishes of assessments

1. *Journal*, 1967, p. 387; 1970, pp. 262-63.

2. *Journal*, 1868, p. 136; 1871, pp. 164, 354.

for that purpose, which in some cases had become heavy burdens. An unsuccessful attempt was made to repeal the requirement in the following Convention.³ Repeal was again attempted in 1889, but it failed to gain sufficient support in the House of Bishops.⁴ By 1964, however, it was evident that it was so long out-dated that it should be repealed.

These changes, therefore, and the consequent re-numbering of the sections ordered by the Convention of 1970, resulted in Article V as it now stands.

An amendment to Section 1, however, was proposed in the Convention of 1979 and received the approval of both houses. It will become effective if adopted by the Convention of 1982. The amendment makes no change in the requirements now in effect for the erection of a new diocese. The only alteration is of the last sentence of the section dealing with the proceedings governing the admission of a new diocese into union with the General Convention. For the present final sentence, the proposed amendment substitutes the following:

After consent of the General Convention, when a certified copy of the duly adopted Constitution of the new Diocese, including an unqualified accession to the Constitution and Canons of this Church, shall have been filed with the Secretary of the General Convention and approved by the Executive Council of this Church, such new Dioceses shall thereupon be in union with the General Convention.⁵

Related provisions in the Constitution and Canons that should be read with Article V are: Article VI of the Constitution, Section 2; Title I, Canon 8, Section 2(a); Title I, Canon 9; and Title I, Canon 10, Section 3(a).

EXPOSITION OF ARTICLE V

SECTION 1

Section 1 provides for the formation of a new diocese: (1) by the division of an existing diocese; (2) by the junction of two or more dioceses or parts thereof; or (3) by the erection into a diocese of an unorganized mission area.⁶ The proceedings must originate in a convocation of clergy and laity in an unorganized area; or in the convention of a diocese of which division is proposed; or, in the case of a new diocese to be formed by the junction of two or more dioceses or parts thereof, by mutual agreement of their conventions and approval by their bishops. No steps towards division may be taken if there is a

3. *Journal*, 1874, pp. 172, 174, 191, 347.

4. *Journal*, 1889, pp. 51-52, 63.

5. *Journal*, 1979, pp. C-38-39.

6. See Article VI and Canons, Title I, Canon 9, Section 5.

vacancy in the episcopate of a diocese involved. When certified copies of the necessary documents have been laid before the General Convention, attesting that all conditions required for the formation of a new diocese by this article and in the canons have been complied with, the new diocese shall be admitted to union with the General Convention.

The first legislation concerning the admission of a new diocese was enacted in the Convention of 1789 when Article 5 of the Constitution provided that

A Protestant Episcopal Church in any of the United States not now represented, may, at any time hereafter, be admitted, on acceding to this Constitution.

This enactment did not envision the division of an existing diocese, but simply specified how an Episcopal Church organized in any state might come into union with those already represented in the General Convention. In these early years, the state was universally accepted to be the unit of diocesan organization. Until 1838 the word "State" was commonly and officially used to designate a "Diocese." Thus we encounter such phrases as "the Bishops in every State," "the Convention of the State," "suffrages by States," etc. Influenced by the formation of a national Church through the federation of the separate Churches in the several states, the early leaders of the Church never conceived the existence of two dioceses within one state. The Convention of 1838, when adopting the first legislation permitting the division of a diocese, ordered at the same time the use of the term "Diocese" where "State" had formerly appeared.⁷

By 1795, the simple requirement of acceding to the Constitution was thought insufficient for the acceptance of the Church in any state into union with the Convention. Some evidence of the stability of its organization was deemed necessary, and Canon 1 of 1795 required that no state proceed to the election of a bishop unless "there be at least six presbyters residing and officiating therein." This legislation appears to have been prompted by the action of the Rev. Dr. Samuel Peters, a former Connecticut clergyman suspected of Loyalist sympathies during the Revolution, who sought consecration as Bishop of Vermont. Considerable obscurity surrounds the circumstances of his election. It is alleged that at the time there was only one clergyman in Vermont, the Rev. John C. Ogden, whom the Presiding Bishop, William White, assumed to have moved there for the election and left shortly afterwards.⁸ William Stevens Perry, however, asserts in his history that there were two other clergymen present at the election, and that in fact Mr. Ogden was "not pleased with Dr. Peters' election."⁹ Considering that Perry

7. *Journal*, 1838, pp. 24-25.

8. White, *Memoirs*, p. 220.

9. Perry, *The American Episcopal Church*, Boston, 1885, II, p. 180.

describes one of these clergymen as “a man of evil life” and the other as having “subsequently abandoned the Church and entered the Romish priesthood,” perhaps they were not thought to be “settled.” Unable or unwilling to penetrate this obscurity, the House of Bishops in 1795 declined to entertain Dr. Peters’ request, on the grounds that the Church in Vermont had not acceded to the Constitution.

The question of the number and qualifications of presbyters required to elect a bishop arose again in 1799, when the Convention refused to accept the testimonials of the Rev. Dr. Uzal Ogden, Bishop-elect of New Jersey. Doubts had arisen as to whether all the priests who voted in the election “were so qualified as to constitute them a majority of the resident and officiating priests in the said State, according to the meaning of the Canon.” The Convention thereupon passed Canon 3 of 1799 (described as “Explanatory of part of the 1st Canon of 1795”) providing that “No clergyman employed by the year, or for any limited time, shall be considered as a regularly officiating and resident Minister of the Church in any State” for the purpose of electing a bishop.¹⁰

In 1831, questions were raised concerning the number of settled clergymen voting in the election of the Rev. Benjamin Bosworth Smith as Bishop of Kentucky. No controversy ensued, however, and in the next year when he was again elected, there was no doubt of the canonical number of qualified clergymen participating in the election.

It should be noted that, in one instance, the number of clergymen canonically required for the election of a bishop was dispensed with. Aware of the need of providing a bishop for the country west of the Alleghenies, then being settled, a canon of 1817 declared that “the number of Clergymen specified in the second Canon shall not be requisite.” In 1820, after the election of the Rev. Philander Chase in Ohio, at a Convention in which there were only four clergymen, the dispensing canon was repealed.

The harbinger of change in the assumption that a diocese must be coterminous with a state was a memorial from the Diocese of New York introduced in the House of Bishops in 1835. The energetic missionary efforts of Bishop John Henry Hobart between 1811 and 1830 had so extended the Church in New York State that, five years after his death, it was evident that division was essential to further growth and effective episcopal oversight. Vigorously supported by Hobart’s successor, Bishop Benjamin T. Onderdonk, and backed by the prestige of approval by

10. *Journals 1785-1853*, ed. Hawks and Perry, I, pp. 228, 249.

Professor William R. Whittingham of the General Theological Seminary and a number of influential laymen in the western area of New York, an amendment was proposed in 1835 that allowed the division of a diocese. Adopted in 1838, it made possible the creation of the Diocese of Western New York, the first instance of the division of an existing diocese and the erection of one not bounded by state lines. The greater part of the material included in the present Article V received its first formulation in the extensive amendment adopted in 1838.¹¹

SECTIONS 2 and 3

Sections 2 and 3 deal with the rights of bishops and bishops coadjutor (“Assistant Bishop” was the term used in 1838) in the event of a division of a diocese, or the erection of a new diocese from parts of two or more dioceses. The bishop of a diocese to be divided shall have the right to choose the resulting diocese wherein he shall exercise jurisdiction. The bishop coadjutor, if there be one, may then elect the diocese to which he shall be attached. If it is not the one selected by the bishop, he shall be the bishop thereof.

When a new diocese is created of parts of two or more dioceses, each of the bishops and bishops coadjutor of the parent dioceses shall be entitled, in order of seniority of consecration, to the choice between his own diocese and the one newly formed. Should the new diocese not be chosen by any bishop, it shall have the right to elect its own bishop in the normal way.

Suffragan bishops have no rights of selection. If there be any in a diocese divided or in dioceses out of parts of which a new diocese is erected, one of them may become bishop by being regularly elected in any resulting diocese left vacant by the choice of the bishops or bishops coadjutor.

SECTION 4

Section 4 provides that, in the event of the division of a diocese, the one newly formed shall be governed by the constitution and canons of the diocese out of which it was erected until such time as said constitution and canons may be altered, in accordance with their own provisions for the same, by the convention of the new diocese. When a diocese is created out of two or more existing dioceses or parts thereof, it shall be also temporarily subject to the constitution and canons of that one of the parent dioceses to which the greater number of clergymen belonged before the erection of the new diocese.

11. *Journal*, 1838, p. 24.

In both cases, the clause “except as local circumstances may prevent” is included, making it clear that compliance with impossible conditions is not expected. Like most of the provisions in the article, the clause dates from the amendment of 1838. It was judged to apply, for example, when a new diocese discovered that the constitution of its parent diocese required more clergy to be present to form a quorum in the diocesan convention than there were resident in the newly formed diocese.¹²

SECTION 5

Section 5 defines the size required of a new diocese in terms of the number of parishes and presbyters to be contained therein. The discussion of Section 1, above, dealt with the number of qualified clergy required to elect a bishop in the Church in a state or diocese seeking union with the General Convention. Here we are concerned with the number required for the erection of a new diocese under the conditions first specified in 1838.

In Section 5 it is required that a new diocese shall contain at least six parishes and at least six presbyters. The latter shall have been canonically resident within the bounds of the new diocese for at least a year, regularly settled in a parish or congregation, and qualified to vote for a bishop. Moreover, no new diocese shall be formed if by that act an existing diocese shall be reduced to fewer than twelve parishes and twelve presbyters, residing, settled, and qualified as above.

In the amendment of 1838, the reluctance of the General Convention to abandon the principle of “One State-One Diocese” was evidenced by the severe conditions imposed upon the division of a diocese. Eight thousand square miles of territory and thirty settled presbyters were requisite for a new diocese, and no existing diocese might be reduced by division to less than the same amount of territory and number of qualified presbyters. In 1856, this was modified by the elimination of the territorial requirement. Fifteen settled presbyters and the same number of self-supporting parishes were now required, while the size of a parent diocese might not be reduced to fewer than thirty self-supporting parishes and twenty settled presbyters.¹³ In 1871, the number of parishes and qualified presbyters in a new diocese was reduced to six of each, with no existing diocese reduced thereby to fewer than twelve of each.¹⁴ This remains the present requirement of Section 5.

12. See Edwin Augustine White, *Constitution and Canons*, New York, 1924, p. 66.

13. *Journal*, 1856, pp. 71-74; 1868, p. 136.

14. *Journal*, 1871, pp. 102-03.

SECTION 6

Section 6 introduces related matter involving the alteration of diocesan boundaries, not by the erection of a new diocese, but by the cession of a portion of the territory of one diocese to another.

The question of cession of diocesan territory first arose in the Convention of 1871 when it was proposed that a diocese containing over one hundred and fifty square miles might set apart a portion of its territory to be under the jurisdiction of the General Convention where a diocese was so large as to preclude effective evangelization or episcopal oversight.¹⁵ No constitutional provision existed for the establishment of missionary districts at this time (as is at present provided in Article VI under the name “Missionary Dioceses”), and a considerable body of legal opinion in this Convention and in that of 1874 held that no legislation was necessary to enable the General Convention to erect missionary jurisdictions within organized dioceses.¹⁶

Some years later, an amendment to Article V providing constitutional authority for such cession was proposed in the Convention of 1889, but when it came before the House of Bishops for final adoption in 1892, the question was raised as to whether all the dioceses had been duly notified of the proposed amendment. It appears that through an oversight on the part of the secretary of the House of Deputies some dioceses had not received canonical notification. Despite the adoption by the House of Bishops of a resolution that the failure of the secretary “ought not *in this single instance* to be allowed to invalidate the action by which the changes in Article V of the Constitution have been adopted,” and the assertion that the circulation of the journal be allowed as sufficient notice, the bishops failed to take any further action.¹⁷

Provision for the cession of a portion of diocesan territory to the jurisdiction of the General Convention was finally enacted in the revision of the Constitution in 1901, and then, not by an amendment to Article V, but by the adoption of a new Article VI.¹⁸

Cession of a portion of diocesan territory, not to the jurisdiction of the General Convention, but to another diocese, first came before the General Convention in 1964. At that time, identical memorials were presented to the House of Bishops by the three dioceses within the state of Illinois: Chicago, Springfield, and Quincy. The resolution contained

15. *Journal*, 1871, p. 297.

16. *Journal*, 1874, pp. 89-90, 134.

17. *Journal*, 1889, pp. 102-03; 1892, p. 47.

18. *Journal*, 1901, pp. 201, 216; Constitution of 1901, p. 11; See William Jones Seabury, *The Constitution of 1901*, pp. 82-83.

in these memorials sought to establish territorial cession between dioceses as a means to “more efficient administration and effective evangelization of the territories involved,” and offered an amendment to Article V by the addition of a new section as follows:

A Diocese may, with the consent of the General Convention, accept a cession of the territorial jurisdiction of a contiguous part of an adjoining Diocese, provided the cession shall have been proposed by the Bishop and Convention of the ceding Diocese and consent thereto shall have been given by the Bishop and Convention of the diocese to which the cession is proposed.

When this proposed amendment reached the House of Deputies it was referred to the committee on the admission of new dioceses, which reported favorably on it, and the committee on amendments to the Constitution which returned it to the house in a greatly expanded form. This form of the amendment, accepted by both houses in 1964 and adopted in 1967, is the substance of Section 6 of Article V.¹⁹

It may be summarized briefly as follows: By mutual agreement of two adjoining dioceses, consented to by the Ecclesiastical Authority of each diocese, a portion of the territory of one diocese may be ceded to the other. The cession shall be considered complete upon approval thereof by the General Convention or by a majority of bishops having jurisdiction in the United States and of the standing committees of the dioceses in accordance with the canons of this Church. The provisions of Section 3 shall not apply in the case of cession of diocesan territory.

It is difficult to see that the expanded form of the amendment improves the earlier resolution in any substantial particular. The specific exclusion of the application of Section 3, made in the text in great detail, appears unnecessary, for Section 3 clearly applies only to the erection of a new diocese and not to a cession of territory from one diocese to another.

A significant change in the amendment as adopted, in contrast to the form offered in the memorials of 1964, is the employment of the phrase “the Ecclesiastical Authority of each Diocese” instead of “the Bishop” in enumerating the several consents required. There are circumstances in which, according to the Constitution and Canons, the Ecclesiastical Authority of a diocese may be lodged in the standing committee or in the person of a suffragan bishop temporarily so designated. Section 6, therefore, would appear to allow an act of cession during a vacancy in the episcopate of one or both of the dioceses involved. The framers of the extended amendment may have intended this. If so, there is possibly an incongruity in the fact that a diocese may not be divided when there is a vacancy in its episcopate, but a portion of its territory may be ceded to an adjoining diocese during such vacancy.

19. *Journal*, 1964, pp. 270-72; 1967, pp. 169, 383.

Section 6, as it stands, allows a cession to be considered complete upon receiving the approval of either the General Convention or “a majority of Bishops having jurisdiction in the United States and of the Standing Committees of the Dioceses in accordance with the Canons of this Church.” Presumably this alternative is to permit the completion of an act of cession without waiting for a meeting of the General Convention.

Finally, the shorter form of 1964 described the area to be accepted in an act of cession as “a contiguous part of an adjoining Diocese.” As adopted, however, the amendment describes the area as simply “a portion of the territory” of one diocese ceded to another. In ordinary usage the word “contiguous” describes that which is touching or in actual contact, and was doubtless included in the original memorials to indicate that any territory ceded to an adjoining diocese would run along the boundary of the two dioceses. The framers of Section 6 as it stands probably assumed that the term “adjoining” would apply to the territory ceded as well as to the diocese accepting it. Yet the omission of “contiguous” appears to open the door to the possibility, however remote, of the cession of a portion of a territory wholly within the borders of a diocese, thus creating what has been known in the history of the Church as an “ecclesiastical peculiar” — of which one definition is an area within a diocese subject to a jurisdiction outside the said diocese. This is perhaps an academic point, for were such cession to be proposed, the requisite consents would undoubtedly be withheld. Nevertheless, the word “contiguous” might well be restored.

Since 1967, a number of acts of territorial cession between dioceses have been made in accordance with Section 6. The Convention of 1973, for example, gave consent to cessions of territory from the Diocese of Atlanta to the Diocese of Tennessee; from the Diocese of Erie to the Diocese of Central Pennsylvania; and from the Diocese of Spokane to the Diocese of Eastern Oregon.²⁰

20. *Journal*, 1973, pp. 353-55.



ARTICLE VI.

Mission Areas may be established. Sec. 1. The House of Bishops may establish a Mission in any area not included within the boundaries of any Diocese of this Church or of any Church in communion with this Church, and elect or appoint a Bishop therefor.

Cession of jurisdiction. Sec. 2. The General Convention may accept a cession of the territorial jurisdiction of a part of a Diocese when such cession shall have been proposed by the Bishop and the Convention of such Diocese, and consent thereto shall have been given by three-fourths of the Parishes in the ceded territory, and also by the same ratio of the Parishes within the remaining territory.

Retrocession of such jurisdiction. Any territorial jurisdiction or any part of the same, which may have been ceded by a Diocese under the foregoing provision, may be retroceded to the said Diocese by such joint action of all the several parties as is herein required for its cession, save that in the case of retrocession of territory the consent of Parishes within the territory retroceded shall not be necessary; *Provided* that such action of the General Convention, whether of cession or retrocession, shall be by a vote of two-thirds of all the Bishops present and voting and by a vote of two-thirds of the House of Deputies voting by orders.

Organization of Missionary Dioceses. Sec. 3. Missionary Dioceses shall be organized as may be prescribed by Canon of the General Convention.



The three sections of Article VI govern (1) the establishment of a mission by the House of Bishops, and the provision of a bishop therefor; (2) the cession of the territorial jurisdiction of a portion of a diocese to the General Convention, and the retrocession of the same or any part thereof to the said diocese; and (3) the organization of missionary dioceses as prescribed by canon of the General Convention.

The enabling canons that should be read with Article VI are Title I, Canon 10; Title III, Canons 15, 18 (e) and (f), 19.

This Article had no counterpart in the old Constitution. It was enacted in the revision of the Constitution by the Convention of 1901.

EXPOSITION OF ARTICLE VI

SECTIONS 1 and 3

As enacted in 1901, Section 1 read as follows:

The House of Bishops may establish Missionary Districts in States and Territories or parts thereof not organized into Dioceses. It may also from time to time change, increase, or diminish the territory included in such Missionary Districts in such manner as may be prescribed by Canon.

Section 3 read:

Missionary Districts shall be organized as may be prescribed by Canon of the General Convention.

Article VI is the first constitutional enactment authorizing the establishment and organization of missionary districts of this Church. When the Constitution was adopted in 1789, the concept of missionary jurisdictions had not entered the mind of the Church. The accepted view was that the organization of a diocese as an administrative unit should precede the provision of a bishop to exercise episcopal supervision therein. When the General Convention of 1795 urged the state conventions to seek funds "for the establishment of missionaries to preach the Gospel on the frontiers of the United States," it was with the hope that the work of such missionaries would lead to the organization of a diocese. The remark of Bishop White that in the Convention of 1814 the question arose of "providing for an episcopacy in the western states" need not imply a discussion of the provision of bishops for extra-diocesan missionary areas.¹ Yet it might so do, for in the Convention of 1808, a joint committee was authorized to consider and determine the proper mode of sending

1. White, *Memoirs*, pp. 37-38.

a bishop into states and territories “in which the Church hath not been organized.”² At least these illustrations imply that the Church was becoming increasingly aware of the urgency and extent of its evangelistic task. It was but a short step from that recognition to the conviction that the fulfillment of the task involved organizational flexibility and change.

The Domestic and Foreign Missionary Society was established in 1821. In 1835 a reorganization placed its work under the direction of a Board of Missions, and made every member of the Church a member of the Society. The Convention of 1835 elected Jackson Kemper our first missionary bishop, with a jurisdiction that included Missouri and Indiana, and was soon extended to Wisconsin and other areas of what was later called the “Old West.” In 1844 the General Convention designated its first foreign “Missionary Station” in an area of China, and elected William J. Boone “a Foreign Missionary Bishop to exercise Episcopal functions” therein.³

From 1835 onwards, the General Convention established missionary districts, both domestic and foreign, electing and consecrating bishops for them, and enacting provisions governing this activity in the canons. The General Convention never doubted that it possessed the responsibility and authority to advance the mission of the Church by the erection of such districts outside the borders of organized dioceses, and to provide episcopal ministrations and supervision for them, as well as enacting canons governing this action, despite the fact that no constitutional legislation defined such power.

The comment of Dr. Edwin A. White on this subject is illuminating, not only because it deals with the authority of General Convention in this particular, but also because of its discussion of the general powers of the Convention. Dr. White writes of Article VI:

The General Convention in enacting this Article ... did not intend thereby to declare that its previous action in establishing Missionary Districts and electing and consecrating Missionary Bishops without any constitutional provision therefor was unconstitutional. For more than half a century it had given its consent to the erection of Missionary Districts and the consecration of Missionary Bishops without any question as to its right and power to so act. This fact demonstrates the correctness of the theory upon which the General Convention has ever acted from the beginning ... it has the power to legislate on any subject unless expressly forbidden to do so by the Constitution ... The Constitution does not come from any power behind the Convention. The General Convention made the Constitution and it amends the Constitution, and assumes that

2. *Journals 1785-1853*, ed. Hawks and Perry, I, p. 346.

3. *Journal*, 1844, pp. 108-09.

all power is in the General Convention which the Constitution itself does not limit. The General Convention limits its own power, and it may remove the limitation. The majority of the Canons cannot be supported on the ground that the power to enact them is derived from some clause of the Constitution. The Canons of 1789 were enacted before the Constitution itself was finally adopted...

The true theory of the power of the General Convention would clearly seem to be, that the mere act of establishing such a Convention involved and attached to it every power of legislation inherent in such a body, and not expressly refused to it.⁴

By 1967 the specific language of Section 1 had long ceased to have practical application, and the Convention of that year proposed the repeal of the section, substituting a new Section 1 to read as follows:

The House of Bishops may establish a Mission in any area not included within the boundaries of a Diocese of this Church or of any Church in communion with this Church, and elect or appoint a Bishop therefor.⁵

The adoption of this amendment by the Convention of 1970 brought Section 1 of Article VI to its present form.

Section 3 remains unchanged from the form adopted in 1901, save that, as is the case in other articles of the Constitution, the words "Missionary Districts" have been replaced by the words "Missionary Dioceses."

An amendment repealing Section 3 and replacing it with a new section was proposed by the Convention of 1967. The new Section 3 provided that the House of Bishops might organize

a Missionary Diocese beyond the territory of the United States and may constitute any such Missionary Diocese an Associated Diocese of this Church...

There followed a definition of the relation of such associated diocese and its bishop to this Church. When offered for final adoption in the Convention of 1970, the House of Deputies refused to concur.⁶

SECTION 2

Section 2 of Article VI provides for the cession of a portion of the territory of a diocese to the jurisdiction of the General Convention, presumably, though not expressly stated, for the purpose of establishing a missionary jurisdiction therein. As enacted in 1901, the first paragraph of Section 2, defining the conditions governing such cession, read as follows:

The General Convention may accept a cession of the territorial jurisdiction of a part of a Diocese when such cession shall have been proposed by the Bishop and the

4. White, *Constitution and Canons* (edition of 1924), pp. 74-75.

5. *Journal*, 1967, p. 387.

6. *Journal*, 1970, pp. 263-64.

Convention of such Diocese, and consent thereto shall have been given by three-fourths of the parishes in the ceded territory, and also by the same ratio of the parishes within the remaining territory.

No amendments have been made to this paragraph, and it remains in the form originally adopted.

The second paragraph of Section 2 provides for the retrocession to a diocese of any territorial jurisdiction, or portion of the same, which may have been ceded by said diocese under the provisions of the first paragraph. As enacted in 1901 it read:

Any territorial jurisdiction or any part of the same, which may have been accepted from a Diocese by the General Convention under the foregoing provision, may be retroceded to the said Diocese by such joint action of all the several parties as is herein required for its cession: *Provided*, that such action of the General Convention, whether cession or retrocession, shall be by a vote of two-thirds of all the Bishops present and voting and by a vote of two-thirds of the House of Deputies voting by orders.

Two amendments have been made to this paragraph of Section 2. The first, proposed by the Convention of 1934 and adopted in 1937, added the following words to the first sentence after the words “required for its cession:”

save that in the case of retrocession of territory the consent of parishes within the territory retroceded shall not be necessary.⁷

The second amendment, proposed in 1967 and adopted by the Convention of 1970, made the opening words of the second paragraph to read:

Any territorial jurisdiction or any part of the same, which may have been ceded by a Diocese under the foregoing provision, may be retroceded to the said Diocese...⁸

These two amendments brought Section 2 of Article VI to its present form.

A number of resolutions offering other amendments to Article VI from time to time have failed of adoption. Two are perhaps of sufficient interest to record. In the Convention of 1910, a resolution was offered in the House of Bishops proposing that Article VI be amended by the addition of a new section making provision for the House of Bishops to “establish Missionary Districts upon racial lines, i.e., for a specified race or races within the bounds of Dioceses and Missionary Districts.” After prolonged debate in the house it failed of adoption.⁹ In the Convention of 1940, a resolution was offered in the House of Bishops proposing an

7. *Journal*, 1934, p. 278; 1937, p. 234.

8. *Journal*, 1970, p. 263.

9. *Journal*, 1910, pp. 83, 146, 190.

amendment to Section 2 empowering the General Convention to accept jurisdictions of parishes and missions of a diocese “when such Parishes and Missions are to form part of a Racial Missionary District.” The resolution was not adopted.

According to a report made to the Convention of 1877, the question of the cession of diocesan territory to the jurisdiction of the General Convention first arose in the Convention of 1868. It was prompted by complaints from the Dioceses of Texas and California that it was virtually impossible for a bishop to exercise effective supervision over such vast areas as were included in those dioceses. Memorials praying for relief were again presented from Texas and California to the Convention of 1871. In that Convention a number of proposals were made to remedy this situation. One was an amendment to the canons, allowing a diocese containing over one hundred and fifty square miles to place a portion of its territory under the jurisdiction of the General Convention. Another was a proposed amendment to Article 5 of the Constitution, making provision for setting apart a portion of a diocese, and establishing it as a missionary district.¹⁰ As the Convention failed to reach an agreement on the wording of an amendment, the matter went over to the Convention of 1874. There the concurrence of both houses was reached on a proposed amendment to Article 5, reading as follows:

The General Convention may, upon the application of the Bishop and Convention of an organized Diocese, setting forth that the territory of the Diocese is too large for due Episcopal supervision by the Bishop of such Diocese, set off a portion of such Diocesan territory, which shall thereupon be placed within or constitute, a Missionary Jurisdiction, as the House of Bishops may determine.¹¹

The proposed amendment, of course, could not come into force until its adoption by the Convention of 1877. Therefore, the General Convention, faced with the urgent needs of the Dioceses of Texas and California, proceeded to demonstrate the power Dr. White ascribed to it in the passage quoted earlier from his *Constitution and Canons*. The two houses agreed upon the following joint resolution:

Whereas, The Diocese of Texas, by deliberate action of the Bishop and Convention thereof, has, for urgent and sufficient reasons, declared its desire to establish its northern and western limits on the northern lines of [the counties are named], and on the western lines of [the counties are named]; and

Whereas, This Convention is sufficiently assured of the consent of the Parishes lying north and west of the aforesaid limits ... and

Whereas, While grave doubts are entertained by many of the power under our Constitution to permanently alter the territorial extent of a Diocese ... yet, impressed by the great

10. *Journal*, 1871, p. 360. See also p. 297.

11. *Journal*, 1874, p. 179.

necessities of the Church in that Diocese, and of the justice of her claim for prompt relief; therefore

Resolved, the House of Bishops and the House of Deputies concurring, That the General Convention hereby signifies its consent and agreement to the limitation of the jurisdiction of the Bishop and Convention of the Diocese of Texas to, and within, the limits above indicated until such constitutional amendment and legislation thereunder can be secured as are necessary to remove the doubts aforesaid; and that, in the meantime, the territory outside the limits aforesaid and within the State of Texas be held and treated as Missionary territory and subject to Missionary jurisdiction.¹²

The House of Bishops then established the missionary districts of Northern Texas, Western Texas, and Northern California, and nominated missionary bishops thereof for election by the House of Deputies.

When the proposed amendment of 1874 came before the House of Deputies in the Convention of 1877, it provoked debate in which the power of the General Convention to erect missionary jurisdictions in organized dioceses, without specific constitutional authority, was both challenged and defended. The House of Deputies adopted the amendment by a very narrow margin in each order. The House of Bishops, however, refused to concur “for the reason that they deem further legislation in the premises unnecessary.”¹³

The Convention of 1889 again proposed a similar amendment, this time requiring for cession the consent of three-fourths of the parishes in both the ceded territory and in the remaining area.¹⁴ In the Convention of 1892, when the proposed amendment of 1889 was offered for final adoption, the question was raised in the House of Bishops as to whether it had been duly notified to all the dioceses.¹⁵ Final action was not taken by the House of Bishops, possibly because the Joint Commission on the Revision of the Constitution and Canons had been appointed, and matters of change were already being referred to it.

An example of retrocession under the provisions of Article VI is offered by the action of the Convention of 1919. In 1892, the cession of a portion of the territory of the Diocese of Colorado was accepted by the General Convention, and the missionary jurisdiction of Western Colorado was established.¹⁶ In the House of Bishops in 1919, the Committee on Domestic Missions presented the following report:

12. *Journal*, 1874, p. 134. For a similar resolution applying to California, see p. 140.

13. *Journal*, 1877, p. 253.

14. *Journal*, 1889, pp. 102-03.

15. *Journal*, 1892, p. 47.

16. *Journal*, 1892, p. 52.

The Committee on Domestic Missions, to whom was recommitted the Resolution concerning the retrocession of the Missionary District of Western Colorado to the Diocese of Colorado, respectfully report the following as the proper form of Resolution to carry out that purpose:

Resolved, the House of Deputies concurring, That, in accordance with Article VI of the Constitution, the territorial jurisdiction ceded by the Diocese of Colorado in 1892, and known as the District of Western Colorado, be retroceded to the Diocese of Colorado; the Bishop and Convention of Colorado having unanimously agreed to this, and there being no parishes within the meaning of the Canon in the District of Western Colorado.¹⁷

The report was adopted by the House of Bishops and the House of Deputies concurred.

The most recent example of cession under the conditions of Article VI was associated with the establishment of the Navajoland Area Mission, comprising portions of the Navajo Reservation contained in the states of Arizona, Utah, and New Mexico. The General Convention of 1976 accepted from the Dioceses of Arizona and Utah

a cession of such portions of the said Dioceses as encompass lands of the Navajo Reservation ... in order that the House of Bishops may establish an Area Mission within said ceded territory in accordance with Article VI, Section 1; such cession to be contingent upon the decision of the House of Bishops to establish such a mission.¹⁸

At a special meeting in 1977, the Navajo Area Mission was constituted by the House of Bishops, and the Convention of 1979 accepted the cession of portions of the Diocese of the Rio Grande “composed of the reorganized Navajo Tribal Chapters in the State of New Mexico” to be added to the territory of the mission. In 1980, a bishop to whom the supervision of the mission had been temporarily assigned in 1979, became Bishop of the Navajoland Area Mission.

17. *Journal*, 1919, p. 54.

18. *Journal*, 1976, p. C-62.



ARTICLE VII.

Provinces. Dioceses and Missionary Dioceses may be united into Provinces in such manner, under such conditions, and with such powers, as shall be provided by Canon of the General Convention; *Provided*, however, that no Diocese shall be included in a Province without its own consent.



Article VII provides that dioceses and missionary dioceses may be united into provinces in such manner, under such conditions, and with such power, as shall be provided by the canons. No diocese may be included in a province without its own consent.

Except for the substitution of the words “Missionary Dioceses” for the words “Missionary Districts,” an amendment proposed in 1967 and adopted by the Convention of 1970, the Article reads today exactly as it was first enacted by the Convention of 1901. Title I, Canon 8 should be read in conjunction with this article.

EXPOSITION OF ARTICLE VII

The question of dividing the Church into provinces was first introduced in General Convention in 1850 when the Bishop of Western New York offered the following resolution in the House of Bishops:

Resolved, the House of Clerical and Lay Deputies concurring, that a Joint Committee, to consist of five Bishops, and five Clergymen, and five Laymen, be appointed to report at the next Triennial Convention, on the expediency of arranging the Dioceses, according to geographical position, into four Provinces, to be designated the Eastern, Northern, Southern and Western Provinces, and to be united under a General Convention or

Council of the Provinces, having exclusive control over the Prayer Books, Articles, Offices, and Homilies of this Church, to be held once every twenty years.¹

In the Convention of 1853 the House of Bishops, after some discussion, postponed further consideration of the resolution until the next General Convention, while the House of Deputies laid the matter on the table.² In the Convention of 1856, the House of Bishops postponed indefinitely any further consideration of the question. The subject of the establishment of provinces did not appear in the Conventions of 1859 and 1862, but thereafter proposals concerning the matter appeared in one house or another until the adoption of Article VII in 1901.

In the Convention of 1865, a memorial from the Diocese of New York prayed the General Convention to make provision for the organization of the Protestant Episcopal Church into provinces. Legislation, both constitutional and canonical, was proposed in the House of Deputies for the establishment of provinces.³ A committee to which the matter was referred reported adversely on the formation of provinces, but recommended the adoption of a canon providing for the establishment of “federate councils” in states having two or more dioceses within their borders to be represented therein.

In the Convention of 1868, a committee again reported adversely on the division of the Church into provinces, but favorably on the question of federate councils. On the recommendation of its committee on canons, the House of Deputies adopted a canon authorizing the formation “of a Federate Convention or Council of the Dioceses within Any State” [Title III, Canon 8, of 1868]. The powers granted such councils were very limited. They might

deliberate and decide upon the common interests of the Church within the limits aforesaid, [that is, of the state in which the dioceses involved were located] but before any determinate action of such Convention, or Council shall be had, the powers proposed to be exercised thereby shall be submitted to the General Convention for its approval...⁴

Many of the proposals concerning the erection of provinces were so elaborate as to preclude careful study during the sessions of a single Convention. A proposal made in the House of Bishops in the Convention of 1871, for example, sought the establishment of eight provinces by an amendment to the Constitution, each province having a triennial synod, the clergy and laity to be represented therein by numbers proportionate to those of settled clergy and organized parishes within the dioceses

1. *Journal*, 1850, p. 146.

2. *Journal*, 1853, pp. 35, 228.

3. *Journal*, 1865, pp. 46-47, 115.

4. *Journal*, 1868, p. 118.

embraced by the several provinces.⁵ Owing to “the shortness of time left for its consideration,” the house took no action on the substance of this proposal.

While the supporters of legislation to establish provinces kept the subject before these and subsequent Conventions, the fears of their opponents were set out in an extended report made in the House of Deputies in 1874 by the committee on amendments to the Constitution. Should a provincial system be adopted, warned the committee, it

would dismember this Church, and out of this now compact and now united body, create five or seven or ten separate Churches. The ties which might at first unite them would grow weaker and weaker...

“No evidence,” continued the report,

has yet been furnished by experience of any action or want of action by the General Convention ... which requires any large surrender or delegation of its powers to provinces or groups of Dioceses representing only separate portions of the Church.

Any such surrender, practically establishing independent Churches, must eventually and inevitably operate to undermine and overthrow the paramount authority of General Convention, vitally necessary for preserving the unity of the Church...

After listing further alleged evils that would result from the establishment of provinces, the report continued:

Apart from these fearful consequences in the future, reaching far down the coming ages, the separation of our Church into geographical and sectional provinces would work immediate injury in discontinuing or rendering less frequent the General Conventions ... in which fraternal assemblies the efforts of all to advance the highest interests of the Church ... are encouraged and invigorated, thereby more closely uniting our now undivided Church in a perpetual bond of Christian sympathy and affection.⁶

After listening to this report, it is not surprising that the House of Deputies voted to lay the whole subject on the table.

By 1892, it was evident that the mind of the Church was inclined to be more favorable to the adoption of a provincial system.⁷ In the Convention of 1895, the House of Bishops proposed an amendment to the Constitution providing for the division of the Church into provinces, each consisting of at least five contiguous dioceses with an archbishop, elected by the bishops therein, at the head of each province. Provincial synods were to exercise such legislative powers, not inconsistent with the powers of the General Synod [General Convention] as might be delegated to them.⁸ As preliminary work on the revision of the Constitution

5. *Journal*, 1871, pp. 300-01.

6. *Journal*, 1874, pp. 150-51.

7. *Journal*, 1892, p. 344.

8. *Journal*, 1895, p. 237.

had already begun, the House of Deputies referred this proposal to the commission engaged in this revision. In the Convention of 1898 the present Article VII was proposed, and adopted in 1901 in the form outlined at the beginning of this exposition.

It should be noted that Article VII differs materially from the many proposals for constitutional legislation concerning provinces offered in the half-century before 1901. The present article is brief and simply permissive, allowing the organization of the dioceses into provinces, but leaving all details to appropriate canonical enactment. Such canons were proposed in the Conventions of 1901, 1904, and 1907, but it was not until the Convention of 1913 that a canon governing the establishment of eight provinces was adopted by both houses of Convention [Canon 50 of 1913]. Further discussion of the provincial system, its organization and operation, properly belongs to the discussion of the relevant canons.

The General Convention of 1979 proposed for adoption in 1982 an amendment to Article VII striking out the words “and Missionary Dioceses.” This is similar to changes proposed in other articles of the Constitution by which any distinction between missionary dioceses and other dioceses is eliminated.



ARTICLE VIII.

Requisites for ordination. No person shall be ordered Priest or Deacon to minister in this Church until he shall have been examined by the Bishop and two Priests and shall have exhibited such testimonials and other requisites as the Canons in that case provided may direct. No persons shall be ordained and consecrated Bishop, or ordered Priest or Deacon to minister in this Church, unless at the time, in the presence of the ordaining Bishop or Bishops, he shall subscribe and make the following declaration:

Declaration. **“I do believe the Holy Scriptures of the Old and New Testaments to be the Word of God, and to contain all things necessary to salvation; and do solemnly engage to conform to the Doctrine, Discipline, and Worship of the Episcopal Church.”**

Proviso. *Provided, however,* that any person consecrated a Bishop to minister in any Diocese or Missionary Diocese of an autonomous Church or Province of a Church in communion with this Church may, instead of the foregoing declaration, make the promises of Conformity required by the Church in which he is to minister.

If any Bishop ordains a Priest or Deacon to minister elsewhere than in this Church, or confers ordination as Priest or Deacon upon a Christian minister who has not received Episcopal ordination, he shall do so only in accordance with such provisions as shall be set forth in the Canons of this Church.

Admission of foreign clergymen. No person ordained by a foreign Bishop, or by a Bishop not in communion with this Church, shall be permitted to officiate as a Minister of this Church until he shall have complied with the Canon or Canons in that case provided and also shall have subscribed the aforesaid declaration.



The first paragraph of Article VIII, with its attached Declaration of Conformity, governs the conferring of Holy Orders upon persons who are to minister in this Church. It specifies that those who are to be ordained priest or deacon shall have fulfilled the requirements prescribed by the canons, and shall have been examined by the bishop and two priests. At the time of the ordination of a priest or deacon, or the consecration of a bishop, those who are to receive Holy Orders shall make and subscribe the declaration of belief and conformity set forth in the article in the presence of the ordaining bishop or bishops.

The final paragraph of the article also concerns persons who are admitted to officiate as ministers of this Church, but who have already been ordained by a foreign bishop, or by a bishop not in communion with this Church. Having received episcopal ordination recognized by this Church, before admission they shall have complied with all relevant canons, and shall have subscribed the declaration required of those who are to be ordained or consecrated in accordance with the provisions of the first paragraph.

These two paragraphs derive from Article 7 of the Constitution of 1789, and their substance was contained in the two paragraphs which composed Article VIII in the revised Constitution of 1901.

The second and third paragraphs of the article, which were inserted between the others subsequent to 1901, govern the ordination or consecration of persons who are to minister elsewhere than in this Church. It will be appropriate, therefore, to deal first with the paragraphs governing the ordination or admission of persons to minister in the Episcopal Church, before considering the ordination or consecration in special circumstances of persons who are to minister elsewhere than in this Church.

The canonical provisions relating to Article VIII will be found in Title III, Canons 8-14.

EXPOSITION OF ARTICLE VIII

Article 7 of the Constitution of 1789, which remained unchanged until 1901, read as follows:

No person shall be admitted to Holy Orders, until he shall have been examined by the Bishop and by two Presbyters, and shall have exhibited such testimonials and other requisites as the Canons in that case provided may direct. Nor shall any person be ordained until he shall have subscribed the following declaration:

“I do believe the Holy Scriptures of the Old and New Testament to be the Word of God, and to contain all things necessary to salvation: and I do solemnly engage to conform to the doctrines and worship of the Protestant Episcopal Church in these United States.”

No person ordained by a foreign bishop shall be permitted to officiate as a Minister of this Church, until he shall have complied with the Canon or Canons in that case provided, and have also subscribed the aforesaid declaration.¹

The examination by the bishop and two presbyters, still retained in Article VIII, is distinct from the examinations prescribed for candidates for Holy Orders in Title III, Canons 5 and 7. The intent of the requirement is to ensure that the bishop is personally satisfied as to the qualifications and readiness of the person or persons on whom he is to confer ordination. For some years the examination appears to have been held with varying degrees of formality, and separately from any other interview or examination. Today, however, bishops fulfill this requirement in a number of ways, one of which being the bishop’s participation in the interview of a candidate by a diocesan Commission on Ministry as specified in Section 5 of Title III, Canon 1.

The revision of the Constitution by the Convention of 1901 made a number of amendments to former Article 7, which then became Article VIII. The words “No person shall be ordered Priest or Deacon” were substituted for the words “No person shall be admitted to Holy Orders,” and the words “the Bishop and two Priests” replaced “the Bishop and two Presbyters.”

The sentence immediately preceding the declaration of conformity was amended to specify persons “ordained and consecrated Bishop, or ordered Priest or Deacon.” Such persons were to “make” as well as subscribe the declaration, and to do so at the time of ordination and “in the presence of the ordaining Bishop or Bishops.” The declaration was amended by enlarging the solemn engagement of conformity by the insertion of the word “Discipline,” and the words “in the United States of America” were substituted for the words “in these United States.”

1. *Journals 1785-1853*, ed. Hawks and Perry, I, p. 100.

The first paragraph of Article VIII with the attached declaration, therefore, read as follows in 1901:

No person shall be ordered Priest or Deacon until he shall have been examined by the Bishop and two priests and shall have exhibited such testimonials and other requisites as the Canons in that case provided may direct. No person shall be ordained and consecrated Bishop, or ordered Priest or Deacon, unless at the time, in the presence of the ordaining Bishop or Bishops, he shall subscribe and make the following declaration:

“I do believe the Holy Scriptures of the Old and New Testaments to be the Word of God, and to contain all things necessary to salvation; and I do solemnly engage to conform to the Doctrine, Discipline, and Worship of the Protestant Episcopal Church in the United States of America.”²

Only two of the changes made in 1901 need any extended comment. The addition of the word “make” to the declaration requires a person being ordained to recite as well as subscribe to the declaration. Custom dictated that this be done in the presence of witnessing clergy as well as the bishop, a practice required of those to be ordained or received into the ministry of this Church by the provisions of Section 4 of Title III, Canon 12.

For many years, the declaration was made and subscribed with degrees of formality that varied from a small gathering in the sacristy or vesting room immediately before the ordination service, to the solemnity of a vested assemblage of candidates and their presenters appearing before the bishop in the chapel of a cathedral church. The revised Book of Common Prayer adopted by the Convention of 1979, however, has imposed a uniform practice of reciting and subscribing the declaration during the service of ordination. The act is placed at the beginning of the service, after the ordinand has been presented to the bishop and testimony has been given as to the fulfillment of the canonical requirements for ordination. In the service for the ordination and consecration of a bishop, the declaration is to be made and subscribed by the bishop-elect after the testimonials of election have been read.

The introduction of the word “Discipline” in 1901, making the pledge of conformity one to “the Doctrine, Discipline, and Worship” of this Church extends the ordination vow to obedience to the provisions of the Constitution and Canons. Inasmuch as violation of the Constitution and Canons of the General Convention or of those of a diocese constitute an offense under Title IV, Canon 1, for which persons in Holy Orders may be liable to presentment and trial, it is appropriate that the engagement of conformity to the discipline of the Church, as well as to its doctrine and worship, be included in the declaration.

2. *Journal*, 1901, pp. 212-13.

Only two changes have been made in the first paragraph of Article VIII and its attached declaration since 1901. An amendment, proposed by the Convention of 1919 and adopted in 1922, inserted the words “to minister in this Church” twice in the first paragraph, each time after the words “ordered Priest or Deacon.”³ This amendment was occasioned by the submission to the Convention of 1919 of certain “Proposals for an Approach toward Unity” signed by “distinguished members of Congregational Churches and of this Church.”⁴ The proposals asked for the enactment of appropriate legislation whereby a bishop might ordain to the diaconate and priesthood ministers who had not been episcopally ordained, and who intended to continue their ministry in another Christian body. Without the qualifying clause “to minister in this Church,” the declaration of conformity to the doctrine, discipline, and worship of the Episcopal Church would be required of such ministers before the bishop could confer Holy Orders. This matter is discussed later when the third paragraph of Article VIII is considered.

The second amendment to the first paragraph since 1901 was made by the Convention of 1979. The words “Protestant” and “in the United States of America” were struck from the declaration, leaving the engagement to read “to conform to the Doctrine, Discipline, and Worship of The Episcopal Church.” The relation of this amendment to the change in the name of the Church has been discussed in the exposition of the Preamble. More was involved here, however, than problems with the word “Protestant.” The words “in the United States of America” were increasingly felt to be a burden to missionary clergy who were citizens of Central and South American countries. With these changes the first paragraph of Article VIII was brought to its present form.

The final paragraph of Article VIII also governs the admission of persons to the ministry of this Church, not by ordination, but by the recognition that they have already been ordained by a bishop. In the Constitution of 1789 the only category of such persons consisted of those “ordained by a foreign bishop.” The framers of the old Constitution undoubtedly had in mind clergy ordained, as they themselves were, by bishops of the Church of England. Today this category includes the clergy of the Churches and Provinces of the Anglican Communion, including, since 1980, the Spanish Reformed Church and the Lusitanian Church of Portugal; those of the Old Catholic Churches of Europe, the

3. *Journal*, 1922, pp. 319, 341.

4. *Journal*, 1919, p. 187.

Philippine Independent Church, and those of any other Church with which this Church is in full communion.⁵

A somewhat special case was presented by the Church of South India, the ministry of which, at its inauguration in 1947, included episcopally ordained clergy of four dioceses of the former Anglican Church of India, Burma, and Ceylon, as well as ministers from the other uniting Churches. The Convention of 1958, receiving a detailed report from the Joint Commission on Ecumenical Relations, adopted resolutions specifying conditions under which the episcopally ordained clergy of the Church of South India might be invited to officiate in this Church.⁶ In 1976 the General Convention offered to establish a relation of communion with the Church of South India.⁷

In the same Convention, a similar invitation was extended to the Mar Thoma Syrian Church of Malabar, and a proposed concordat establishing full communion with that ancient Church was presented in the House of Bishops at the Convention of 1979.⁸

In 1973, the General Convention voted to invite the Churches of North India, Bangladesh, and Pakistan to enter into full communion with this Church on the basis of the Bonn Agreement of 1931, the principles of which govern Anglican relations with Old Catholic Churches.⁹

The revision of the Constitution of 1901 added to the final paragraph of Article VIII a second category of persons who might be received to minister in this Church. An amendment in 1901 inserted the words "or by a Bishop not in communion with this Church" after the words "ordained by a foreign Bishop." Though clearly meant to apply to Roman Catholic clergy who might desire to become ministers in this Church, it is applicable to the clergy of the Orthodox Churches, or to those of any Church, the episcopate of which is recognized as in a succession analogous to that of this Church.

The article requires that clergy in both categories shall have complied with the relevant canons, and shall have subscribed to the declaration attached to the first paragraph.

5. Sacramental intercommunion between the Episcopal Church and the Polish National Catholic Church was terminated by the General Synod of the latter in 1978 because of the decision by this Church in 1976 to admit women to all the orders of ministry.

6. *Journal*, 1958, pp. 215-23. The report of the Joint Commission is contained in App. 14.

7. *Journal*, 1976, C-82-83.

8. *Journal*, 1979, B-29-30.

9. *Journal*, 1973, p. 409.

The second and third paragraphs of Article VIII were not included in the Constitution of 1901, but have been inserted subsequently. Unlike the first and final paragraphs, these insertions govern the ordination or consecration of persons who are to minister elsewhere than in this Church.

The second paragraph contains a proviso applying to a person consecrated by this Church to minister as a bishop in an autonomous Church or Province in communion with the Episcopal Church. In such case, the bishop-elect may make the promises of conformity required by the Church in which he is to minister instead of the declaration attached to the first paragraph. This provision was proposed by the Convention of 1943 and adopted in 1946.¹⁰ The paragraph reads today as it did in 1946.

The third paragraph governing the conferring of ordination as a priest or deacon upon persons who are “to minister elsewhere than in this Church” was occasioned, as stated earlier, by the “Proposals for an Approach toward Unity” submitted to the Convention of 1919. The Convention of 1922, to which the matter was referred, after adopting the amendment which inserted the words “to minister in this Church” in paragraph one, proposed the insertion of a new paragraph reading:

If any Bishop ordains a Priest or Deacon to minister elsewhere than in this Church, he shall do so only in accordance with such provisions as shall be set forth in the Canons.¹¹

The Convention also enacted a canon specifying the conditions governing such ordination (Canon 11 of 1922). By this canon, in place of the declaration of conformity, a person so to be ordained “shall subscribe and make in the presence of the Bishop a declaration that he believes the Holy Scriptures of the Old and New Testaments to be the Word of God and to contain all things necessary to salvation.” The Canon contained a number of activities to be undertaken by the person so ordained, some of which were virtually unenforceable. It also raised some serious constitutional problems and conflicts which are discussed at length in the 1954 edition of this work, vol. I, pp. 613-26. The arrangement proved unsatisfactory as an ecumenical venture and fell into desuetude when the ecumenical movement fixed upon organic unity as its goal.

In the Convention of 1925 the House of Deputies adopted the amendment proposed in 1922, and the House of Bishops, after rejecting it, reconsidered and concurred.¹²

10. *Journal*, 1943, p. 195.

11. *Journal*, 1922, p. 377.

12. *Journal*, 1925, pp. 49, 63, 303.

This paragraph of Article VIII was expanded by an amendment proposed by the Convention of 1943 which inserted the words “or confers ordination as priest or deacon upon a Christian minister who has not received Episcopal ordination.”¹³ The adoption of this amendment by the Convention of 1946 brought the third paragraph, and thus the entire Article VIII, to read as it does today.

13. *Journal*, 1943, p. 193.



ARTICLE IX.

Court of trial of Bishops. The General Convention may, by Canon, establish a Court for the trial of Bishops, which shall be composed of Bishops only.

For trial of Presbyters and Deacons. Presbyters and Deacons canonically resident in a Diocese shall be tried by a Court instituted by the Convention thereof; Presbyters and Deacons canonically resident in a Missionary Diocese shall be tried according to Canons adopted by the Bishop and Convocation thereof, with the approval of the House of Bishops: *Provided*, that the General Convention in each case may prescribe by Canon for a change of venue.

Courts of Review. The General Convention, in like manner, may establish or may provide for the establishment of Courts of Review of the determination of diocesan or other trial Courts.

Of Bishops to be composed of Bishops. The Court for the review of the determination of the trial Court, on the trial of a Bishop, shall be composed of Bishops only.

Court of Appeal. The General Convention, in like manner, may establish an ultimate Court of Appeal, solely for the review of the determination of any Court of Review on questions of Doctrine, Faith, or Worship.

Bishop to pronounce sentence. 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.

Suspension. A sentence of suspension shall specify on what terms or conditions and at what time the suspension shall cease. A sentence of suspension may be remitted in such manner as may be provided by Canon.



Article IX provides for the establishment of ecclesiastical courts in which the clergy, accused of offenses for which they are liable to presentment, shall be tried. Sentences such courts may inflict shall be pronounced only by a bishop. In the case of a sentence of suspension, it shall be specified on what terms or conditions, and at what time the suspension shall cease.

A court for the trial of bishops, and a Court of Review of the determination of such Trial Court, when established by canon of the General Convention, shall be composed of bishops only.

Presbyters and deacons shall be tried by a court established by the convention of the diocese of their canonical residence, save that the General Convention may prescribe by canon for a change of venue. The General Convention may establish by canon Courts of Review of the determinations of diocesan Trial Courts.

Similarly, the General Convention may establish an ultimate Court of Appeal, solely for the review of the determination of any Court of Review on questions of doctrine, faith, or worship.

The constitutional provisions for the establishment of the several courts are augmented and implemented by the canonical legislation of Title IV of the canons. Canons of Title IV also deal with the offenses for which the clergy shall be liable to presentment and trial; the procedures involved in renunciation of the ministry, the abandonment of the communion of this Church by a bishop, presbyter, or deacon, or the abandonment of the work of the ministry; and the conditions governing the modification or remission of judicial sentences.

The provisions of Article IX of the Constitution are sparse. Detailed exposition of the legislation on the ecclesiastical discipline of this Church will be found in the discussion of the canons of Title IV.

EXPOSITION OF ARTICLE IX

Article 6 of the Constitution of 1789 read as follows:

In every State, the mode of trying Clergymen shall be instituted by the Convention of the Church therein. At every trial of a bishop there shall be one or more of the Episcopal Order present: and none but a Bishop shall pronounce sentence of deposition or degradation from the ministry on any Clergyman, whether Bishop, or Presbyter, or Deacon.¹

The Convention of 1838, as has been noted in the exposition of other articles, changed the word "State" to "Diocese" wherever it occurred in the Constitution and canons.

The Convention of 1838 also proposed a number of other amendments to Article 6 for final adoption in 1841. Two sentences were added, giving the General Convention power to determine the mode of trying bishops, and providing, in place of the stipulation that at the trial of a bishop "one or more of the Episcopal Order" shall be present, the requirement that a court appointed for such trial "shall be composed of Bishops only." The word "deposition" was omitted, and admonition and suspension were added to degradation as possible sentences. The words "Presbyters and Deacons" were substituted for the word "Clergymen," and the words "instituted by the Convention of the Church therein" were changed to "instituted by the Convention of the Diocese."²

When adopted by the Convention of 1841, these alterations caused Article 6 to read:

The mode of trying Bishops shall be provided by the General Convention. The Court appointed for that purpose shall be composed of Bishops only. In every Diocese, the mode of trying Presbyters and Deacons may be instituted by the Convention of the Diocese. None but a Bishop shall pronounce sentence of admonition, suspension, or degradation from the Ministry, on any Clergyman, whether Bishop, Presbyter, or Deacon.

Little extended comment is necessary on the provisions of the article as adopted in 1841. The stipulation that a bishop be tried by a court composed of bishops is in accord with the common law principle that one has the right to be tried by one's peers. The restriction to a bishop of the authority to pronounce sentence in an ecclesiastical court follows the ancient usage of the Church.

The term "degradation" is synonymous with "deposition," and was so stated in Canon 39 of 1832, which also declared that "When any Minister is degraded from the holy Ministry, he is degraded therefrom

1. *Journals 1785-1853*, ed. Hawks and Perry, I, p. 100.

2. *Journal*, 1838, p. 116; 1841, pp. 22-23.

entirely, and not from a higher to a lower order of the same.” The canon also provided that “No degraded Minister shall be restored to the Ministry,” a prohibition that remained in force until its modification by the Conventions of 1862 and 1871.

It should be noted that, upon the adoption of the amended Article 6 in 1841, a canon on “The Trial of Bishops” was enacted by that Convention, prescribing the mode of presentment of bishops (Canon 4 of 1841). It was repealed by the Convention of 1844, which adopted a new canon dealing with the offenses for which a bishop shall be liable to presentment, the mode of such presentment, the composition of an episcopal Trial Court, and the procedures to be followed therein.³

For sixty years Article 6 remained unamended. It was replaced by a new article in the revision of the Constitution adopted by the Convention of 1901.

There were numerous attempts to amend Article 6 during these years, chiefly motivated by two concerns. One was that of imposing uniformity in the mode of trial procedure in the several dioceses. The Convention of 1853, for example, proposed an amendment, adding after the words “by the Convention of the Diocese,” the clause “until the General Convention shall provide a uniform mode of trial.”⁴

More persistent attempts to amend Article 6 were those designed to establish an appellate jurisdiction. An elaborate plan for such a court was discussed in the Convention of 1850, but no action was taken.⁵ In the Convention of 1856, both houses approved a proposed amendment, inserting after the words “by the Convention of the Diocese” the following words:

but the General Convention may establish a Court of Appeals for the revision of Diocesan Courts; such Courts of Appeal not to revise the determination of any question of facts.⁶

In the Convention of 1859 the amendment failed of final adoption in both houses.⁷

Advocates of an appellate jurisdiction were not easily discouraged. In the Convention of 1871 an amendment was offered in the House of Deputies. It failed to be adopted, but it is of interest because of the wide scope of matters it proposed to bring within the competence of a court which

3. *Journal*, 1844, pp. 154-56.

4. *Journal*, 1853, p. 193.

5. *Journal*, 1850, p. 145.

6. *Journal*, 1856, pp. 122, 137.

7. *Journal*, 1859, pp. 64, 188.

shall have jurisdiction upon appeals from the decisions of Diocesan Courts, to hear and determine questions concerning the regularity of proceedings in Diocesan Courts, the Ritual of the Church, the interpretation of the Constitution, and the construction and constitutionality of the Canons of the General Convention...⁸

The effect of such an amendment, had it been adopted, would have been to create a kind of "Supreme Court," taking to itself powers that belong to the General Convention, and drastically altering the polity of the Church.

In the Convention of 1874, the House of Bishops proposed an amendment to Article 6 which added thereto the words:

Appeal from the judgment of a Diocesan Court may be provided for by the General Convention.

The House of Deputies refused concurrence, apparently because it was felt that the amendment would diminish the "full and exclusive jurisdiction of the separate Dioceses" over their own courts.⁹

When a similar amendment was offered in the House of Deputies in the Convention of 1883, the committee on amendments to the Constitution reported

That the subject of an Appellate Jurisdiction has been brought before the Convention at many times during the last twenty-seven years...

Some of the Dioceses have established for themselves Courts of Appeal... The establishment of such an Appellate Jurisdiction by this General Convention, is deemed inexpedient...¹⁰

In the Convention of 1889, however, the right of a clergyman to an appeal from a Trial Court was urged with such persuasion in the House of Deputies that the committee on amendments to the Constitution proposed an amendment to Article 6, providing that the General Convention may establish Courts of Appeal from the judgments of diocesan Trial Courts, but action thereon was deferred until the next Convention.¹¹ In 1892, consideration was again postponed because of a decision to refer such matters to a Joint Commission on the Reconstruction of the Constitution and Canons, then about to be appointed.¹² It was once more deferred in 1895 when the commission had begun its work.¹³

8. *Journal*, 1871, p. 163.

9. *Journal*, 1874, pp. 114, 155.

10. *Journal*, 1883, pp. 204, 234.

11. *Journal*, 1889, pp. 299, 362.

12. *Journal*, 1892, p. 282.

13. *Journal*, 1895, pp. 314-15.

When the revised Constitution was proposed by the Convention of 1898 for adoption in 1901, it was evident that the advocates of the establishment of appellate jurisdictions had at last gained their object, though it was not until the last day of the session that the House of Bishops gave reluctant consent to the amended Article 6, renumbered Article IX in the revised Constitution.¹⁴

As adopted by the Convention of 1901, Article IX read as follows:

The General Convention may, by Canon, establish a Court for the trial of Bishops, which shall be composed of Bishops only.

Presbyters and Deacons shall be tried by a Court instituted by the Convention of the Diocese, or by the Ecclesiastical Authority of the Missionary District, in which they are canonically resident.

The General Convention, in like manner, may establish or may provide for the establishment of Courts of Review of the determinations of Diocesan or other trial Courts.

The Court for the review of the determination of the trial Court, on the trial of a Bishop, shall be composed of Bishops only.

The General Convention, in like manner, may establish an ultimate Court of Appeal, solely for the review of the determination of any Court of Review on questions of doctrine, faith, or worship.

None but a Bishop shall pronounce sentence of admonition, or of suspension, deposition, or degradation from the ministry, on any Bishop, Presbyter, or Deacon.

A sentence of suspension shall specify on what terms or conditions and at what time the suspension shall cease.

The chief differences between former Article 6 and its revision as Article IX were the following additions: the application of the second paragraph to the clergy of missionary districts as well as to those of dioceses; the provision enabling the General Convention to establish Courts of Review of the determinations of diocesan or other Trial Courts, such a Court of Review of the trial of a bishop to be composed of bishops only; the provision that the General Convention may establish an ultimate Court of Appeal for the review of the determination of any Court of Review on certain questions; and the stipulation that a sentence of suspension shall specify on what terms or conditions and at what time such suspension shall cease.

Article IX is still in the form of the seven paragraphs of 1901, altered only by the relatively few amendments that have been adopted during the last eighty years.

14. *Journal*, 1898, p. 176.

The four paragraphs [1, 3, 4, and 5] providing for the establishment of courts by the General Convention remain exactly as adopted in 1901. A court for the trial of bishops had been established, as noted earlier, by a canon enacted in 1844. The Convention of 1901 adopted a canon providing for a Court of Review of the determination of a Trial Court on the trial of a bishop, and prescribing the mode of making appeals thereto.

A canon establishing courts to review the determinations of diocesan Trial Courts was offered in the House of Deputies in 1901, but it was not until the Convention of 1904 that such courts were constituted. For this purpose the dioceses and missionary districts were grouped into eight judicial departments, in each of which a Court of Review was established, vested with appellate jurisdiction over the Trial Courts of the several dioceses and districts comprising the department.¹⁵ In 1913, when these departments became provinces in the new provincial system, the Courts of Review became provincial courts, and the power to elect the judges thereof was vested in the provincial synods.¹⁶

The constitutional authority to establish an ultimate Court of Appeal, granted to the General Convention in the fifth paragraph of the Article, such court to be “solely for the review of the determination of any Court of Review on questions of doctrine, faith, or worship,” has not yet been exercised. Proposals for the establishment of such a court appeared repeatedly in Conventions after 1901, only to fail of adoption or to have consideration thereof postponed. A few examples will suffice.

In the Convention of 1904, the Committee on Courts of Review and Appeal proposed the formation of a Court of Appeal consisting of all the bishops entitled to vote in the House of Bishops.¹⁷ Action thereon was deferred until the following Convention, only to meet with another postponement in 1907.¹⁸ In the Convention of 1910, a special committee was appointed to consider the matter and report to the Convention of 1913.¹⁹ In the report made in 1913, the committee recommended to the House of Deputies the adoption of an elaborate canon creating a Court of Appeal consisting of “the Bishops of the Church, when canonically assembled as a House of Bishops.” The canon provided for a Judicial Commission, composed of five bishops, five presbyters, and five laymen, appointed by the House of Bishops with the approval of the House of Deputies, whose function was

15. *Journal*, 1904, p. 107.

16. *Journal*, 1913, p. 274.

17. *Journal*, 1904, App. XVIII, p. 62.7

18. *Journal*, 1907, p. 328.

19. *Journal*, 1910, p. 362.

to digest the matter of any appeal taken to this court, and report their findings thereon for the final decision of the House of Bishops.²⁰

Despite the almost unanimous recommendation of the committee, the proposed canon was defeated in the House of Deputies by a substantial majority in a vote by orders. The principal objection to the canon appears to have been its requirement of assembling all the bishops to sit as a Court of Appeal, taking them from their duties in their respective dioceses and involving considerable expense.

Canons substantially similar to this one were recommended for adoption in subsequent Conventions, only to be postponed or defeated in the vote. In the Convention of 1928, for example, consideration of the portion of the report of the Joint Committee on Revision of Judicial Procedure that dealt with a Court of Appeal was postponed "owing to the lateness of the session."²¹ When the commission presented its report again in 1931, it failed of adoption. In 1934 the discouragement of the commission was evident when it reported that it "does not deem it timely to press for a reconsideration of the proposed canon."²²

Meanwhile, pressure from another quarter was put upon the House of Bishops. William Montgomery Brown, Bishop of Arkansas, had been found guilty by a Trial Court in 1924 of holding and teaching publicly and advisedly doctrines contrary to that held by this Church. When he appealed to the episcopal Court of Review, the court affirmed the judgment of the Trial Court and imposed a sentence of deposition. The House of Bishops in 1925 approved the sentence by resolution, and Bishop Brown was thereupon deposed from the ministry.²³ He appealed to the House of Bishops three times for the creation of a Court of Appeal to which he could present his case, in 1925, 1931, and 1934. His petition was rejected each time.

In the Convention of 1937, the establishment of a Court of Appeals was recommended for adoption in the House of Deputies by the Commission to Consider Canons for the Trial and Sentence of Bishops, Priests, and Deacons. The report accompanying the recommendation is of interest because it included both a rationale for the establishment of such a court, and a brief survey of past attempts so to do. The House

20. *Journal*, 1913, p. 491.

21. *Journal*, 1928, p. 252.

22. *Journal*, 1934, p. 121. See also 1931, App. XIV, pp. 518-22.

23. *Journal*, 1925, pp. 36, 43-44.

of Deputies adopted the recommended canon, but the House of Bishops refused concurrence.²⁴

The fifth paragraph of Article IX, governing the establishment of an ultimate Court of Appeal, still remains without implementation in canonical enactment.

A matter of allied interest is the attempt to establish a court with power to settle all questions concerning the true interpretation of the Constitution and Canons. Such a court would have possessed some of the powers proposed, as noted earlier, for a Court of Appeal in 1871. After an earlier failure to establish a Commission on Canon Law, the determinations of which would have the force of law until and unless changed by constitutional or canonical enactment, a canon establishing such an interpretative body was offered in the Convention of 1952. Its chief difference from the earlier proposal was that its determinations would “constitute an advisory interpretation of the law of this church.”²⁵ The House of Deputies adopted the proposed canon in a vote by orders, but the House of Bishops refused to concur.

It is difficult to see the justification for the creation of a court or a commission endowed with the powers proposed in these canons. If its determinations were to have the force of law, even temporarily, it would constitute an abnegation to such a body of powers that belong to the General Convention. If its determinations were purely advisory, it would be an unnecessary duplication of the function of the committees on the Constitution and Canons already existing in both houses of the Convention.

Paragraphs two, six, and seven of the article, as adopted in 1901, have received subsequent amendment. The Convention of 1913 proposed an amendment to the second paragraph, the substance of which had been before the Conventions of 1907 and 1910, whereby a proviso was added to the provision governing the trials of presbyters and deacons, as follows:

Provided, however, that the General Convention may by Canon provide for a change in the place of trial.²⁶

The purpose of the amendment was to bring the provisions of Article IX and Canon 32 of 1913 [now Title IV, Canon 7] into harmony with each other respecting the procedure when a minister becomes liable to

24. *Journal*, 1937, pp. 184-85. The full report is contained in App. XXXII.

25. The matter is discussed at length in White and Dykman, *Annotated Constitution and Canons* (edition of 1954), pp. 115-18.

26. *Journal*, 1913, p. 545.

presentment for an offense committed in a diocese other than that of his canonical residence.

The Convention of 1916 adopted the amendment, and then proposed an amendment by which the whole of the second paragraph was rewritten as follows:

Presbyters and Deacons canonically resident in a Diocese shall be tried by a Court instituted by the Convention thereof; Presbyters and Deacons canonically resident in a Missionary District shall be tried by Canons adopted by the Bishop and Convocation thereof, with the approval of the House of Bishops; *Provided*, that the General Convention in each case may prescribe by Canon for a change of venue.²⁷

The amendment was adopted by the Convention of 1919. In the House of Bishops of that Convention the committee on amendments to the Constitution explained that the somewhat ambiguous phrase “in each case” refers to “the case of a diocese and the case of a missionary district.”²⁸

One further amendment brought this paragraph to its present form. The Convention of 1967 proposed the substitution of the words “Missionary Diocese” for the words “Missionary District,” and the change was adopted by the Convention of 1970.

The last two paragraphs of Article IX govern sentences which may be pronounced upon clergy found guilty of offenses. As adopted in 1901, these paragraphs read as follows:

None but a Bishop shall pronounce sentence of admonition, or of suspension, deposition, or degradation from the ministry, on any Bishop, Presbyter, or Deacon.

A sentence of suspension shall specify on what terms or conditions and at what time the suspension shall cease.

The wording of the first of the above paragraphs dates from 1841, when amendments were made to the original Article 6 of 1789.

The second paragraph above incorporates into constitutional legislation the substance of Canon 3 of 1847.²⁹

The Convention of 1964 proposed an amendment to Article IX, originating in the House of Bishops, embracing both paragraphs and by which they were made to read:

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

27. *Journal*, 1916, p. 354.

28. *Journal*, 1919, pp. 130, 132.

29. *Journal*, 1847, pp. 92, 113.

A sentence of suspension shall specify on what terms or conditions and at what time the suspension shall cease. A sentence of suspension may be remitted in such manner as may be provided by Canon.³⁰

The adoption of this amendment by the Convention of 1967 brought the sixth and seventh paragraphs of Article IX to their present form.

The changes effected in the sixth paragraph in 1967 need little comment. The omission of the word “degradation” avoided an unnecessary duplication of meaning with the term “deposition.”

The insertion of the word “removal” gave constitutional recognition of the distinction between deposition and removal made in Canon 36 of 1925.³¹ Previous to the enactment of this canon, formal deposition was pronounced upon a minister who, not amenable for any canonical offense, renounced the ministry for honorable reasons and causes not affecting his moral character. Under the canon of 1925 [now Title IV, Canon 8] a bishop, with the advice and consent of his standing committee’s clerical members, could accept such renunciation and remove him from the ministry, depriving him of the right to exercise the gifts and authority conferred upon him at ordination.

Admonition, a solemn warning or injunction with respect to behavior, was omitted from the sentences and given recognition as a disciplinary action to be exercised by a bishop when circumstances warranted its use.

The first sentence of the last paragraph concerning suspension was enacted in 1901. It embodied in the Constitution a canonical provision first enacted as Canon 3 of 1847 providing that a sentence of suspension shall specify on what terms, and at what time, the sentence shall terminate.

The occasion of the adoption of the canon was the sentence of suspension, without specification as to its termination, imposed by a court of bishops in 1845 upon Benjamin T. Onderdonk, Bishop of New York. Onderdonk was presented for trial by three of his episcopal brethren as “guilty of immorality and impurity.” It was alleged that he had been “improperly excited by vinous or spirituous liquors,” and had “at sundry other times impurely and unchastely laid his hands upon the bodies of virtuous and respectable ladies.”

The court found him guilty by a vote of eleven to six, the Evangelical bishops condemning him and demanding his deposition, while the High Church bishops voted him “not guilty,” and asked only for a sentence

30. *Journal*, 1964, p. 272.

31. *Journal*, 1925, p. 115.

of admonition. Bishop Onderdonk's supporters, among whom were such distinguished bishops as Whittingham of Maryland, Gadsden of South Carolina, and Kemper of Wisconsin, reluctantly agreed to a compromise sentence of suspension to ward off the threatened deposition.³²

The indefinite suspension of the Bishop of New York caused wide controversy in the Church. Many people felt that not only was a sentence of suspension without limitation unjust, but that the trial itself was a travesty of justice, proceeding, as it did, under a canon enacted several years after the first alleged offense, and more than two years after the last. Moreover, six of the seven specifications of the presentment were based entirely upon hearsay evidence. Others challenged the severity of the verdict. Possibly Bishop Onderdonk had at times taken too much to drink, and his characteristic affectionate familiarity of manner had been imprudent and perhaps offensive, but that was far from "immorality with a deliberate impure intent."

It has long been recognized that the chief element in Bishop Onderdonk's condemnation was the passionate partisan controversy of the time.³³ Among the bishops, he was the chief advocate of the aim of the Oxford Movement to restore to the Anglican Church a consciousness of its Catholic heritage. To the Evangelical bishops, the Tractarian principles conjured up the dread specter of popery, and appeared to threaten the Protestant heritage bequeathed by the Reformation. Onderdonk was the most notable casualty of the controversy.

In the Convention of 1847, the House of Bishops rejected Bishop Onderdonk's petition to be relieved of suspension, chiefly because he stubbornly maintained his innocence, and "instead of confessing his faults, and professing repentance for them, he assumes the character of an innocent man."³⁴

The indefinite suspension left the Diocese of New York with a bishop, the exercise of whose ministry was completely inhibited. A memorial from the diocese to the Convention of 1847 brought no relief. The Convention refused to consider withdrawing the prohibition against the election of a suffragan bishop. The House of Deputies rejected a proposed canon allowing the election of a new bishop in a diocese where the diocesan was under indefinite suspension, the clergy and laity of New York voting in the negative in a vote by orders. They would not admit

32. See *Proceedings of the Court ... for the Trial of the Right Rev. Benjamin T. Onderdonk, etc.*, New York, 1845, pp. 256-333.

33. See E. Clowes Chorley in *The Historical Magazine of the Protestant Episcopal Church*, IX, (1940), pp. 1-51.

34. *Journal*, 1847, p. 169.

a vacancy in their episcopate. The only positive step taken in 1847 was the enactment of a canon that ended the imposition of sentences of indefinite suspension.

In the Convention of 1850 a solution was found to the predicament of the Diocese of New York. A canon was enacted (Canon 3 of 1850) providing for the election of a "Provisional Bishop" in the case of a diocese whose Bishop is suspended without precise limitation of time. The provisional bishop, in the event the sentence of suspension was lifted, was to become an assistant bishop with right of succession. New York elected Jonathan Wainwright to this office, and upon his death, Horatio Potter. The latter became diocesan upon the death of the suspended Bishop Onderdonk in 1861.

The second sentence, added in 1964 to the paragraph on the sentence of suspension, provides that the General Convention may enact a canon governing the remission of such sentence. The manner of remission is now prescribed in Title IV, Canon 13, Section 2.

35. *Journal*, 1850, p. 93.



ARTICLE X.

The Book of Common Prayer. The Book of Common Prayer and Administration of the Sacraments and other Rites and Ceremonies of the Church, together with the Psalter or Psalms of David, the Form and Manner of Making, Ordaining, and Consecrating Bishops,

Alterations or additions, how to be made.

Priests, and Deacons, the Form of Consecration of a Church or Chapel, the Office of Institution of Ministers, and Articles of Religion, as now established or hereafter amended by the authority of this Church, shall be in use in all the Dioceses and Missionary Dioceses, and in the Convocation of the American Churches in Europe, of this Church. No alteration thereof or addition thereto shall be made unless the same shall be first proposed in one regular meeting of the General Convention and by a resolve thereof be sent within six months to the Secretary of the Convention of every Diocese and of the Convocation of every Missionary Diocese and of the Convocation of the American Churches in Europe, to be made known to the Diocesan Convention or Convocation of the Missionary Diocese or of the Convocation of the American Churches in Europe, at its next meeting, and be adopted by the General Convention at its next succeeding regular meeting by a majority of all Bishops, excluding retired Bishops not present, of the whole number of Bishops entitled to vote in the House of Bishops, and by a majority of the Clerical and Lay Deputies of all the Dioceses entitled to representation in the House of Deputies, and all the Missionary Dioceses, and of the Convocation of the American Churches in Europe, voting by orders, each to have the vote provided for in Article I., Sec. 4.

- Exceptions.* But notwithstanding anything hereinabove contained, the General Convention may at any one meeting, by a majority of the whole number of the Bishops entitled to vote in the House of Bishops, and by a majority of the Clerical and Lay Deputies of all the Dioceses entitled to representation in the House of Deputies, and all the Missionary Dioceses, and the Convocation of the American Churches in Europe, voting by orders as previously laid down in this Article.
- Lectionary.* (a). Amend the Table of Lessons and all Tables and Rubrics relating to the Psalms;
- Trial use.* (b). Authorize for trial use throughout this Church, as an alternative at any time or times to the established Book of Common Prayer or to any section or Office thereof, a proposed revision of the whole Book or of any portion thereof, duly undertaken by the General Convention.
- Special forms of worship.* And *Provided*, that nothing in this Article shall be construed as restricting the authority of the Bishops of this Church to take such order as may be permitted by the Rubrics of the Book of Common Prayer or by the Canons of the General Convention for the use of special forms of worship.



Article X prescribes that the Book of Common Prayer, as now established or hereafter amended by the authority of this Church, shall be in use in all dioceses and missionary dioceses, and in the Convocation of the American Churches in Europe, of this Church. Alterations thereof or additions thereto shall be made only by the same process as that prescribed in Article XI for the adoption of amendments to the Constitution.

There are two provisos attached to the regulation governing amendments, the first containing two parts. The General Convention may at any one meeting, voting in the manner prescribed above, (a) amend the Table of Lessons and all tables and rubrics relating to the Psalms; and (b) authorize for trial use throughout the Church, as an alternative to the established Book of Common Prayer or any section thereof, a proposed revision of the Prayer Book or of any portion thereof, duly undertaken by the General Convention.

The second proviso allows a bishop to take such order for the use of special forms of worship as may be permitted by the rubrics of the

Prayer Book or by the Canons of the General Convention. Title II, Canons 2, 3, and 5 should be read in conjunction with this Article.

EXPOSITION OF ARTICLE X

Prior to the American Revolution, the Prayer book of the Church of England was used in the Church in the colonies. When independence from the mother country brought about the organization of a self-governing Church in the American states, it also dictated alterations to the English Prayer Book to fit the local conditions and circumstances. The revision was made first, as the Preface to the Prayer Book of 1789 put it, in respect “to those alterations in the Liturgy which became necessary in the prayers for our Civil Rulers,” and then “to take a further review of the Public Service, and to establish such other alterations and amendments therein as might be deemed expedient.”

The development of an ecclesiastical Constitution and the construction of an American Prayer Book took place simultaneously in the Conventions prior to 1789. The detailed story of the liturgical accomplishment belongs properly to the history of the Prayer Book. Suffice it to say here that in June of 1786 the Convention sent a proposed Prayer Book and Constitution to the English archbishops and bishops, seeking such approval as would lead to their consent to consecrate bishops for the American Church. With these documents went the Convention’s assurance that

we neither have departed, nor propose to depart from the doctrines of your Church ... We have made no alterations or omissions in the Book of Common Prayer but such as that consideration prescribed, and such as were calculated to remove objections...¹

In the October session of the Convention of 1786, an “Act of the General Convention” was adopted, agreeing to certain changes in the liturgy and the Constitution suggested by the English archbishops. The Act declared the steadfast resolution of the Convention to maintain the same essential articles of faith and discipline as held in the Church of England.² The affirmation was repeated in the familiar words of the Preface to the Prayer Book of 1789, where it is stated that, in a comparison of this Prayer Book with the Book of Common Prayer of the Church of England, it will appear “that this Church is far from intending to depart from the Church of England in any essential point of doctrine, discipline, or worship; or further than local circumstances require.”

The Constitution and the Prayer Book received final formulation in the General Convention of 1789. When the Constitution was adopted on October 2, Article 8 read as follows:

1. *Journals 1785-1853*, ed. Hawks and Perry, I, p. 44.
2. White, *Memoirs*, pp. 386-90.

A Book of Common Prayer, Administration of the Sacraments, and other Rites and Ceremonies of the Church, Articles of Religion, and a form and manner of making, ordaining, and consecrating Bishops, Priests, and Deacons, when established by this or a future General Convention, shall be used in the Protestant Episcopal Church in those States, which shall have adopted this Constitution.

A fortnight later, on October 16, the Convention adopted the Book of Common Prayer. Its ratification, printed ever since in the front matter of every Prayer Book, reads in part:

This Convention having, in their present session, set forth *A Book of Common Prayer, and Administration of the Sacraments, and other Rites and Ceremonies of the Church*, do hereby establish the said Book: And they declare it to be the Liturgy of this Church: And require that it be received as such by all the members of the same...

Article 8 made no provision for amending the Prayer Book. In the Convention of 1811, therefore, to make provision for how it might be amended, and to do so with a safeguard against hasty alterations, the following words were added to the Article:

No alteration or addition shall be made in the Book of Common Prayer, or other offices of the Church, unless the same shall be proposed in one General Convention, and by a resolve thereof made known to the Convention of every Diocese or State, and adopted at the subsequent General Convention.

The Articles of Religion, with some modifications of the *Thirty-Nine Articles* of the Church of England, were adopted by the Convention of 1801.³ The Convention of 1829 adopted an amendment to Article 8 inserting the words “or the Articles of Religion” after the words “or other offices of the Church.”⁴

As noted elsewhere in the exposition of other articles of the Constitution, the Convention of 1838 changed the words “State” and “States” to “Diocese” and “Dioceses.”

Only one additional amendment of Article 8 was made before the revision of the Constitution in 1901. Proposed by the Convention of 1874 and adopted in 1877, the following proviso was added:

Provided, however, That the General Convention shall have the power, from time to time, to amend the Lectionary; but no act for this purpose shall be valid which is not voted for by a majority of the whole number of Bishops entitled to seats in the House of Bishops, and by a majority of all the Dioceses entitled to representation in the House of Deputies.⁵

This proviso was added to enable the Lectionary to be amended by a single General Convention. There was some dissatisfaction with the

3. *Journals 1785-1853*, ed. Hawks and Perry, I, p. 268.

4. *Journal*, 1829, p. 79.

5. *Journal*, 1874, p. 363.

Table of Lessons as then established, and it was felt that a more satisfactory choice of lessons might be arrived at by using a lectionary that could be amended from Convention to Convention in accordance with the experience of the Church in its use.

The Convention of 1901 enacted Article 8 in a rewritten form as Article X of the revised Constitution. There was little substantial change, though more precise wording was adopted. In the Constitution of 1901 Article X read:

The Book of Common Prayer and Administration of the Sacraments and other Rites and Ceremonies of the Church, together with the Psalter or Psalms of David, the Form and Manner of Making, Ordaining, and Consecrating Bishops, Priests, and Deacons, the Form of Consecration of a Church or Chapel, the Office of Institution of Ministers, and Articles of Religion, as now established or hereafter amended by the authority of this Church, shall be in use in all the Dioceses and Missionary Districts of this Church. No alteration thereof or addition thereto shall be made unless the same shall be first proposed in one triennial meeting of the General Convention, and by a resolve thereof be sent within six months to the Secretary of the Convention of every Diocese, to be made known to the Diocesan Convention at its next meeting, and be adopted by the General Convention at its next succeeding triennial meeting by a majority of the whole number of Bishops entitled to vote in the house of Bishops, and by a majority of the Clerical and Lay Deputies of all the Dioceses entitled to representation in the House of Deputies voting by orders. *Provided, however,* that the General Convention at any meeting shall have the power to amend the Tables of Lessons by a majority of the whole number of Bishops entitled to vote in the House of Bishops, and by a majority of the Clerical and Lay Deputies of all the Dioceses entitled to representation in the House of Deputies voting by orders.⁶

A number of amendments made to this text during the last eighty years has resulted in Article X as it now stands.

Little comment is necessary on the form adopted in 1901. The Psalter, and the services for the Consecration of a Church or Chapel and the Institution of Ministers were added to the first sentence. The process of amending the Prayer Book was made more explicit and conformed exactly to the wording of Article XI of the Constitution of 1901, governing the making of amendments to the Constitution.

The first sentence of 1901 prescribed that the Book of Common Prayer be used "in all the Dioceses and Missionary Districts of this Church," whereas former Article 8 prescribed its use "in those Dioceses which shall have adopted this Constitution." This should not be taken to mean that before 1901 other forms of worship could be used by a clergyman in a missionary district. The obligation imposed by the declaration of conformity to "the doctrine and worship of the Protestant Episcopal Church," required of him by old Article 7, would have entailed the use of the Prayer Book.

6. *Journal*, 1901, p. 215.

The first amendment to Article X was proposed in the Convention of 1901 and adopted in 1904. It added to the Article what became then a second proviso, reading as follows:

And, *provided further*, that nothing in this Article shall be construed as restricting the authority of the Bishops of this Church to take such order as may be permitted by the Rubrics of the Book of Common Prayer or by the Canons of the General Convention for the use of special forms of worship.⁷

It is the concluding paragraph of Article X as it stands today.

In the Convention of 1907, the attention of the House of Bishops was brought to the fact that there was difficulty in making a satisfactory translation into the language of certain countries of the words "Protestant Episcopal Church" on the title page of the Prayer Book. After considerable discussion in both houses, the Convention proposed an amendment to Article X permitting, in foreign language editions of the Book of Common Prayer, "such verbal alterations as may be necessary to adapt the same to local conditions." Alterations were to be authorized by the bishop of the diocese or district, subject to the approval of the Presiding Bishop.⁸

In the Convention of 1910 the House of Bishops reversed itself and failed to adopt the amendment.⁹ The House of Deputies, therefore, did not vote upon it. The rejection appears to have been due to a suspicion that such permission might arouse further agitation for a change in the name of the Church in other than foreign missionary jurisdictions.

In this same Convention of 1907, an amendment was proposed in the House of Deputies to omit the "Articles of Religion" from the first sentence of Article X. It was a matter that arose in several Conventions, most notably that of 1928, when memorials were received from a number of dioceses both for and against the retention of the Articles.¹⁰

The committee on amendments to the Constitution produced a lengthy report on the subject in 1907, including a historical review of the original purpose of the Articles, as well as a description of the confusion that existed in the minds of many of the laity by their inclusion in the Book of Common Prayer.¹¹ The committee recommended the adoption of the proposed amendment, but the House of Deputies substituted a resolution requesting the nomination of a joint commission to consider the matter, a move with which the House of Bishops refused to concur.

7. *Journal*, 1904, p. 354.

8. *Journal*, 1907, p. 185, see also pp. 350, 367.

9. *Journal*, 1910, p. 232.

10. *Journal*, 1928, pp. 192, 197-98, 201.

11. *Journal*, 1907, pp. 358-59, see also p. 391.

The Articles of Religion still remain “established” by Article X, and, until the revision of the Prayer Book adopted in 1979, they were printed at the end of all Books of Common Prayer with no explanatory matter beyond the attestation of their adoption in 1801. The Prayer Book of 1979 has placed the Articles in a section in the latter part of the Book entitled “Historical Documents of the Church,” which includes also such theological documents as the Christological definition of the Council of Chalcedon and the Athanasian Creed.

When the committee reported to the House of Deputies in 1907, it stated that the inclusion of the Articles of Religion in the Prayer Book

tends to demoralization of both the Clergy and the Laity, of the Clergy since it leaves them helpless to answer with any definiteness the question, what is the Doctrine of the Episcopal Church? of the Laity because they are thoroughly perplexed by the sight of what looks to be a Creed supplementary to the other Creeds, while at the same time they are assured by their spiritual guides that it is something about which they need not at all concern themselves. Why should it be here in the Prayer Book, they ask, if it be unimportant? Why, if it be important, should we be told as Laymen we need not care?

The situation described by the committee has, perhaps, been eased by placing the Articles among other “Historical Documents,” but possibly there should be some clarification of the reason for their inclusion in Article X.

In the Convention of 1919, it was recognized that a similar situation existed with respect to the Psalms as had been dealt with with respect to the Table of Lessons in the Convention of 1877. An amendment was proposed, which was adopted in 1922, adding the words “and all Tables and Rubrics relating to the use of the Psalms” after the words “Tables of Lessons” in the first proviso.¹²

Between the Conventions of 1928 and 1946, a number of amendments were adopted that paralleled the changes made in Article I, Section 4. Missionary districts, first domestic and then foreign, were brought within the group of dioceses entitled to vote on amendments to the Prayer Book, and the provision respecting the vote in the House of Bishops of “retired Bishops not present” was amended in order to be consistent with the other provisions of the Constitution. The detailed description of the vote by orders in the House of Deputies was simplified by substituting the words “each to have the vote provided for in Article I, Sec. 4.” Completing amendments of this character, the Convention of 1958 proposed the addition of the words “and in the Convocation of the American Churches in Europe” in the four places where dioceses

12. *Journal*, 1922, p. 281.

and missionary districts were mentioned. The amendment was adopted in 1961.

In order to make it possible to accompany a revision of the Prayer Book with the experience gained from “trial use” throughout the Church of some of the proposed changes, the Convention of 1961 proposed, and that of 1964 adopted, the following amendment to the latter portion of Article X:

But notwithstanding anything hereinabove contained, the General Convention may at any one meeting, by a majority of the whole number of Bishops entitled to vote in the House of Bishops, and by a majority of the Clerical and Lay Deputies of all the Dioceses entitled to representation in the House of Deputies, and all the Missionary Districts and the Convocation of the American Churches in Europe, voting by orders as previously laid down in this Article,

- (a) Amend the Table of Lessons and all Tables and Rubrics relating to the Psalms;
- (b) Authorize for trial use throughout this Church, as an alternative at any time or times to the established Book of Common Prayer or to any section or office thereof, a proposed revision of the whole Book or of any portion thereof, duly undertaken by the General Convention.¹³

The same amendment deleted the word “further” from the second proviso.

The Convention of 1967 proposed an amendment substituting the words, “Missionary Diocese” and “Missionary Dioceses” for the words “Missionary District” and “Missionary Districts.” It was adopted in 1970, and the Convention of 1970 then proposed an amendment replacing the words “triennial meeting” with the words “regular meeting,” a change that had already been made in the wording of Article XI. These amendments brought Article X to read as it does today.

The Convention of 1979 proposed amendments to several articles of the Constitution eliminating the distinction between missionary dioceses and other dioceses. In particular, it was proposed to amend Article X by striking in the first paragraph the words “and Missionary Dioceses, and in the Convocation of the American Churches in Europe,” and the words “and of the Convocation of every Missionary Diocese and of the Convocation of the American Churches in Europe;” and striking in the second paragraph the words “and all the Missionary Dioceses, and the Convocation of the American Churches in Europe.” These amendments await final action in the Convention of 1982.

There is one simplification that could be made at the time of any future amendment to the article. The words, “the Form and Manner

13. *Journal*, 1964, pp. 260-61.

of Making, Ordaining, and Consecrating Bishops, Priests, and Deacons, the Form of Consecration of a Church or Chapel, the Office of Institution of Ministers, and Articles of Religion” in the first sentence, are an inheritance from a time when this material was regarded as a series of supplements to the Book of Common Prayer, rather than an integral part of it. Added subsequent to the adoption of the Prayer Book of 1789, these “Offices” and Articles were printed after the Psalter in Prayer Books before 1979. Since the Prayer Book of 1979 has incorporated this material (except for the Articles) into the structure of the book itself, the words quoted above would seem no longer necessary.



ARTICLE XI.

Alterations or amendments. No alteration or amendment of this Constitution shall be made unless the same shall be first proposed at one regular meeting of the General Convention and by a resolve thereof be sent to the Secretary of the Convention of every Diocese and of the Convocation of every Missionary Diocese and of the Convocation of the American Churches in Europe, to be made known to the Diocesan Convention or the Missionary Diocese Convocation or the Convocation of the American Churches in Europe at its next meeting, and be adopted by the General Convention at its next succeeding regular meeting by a majority of all Bishops, excluding retired Bishops not present, of the whole number of Bishops entitled to vote in the House of Bishops, and by a majority of the Clerical and Lay Deputies of all the Dioceses and of all the Missionary Dioceses and the Convocation of the American Churches in Europe entitled to representation in the House of Deputies, voting by orders, each having the vote provided for in Sec. 4 of Article I.

Effective date. Each duly adopted alteration or amendment to this Constitution, unless otherwise expressly stated therein, shall take effect on the first day of January following the adjournment of the General Convention at which it is finally adopted.



Article XI prescribes the procedure for making alterations or amendments to the Constitution. Any amendment must be first proposed by resolution of both houses at one regular meeting of the General

Convention, and adopted by both houses in exactly the same form at the next succeeding meeting of the Convention.

A proposed amendment must be made known to the convention or convocation of every diocese and missionary diocese, and to the Convocation of the American Churches in Europe, by a manner prescribed in the article, at the next meeting of such conventions and convocations after the General Convention at which the proposed change is adopted.

An amendment or alteration proposed at one Convention and ratified at the next succeeding Convention must, in both instances, be adopted in the House of Bishops by a majority of all bishops entitled to vote therein, excluding retired bishops not present, and concurrently in the House of Deputies by a majority of the clerical and lay deputies of all the dioceses and missionary dioceses, and the Convocation of the American Churches in Europe, entitled to representation therein, voting by orders, each having the vote provided for in Section 4 of Article I of the Constitution.

Alterations or amendments duly adopted, unless otherwise expressly stated therein, become effective on the first day of January following the Convention at which final adoption takes place.

EXPOSITION OF ARTICLE XI

The Constitution of 1789 made provision for its amendment in Article 9 which read as follows:

This Constitution shall be unalterable unless in General Convention by the Church in a majority of the States which may have adopted the same; and all alterations shall be first proposed in one General Convention, and made known to the several State Conventions before they shall be finally agreed to, or ratified in the ensuing General Convention.¹

Save for the action of the Convention of 1838, as noted in the discussion of previous articles, by which the words “State” and “States” were changed to “Diocese” and “Dioceses,” Article 9 remained unchanged until it was rewritten as Article XI in the revision of the Constitution adopted by the Convention of 1901. Article XI then appeared as follows:

No alteration or amendment of this Constitution shall be made unless the same be first proposed at one triennial meeting of the General Convention, and by a resolve thereof be sent to the Secretary of the Convention of every Diocese, to be made known to the Diocesan Convention at its next meeting, and be adopted by the General Convention at its next succeeding triennial meeting by a majority of the whole number of Bishops

1. *Journals 1785-1853*, ed. Hawks and Perry, I, p. 100.

entitled to vote in the House of Bishops, and by a majority of the Clerical and Lay Deputies of all the Dioceses entitled to representation in the House of Deputies voting by orders.

Except for the inclusion of missionary dioceses and of the Convocation of the American Churches in Europe, the exclusion of the vote of retired bishops not present in the house, and the addition of both the clause "each having the vote provided for in Sec. 4 of Article I" and the paragraph governing the effective date of amendments, the form of 1901 is substantially the same as that of the present Article XI. The additions and amendments subsequent to 1901 will be noted later in the exposition.

An interesting question arises from a comparison of former Article 9 with Article XI of 1901. It concerns the interpretation of the words in Article 9 "unless in General Convention by the Church in a majority of States which may have adopted the same..." Did the framers of the Constitution intend that a vote in the House of Deputies on an amendment to the Constitution should be conducted differently from the vote by orders described in Article 2 of the Constitution of 1789? Did they intend that in voting on amendments to the Constitution each diocese was to have a single vote in the House of Deputies, its character to be determined by the clerical and lay deputations voting separately? Thus, an affirmative or negative vote of a diocese could be cast only when the votes of the two orders agreed. In the event that members of either deputation from a diocese were equally divided in their vote, or when the clerical and lay deputations did not agree in their vote, the vote of such diocese would be recorded as "divided."

An examination of the records of votes in the House of Deputies in the early Conventions yields less information than might be desired to settle this question. In a number of Conventions from 1804 to 1841, amendments to the Constitution appear to have been made by simple resolution. In the Convention of 1823, a proposed amendment was adopted by the votes of the states, but no votes were recorded as divided.

In the Convention of 1808, however, a clear instance of a vote by dioceses occurred. On the adoption of a proposed amendment giving the House of Bishops a negative [veto] in matters of legislation, the vote was "taken by States." In all the dioceses represented in both orders, the vote of the clergy and of the laity agreed in the affirmative, except in Pennsylvania. The Pennsylvania clergy voted in the affirmative and the

laity in the negative. The vote of Pennsylvania was therefore recorded in the journal as “Divided.”²

By the time of the Convention of 1838, the method of voting on amendments to the Constitution had become that described in Article 2, in which each diocese has one vote in each order. To adopt an amendment, a majority of affirmative votes must be secured in each order. In the Convention of 1838, when a proposed amendment governing the formation of a new diocese out of one or more existing dioceses was offered for adoption, “The Clerical and Lay Representation of New York required that the vote in each order should be taken by Dioceses, agreeably to the provisions of the 2nd Article of the Constitution.”³ The tabulation of the vote, recorded in the Journal as “a concurrence of both orders” was as follows:

Clergy —24 Dioceses represented.
 Ayes 22, and 2 divided.
 Laity — 20 Dioceses represented.
 Ayes 20.

The equally divided clerical votes were in the deputations of North Carolina and Alabama.

By 1844, the vote by orders described in Article 2 was firmly established as conforming to the method prescribed in Article 9. In the Convention of 1844, when a new article of the Constitution, proposed in 1841, governing the consecration of bishops for foreign lands, was presented for adoption, the vote was “taken by Dioceses” and “Agreeably to Article IX of the Constitution.”⁴ It was actually a vote by orders, as in 1838, and was recorded as:

Clergy —26 Dioceses represented.
 For the Affirmative, 26.
 Laity — 22 Dioceses represented.
 For the Affirmative, 22.

Thus it would appear that by 1838, whatever had been the original intention with respect to voting on amendments to the Constitution in the House of Deputies, a vote by orders as described in Article 2 had come to be accepted as fulfilling the requirements of Article 9. From this time onwards, during the remaining Conventions in the nineteenth century, amendments to the Constitution were voted on in accordance with the provisions of Article 2 governing a vote by orders in the House of Deputies.

2. *Journals 1785-1853*, ed. Hawks and Perry, I, p. 341.

3. *Journal*, 1838, p. 25.

4. *Journal*, 1844, pp. 73-75.

Despite this practice, from time to time the question was raised as to whether or not Article 9 required the concurrence of both orders in a diocesan deputation to cast an affirmative vote on an amendment to the Constitution. In other words, the action in the Convention of 1808 cast a long shadow over the matter. Consequently, in the Convention of 1877 the committee on amendments to the Constitution presented a report on the subject in the House of Deputies containing the following conclusions:

The terms employed in the ninth Article must be construed so as to conform with the clear meaning of the first two Articles...

A vote taken by Orders is a compliance with the requirements of the ninth Article of the Constitution, interpreted in the light of the second Article of the same.

On the basis of this ingenious argument, the committee offered the following resolution to be adopted by the house:

Resolved, that the proper method of voting and determining questions upon the alteration of the Constitution is that presented in the second Article for a vote by Orders, but the votes in the affirmative must be a majority of the number of the Dioceses which have adopted our Constitution in each Order, and the concurrence of both Orders in each Diocese cannot be required.⁵

The house did not act upon the report, but referred it and the attached resolution to consideration by the next Convention.

In 1880 the Committee offered the resolution again, this time accompanied by a supplemental report containing a survey of votes taken in past Conventions. The supplemental report read, in part, as follows:

In 1808, when the full power of non-concurrence was given to the House of Bishops, we do find that the proposed amendment to the Constitution was finally adopted by a vote counted by States as units ... The inference may hence be drawn that such had been the mode since the adoption of the Constitution in 1789. But, since 1808, there is no evidence that such a count has ever been made...⁶

Upon its second presentation in the Convention of 1880, the House of Deputies adopted the resolution of 1877.

This, however, did not satisfy a number of learned clergy and laymen. In the convention of 1889, the Very Rev. Eugene Augustus Hoffman, Dean of the General Theological Seminary and a member of the New York deputation, which included such distinguished churchmen as the Rev. Dr. Morgan Dix, the Rev. Dr. William R. Huntington, and Messrs. J. Pierpont Morgan and Hamilton Fish, offered a resolution requesting

⁵ *Journal*, 1877, pp. 89-90.

⁶ *Journal*, 1880, pp. 130-31.

the committee on amendments to the Constitution to consider and report whether the expression in Article 9 “requires a vote of the majority of the Dioceses, of which the Clerical and Lay Deputies agree, in order to effect an alteration in the Constitution...”

The report of the committee firmly endorsed the procedure followed in the Convention of 1808. “In our opinion,” said the committee,

the words of Article 9 ... require that in voting upon alterations in the Constitution, the Clergy and Laity in a Diocese voting affirmatively must concur in such a vote, if both orders are represented in the Convention, and that it is not sufficient that there shall be simply a majority of the suffrages in each order.

On amendments to the Constitution, the *Diocese must act affirmatively as a unit in both orders*, as in no other way can it be determined that a majority of the Dioceses which have adopted the Constitution consent to a change.⁷

The report was not acted upon. The House of Deputies continued to adopt amendments to the Constitution by a concurrent vote by orders and not a vote by dioceses as units. The question, of course, ceased to have any practical significance when the Convention of 1901 adopted Article XI requiring a vote by “a majority of the Clerical and Lay Deputies entitled to representation in the House of Deputies voting by orders.”

This was made even more precise when the Convention of 1943 adopted an amendment proposed in 1940, adding after the words “voting by orders” the words which now conclude the first paragraph of Article XI “each having the vote provided for in Sec. 4 of Article I.”⁸

In the exposition of Article XI in both the 1924 and 1954 editions of this work, there is an extended discussion of the constitutional relation between the legislative power of the General Convention and that of the several diocesan conventions. It is prompted by a consideration of the view of Dr. Francis Lister Hawks that the purpose of requiring proposed amendments to the Constitution to be made known to the diocesan conventions before final ratification was to invite action of those conventions upon the proposed amendments. The inference from this argument is that, should a majority of the diocesan conventions record their disapproval, the General Convention should not proceed to ratification. This interpretation of the ambiguity of Article 9 of the old Constitution leads inevitably to the view that control over amendments to the Constitution rests with a majority of the diocesan conventions, and not with the Church in a majority of dioceses in the General Convention. It would seem clear, however, that if the framers of the

7. *Journal*, 1889, pp. 308, 354.

8. *Journal*, 1943, p. 188.

Constitution had intended to grant the dioceses such power, they would have made that intention explicit in Article 9. At the very time they had before them a model in the Constitution of the United States with its clause requiring the consent of the legislatures of three-fourths of the states to effect an amendment. Had they intended to make an alteration in the Constitution dependent in any way upon the action of diocesan conventions, such a restriction upon the power of the General Convention would have been made explicit in the instrument itself.

The power to propose alterations in the Constitution, and to ratify and complete such alterations, is lodged solely in the General Convention. The only restriction on that power is the obligation to make known a proposed change to the several diocesan conventions. This may be for the purpose of education, gathering views and information, eliciting opinions, or giving a diocesan convention opportunity to instruct its deputies in the matter in question. On a number of occasions, diocesan conventions have submitted memorials and resolutions to the General Convention, indicating approval or disapproval of proposed amendments. These have been given such weight in the determination of a question as the Convention deemed appropriate.

The argument advanced by Dr. Hawks is, of course, long out-dated, nor was it ever convincing to many people. The form which Article 9 was given by its amendment in 1901 eliminated any ambiguity that might have existed to give rise to Dr. Hawks' view.

The changes that brought Article XI as adopted in the Convention of 1901 may now be briefly summarized. In the Convention of 1934 an amendment was proposed, adopted in 1937, inserting the clause "excluding retired Bishops not present," to apply to the determination of the vote of a constitutional majority in the House of Bishops.⁹ By 1943, when the addition of the words "each having the vote provided for in Sec. 4 of Article I" was made, as noted earlier in this exposition, the missionary districts were included with the dioceses to receive notice of proposed amendments to the Constitution. The Convention of 1961 added the Convocation of the American Churches in Europe to the jurisdictions to which such notices are to be sent. Another amendment proposed by the Convention of 1958, and adopted in 1961, added to Article XI its second paragraph governing the date upon which amendments or alterations of the Constitution shall take effect.¹⁰

9. *Journal*, 1934, p. 270.

10. *Journal*, 1958, pp. 245-46.

In the Convention of 1967 two amendments were proposed. One changed the words "Missionary District" to "Missionary Diocese," an alteration already noted as made in other articles of the Constitution. The other substituted the word "regular" for "triennial" in identifying a Convention at which amendments might be proposed or adopted. When these proposed amendments were adopted by the Convention of 1970, the text of Article XI was made to read as it does at present.

The Convention of 1979 proposed two amendments to Article XI. The first amendment, made in the interest of the establishment of equality in all jurisdictions in this and other articles of the Constitution, struck out the words "and of the Convocation of every Missionary Diocese and of the Convocation of the American Churches in Europe," the words "or the Missionary Diocese Convocation or the Convocation of the American Churches in Europe," and the words "and of all Missionary Dioceses and the Convocation of the American Churches in Europe," leaving the word "Diocese" to apply to all jurisdictions.

The second proposed amendment renumbered Article XI as Article XII, and introduced a new Article XI reading as follows:

Whenever the term "Diocese" is used without qualification in this Constitution, it shall be understood to refer both to Dioceses and to Missionary Dioceses and also, wherever applicable, to all other jurisdictions entitled to representation in the House of Deputies of the General Convention.

These amendments remain to be adopted finally at the Convention of 1982.



CANONS
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Episcopal Church



NOTE

The early Conventions of the Church set forth canons numbered according to the particular Convention. Thus, there were Canons 1 through 17 of 1789, Canons 1 through 6 of 1792, and Canons 1 through 9 of 1795. The Convention of 1832 reduced the accumulation of canons (some of which simply repealed canons of earlier Conventions) to fifty-two serially numbered ones, and declared — in a fifty-third canon — that “all former Canons of this Convention, not included in these Canons, are hereby repealed” (*Journal*, 1832, p. 81).

The canons of subsequent Conventions, however, were again numbered by the year of their adoption, and printed as appendixes to the basic corpus of 1832.

The Convention of 1856 appointed a committee to prepare a “Digest of the Canons of the Church under appropriate Titles, Canons, and Sections,” which was adopted in 1859. Other major rearrangements in the order and numbering of the canons were made in 1904, 1943, and 1970.

The changes in the numbering of particular canons made at the time of these four rearrangements are listed immediately after the text of each canon. Lesser changes, made at other times, and occasioned by the adding or dropping of one or more canons, are noted in the history of the canon when needed for clarity.

Title I

ORGANIZATION AND
ADMINISTRATION



CANON 1. Of the General Convention

*Of the
organizing of
the House of
Deputies.*

Sec. 1 (a). At the time and place appointed for the meeting of the General Convention, the President of the House of Deputies, or, in his absence, the Vice-President of the House, or, if there be neither, a Chairman *pro tempore* appointed by the members of the House of Deputies on the Joint Committee of Arrangements for the General Convention, shall call to order the members present. The Secretary, or, in his absence, a Secretary *pro tempore* appointed by the presiding officer, shall record the names of those whose testimonials, in due form, shall have been presented to him, which record shall be *prima facie* evidence that the persons whose names are therein recorded are entitled to seats. In the event that testimonials are presented by or on behalf of persons from jurisdictions which have not previously been represented in a General Convention, then the Secretary, or one appointed in his stead as provided herein, shall proceed as provided in Clause (c). If there be a quorum present, the Secretary shall so certify, and the House shall proceed to organize by the election, by ballot, of a Secretary, and a majority of the votes cast shall be necessary to such election. Upon such election, the presiding officer shall declare the House organized. If there be a vacancy in the office of President or Vice-President, the vacancy or vacancies shall then be filled by election, by ballot, the term of any officer so elected to continue until the adjournment of the General Convention. As soon as such vacancies are filled, the President shall appoint a committee to wait upon the House of Bishops and inform

them of the organization of the House of Deputies, and of its readiness to proceed to business.

President and Vice-President, how elected. (b). There shall be a President and a Vice-President of the House of Deputies, who shall perform the duties normally appropriate to their respective offices or specified in these Canons. They shall be elected not later than the seventh day of each regular meeting of the General Convention in the manner herein set forth. The House of Deputies shall elect from its membership by a majority of separate ballots, a President and a Vice-President, who shall be of different orders. Such officers shall take office at the adjournment of the regular meeting at which they are elected, and shall continue in office until the adjournment of the following regular meeting of the General Convention. They shall be and remain *ex officio* members of the House during their term of office. No person elected President or Vice-President shall be eligible for more than three consecutive full terms in each respective office. In case of resignation, death, absence, or inability, of the President, the Vice-President shall perform the duties of the office until a new President is elected. The President shall be authorized to

Advisory Council. appoint an Advisory Council to consult and advise with him in the performance of his office.

Testimonials required. (c). In order to aid the Secretary in preparing the record specified in Clause (a), it shall be the duty of the Secretary of the Convention of every Diocese to forward to him, as soon as may be practicable, a copy of the latest journal of the Diocesan Convention, together with a certified copy of the testimonials of members aforesaid. He shall also forward a duplicate copy of such testimonials to the Standing Committee of the Diocese in which the General Convention is next to meet. Where testimonials are received for persons from jurisdictions which have not previously been represented in General Convention, the Secretary shall ascertain that the applicable provisions of Article V., Section 1, of the Constitution have been complied with prior to such persons being permitted to take their seats in the House.

Secretary to keep minutes, etc. (d). The Secretary shall keep full minutes of the proceedings of the House; record them, with all reports, in a book provided for that purpose; preserve the journals and Records of the House; deliver them to the Registrar, as hereinafter

provided, and perform such other duties as may be directed by the House. He may, with the approval of the House, appoint Assistant Secretaries, and the Secretary and Assistant Secretaries shall continue in office until the organization of the next General Convention, and until their successors be chosen.

Notices of Amendments to Constitution and Prayer Book. (e). It shall be the duty of the Secretary of the House of Deputies, whenever any alteration of the Book of Common Prayer or of the Constitution is proposed, or any other Subject submitted to the consideration of the several Diocesan Conventions, to give notice thereof to the Ecclesiastical Authority of the Church in every Diocese, as well as to the Secretary of the Convention of every Diocese, and written evidence that the foregoing requirement has been complied with shall be presented by him to the General Convention at its next session. All such notices shall be sent by registered mail, return receipts being required. He shall notify each Secretary that it is his duty to make known such proposed alterations of the Book of Common Prayer, and of the Constitution, and such other subjects, to the Convention of his Diocese at its next meeting, and to certify to the Secretary of the House of Deputies that such action has been taken by him.

Secretary and Treasurer to have seat and voice. (f). The Secretary of the House of Deputies and the Treasurer of the General Convention shall be entitled to seats upon the floor of the House, and, with the consent of the President, they may speak on the subjects of their respective offices.

Rules and Orders of the House of Deputies. (g). At the meetings of the House of Deputies the Rules and Orders of the previous meeting shall be in force until they are amended or repealed by the House.

(h). In case of the resignation, death, or total disability of the President and Vice-President during the recess of the General Convention, the Secretary of the House of Deputies shall perform such *ad interim* duties as may appertain to the office of President until the next meeting of the General Convention or until such disability is removed.

(i). If, during recess, a vacancy shall occur in the office of Secretary of the House of Deputies, the duties thereof shall devolve upon the First Assistant Secretary, or, if there be none such, upon a Secretary *pro tempore* appointed by the

President of the House, or if the office of President be also vacant, then by the Vice-President, and if both offices be vacant, then by the members from the House of Deputies of the Joint Committee on Arrangements for the next General Convention, appointed by the preceding General Convention.

- Secretary of House of Deputies to be Secretary of Convention.* (j). At every regular meeting of the General Convention, the Secretary elected by the House of Deputies shall, by concurrent action of the two Houses of the General Convention, also be made the Secretary of the General Convention, who shall have responsibility for the printing of the Journal of the General Convention, and attend to any other matters which may be referred to him.
- Standing and Joint Commissions.* Sec. 2 (a). The General Convention by Canon may establish Standing Commissions to study and make recommendations to the General Convention on major subjects considered to be of continuing concern to the Church and Joint Commissions to study and make recommendations to the General Convention on specific matters of concern during a single interval between two regular meetings of the General Convention. The Canon shall specify the size, composition and duties of each such Commission. Such Commissions shall be composed of Bishops and Deputies, and may include Presbyters, Deacons and lay persons not members of the House of Deputies.
- Terms of Office.* (b). The terms of all members of Standing Commissions shall be equal to the interval between the regular meeting of the General Convention preceding their appointment and the adjournment of the second succeeding regular meeting of the General Convention and such terms shall be rotated so that, as near as may be, the term of one half of the members shall expire at the conclusion of each regular meeting of the General Convention. The terms of all members of Joint Commissions shall be only from the time of appointment until the adjournment of the first regular meeting of the General Convention following their appointment.
- Appointment of Members.* (c). The Presiding Bishop shall appoint the episcopal members, and the President of the House of Deputies the lay and clerical members, of such Commissions as soon as practicable after the adjournment of the General

Convention. Vacancies shall be filled in similar manner. One member of each such Commission shall be appointed from the membership of Executive Council to serve as liaison therewith.

Consultants and coordinators. (d). The Presiding Bishop, in respect of Bishops, and the President of the House of Deputies, in respect of Clergy and Lay Persons, may appoint members and staff of the Executive Council, or other experts, as consultants or coordinators to any Commission, to assist in the performance of its functions. Notice of such appointment shall be given to the Secretaries of both Houses. Each such Commission shall have power to constitute committees and engage the services of consultants and coordinators necessary to the carrying on of its work.

Ex-officio Members. (e). The Presiding Bishop and the President of the House of Deputies shall be members *ex officio* of every Commission with the right, but no obligation, to attend meetings, and with seat and vote in the deliberations thereof, and shall receive their minutes and an annual report of their activities; *Provided*, that the said presiding officers may appoint personal representatives to attend any meeting in their stead, but without vote.

Notification of duties. (f). The Executive Officer of the General Convention shall, not later than the month of January following the meeting of the General Convention, notify the members of the respective Houses of their appointments upon Commissions and their duty to present Reports to the next Convention. One year prior to the opening day of the Convention the Executive Officer of the General Convention shall remind the Chairmen and Secretaries of all Commissions of this duty.

Bishop convenes; elects Chairman, Secretary. (g). Every Commission shall be convened by the senior Bishop in service on the Commission, and when convened, shall elect a Chairman, a Vice-Chairman, and a Secretary. In the event that the Commission is not organized as above provided within six months from the date of adjournment of each Convention, any three members may take such action as may be necessary to organize the Commission. After the Commission shall have been convened and its officers chosen, the Chairman or the Vice-Chairman shall be empowered to call a meeting and fix the time and place and shall do so upon signed request of three members.

- Referrals.* (h). It shall be the privilege of either House to refer to a Commission any matter related to the subject for which it was appointed; but neither House shall have the power, without the consent of the other, to instruct the Commission as to any particular line of action.
- Public notice of meeting.* (i). It shall be the duty of each Commission to give appropriate notice in the Church press of issues before it and the time and place of meetings at which such issues are to be considered, together with instructions as to the manner in which members of the Church may address their views to such Commission.
- Reports due by April 1st.* (j). Every Commission shall prepare a Report, which, together with any minority Report, shall be sent, by the first of April prior to each Convention, to the Executive Officer of the General Convention, who shall print and distribute the same, as far as practicable, to all members of said Convention.
- (k). The report of every Commission presented at the General Convention shall:
- Contents of Reports.* (1). Set forth the names of its original members, any changes in membership, the names of all those who concur in and all those who dissent from its recommendations, and shall further state, if less than a majority of its entire membership sign the Report, their authority for presenting it.
- (2). Summarize the work of the Commission, including the various matters studied, the recommendations for action by the General Convention and drafts of Resolutions proposed for adoption to implement the recommendations of the Commission.
- (3). Include a detailed report of all receipts and expenditures, including moneys received from any source whatsoever, during the preceding interval since the last meeting of the General Convention, and if it recommends that it be continued, the estimated requirements for the ensuing interval until the next regular meeting of the General Convention.
- Reports and spokesmen in Convention.* (l). Every Commission, as a condition precedent to the presentation and reception of any Report in either House, in which such Commission proposes the adoption of any

Resolution, shall, by vote, authorize a member or members of that House, who, if possible, shall be a member of the Commission, with such limitations as the Commission may impose, to accept or reject, on behalf of the Commission, any amendments proposed in such House to any such Resolution; *Provided, however,* that no such amendment may change the substance of the proposal, but shall be primarily for the purpose of correcting errors. The name of the member or members of the particular House upon whom such authority has been conferred, and the limitations of authority, shall be communicated in writing to the Presiding Officer of such House not later than the presentation of such Report in that House. The application of this Rule in either House may be suspended, in any particular case, by the majority vote of the members of such House.

Budget requirements. (m). Every Commission whose Report requests expenditure out of the funds of the General Convention (except for the printing of the Report) shall present to the Joint Standing Committee on Program, Budget and Finance its written request, on or before the first business day of the session, and all Resolutions providing for any such expenditures shall be immediately referred to the joint Standing Committee on Program, Budget and Finance. No proposition involving such expenditures shall be considered unless so presented and until after report of the Joint Standing Committee on Program, Budget and Finance.

(n). There shall be the following Standing Commissions:

Standing Commission on Small Communities. (1). A Standing Commission on the Church in Small Communities, consisting of 12 members (3 Bishops, 3 Presbyters or Deacons, and 6 Lay Persons). It shall be the duty of the Commission to concern itself with plans for new directions for Churches in Small Communities.

(2). A Standing Commission on Constitution and Canons, consisting of 12 persons (3 Bishops, 3 Presbyters or Deacons, and 6 Lay Persons).

Standing Commission on Constitution and Canons.

The Standing Commission shall:

(i). Review such proposed amendments to the Constitution and Canons as may be submitted to the Joint Commission, placing each such proposed

amendment in proper Constitutional or Canonical form. The Joint Commission shall express its views with respect to the substance of any such proposal only to the proponent thereof; *Provided, however*, that no member of the Commission shall, by reason of membership, be deemed to be disabled from expressing, on the floor of the House of which he be a member, his personal views with respect to the substance of any such proposed amendment.

(ii). Conduct a comprehensive review of the Constitution and Canons with respect to their internal consistency and clarity, and on the basis of such a review propose to the General Convention such technical amendments to the Constitution and Canons as in the opinion of the Commission are necessary or desirable in order to achieve such consistency and clarity without altering the substance of any Constitutional and Canonical provisions; *Provided, however*, that the Commission shall propose, for the consideration of the appropriate legislation committees of the two Houses, such amendments to the Constitution and Canons as in the opinion of the Commission are technically desirable but involve a substantive alteration of a Constitutional or Canonical provision.

*Standing
Commission
on
Ecumenical
Relations.*

(3). A Standing Commission on Ecumenical Relations, consisting of 24 members (8 Bishops, 8 Presbyters or Deacons, and 8 Lay Persons). Its duties shall be to develop a comprehensive and coordinated policy and strategy on relations between this Church and other Churches, to make recommendations to General Convention, concerning interchurch cooperation and unity, and to carry out such instructions on ecumenical matters as may be given it from time to time by the General Convention. It shall also nominate persons to serve on the governing bodies of ecumenical organizations to which this Church belongs by action of the General Convention and to major conferences as convened by such organizations.

*Standing
Commission
on Human
Affairs and
Health.*

(4). A Standing Commission on Human Affairs and Health, consisting of 12 members (3 Bishops, 3 Presbyters or Deacons, and 6 Lay Persons, who shall include

representation of a broad diversity of scientific and medical disciplines). It shall be the duty of the Commission to study and concern itself with the theological, ethical and pastoral questions inherent in such aspects of human affairs as human health, sexuality and bioethical problems. The Commission may cooperate with bodies having allied concerns established by other religious, scientific or lay groups and organizations.

*Standing
Commission
on
Metropolitan
Areas.*

(5). A Standing Commission on Metropolitan Areas, consisting of 12 members (3 Bishops, 3 Presbyters or Deacons, and 6 Lay Persons). Its duties shall be to develop recommendations and strategies which will be of concrete assistance to the Church in Metropolitan Areas in shaping new patterns of mission.

*Standing
Commission
on Structure.*

(6). A Standing Commission on the Structure of the Church, consisting of 12 members (3 Bishops, 3 Presbyters or Deacons, and 6 Lay Persons). It shall be the duty of the Commission to study and make recommendations concerning the structure of the General Convention and of the Church. It shall, from time to time, review the operation of the several Committees and Commissions to determine the necessity for their continuance and the effectiveness of their functions and to bring about a coordination of their efforts. Whenever a proposal is made for the creation of a new Committee or Commission, it shall, wherever feasible, be referred to the Standing Commission on the Structure of the Church for its consideration and advice.

*Standing
Commission
on World
Mission.*

(7). A Standing Commission on World Mission, consisting of 12 members (3 Bishops, 3 Presbyters or Deacons, and 6 Lay Persons), of whom one-half shall come from jurisdictions outside the continental United States of America. Its duties shall be to review, evaluate, plan and propose policy on overseas mission to the General Convention.

*Standing
Commission
on
Stewardship
and
Development.*

(8). There shall be a Standing Commission on Stewardship and Development. It shall be the duty of the Commission to hold up before the Church the responsibility of faithful stewardship through appropriate General Convention and Executive Council action. It shall recommend a strategy for stewardship education

throughout the Church. It shall plan and recommend a program of long-range development for the Executive Council and the several Dioceses. It shall study, and where appropriate, recommend a joint strategy for the various Church agencies in their fund-raising efforts. It shall consider all national fund-raising proposals for its recommendation. It may serve as a council of advice to the Executive Council for possible sources of income for special projects not included in the General Church Program Budget.

(i). The Commission shall consist of twelve members, two of whom shall be Bishops, two shall be Presbyters or Deacons, and eight shall be Lay Persons. The members shall be appointed by the Presidents of the two Houses of the General Convention, the Bishops by the Presiding Bishop, the Presbyters or Deacons and Lay Persons by the President of the House of Deputies, for terms which shall be equal to the interval between the meeting of the General Convention at which such members were appointed and the adjournment of the second succeeding regular meeting of the General Convention. In constituting the original Commission following the enactment of this clause, 1 Bishop, 1 Presbyter or Deacon, and 4 Lay Persons shall be appointed for terms expiring at the adjournment of the first succeeding regular meeting of the General Convention, so that the terms of the members will be staggered. Vacancies occurring during the intervals between meetings of the General Convention may be filled by the respective Presidents of the two Houses.

(ii). The Commission shall elect its own Chairman and Secretary and shall have power to constitute committees and employ consultants and coordinators necessary to the carrying on of its work.

(iii). The expenses of the Commission shall be met by appropriations by the General Convention.

Special meetings. Sec. 3 (a). The right of calling special meetings of the General Convention shall be vested in the Bishops. The Presiding Bishop shall issue the summons for such meetings, designating the time and place thereof, with the consent,

or on the requisition, of a majority of the Bishops, expressed to him in writing.

Deputies to special meetings. (b). The Deputies elected to the preceding General Convention shall be the Deputies at such special meetings of the General Convention, except in those cases in which other Deputies shall have been chosen in the meantime by any of the Diocesan Conventions, and then such other Deputies shall represent in the special meeting of the General Convention the Church of the Diocese in which they have been chosen.

Vacancies, how supplied. (c). Any vacancy in the representation of any Diocese caused by the death, absence, or inability of any deputy, shall be supplied either temporarily or permanently in such manner as shall be prescribed by the Diocese, or, in the absence of any such provision, by appointment by the Ecclesiastical Authority of the Diocese. During such periods as shall be stated in the certificate issued to him by the appointing power, the Provisional Deputy so appointed shall possess and shall be entitled to exercise the power and authority of the Deputy in place of whom he shall have been designated.

Deputies to be elected in year prior to Convention. Sec. 4. All jurisdictions of this Church entitled by the Constitution or Canons to choose Deputies to the General Convention shall be required to do so not later than the year preceding the year of the General Convention for which they are chosen. Deputies of jurisdictions failing so to elect may not be seated unless permitted by ruling of the Presiding Officer.

Archives. Sec. 5. The General Convention shall designate a repository for its Archives, those of the Executive Council, and other historical records connected with the life and development of the Episcopal Church and shall provide financial support to arrange, label, index and put them in order, and to provide for the safekeeping of the same in some fireproof, accessible place of deposit and to hold the same under such regulations as the General Convention may, from time to time, provide.

Registrar. Sec. 6 (a). The House of Deputies, upon the nomination of the House of Bishops, shall elect a Presbyter, to be known as the Registrar of the General Convention, whose duty it shall be to receive all journals, files, papers, reports,

and other documents or articles that are, or shall become, the property of either House of the General Convention, and to transmit the same to the Archives of the Church as prescribed by the Archivist.

Registrar to keep records of consecrations. (b). It shall also be the duty of the said Registrar to procure a suitable book, and to enter therein the record of the ordinations and consecrations of all the Bishops of this Church, designating accurately the time and place of the same, with the names of the consecrating Bishops, and of others present and assisting; to have the same authenticated in the fullest manner practicable; and to take care for the similar record and authentication of all future ordinations and consecrations of Bishops in this Church. Due notice of the time and place of such ordinations and consecrations shall be given by the Presiding Bishop to the Registrar; and thereupon it shall be his duty to attend such ordinations and consecrations, either in person or by deputy.

Registrar to prepare Letters of Consecration. (c). He shall prepare, in such form as the House of Bishops shall prescribe, the Letters of Ordination and Consecration in duplicate; and he shall have the same immediately signed and sealed by the ordaining and consecrating Bishops, and by such other Bishops assisting as may be practicable; and he shall deliver to the newly consecrated Bishop one of the said Letters, and shall carefully file the other among the papers in his custody, and make a minute thereof in his book of record.

Historiographer. (d). The Registrar shall also be Historiographer, unless in any case the House of Bishops shall make a separate nomination; and in this event the House of Deputies shall confirm the nomination.

Expenses of Registrar. (e). The necessary expenses incurred under this Section shall be paid by the Treasurer of the General Convention.

Journals and papers to be delivered to Registrar. (f). It shall be the duty of the Secretaries of both Houses, within six months after the adjournment of the General Convention, to deliver to the Registrar the manuscript minutes of the proceedings of both Houses, together with the journals, files, papers, reports, and all other documents of either House. The manuscript minutes of both Houses shall remain filed until after the adjournment of the second Convention following that at which such minutes shall have been taken; *Provided, however,* that any part of such

minutes, for any reason unpublished in the journal, shall remain filed in the Archives. The Secretary of the House of Deputies shall also deliver to the Registrar, when not otherwise expressly directed, all the journals, files, papers, reports, and other documents specified in Title I, Canon 5. The Secretaries shall require the Registrar to give them receipts for the journals and other papers delivered to him.

*Appointment
of Registrar
in case of
vacancy
during recess.*

(g). In the case of a vacancy in the office of Registrar, the Presiding Bishop shall appoint a Registrar, who shall hold office until the next General Convention.

*Recorder,
duties of.*

Sec. 7 (a). The House of Deputies, upon nomination of the House of Bishops, shall elect a Recorder (who may be a natural person or an incorporated organization of this Church), whose duty it shall be to continue the List of Ordinations and to keep a list of the Clergy in regular standing.

*Information
to be sent to
Recorder.*

(b). It shall be the duty of the Bishop, or, if there be no Bishop, of the President of the Standing Committee of every jurisdiction to forward to the Recorder on or before the first day of March in each and every year a report certifying the following information as of the thirty-first day of December in the preceding year: (1) the names of the Clergy canonically resident therein with their several charges; (2) the names of the Clergy licensed by the Bishop to officiate, but not yet transferred; (3) the names of all persons connected with the jurisdiction who have been ordered Deacons or Priests during the preceding twelve months, with the date and place of ordination and the name of the Bishop ordaining; (4) the names of the Clergy of the jurisdiction who have died during the preceding twelve months, with the date and place of death; (5) the names of the Clergy who have been received during the preceding twelve months, with the date of their reception and the name of the jurisdiction from which received, and, in the case of Clergy not received from a jurisdiction of this Church, the date and place of ordination and the name of the Bishop ordaining; (6) the names of the Clergy who have been transferred during the preceding twelve months, with the dates of the Letters Dimissory and of their acceptance, and the name of the jurisdiction to which transferred; (7) the names of the Clergy who have been

suspended during the preceding twelve months, with the date and ground of suspension; (8) the names of the Clergy who have been removed or deposed during the preceding twelve months, with the date, place, and ground of removal or deposition; (9) the names of the Clergy who have been restored during the preceding twelve months, with the date; (10) the names of Deaconesses canonically resident therein.

Recorder to furnish information. (c). It shall be the duty of the Recorder to furnish, upon proper authority and at the expense of the applicant, such information as may be in the possession of the Recorder, based upon the reports required under Clause (b) hereof; but in no case shall the Recorder publish, or furnish for publication, the ground of any suspension, removal, or deposition.

Exceptions.

Report of Recorder to the General Convention. (d). The Recorder shall prepare and present to each session of the General Convention a list of all Clergy ordained, received, suspended, removed, deposed, or restored, and of all Bishops consecrated, and of all Bishops and other Clergy who have died; such list to cover the period from the last preceding similar report of the Recorder through the thirty-first day of December immediately preceding each session of the General Convention.

Expenses of Recorder. (e). The necessary expenses incurred under this Section by the Recorder shall be paid by the Treasurer of the General Convention.

Vacancy to be filled by Presiding Bishop. (f). In case of a vacancy in the office of Recorder, the Presiding Bishop shall appoint a Recorder, who shall hold office until the next General Convention.

Treasurer, his duties. Sec. 8 (a). At every regular meeting of the General Convention a Treasurer shall be elected by concurrent action of the two Houses, and shall remain in office until a successor shall be elected. It shall be his duty to receive and disburse all moneys collected under the authority of the Convention, and of which the collection and disbursement shall not otherwise be prescribed; and, with the advice and approval of the Presiding Bishop and the Treasurer of the Executive Council, to invest, from time to time, such surplus funds as he may have on hand. His account shall be rendered to the Convention at each regular meeting, and shall be audited at the direction of a committee acting under its authority.

Vacancy, how filled. (b). In case of a vacancy, by death, resignation, or otherwise, in the office of Treasurer of the General Convention, the Presiding Bishop and the President of the House of Deputies shall appoint a Treasurer, who shall hold office until a successor is elected. In case of temporary inability of the Treasurer to act, from illness or other cause, the same officials shall appoint an Acting Treasurer who shall perform all duties of the Treasurer until the Treasurer is able to resume them.

Assessment for General Convention expense budget. Sec. 9. The General Convention shall adopt, at each regular meeting, a budget to provide for the contingent expenses of the General Convention, the stipend of the Presiding Bishop together with the necessary expenses of his office, the necessary expenses of the President of the House of Deputies including the staff and Advisory Council required by him to assist him in the performance of the duties and matters related to his office, and the applicable Church Pension Fund assessments. To defray the expense of this budget, an assessment shall be levied upon the Dioceses of the Church in accordance with a formula which the Convention shall adopt as part of this expense budget. It shall be the duty of each Diocesan Convention to forward to the Treasurer of the General Convention annually, on the first Monday of January, the amount of the assessment levied upon that Diocese.

Treasurer may borrow. Sec. 10. The Treasurer of the General Convention shall have authority to borrow, in behalf and in the name of the General Convention, with the approval of the Presiding Bishop, such a sum, not exceeding twenty-five thousand dollars *per annum*, as in his judgment may be necessary to help defray the expenses of the General Convention; *Provided*, that the total amount of the indebtedness authorized in this Section shall at no time exceed fifty thousand dollars.

Shall give bond. Sec. 11. The Treasurer shall give a bond conditioned on the faithful performance of his duties. The amount thereof and the terms on which the same shall be given shall be subject to the approval of the Presiding Bishop, the expense of such bond to be paid by the General Convention.

Shall submit budget. Sec. 12. The Treasurer shall submit to the General Convention at each regular meeting thereof a detailed

budget for which he proposes to request appropriations for the ensuing budgetary period. He shall have power to expend all sums of money covered by this budget, subject to such provisions of the Canons as shall be applicable.

May appoint Assistant Treasurer. Sec. 13. The Treasurer may appoint, subject to the approval of the Presiding Bishop, an Assistant Treasurer, who shall hold office during the pleasure of the Treasurer and shall perform such duties as shall be assigned to him by the Treasurer. He shall give a bond conditioned on the faithful performance of his duties. The amount thereof and the terms on which the same shall be given shall be subject to the approval of the Presiding Bishop, the expense of such bond to be paid by the General Convention.

Convention Office under Executive Officer. Sec. 14. There shall be an Executive Office of the General Convention, to be headed by a General Convention Executive Officer to be appointed jointly by the Presiding Bishop and the President of the House of Deputies. The Executive Office of the General Convention shall include the functions of the Secretary and the Treasurer of the General Convention and those of the Manager of the General Convention and, if the several positions are filled by different persons, such officers shall serve under the general supervision of the General Convention Executive Officer, who shall also co-ordinate the work of the Commissions, Committees, Boards and Agencies funded by the General Convention Expense Budget.

To co-ordinate Committees, Commissions, etc.



This canon was numbered Title III, Canon 1, in 1859. It became Canon 46 in 1904, Canon 1 in 1943, and Title I, Canon 1, in 1970.

Convention of 1789

The Convention of 1789 included most of the legislation relating to the General Convention in the first two articles of the Constitution. It also enacted a canon, which is reproduced below under Section 7, relating to the secretary of the Convention, who was then the only continuing officer of the House of Deputies.

SECTION 1

This section is concerned with the organization of the House of Deputies, its officers, and certain of their duties.

Convention of 1808

This Convention enacted a canon providing for the transmission of all matters submitted by the General Convention for the consideration of diocesan conventions, as Canon 44, which read as follows:

It shall be the duty of the secretary of the General Convention, whenever any alteration of the Constitution is proposed, or any other subject submitted to the consideration of the several state or diocesan conventions, to give a particular notice thereof to the ecclesiastical authority of this Church in every state or diocese.

As to the purpose of this notice, reference may be had to the exposition of the last article of the Constitution.

Convention of 1832

Canon 44 of 1808, providing the mode for the transmission of matters to be submitted to the several diocesan conventions, was renumbered Canon 50, and amended by striking the words "General Convention," and inserting in place thereof the following: "House of Clerical and Lay Deputies."

This change was necessary as there was no "Secretary of the General Convention," each house having its own secretary.

Convention of 1859

In the "Digest of Canons" adopted by the Convention of 1859, the several canons of the preceding Conventions relating to the General Convention were combined into one canon, Title III, Canon 1.

Canon 50 of 1832, providing for notice of amendments to the Constitution and other like matters, was made Section 3 with the following amendments: The words "state or" were omitted before the word "diocesan" in the two places where these words occurred.

Convention of 1874

This Convention amended the first section of Title III, Canon 1, by adding a new clause thereto numbered (4) and reading as follows:

The Rules and Orders of the House of Deputies shall be in force in the ensuing General Convention, until the organization thereof, and until they be amended or repealed by the said House.

This amendment was adopted in order to provide that, when the House of Deputies met, it should have some rules to govern its proceedings. Considerable time was spent by the Convention of this year in establishing rules to govern the conduct of its business. To avoid this in the future, the amendment to the canon was adopted providing that the rules of the former Convention should be the rules of the succeeding Convention until amended or repealed.

Convention of 1904

In the revision of the canons made by this Convention, Title III, Canon 1, was made Canon 46, and very materially amended. Its Section 1 corresponds to the present Section 1, and read as follows:

Sec. 1. (i) At the time and place appointed for the meeting of the General Convention, the Secretary of the House of Deputies, or, in his absence, one of the Assistant Secretaries, in the order of their appointment, or, in the absence of all, the person appointed as hereinafter provided by the Standing Committee of the Diocese in which the General Convention is to meet, shall call to order the members present, and record the names of those whose testimonials, in due form, shall have been presented to him, which record shall be *prima facie* evidence that the persons whose names are therein recorded are entitled to seats. If there be a quorum present, by the record, the Secretary shall so declare, and the House shall proceed to organize by the election by ballot of a President from the members of the House, and of a Secretary, and a majority of all the votes cast shall be necessary to an election. As soon as a President and Secretary have been elected, a committee shall be appointed to wait upon the House of Bishops, and inform them of the organization of the House of Deputies, and of its readiness to proceed to business.

(ii) In order to aid the Secretary in preparing the record specified in the preceding clause, it shall be the duty of the Secretary of the Convention of every Diocese to forward to him, as soon as may be practicable, a copy of the latest Journal of the Diocesan Convention, together with a certified copy of the testimonials of members aforesaid. He shall also forward a duplicate copy of such testimonials to the Standing Committee of the Diocese in which the General Convention is next to meet.

(iii) The Secretary shall keep full minutes of the proceedings of the House; record them, with all reports, in a book provided for that purpose; preserve the journals and Records of the House; deliver them to the Registrar, as hereinafter provided, and perform such other duties as may be directed by the House. He may, with the approval of the House, appoint Assistant Secretaries, and the Secretary and Assistant Secretaries shall continue in office until the organization of the next General Convention, and until their successors be chosen. If, during the recess of the General Convention, a vacancy should occur in the office of Secretary, the duties thereof shall devolve upon the senior Assistant Secretary, or, if there be none, a Secretary shall be appointed by the Standing Committee of the Diocese in which the General Convention is next to meet.

(iv) It shall be the duty of the Secretary of the House of Deputies, whenever any alteration of the Constitution is proposed, or any other subject submitted to the consideration of the several Diocesan Conventions, to give notice thereof to the Ecclesiastical Authority of the Church in every Diocese and Missionary District, and evidence that the foregoing requirement has been complied with shall be presented to the General Convention at its next session.

(v) The Secretary of the House of Deputies and the Treasurer of the General Convention shall be entitled to seats upon the floor of the House, and, with the consent of the President, they may speak on the subjects of their respective offices.

(vi) At the meetings of the House of Deputies the Rules and Orders of the previous meeting shall be in force until they are amended or repealed by the House.

The first three clauses and clause (v) were new matter. Clause (iv) was Section 3 of the former canon, amended so as to require that evidence

must be presented to the General Convention at its next session, that notice of any proposed alteration in the Constitution, or other subjects submitted to the consideration of the several dioceses, has been sent as required by canon.

Clause (vi) is the same as clause (4) of the former Section 1, with a slight change in the phraseology thereof.

Convention of 1913

Canon 47, then renumbered as Canon 48, was amended by the insertion of a new clause (ii), specifying certain data and statistics to be sent to the recorder. Beginning in 1916, however, though no action by either house appears in the journal, this section appears as clause (ii) of Section 4 [now Section 7] which deals with the duties and responsibilities of the recorder. It will be treated under that section.

The Convention of 1913 also amended clause (ii), now (temporarily) made clause (iii), by striking out the words "the preceding clause" and inserting in place thereof "clause (i)."

Convention of 1922

This Convention amended Section 1 of the canon by striking out clause (iv) and inserting a new clause (iv), to read as follows:

It shall be the duty of the Secretary of the House of Deputies, whenever any alteration of the Book of Common Prayer or of the Constitution is proposed, or any other subject submitted to the consideration of the several Diocesan Conventions, to give notice thereof to the Ecclesiastical Authority of the Church in every Diocese and Missionary District, as well as to the Secretary of the Convention of every Diocese, and written evidence that the foregoing requirement has been complied with shall be presented by him to the General Convention at its next Session. All such notices shall be sent by registered mail, return receipts being required. He shall notify each Diocesan Secretary that it is his duty to make known such proposed alterations of the Book of Common Prayer, and of the Constitution, and such other subjects, to the Convention of his Diocese at its next meeting, and to certify to the Secretary of the House of Deputies, that such action has been taken by him.

This amendment was enacted in order to make more certain that the several dioceses be notified of any proposed changes in the Prayer Book or in the Constitution, and also that more certain evidence may be had that each diocese has received such notice. The former canon only required the secretary of the House of Deputies to give notice to the ecclesiastical authority of each diocese and missionary district of such proposed alterations; the canon, as amended, required the secretary to give such notice to the secretary of each diocesan convention as well as to the ecclesiastical authority.

Convention of 1943

In the rearrangement of the canons adopted at this Convention, the numbers which stood at the beginning of each clause were replaced by letters: (a), (b), etc. This canon was renumbered Canon 1.

The following amendments were made to the text:

Section 1 (d). Insert “and of every Missionary District” after “Diocese”; strike out “Diocesan” before “Secretary,” and insert “or Missionary District” after “Diocese,” to conform the section to Articles X and XI of the Constitution.

Convention of 1946

This Convention amended the canon as follows:

Section 1 (a) by striking out the second sentence “If there be a quorum ... necessary to an election” and inserting in place thereof the following two sentences:

If there be a quorum present, according to the record, the Secretary shall so declare, and the House shall proceed to organize by the election by ballot of a President from the members of the House, and of a Secretary; and a majority of all the votes cast shall be necessary to an election. The President, so elected, shall continue in office until the next meeting of the General Convention.

Section 1 (c) by striking out the last sentence “If during the recess, etc.” and adding two new clauses as follows:

(g). If during the recess of the General Convention a vacancy shall occur, by death, resignation, or otherwise, in the office of President of the House of Deputies, the Secretary of the House shall perform such *ad interim* duties as may appertain to the office of President until the next meeting of the General Convention.

(h). If during a recess a vacancy shall occur in the office of Secretary of the House of Deputies, the duties thereof shall devolve upon the First Assistant Secretary, or, if there be none such, upon a Secretary *pro tempore* appointed by the President of the House, or if the office of President be also vacant, by the members from the House of Deputies of the Joint Committee on Arrangements for the next General Convention, appointed by the preceding General Convention.

Convention of 1952

The report of the Joint Committee to Study Structure and Organization of General Convention (*Journal*, p. 355) having been presented in the House of Deputies and referred to the committee on canons, and that committee having reported adversely, a resolution, presented by the joint committee, amending Canon 1, Section 1 by reducing the number of lay deputies from a diocese to three was referred to the joint committee to be considered with associated matters during the next triennium.

As the joint committee had been discontinued by action of the House of Bishops, this matter was referred to the Joint Standing Committee on Committees and Commissions.

At this Convention, Section 1, clause (g), was amended to read as follows:

In case of the resignation, death or total disability of the President during the recess of the General Convention, the Secretary of the House of Deputies shall perform such *ad interim* duties as may appertain to the office of President until the next meeting of the General Convention or until such disability is removed.

The following new clause was added:

(i). At every triennial meeting of General Convention, the Secretary elected by the House of Deputies shall, by concurrent action of the two Houses of General Convention, also be made the Secretary of the General Convention, who shall have responsibility for the printing of the Journal of the General Convention, and attend to any other matters which may be referred to him.

This seems to be the first actual provision for a secretary of the entire General Convention, as opposed to the secretaries of the two houses respectively, although the canon enacted in 1808 stated certain duties for him, which canon had to be corrected in 1832 because no such office had been created.

Convention of 1964

To provide for the election of a president and vice-president of the House of Deputies during the course of one Convention, with terms running from the adjournment of one Convention to the adjournment of the next, Section 1 (a) was repealed, and a new Section 1 (a) and (b) enacted, reading as at present except for the substitution of the word “regular” for the word “triennial” in 1973 and the addition of three sentences by succeeding Conventions.

Former clauses (b) through (i) were relettered (c) through (j).

Former clause (g), now clause (h) was amended to read as it presently stands, as was former clause (h), now clause (i).

Convention of 1967

Section 1 (a) was amended by adding, after the words “term of office,” the sentence:

No person elected President or Vice-President shall be eligible for more than three consecutive terms in each respective office.

Convention of 1970

Section 1 (b) was amended by adding, at the end thereof, the following sentence:

The President shall be authorized to appoint an Advisory Council to consult and advise with him in the performance of his office.

Convention of 1973

At this Convention the system of renumbering the canons adopted in 1970 was in effect. Canon 1 became Title I, Canon 1, and was amended as follows:

In Sections 1 (b) and 1 (j) the word “regular” was substituted for the word “triennial” wherever the latter appeared.

In the House of Deputies, an amendment of Section 1 (a) was proposed to provide for proportional representation in that house. After extensive debate, this proposed amendment was defeated prior to its presentation to the House of Bishops.

Convention of 1976

Canon I.1.1 (a) was amended by adding, after the sentence which concludes “entitled to seats,” the following sentence:

In the event that testimonials are presented by, or on behalf of, persons from jurisdictions which have not previously been represented in a General Convention, then the Secretary, or one appointed in his stead as provided herein, shall proceed as provided in Clause (c).

This action was impelled by a question as to whether the secretary had acted properly in 1973 in seating members from certain new jurisdictions.

SECTION 2

Convention of 1967

Prior to this Convention, the procedures for appointing committees and commissions of the General Convention were set forth in the Joint Rules of Order of the two houses. This Convention, acting on a proposal made by the Mutual Responsibility Commission and endorsed by the committees on structure and canons, provided that henceforth the appointment and regulation of such committees and commissions should be governed by canon by enacting a new section of Canon 1, reading as follows:

Sec. 2 (a). The General Convention, by concurrent Resolution, may establish Joint Committees and Joint Commissions, to which may be referred matters requiring interim consideration. The enabling Resolution shall specify the size and composition of each such Committee or Commission.

(b). A Joint Committee shall be composed of members of the two Houses; a Joint Commission may include clergymen and lay persons not members of the House of Deputies.

(c). The Presiding Bishop shall appoint the episcopal members, and the President of the House of Deputies the lay and clerical members, of such Joint Committees and Joint Commissions as soon as practicable after the adjournment of the General Convention; one member of each Joint Commission to be appointed from the membership of Executive Council to serve as liaison therewith.

(d). The Presiding Bishop and the President of the House of Deputies shall be members *ex officio* of every Joint Committee and Joint Commission, with the right, but no obligation, to attend meetings, and with seat and vote in the deliberations thereof, and shall receive their minutes and an annual report of their activities;

Provided, that the said presiding officers may appoint personal representatives to attend any meeting in their stead, but without vote.

(e). Joint Committees and Joint Commissions shall report and make recommendations to the General Convention next following upon their appointment, at the inclusion of which Convention they shall be deemed to have been discharged, unless specific action to the contrary be taken, or unless otherwise provided in these Canons.

The requirement that each such body have a member of the Executive Council as one of its members, and the provision that the presiding officers of the two houses be *ex officio* members of them, were new, and the joint Rules of Order were amended to conform with them.

Convention of 1970

The Committee on Structure was constituted as a standing commission by the addition of the following clause to Section 2 as adopted in 1967:

(f). There shall be a Standing Commission on the Structure of the Church. It shall be the duty of the Commission to study and make recommendations concerning the structure of the General Convention and of the Church. It shall, from time to time, review the operation of the several Joint Committees and Joint Commissions to determine the necessity for their continuance and for the effectiveness of their functions and to bring about a co-ordination of their efforts. Whenever a proposal is made for the creation of a new Joint Committee or Joint Commission, it shall, wherever feasible, be referred to the Standing Commission on the Structure of the Church for its consideration and advice.

The Commission shall consist of twelve (12) members, three (3) of whom shall be Bishops, three (3) shall be Presbyters, and six (6) shall be Lay Persons. The members shall be appointed by the Presidents of the two Houses of the General Convention, the Bishops by the Presiding Bishop, the Presbyters and Lay Persons by the President of the House of Deputies, for a term of six (6) years, except that in constituting the original Commission following the enactment of this Clause one (1) Bishop, one (1) Presbyter, and two (2) Lay Persons shall be appointed for a term of three (3) years and the remaining eight (8) members for a term of six (6) years. Vacancies occurring during the intervals between meetings of the General Convention may be filled by the respective Presidents of the two Houses.

The Commission shall elect its own Chairman and Secretary and shall have power to constitute committees and employ consultants and co-ordinators necessary to the carrying on of its work.

The expenses of the Commission shall be met by appropriations by the General Convention.

Convention of 1976

The second paragraph of clause (f) was amended to permit deacons, as well as presbyters, to represent the clerical order on the Commission on Structure and to take into account the possibility of other than triennial Conventions.

Detailed provision was also made, in newly added paragraphs, for the creation of four joint commissions: Human Affairs and Health, the Church in Small Communities, Constitution and Canons, and Ecumenical Relations. The size of the commissions thus created was the same as at present, except that the Commission on the Church in Small Communities was given only nine members.

Convention of 1979

At this Convention, in the interest of simplifying and standardizing the accumulated legislation contained in Section 2, the former provisions were rescinded and the text as it presently stands was substituted.

The new canon added, to the five already existing, three new commissions: on Metropolitan Areas, World Mission, and Stewardship and Development. It classified these and all such bodies as standing commissions; and provided that, from henceforth, new commissions are to be created by canonical action, rather than by joint resolution.

An amendment proposed in the House of Bishops to permit the Presiding Bishop and the President of the House of Deputies jointly to create standing commissions "in instances of special need" was rejected.

The House of Deputies amended the text as originally proposed, by deleting a section which would have permitted the Commission on Constitution and Canons, on request of specified authority, to issue advisory opinions.

Two standing commissions not mentioned in this section, the Standing Commission on Church Music and the Standing Liturgical Commission, are authorized under Title II.

SECTION 3

This section, formerly Section 2, authorizes special meetings of the General Convention.

Convention of 1808

The first article of the Constitution enacted in 1789 provided for special meetings of the General Convention, “in a manner hereafter to be provided.” It was not until nearly twenty years later that this “manner” of calling special meetings of the Convention was provided by canon, although by resolution the power to call such meetings had been conferred on the Presiding Bishop. The Canon of 1808 provided:

The right of calling special meetings of the General Convention shall be in the Bishops. This right shall be exercised by the Presiding Bishop, or, in case of his death, by the bishop, who, according to the rules of the House of Bishops, is to preside at the next General Convention, provided that the summons shall be with the consent, or on the requisition of a majority of the bishops, expressed to him in writing.

The place of holding any special convention shall be that fixed upon by the preceding General Convention for the meeting of the next General Convention, unless circumstances, to be judged of by the bishops, shall render a meeting at such place unsafe; in which case the bishops shall appoint some other place.

Convention of 1832

Canon 42 of 1808, providing for the calling of special meetings of the Convention, was made Sections 1 and 2 of Canon 49, and the second paragraph was amended by striking out the words “to be judged of by the bishops;” also, the words “in which case the bishops shall appoint some other place,” at the end of the paragraph, were stricken out, and these words inserted in place thereof: “in which case the presiding Bishop may appoint some other place.”

A new section was added, which read as follows:

Sec. 3. The deputies elected to the preceding General Convention shall be the deputies at such special convention, unless in those cases in which other deputies shall be chosen in the meantime by any of the Diocesan Conventions, and then such other deputies shall represent, in the special convention, the Church of the Diocese in which they have been chosen.

Only two Special Conventions have ever been held. The first, in 1821, was concerned with matters of particular importance to the General Theological Seminary, including the adoption of a constitution for that body. The second, in 1969, was called to complete the unfinished business of the 1967 Convention, including the consideration of issues arising out of a concern for racial and social justice, and to deal with matters expected to be referred to it by the Lambeth Conference of 1968.

Convention of 1859

In the revision of the canons made by this Convention, Canon 49 of 1832 was made Title III, Canon 1, Section 1.

Convention of 1904

The section relating to Special Conventions was made Canon 46, Section 2, and materially amended. Former clause (ii), which provided that the time and place of such Conventions should be determined by the previous General Convention was deleted, and clause (i) was amended by inserting a provision that the Presiding Bishop, with the consent of the majority of the bishops, should designate the time and place of the meeting, to read as at present.

Former clause (iii), with a slight verbal change, was made clause (ii).

Convention of 1907

A new clause (iii), concerning vacancies in representation, and reading as at present, was added to this section.

SECTION 4

Convention of 1967

This section, requiring that deputies to the General Convention be chosen not later than the year preceding the Convention, was enacted by the Convention of 1967. As originally proposed, it was designated "Canon 1, new Section 3 (b) or (a)," and became Section 4 after a new Section 2 was adopted later in the Convention, necessitating a renumbering of the following sections. Another resolution introduced at the same Convention, numbered Section 3 (a), providing for proportional representation in the House of Deputies, failed of adoption.

SECTION 5

Convention of 1979

The Convention of 1979 enacted this section, which establishes a repository for the Church's archives and provides financial support for the same.

In a related action, the Convention, by resolution, designated the Historical Society of the Episcopal Church as the custodian of the archives.

SECTION 6

Convention of 1853

This Convention provided by canon for a new officer of the General Convention to be known as the "Registrar of the General Convention."

The canon providing therefor was Canon 4 of that year, as follows:

Sec. 1. The Journals, files, papers, reports, and other documents, which, under the Canon "Of securing an Accurate View of the State of the Church," or in any other manner, shall become the property of either House of the General Convention of this Church, shall be committed to the keeping of a presbyter, to be elected by the House

of Clerical and Lay Deputies upon nomination by the House of Bishops, who shall be known as the Registrar of the General Convention.

Sec. 2. It shall be the duty of the said Registrar to procure all such journals, files, papers, reports, and other documents now in existence; to arrange, label, file, index, and otherwise put in order and provide for the safe keeping of the same, and of all such others as may hereafter come into his possession, in fireproof box or boxes, in some safe and accessible place of deposit; and to hold the same under such regulations and restrictions as the General Convention may from time to time provide.

Sec. 3. It shall be the duty of the said Registrar to procure a proper and sufficient book of record, and to enter therein a record of the Consecrations of all the Bishops of this Church, designating accurately the time and place of the same, with the names of the consecrating Bishops and of others present and assisting; to have the same authenticated in the fullest manner now practicable; and to take care for the similar record and authentication of all future Consecrations in this Church.

Sec. 4. The expenses necessary for the purposes contemplated by this Canon, shall be provided for by vote of the General Convention, and defrayed by the Treasurer of the same.

Convention of 1859

In the revision of the canons made by this Convention, Canon 4 of 1853 was made Title III, Canon 1, Section 2, and was slightly amended. The words “under the Canon” in the first sentence thereof were replaced by the words “under Canon 15 of Title 1, entitled.”

Convention of 1871

This Convention amended the canon by adding, at the end of clause (3) of Section 2, the following:

by securing in person, or by deputy, at the time and place of every such consecration, the signatures of at least three of the consecrating Bishops in the said book of record.

This amendment insured the authentication of all future consecrations of bishops.

Convention of 1877

This Convention amended Section 2, clause (3), of the canon by striking out all after the word “consecration” in the words added in 1871, and inserting in place thereof the following:

a certificate signed by the Bishop presiding, and by two or more of the Bishops assisting in the said Consecration, which certificate shall be entered in the said book of record under the attestation of a Notary Public, and also placed on file.

This amendment was made to make more authentic the record of every consecration of a bishop. Instead of the registrar’s procuring the signatures of at least three of the consecrating bishops, the registrar must now secure Letters of Ordination signed by the bishop presiding at the consecration and at least two of the assisting bishops.

Convention of 1880

This Convention amended Title III, Canon 1, Section 2, relating to the General Convention as follows:

Clause (i) was amended to read:

The journals, files, papers, reports, and other documents, which are named under Canon 17 of Title I, entitled, *Of Securing an Accurate View of the State of the Church*, together with all other articles that are now, or shall hereafter become, the property of either House of the General Convention of this Church, shall be committed, when not otherwise expressly provided for, to the keeping of a Presbyter to be elected by the House of Clerical and Lay Deputies, upon nomination of the House of Bishops, who shall be known as the Registrar of the General Convention.

Clause (iii) of the same action was amended by striking out all of said clause after the words “Consecrations in this Church,” and inserting in place thereof the following:

Due notice of the time and place of every such Consecration shall be given by the Presiding Bishop to the Registrar; and thereupon it shall be the duty of the Registrar to attend such Consecration, either in person or by deputy. He shall prepare, in such form as the House of Bishops shall prescribe, duplicate originals of the Letters of Consecration; and he shall procure the same to be immediately signed and sealed by the Consecrating Bishop, and by at least two of the Bishops assisting at such Consecration; and one of the said duplicate originals said Registrar shall deliver to the newly consecrated Bishop; and the other he shall carefully file among the papers in his custody; and he shall enter a minute thereof in his record.

It seems strange that for nearly one hundred years, the bishops of the American Church had no written evidence of the fact of their consecration.

Convention of 1895

This Convention amended Title III, Canon 1, Section 2 (i), by striking out the words “Canon 17 of Title I,” and inserting in place thereof the following: “Title I, Canon 20.”

Convention of 1904

In the revision of the canons by the Convention of 1904, Title III, Canon 1, Section 2, was made Canon 46, Section 3, and was amended by adding thereto two new clauses. Clause (v) [now the first and last two sentences of clause (f)] provides that the secretaries of both houses shall deliver to the registrar, within six months after the adjournment of the General Convention, the manuscript minutes of the proceedings of both houses, together with all other documents of either house. The secretary of the House of Deputies is also to deliver to the registrar all the documents specified in Title I, Canon 5, “Of the Mode of Securing an Accurate View of the State of this Church.”

Clause (vi) [now clause (g)] provides that, in case of a vacancy in the office of registrar, the Presiding Bishop shall appoint a registrar to serve until the next General Convention.

Convention of 1913

Section 3 of Canon 46, which became Canon 47 in 1910 and Canon 48 in 1913, was amended by the insertion of a new clause (iv) [now clause (d)] to read as follows:

The Registrar shall also be the Historiographer, unless in any case the House of Bishops shall make a separate nomination; and in this event the House of Deputies shall confirm the nomination.

Convention of 1925

This Convention amended Section 3, (vi) [now clause (f)] by inserting the following sentence:

The manuscript minutes of both houses shall remain filed until after the adjournment of the second Convention following that at which such minutes shall have been taken; provided, however, that any part of such minutes for any reason unpublished in the Journal, shall remain filed in the Archives.

Convention of 1979

The first sentence of this section, renumbered as Title I, Canon 1, Section 5 (a) [now 6 (a)] was amended to read as at present. The effect of the amendment is to transfer to the Archives of the Church the responsibility, formerly residing in the office of the registrar, for the housing and care of the documents of the General Convention.

SECTION 7

This section pertains to the duties of the recorder, duties which, prior to the Convention of 1910, were fulfilled by the secretary of the House of Deputies.

Convention of 1789

While the Convention of 1789 incorporated most of the legislation relating to the General Convention in the first two articles of the Constitution, it also provided for a list of the ministers of the Church to be kept by the secretary of the General Convention, by the following canon, the sixteenth canon of that year:

The Secretary of the General Convention shall keep a register of all the Clergy of this Church, whose names shall be delivered to him, in the following manner; that is to say, every Bishop of this Church, or where there is no Bishop, the Standing Committee of the diocese or district, shall, at the time of every General Convention, deliver, or cause to be delivered, to the secretary, a list of the names of all the ministers of this Church in their proper diocese, or district, annexing the names of their respective cures, or of

their stations in any colleges or seminaries of learning, or, in regard to those who have not any cures or such stations, their places of residence only. And the said list shall from time to time, be published in the Journals of the General Convention.

And further, it is recommended to the several bishops of this Church, and to the several Standing Committees, that, during the intervals between the meetings of the General Convention, they take such means of notifying the admission of ministers among them, as in their discretion respectively, they shall think effectual to the purpose of preventing ignorant and unwary people from being imposed on, by persons pretending to be authorized ministers of this Church.

The same canon, without amendment, was reenacted in 1808 as Canon 41 and in 1832 as Canon 44.

Convention of 1859

In the revision of the canons by this Convention, this canon, substituting “Secretary of the House of Clerical and Lay Deputies” for “Secretary of the General Convention,” was made Title I, Canon 14.

Convention of 1904

The revision of the Digest of Canons made by this Convention contained no canon requiring the keeping of a list of ministers by the secretary of the General Convention. Instead, the canon “Of the Mode of Securing an Accurate View of the State of this Church” was amended to require that the secretary of each diocesan convention and of the convocation of each missionary district forward the information needed to maintain such a list to the secretary of the General Convention. The secretary, in turn, was required to include these lists among the documents to be delivered to the registrar [Canon 46, Section 3 (v)].

Convention of 1910

This Convention renumbered Canon 46 as Canon 47 and amended the same by the addition of a new Section 4, as follows:

(i) The House of Deputies, upon nomination of the House of Bishops, shall elect a Presbyter, to be known as the Recorder, whose duty it shall be to continue the list of Ordinations and keep a list of the Clergy in regular standing, corrected to the first day of September, in each year, and furnish a certified copy of the same to any applicant at his expense.

(ii) The necessary expenses incurred under this Section by the Recorder, shall be paid by the Treasurer of the General Convention.

(iii) In case of a vacancy in the office of Recorder, the Presiding Bishop shall appoint a Recorder who shall hold office until the next General Convention.

Convention of 1913

Canon 47, then renumbered as Canon 48, was amended by the insertion of a new clause (ii) in Section 1 to read as follows:

It shall be the duty of the Secretary of every Diocese, Missionary District and the Convocation of American Churches in Europe, to forward to the Recorder on or before the first day of September in each and every year a report giving (1) the names of the Clergy canonically resident therein on the fifteenth day of June in that year with their several charges, etc.; (2) the names of the Clergy licensed by the Bishop to officiate, but not yet transferred; (3) the names of all persons connected with the Diocese, District or Convocation who have been ordered Deacons or Priests during the preceding year, with the date and place of ordination and the name of the Bishop ordaining; (4) the names of the Clergy of the Diocese, District or Convocation, who have died during the year, with the date and place of death; (5) the names of Clergy who have been received during the year, with the date of their reception and the name of the Diocese, District or Convocation from which received, and, in the case of Clergy not received from a Diocese, District or Convocation of this Church, the date and place of ordination and the name of the Bishop ordaining; (6) the names of the Clergy who have been transferred during the year, with the dates of the Letters Dimissory and of their acceptance, and the name of the Diocese, District or Convocation to which transferred; (7) the names of the Clergy who have been suspended during the year, with the date and ground of suspension; (8) the names of the Clergy who have been deposed during the year, with the date, place and ground of deposition; (9) the names of Deaconesses canonically resident on the fifteenth day of June in that year. The Recorder shall not give out for publication the grounds of suspension and deposition.

Convention of 1916

Although there seems to be no report in the journal of 1916 of any action taken by either house transferring clause (ii) of Section 1 to Section 4 as clause (ii) of that section, the Digest of the Canons of 1916, as well as the Digests of 1919 and 1922, places this clause relating to the data and statistics to be sent to the recorder, as Section 4 (ii).

Convention of 1925

This Convention amended Section 4 (i) by striking out "a Presbyter to be known as the" so as to make it read "shall elect a Recorder."

Convention of 1943

In the rearrangement adopted at this Convention, this canon was renumbered Canon 1.

Section 4 (a) [now Section 7 (a)] was amended to read as at present.

Clause (b) was amended to read as follows:

It shall be the duty of the Bishop, or, if there be no Bishop, of the President of the Standing Committee or Council of Advice of every Diocese and Missionary District and the Convocation of American Churches in Europe, to forward to the Recorder on or before the first day of September in each and every year a report certifying the following information as of the thirtieth day of June in that year: (1) the names of the Clergy canonically resident therein with their several charges; (2) the names of the Clergy licensed by the Bishop to officiate, but not yet transferred; (3) the names of all persons connected with the Diocese, District or Convocation who have been ordered Deacons or Priests during the preceding twelve months, with the date and place of

ordination and the name of the Bishop ordaining; (4) the names of the Clergy of the Diocese, District or Convocation who have died during the preceding twelve months, with the date and place of death; (5) the names of the Clergy who have been received during the preceding twelve months, with the date of their reception and the name of the Diocese, District or Convocation from which received, and, in the case of Clergy not received from a Diocese, District or Convocation of this Church, the date and place of ordination and the name of the Bishop ordaining; (6) the names of the Clergy who have been transferred during the preceding twelve months, with the dates of the Letters Dimissory and of their acceptance, and the name of the Diocese, District, or Convocation to which transferred; (7) the names of the Clergy who have been suspended during the preceding twelve months, with the date and ground of suspension; (8) the names of the Clergy who have been deprived or deposed during the preceding twelve months, with the date, place, and ground of deprivation or deposition; (9) the names of the Clergy who have been restored during the preceding twelve months, with the date; (10) the names of Deaconesses canonically resident therein.

The effect of this amendment was to make it the duty of the bishop (as had been the case prior to 1904), rather than of the secretary, to make and to certify the report. To the list of matters to be reported were added clergy deprived and restored.

Two new clauses, reading as follows, were added:

(c). It shall be the duty of the Recorder to furnish, upon proper authority and at the expense of the applicant, such information as may be in the possession of the Recorder based upon the reports required under Clause (b) hereof, but in no case shall the Recorder publish or furnish for publication the grounds of any suspension, deprivation or deposition.

(d). The Recorder shall prepare and present to each session of the General Convention a list of all Clergy ordained, received, suspended, deprived, deposed, or restored, and of all Bishops consecrated and of all Clergy and Bishops who have died, such list to cover the period from the last preceding similar report of the Recorder through the thirtieth day of June immediately preceding each session of the General Convention.

Convention of 1946

On the recommendation of the Church Pension Fund, acting as recorder of the General Convention, this Convention amended clause (b) by substituting the words "first day of March" for "first day of September" and "thirty-first day of December in the preceding year" for "thirtieth day of June of that year." It also amended clause (d) by substituting "thirty-first day of December" for "thirtieth day of June."

Convention of 1969

This Convention, in order to bring the references to judicial sentences into conformity with the revised terminology of Title IV, Canon 12, Section 1, amended clause (b), item (8), clause (c), and clause (d) to read as at present, except for one reference to "Clergymen" in clause (d).

Convention of 1973

This Convention, for the purpose of bringing the terminology used to describe various kinds of jurisdictions into conformity with Title V, Canon 2, Section 1, substituted the term “jurisdiction” for the references in clause (b) to dioceses, missionary districts, and the Convocation of the American Churches in Europe, thus bringing the wording of the clause to its present form.

Convention of 1979

At this Convention the word “Clergymen” in clause (d) was replaced by the word “Clergy.”

This change was one of many included in an “omnibus bill,” the purpose of which was to eliminate generic terms perceived to have exclusionist overtones. Under its provisions, fourteen canons were altered, terms such as “clergy” and “member of the clergy” being substituted for “clergyman” and “lay person” for “layman.” Since such changes were adopted for the sole purpose of eliminating possible misreadings of generic terms, further attention will not ordinarily be called to them. The list of changes is printed in the Journal of this Convention, pages C-29 and C-30. See also Canon III.2.1, Canon III.3.1, and Canon V.2.2.

SECTION 8

Convention of 1841

This Convention enacted a canon providing for the election of a treasurer of the General Convention, being the first canon of that year, and reading as follows:

At every Triennial Meeting of the General Convention, a Treasurer shall be chosen, who shall remain in office until the next stated Convention, and until a successor be appointed. It shall be his duty to receive and disburse all moneys collected under the authority of the Convention, and of which the collection and distribution shall not otherwise be regulated: and to invest from time to time, for the benefit of the Convention such surplus funds as he may have on hand. His accounts shall be rendered triennially to the Convention, and shall be examined by a Committee acting under its authority. In case of a vacancy in the office of Treasurer, it shall be supplied by an appointment to be made by the Ecclesiastical Authority of the Diocese to which he belonged; and the person so appointed, shall continue to act until an appointment is made by the Convention.

In 1859 this canon, unaltered, was made Title III, Canon 1, Section 4.

Convention of 1904

The section concerning the treasurer was made Section 4 of Canon 46. The phrase “not otherwise be regulated” was changed to “not otherwise

be prescribed,” and the last sentence of the section, relating to a vacancy in the office, was amended to read as follows:

In case of a vacancy in the office, the Presiding Bishop and the last President of the House of Deputies shall appoint a Treasurer, who shall hold office until another appointment be made by the Convention.

Convention of 1946

At this Convention, the section (which had been made Section 5 of Canon 1 in 1943) was amended to read as follows:

(a). At every triennial meeting of the General Convention a Treasurer shall be elected by concurrent action of the two Houses, and shall remain in office until a successor shall be elected. It shall be his duty to receive and disburse all moneys collected under the authority of the Convention, and of which the collection and disbursement shall not otherwise be prescribed; and, with the advice and approval of the Presiding Bishop and the Treasurer of the National Council, to invest, from time to time, such surplus funds as he may have on hand. His account shall be rendered triennially to the Convention, and shall be audited by a committee acting under its authority.

(b). In case of a vacancy, by death, resignation, or otherwise, in the office of Treasurer of the General Convention, the Presiding Bishop and the President of the House of Deputies shall appoint a Treasurer, who shall hold office until a successor is elected. In case of temporary inability of the Treasurer to act, from illness or other cause, the same officials shall appoint an Acting Treasurer who shall perform all duties of the Treasurer until the Treasurer is able to resume them.

Convention of 1961

Section 5 (a) was amended by striking out the words “audited by a committee acting under its direction” and substituting the words “audited at the direction of a committee acting under its authority.”

This action was taken on the proposal of the Treasurer of General Convention.

Convention of 1964

This Convention amended the section by substituting the words “Executive Council” for the words “National Council.”

Convention of 1973

The section, renumbered as Title I, Canon 1, Section 7 [now Section 8], was amended to read as at present by providing for the election of a treasurer at each succeeding regular, rather than triennial, meeting of the Convention.

SECTION 9

Convention of 1832

This Convention enacted a new canon, Canon 54, "Of Defraying the Expenses of the General Convention," which read as follows:

In order that the contingent expenses of the General Convention may be defrayed, it shall be the duty of the several Diocesan Conventions to forward to the Secretary of the House of Clerical and Lay Deputies, at each meeting of said convention, seventy-five cents for each Clergyman within said Diocese.

Convention of 1835

This Convention amended Canon 54 of 1832 by striking out all of said canon following the words "Clerical and Lay Deputies," and inserting in place thereof the following:

at each annual meeting of said Conventions, fifty cents per annum for each Clergyman within the respective dioceses.

Convention of 1838

The canon was again amended by striking out all after the word "forward," and adding in place thereof the following:

to the treasurer of this Convention, at or before any meetings of the General Convention, seventy-five cents for each Clergyman within said Diocese.

This amendment provided that the assessments on each clergyman should be forwarded by the several diocesan conventions to the treasurer of the Convention, instead of to the secretary of the House of Deputies. A singular mistake, however, was made by the amendment, in restoring the rate of the former assessment. We are told that it was the intention of the Convention to make the rate of assessment seventy-five cents per annum, but the words "per annum" were unintentionally omitted.

Convention of 1844

This Convention corrected the mistake made by the Convention of 1838 in fixing the rate of assessment for General Convention expenses, by striking out the words "seventy-five cents" and inserting in place thereof the words, "one dollar."

Convention of 1856

The rate of assessment, which had been raised to one dollar and a half in 1853, was raised to two dollars, and the canon was amended to require payment "on or before September first preceding the sessions of the General Convention."

Convention of 1859

Canon 54 became Title III, Canon 1, Section 5, and the earlier reading, requiring payment “on or before any meeting of the General Convention” was restored.

Convention of 1868

This Convention raised the rate of assessment to three dollars.

Convention of 1904

The section relating to the contingent expenses of the Convention became Section 5 of Canon 46 and was amended to read as follows:

In order that the contingent expenses of the General Convention may be defrayed, it shall be the duty of the several Diocesan Conventions to forward to the Treasurer of the General Convention, on the first Monday in September immediately preceding the meeting of the General Convention, three dollars for each Bishop, Presbyter and Deacon canonically resident in such Diocese at the date of the annual Convention or Council last preceding.

Convention of 1907

This Convention amended Section 5 in the following manner:

The words, “at the date of the annual Convention or Council last preceding” at the end of said section were stricken out and in place thereof the following words were inserted:

as recorded in the Journal of the General Convention last preceding. A new Diocese not recorded in the last Journal must furnish the Treasurer prior to the first of September as above stated, a list of Bishops, Priests, and Deacons canonically resident in such Diocese, and said list must be the same as furnished in their report to the House of Deputies.

Convention of 1925

This Convention amended the section, now Section VI of Canon 51, by substituting “five” for “three.”

Convention of 1928

This Convention amended Section 6 by inserting the words “not more than” before the word “five” and by adding the words “The amount of such assessment shall be determined by the Committee on Expenses.”

Convention of 1937

The section was revised to give missionary districts a share in the expenses of the General Convention by levying upon them an amount equal to one-fourth of the diocesan assessment.

Convention of 1940

At this Convention Section 6 was rewritten and combined with former Section 7, which had provided for another assessment to cover the stipend of the Presiding Bishop, the expenses of his office, and pension assessments. The combined assessment was to be paid annually on the first Monday in January.

Convention of 1943

This section became Section 6 of Canon 1, and was amended (*Journal*, p. 159; the item does not appear in the index) to read as follows:

in order that the contingent expenses of the General Convention, and the stipend of the Presiding Bishop, together with the necessary expenses of his office, and Church Pension Fund assessments, may be defrayed, it shall be the duty of the several Diocesan Conventions and of the Convocations of the several Missionary Districts to forward to the Treasurer of the General Convention annually, on the first Monday of January, as to each Diocese not more than eight dollars for each Bishop having jurisdiction therein, any Bishop Coadjutor, and each Suffragan Bishop in active service therein, and each retired Bishop and each Presbyter and Deacon canonically resident therein, and as to each Missionary District an amount equal to one-quarter of the above described Diocesan levy for each Bishop having jurisdiction therein, any Bishop Coadjutor, and each Suffragan Bishop in active service therein, and each retired Bishop and each Presbyter and Deacon canonically resident therein. The number of Bishops, Presbyters, and Deacons canonically resident in each Diocese and Missionary District, as reported to the House of Deputies and recorded in the Journal of the General Convention last preceding, shall be the basis upon which such assessment shall be made. The amount of such assessment shall be determined by the Committee on Expenses. A new Diocese not recorded in the last Journal shall furnish to the Treasurer, prior to the first day of November, a report of the number of Bishops, Presbyters, and Deacons for which such Diocese is subject to assessment, which shall be the same as in its report to the House of Deputies.

Convention of 1952

At this Convention, Section 6 was amended by changing the words “not more than eight dollars” to read “not more than twenty-two dollars.”

Convention of 1961

The Committee on Expenses having become a joint committee by action of both houses (*Journal*, p. 363), this section was amended by inserting the word “Joint” between the words “the” and “Committee.”

Convention of 1967

This Convention amended the section by striking out the words “not more than twenty-two dollars” and substituting the words “a sum not greater than the diocesan levy established by the General Convention from time to time.”

Convention of 1970

This section, now Title I, Canon 1, Section 8, was amended by adding after the words “necessary expenses of his office” the words:

and the necessary expenses of the President of the House of Deputies, including the staff and Advisory Council required by him to assist him in the performance of the duties and matters relating to the office.

Convention of 1976

At this Convention Section 8 [now Section 9] was amended to read as at present.

SECTION 10

Convention of 1925

This Convention added this section (Section 7 at that time) authorizing the treasurer of the General Convention to borrow money to help defray the expenses of the Convention. It read as at present, except that the amount not to be exceeded was five thousand dollars per annum.

Convention of 1952

The section was amended to raise the sum not to be exceeded to the present twenty-five thousand.

SECTION 11

Convention of 1925

This Section, Section 8 at the time of its adoption, providing for the bonding of the treasurer, was added by this Convention.

SECTION 12

Convention of 1925

This section, formerly Section 9, was added by this Convention. It read as at present, except that the words “ensuing triennium” were altered in 1973 to read “ensuing budgetary period.”

SECTION 13

Convention of 1928

This Convention added this section, originally Section 10, to provide for the appointment of an assistant treasurer.

SECTION 14

Convention of 1976

This section, providing for an executive office of the General Convention and a General Convention executive, was added at this Convention as Section 13. It read as at present, except for the changes noted below.

Convention of 1979

The words “General Convention Executive Secretary” were replaced by the words “General Convention Executive Officer” and, so as to conform with the amendment of Canon I.1.2, the word “Joint” was deleted from the reference to “Joint Committees and Joint Commissions.”

EXPOSITION OF CANON I.1

SECTION 1

This section provides for the organization of the House of Deputies. Until 1964, the secretary (or a secretary *pro tempore*), as the only continuing officer of the house, called the house to order and certified the presence of a quorum. The house then proceeded to the election of its presiding officer, whose term would expire upon the convening of the succeeding meeting of the General Convention. A practical consequence of this arrangement was that appointments to the committees of the house could only be tentative; and there was no opportunity for pre-convention meetings of committees—for their organization and the preliminary consideration of business assigned to them—or for the referring of matters to committees well in advance of the convention, which is frequently advantageous.

In 1964, by providing for the election of both a president and vice-president of the House of Deputies during the course of the Convention, with terms running from the adjournment of that Convention to the adjournment of the next, a continuity in the life and work of the house (paralleling the continuity in the House of Bishops) was secured.

The house is called to order by its presiding officer and, if the secretary (elected at the previous Convention) certifies that there is a quorum present, the house proceeds to the election of a secretary. To constitute a quorum, there must be present at least one deputy in the clerical order from a majority of the dioceses entitled to representation and likewise at least one deputy in the lay order from a majority of the said dioceses. It is not necessary that these majorities be made up of the clerical and lay representatives of the same dioceses.

Any vacancy in the offices of president or vice-president is then filled by election.

The next step is appointment of a committee to wait upon the House of Bishops and inform it of the organization and readiness of the House of Deputies to proceed.

The House of Bishops has a rule of order making it the duty of its secretary, as soon as that house is organized, to communicate that fact to the House of Deputies, and that it is ready to proceed to business.

The rules of order of the previous Convention are made the rules of order for the succeeding meeting of the House of Deputies until they are amended or repealed.

It is made the duty of the secretary of the House of Deputies, whenever any amendment to the Prayer Book or the Constitution is proposed by concurrent action of both houses, or any other subject submitted to the consideration of the several diocesan conventions, to give notice of such proposal to the ecclesiastical authority of each diocese and to lay before the Convention at its next session evidence that this requirement has been complied with. In the Convention of 1877, when a certain proposed amendment came up for final consideration, a deputy from the Diocese of Maryland stated that that diocese had never received notice of the constitutional amendment, although the committee on amendments stated that they had *prima facie* evidence of such notification. When objection to further consideration of the proposed amendment was made, a debate of some length ensued on the question as to what constituted a sufficient notification. It seemed to be the opinion of some of the legal members of the Convention, which opinion was acquiesced in by the house, that the sending of the notice was not of the essence of the thing to be done, that it was merely to give information, and that even if the formal notice sent by the secretary of the House was not received by the diocesan convention, the Diocese of Maryland had its representatives in the Convention that approved the proposed amendment, and if they did not inform the diocesan convention of what had been transacted in General Convention, the publication of the proceedings of the Convention was sufficient notice to the diocese. It was also contended that if an officer is charged with the duty of giving notice, the presumption is that he did give notice. More than this is a collateral question and cannot be interposed for the purpose of preventing action upon the primary question.

These conclusions would seem to be correct. The courts have held that publication of laws in the official volume containing the laws of the state is notice that they have been adopted. By the same reasoning, the Journal of the General Convention which contains the action of that body is notice that certain acts have been approved.

The secretary may, with the approval of the house, appoint assistant secretaries, and normally does so. The assistants, as well as the incumbent, remain in office until the next Convention and until their successors are chosen. Because of the many responsibilities assigned to the secretary, provision is made for the filling of the office, when necessary, in the interim of the Convention.

SECTION 2

This section sets forth the procedures for the appointment of committees and commissions. In former times, these procedures were set forth in the Joint Rules of Order of the two houses. The 1967 General Convention, responding to suggestions of the Mutual Responsibility Commission, endorsed by the legislative committees on structure and canons, provided that henceforth the appointment and regulation of such committees and commissions should be governed by canon.

This process, and its continuing development through 1979, regularized and standardized most of the “interim bodies” of the General Convention, as well as put into one place most of the directions and charters of those interim bodies. It was the opinion of the Standing Commission on Structure that any interim body with ongoing responsibilities should be made a standing commission, and included in the canons for the purposes of regularity and standardization. By so doing, directions and regulations governing the work of interim bodies were gathered from at least three places and centralized in the canons for easier access and better understanding.

Commissions may include in their membership persons who are not deputies to General Convention. Committees are comprised only of elected deputies and bishops. If a commission or a committee is “standing,” it is a continuing committee. If it is not “standing,” it must be renewed at each Convention by resolution or cease to exist. The Standing Commission on Structure, by canon, is “to review the operations of the several committees and commissions to determine the necessity for their continuation and the effectiveness of their functions.”

All commissions and most standing committees perform their work in the interim between Conventions—as distinguished from those committees designated as “legislative committees,” which meet during the sessions of General Convention to consider and report on proposed resolutions.

To deal with the recurring questions of establishing and continuing joint committees and commissions, a Joint Committee on Committees and Commissions was authorized by a resolution adopted in the early days of the 1958 General Convention. The committee was appointed, and its recommendation that it be funded for reviewing suggestions and reporting its recommendations to the next General Convention was adopted by the House of Deputies, but the House of Bishops did not concur. Although this joint committee is not provided for by either joint rule or canon, the importance of having an evaluation and recommendation with regard to the creation, continuation, or discontinuing

of joint and standing committees and commissions has been recognized by the appointment of a Joint Committee on Committees and Commissions at each succeeding General Convention. The fact that the number of joint and standing commissions was reduced from 16 in 1958 to 11 in 1979 and joint and standing committees from 9 to 5 may be some evidence of the effectiveness of this joint committee.

The Rules of Order adopted by the 1967 General Convention required joint and standing commissions to give notice in the Church press of the dates and places of their meetings, with agenda items to be considered, to afford an opportunity for interested persons to communicate with the commissions. This provision has been carried into the canon as Section 2(i).

The 1970 General Convention added a new clause (f) to Section 2 to provide for a *Standing Commission on the Structure of the Church*. This made permanent an existing joint commission which had resulted from the combination of two joint commissions, one on the Structure of the General Convention and the other to study the Provincial System. The change of name to the “Structure of the Church” was to broaden the scope of the work of the commission to include all aspects, such as the office of the Presiding Bishop and the Executive Council, as well as the General Convention and the Provinces.

The 1976 General Convention added clause (g) to provide for a Standing Commission on Human Affairs and Health, which combined the former Joint Commission on the Church in Human Affairs and the Joint Commission on Religion and Health.

Of the various commissions named in this section of the canon, that on the Constitution and Canons is of importance to users of this annotation, since it is under this commission’s auspices that the present revision and updating was undertaken.

This commission evolved over a period of years, beginning at least as early as 1967 when the Joint Commission on the Structure of the General Convention and Provinces noted in its report:

Some people in the Church are disturbed at the total lack of a supreme judicial body competent to interpret the Constitution and Canon Law. In practice, this function is now exercised by the General Convention Committees on Amendments to the Constitution and Canons, or the rulings of the Chairs, or the editors of the *Annotated Constitution and Canons*. Final authority resides in the General Convention, which is actually a legislative body (*Journal*, Appendix 33.4).

When the advisory committee on agenda for the Special General Convention II of 1969 proposed, and the Convention created, the position of Special Representatives to sit in the House of Deputies with voice and

vote, the question was raised whether this was in violation of the Constitution and Canons. Indeed, one deputy spread upon the Journal a statement that he was so convinced this action was non-canonical and unconstitutional he remained present only under *protest*. On other issues each officer or body within the Church made its own interpretation of the Constitution and Canons. As a result, there were introduced at the 1973 Convention proposals for the establishment of a General Court of Review of canonical and constitutional matters that would have authority to render opinions to certain designated officers and units of the Church. This resulted in a direction to the Standing Commission on the Structure of the Church to study the question and report to the 1976 Convention. The commission reported that there did not appear sufficient need for such a court of review, but the study did reveal a situation which needed correction. It proposed an amendment to the Joint Rules to provide for a Joint Standing Committee on Constitution and Canons, combining the legislative committees of each of the houses on Amendments to the Constitution and on Canons into this interim standing committee.

A compromise was reached in the House of Deputies to provide for a Joint Commission on Constitution and Canons with the duty to review proposed amendments to the Constitution and Canons to assure their being in the proper form, with the right to express its views with respect to the substance of any such proposal only to the proponent thereof, and further to conduct a comprehensive review of the Constitution and Canons and propose amendments deemed technically desirable. The proposal of the Structure Commission to have this commission give advisory opinions was deleted. The separate legislative committees of the two houses on Constitution and on Canons were continued as before.

It should be noted that this canon makes provision for standing commissions only. The Joint Rules of Order provide for the appointment of joint committees, joint standing committees, and joint legislative committees. By reference to this canon, the Joint Rules impose on all such committees the duties with respect to their work that are imposed on standing commissions. Separate Joint Rules provide for the creation of joint standing committees on program, budget, and finance, on planning and arrangements, and a joint committee on nominations.

SECTION 3

The right of calling special meetings of the General Convention is vested in the bishops. They are called by the Presiding Bishop, with the consent or on the requisition of a majority of the bishops expressed to him in writing. The deputies to the preceding Convention are the

deputies to the Special Convention, unless other deputies have been chosen therefor by any of the diocesan conventions. Provision is made for the filling of vacancies in the representation from a diocese, such vacancies to be supplied either temporarily or permanently in such manner as such diocese shall prescribe, and if the diocese shall not have so prescribed, then the ecclesiastical authority has the power to fill the vacancy. The provisional deputy so appointed is entitled to exercise the power and authority of a regular deputy for such periods as are stated in the certificate issued to him by the appointing power. From the language of the provision, it would seem as if the provisional deputy might be appointed to serve as deputy for any portion of the session, and that at the termination of the time for which he was appointed, the regular deputy could take his place. One secretary of the House of Deputies, the Rev. Dr. Hutchings, ruled in a case that came before him, where he had received a certificate from the secretary of a diocesan convention stating that Mr. A., elected deputy from that diocese, having signified to the bishop his inability to attend the General Convention during the first week of its session, Mr. B., the first supplemental deputy, had been designated to take the place of Mr. A. until the arrival of Mr. A., that he could not receive such a certificate, as he had never known the House of Deputies to vary from the following custom, viz.: “when an alternate once has taken his seat, the principal cannot regain it.”

It would seem more in accord with the language of Section 3 (c) to hold that a provisional deputy may be appointed for a specific time, at the end of which the deputy, in whose place he was appointed, resumes the exercise of his office.

SECTION 4

This section, added in 1967, requires that dioceses choose their deputies to the Convention not later than the year preceding that in which the Convention is to meet. The purpose, of course, is to secure that the requisite testimonials are in the hands of the secretary in adequate time, and to make it possible for the secretary to place in the hands of the deputies material requiring study and thought in preparation for the Convention.

SECTION 5

Enacted in 1979, this section makes the Convention responsible for the safekeeping and financial support of its archives and other important historical records. The Church Historical Society of Austin, Texas, serves as the Convention’s official archivist.

SECTION 6

This section is concerned with the registrar of the Convention, whose duty it is to receive all documents that are to become the property of the Convention and, in due course, to transmit the same to the archives. It is also his responsibility to keep careful record of ordinations to the episcopate and, either in person or by deputy, to attend all such consecrations of bishops and see to it that the Letters of Ordination and Consecration are properly prepared and authenticated.

Though not required by the canon, the office of registrar is normally held by the secretary of the Convention.

SECTION 7

This section lists the duties of the recorder, whose principal responsibility is to maintain an accurate list of clergy in regular standing.

Since 1943, the Church Pension Fund has occupied the position of recorder of ordinations.

SECTIONS 8 through 13

These sections are concerned with the treasurer of the General Convention, an office which is distinct from the treasurer of the Executive Council.

Included among its provisions is the requirement (Section 9) that the Convention adopt a budget (the “expense” or “assessment” budget) at each regular meeting to cover the contingent expenses of the Convention, which includes the Convention-approved activities of the committees, commissions, boards, and agencies of the Convention, and the funding of the offices of the Presiding Bishop, the President of the House of Deputies, and the Executive Office of the General Convention. This budget is raised by an assessment levied on the dioceses of the Church, and should not be confused with the far larger “program” budget administered by the Executive Council.

In 1970, Section 9 was amended to provide for an advisory committee to the president of the House of Deputies to assist him in the performance of the duties and matters relating to the office. Used extensively since 1976 when it was funded, it has, along with the Committee on the State of the Church, provided a meeting ground for legislative committee chairpersons, as well as providing greater continuity for the leadership of the House of Deputies.

SECTION 14

The executive office of the General Convention was created in 1976, with an executive secretary (changed to “Executive Officer” in 1979) appointed by the two presiding officers. The executive office of General Convention includes the functions of the secretary and the treasurer of the Convention, and those of the manager of General Convention. In the same year the secretary of General Convention became *ex officio* the secretary of the Executive Council. By so doing, it was hoped a greater relationship could be seen between the two bodies, and extensive coordination between them would take place. Under the provisions of the section, the executive secretary (later executive officer) was made responsible for coordinating the work of the several committees, commissions, boards, and agencies (“interim bodies”) and the Executive Council, so that these groups and agencies could work more efficiently and effectively together. To show more precisely the relationship between these two bodies, Title I, Canon 4, Section 1(a), was amended in the same year to read the “Executive Council of the General Convention.”



CANON 2. Of the Presiding Bishop

*Nominating
Committee.*

Sec. 1 (a). Before a Presiding Bishop is elected at a General Convention, a Joint Nominating Committee, consisting of one Bishop from each Province, together with one clerical and one lay member of the House of Deputies from each Province, shall present to the House of Bishops and the House of Deputies in Joint Session the names of not fewer than three members of the House of Bishops for the consideration of the two Houses in the choice of a Presiding Bishop.

(b). The House of Deputies shall elect one clerical and one lay Deputy from each Province as members of the Joint Nominating Committee. A Deputy from a particular Province may be nominated only by another Deputy from the same Province, but the election of each member of the committee shall be by the entire membership of the House of Deputies with a majority of those voting necessary for election.

(c). The House of Bishops shall elect, by the vote of a majority of those voting, one Bishop from each Province as members of the Joint Nominating Committee. A Bishop from a particular Province may be nominated only by another Bishop from the same Province.

*Election
follows Joint
Session.*

(d). At the Joint Session to which the Joint Nominating Committee shall report, any Bishop or Deputy may nominate any other member of the House of Bishops for the consideration of the two Houses in the choice of Presiding Bishop, and there may be discussion of all nominees. Commencing on the day following the Joint

Session, election shall be by the House of Bishops from among such nominees. If the House of Bishops shall find itself unable to elect a Presiding Bishop from among such nominees, another Joint Session shall be held, at which additional nominations may be received, and on the following day, election shall be by the House of Bishops from among all of the nominees. Thereafter, the House of Deputies shall vote to confirm or not to confirm such choice of Presiding Bishop.

Presiding Officers to create Joint Nominating Committee, if necessary. (e). In the event a vacancy in the office of Presiding Bishop shall occur in the interim period between meetings of the General Convention, as specified in the second paragraph of Article I., Section 3, of the Constitution, and in the event a Joint Nominating Committee is not then in existence, the Presiding Officer of the House of Bishops shall appoint Bishops, and the President of the House of Deputies shall appoint clerical and lay Deputies, to a Joint Nominating Committee which shall consist of one Bishop, one clerical Deputy and one lay Deputy from each Province.

Term of Office. Sec. 2. The term of office of the Presiding Bishop, when elected according to the provisions of Article I., Section 3, of the Constitution, shall be twelve years, beginning three months after the close of the Convention at which he is elected, unless he shall attain the age of sixty-five years before his term shall have been completed; in that case he shall resign his office to the General Convention which occurs in or next after the year of his attaining such age. At that Convention his successor shall be elected, and shall assume office three months thereafter or immediately upon the death, retirement, or disability of the Presiding Bishop; except that when a Presiding Bishop has been elected by the House of Bishops to fill a vacancy, as provided for in the second paragraph of Article I., Section 3, of the Constitution, the Presiding Bishop so elected shall take office immediately.

To resign previous jurisdiction. Sec. 3 (a). Upon the expiration of the term of office of the Presiding Bishop, the Bishop who is elected to succeed him shall tender to the House of Bishops his resignation of his previous jurisdiction, to take effect upon the date of his assuming the office of Presiding Bishop, or not later than six months thereafter.

(b). Such resignation shall be acted upon immediately by the House of Bishops.

Duties: Chief Pastor. Sec. 4 (a). The Presiding Bishop of the Church shall be the chief pastor thereof. As such he shall

Policy and Strategy. (1). Be charged with responsibility for leadership in initiating and developing the policy and strategy of the Church and, as Chairman of the Executive Council of General Convention, with ultimate responsibility for the implementation of such policy and strategy through the conduct of policies and programs authorized by the General Convention or approved by the Executive Council of the General Convention;

Representative of Church and episcopate. (2). Speak God’s words to the Church and to the world, as the representative of this Church and its episcopate in its corporate capacity;

Convene Bishops. (3). Take order for the consecration of Bishops, when duly elected; and, from time to time, assemble the Bishops of this Church to meet with him, either as the House of Bishops, or as a Council of Bishops, and set the time and place of such meetings;

Presiding Officer. (4). Preside over meetings of the House of Bishops; and, when the two Houses of the General Convention meet in Joint Session, have the right of presiding over such Session, of calling for such Joint Session, of recommending legislation to either House and, upon due notification, of appearing before and addressing the House of Deputies; and whenever he shall address the General Convention upon the state of the Church, it shall be incumbent upon both Houses thereof to consider and act upon any recommendations contained in such address;

Visitations. (5). Visit every Diocese of this Church for the purpose of

- (i). Holding Pastoral consultations with the Bishop or Bishops thereof and, with their advice, with the lay and clerical leaders of the jurisdiction;
- (ii). Preaching the Word; and
- (iii). Celebrating the Sacrament of the Lord’s Supper.

Report to Church. (b). The Presiding Bishop shall report annually to the Church, and he may, from time to time, issue Pastoral Letters in his own person.

May delegate authority. (c). The Presiding Bishop shall perform such other functions as shall be prescribed in these Canons; and, in order to enable him better to perform his duties and responsibilities, he may appoint, to positions established by the Executive Council of General Convention, officers, responsible to him, to whom he may delegate so much of his authority as to him shall seem appropriate.

Chancellor. Sec. 5. The Presiding Bishop may appoint, as Chancellor to the Presiding Bishop, a communicant of the Church who is learned in both ecclesiastical and secular law to serve at his pleasure as his counselor in matters relating to his office and the discharge of his responsibilities.

Stipends. Sec. 6. The stipends of the Presiding Bishop and such personal assistants as may be necessary during his term of office for the effective performance of his duties, and the necessary expenses thereof, shall be fixed by the General Convention and shall be provided for in the budget to be submitted by the Treasurer, as provided in the Canon entitled, "Of the General Convention."

If disabled. Sec. 7. In the event of the disability of the Presiding Bishop, the Bishop who, according to the Rules of the House of Bishops, becomes its Presiding Officer, shall be substituted for the Presiding Bishop for all the purposes of these Canons, except the Canons entitled, "Of The Domestic and Foreign Missionary Society," and "Of the Executive Council."

Retiring allowance. Sec. 8 (a). At the expiration of his term of office the Presiding Bishop, and any other Bishop who shall have held the office of Presiding Bishop, shall receive a retiring allowance of six thousand dollars per year, less whatever retiring allowance they may receive from The Church Pension Fund.

(b). Upon the acceptance of his resignation prior to the expiration of his term of office for reasons of disability, the Presiding Bishop may be granted, in addition to whatever allowance he may receive from The Church Pension Fund, a disability allowance to be paid by the Treasurer of the General Convention in an amount to be fixed by the General Convention.



This canon was Canon 16 when it was adopted in 1919. It became Canon 2 in 1943, and Title I, Canon 2, in 1970.

Prior to 1901 the Presiding Bishop was designated by the rules of the House of Bishops, which provided that the senior bishop, in point of consecration, should be the Presiding Bishop of the House of Bishops. In the revision of the Constitution completed by the General Convention of 1901, the essence of this rule was incorporated into the Constitution (Article I, Section 3), and his style and status was changed from Presiding Bishop of the House of Bishops to the Presiding Bishop of the Church. The requirement that he continue to be the active bishop of a diocese was, however, left unchanged.

Convention of 1919

This Convention amended Article I, Section 3, of the Constitution to provide for the election of the Presiding Bishop (see the discussion *supra*). It also enacted a new canon, Canon 16 of that year, to carry out the provisions of the revised article, reading as follows:

Sec. 1. The Presiding Bishop, when elected according to the provisions of Article 1, Section 3, of the Constitution, shall hold office for a term of six years.

Sec. 2. The Presiding Bishop shall preside over meetings of the House of Bishops, and shall take order for the consecration of Bishops when duly elected; and he shall be the executive head of all departments of the Church's work, including those of Missions and Church Extension, of Religious Education and of Christian Social Service. He shall also perform all other duties prescribed for him by other Canons of the General Convention.

Sec. 3. The stipend of the Presiding Bishop and his necessary expenses shall be provided for in the budget approved by the General Convention.

The special committee appointed in the House of Deputies to prepare a canon on the subject of the Presiding Bishop, reported one which provided that the Presiding Bishop should "hold office until the close of the General Convention following the sixty-eighth anniversary of his birth." The committee in its report stated, that the age of sixty-eight was chosen because at that age his pension would be automatically provided for, but if an earlier age for resignation was chosen, special provision would be necessary. The House of Deputies amended the proposed canon by making the term of office six years instead of until he was sixty-eight.

At the same Convention, the then Canon 60, "Of the Presiding Bishop and Council," was adopted.

Convention of 1922

This Convention amended Section 2 of the canon by striking out the words:

and he shall be the executive head of all departments of the Church's work, including those of Missions and Church Extension, of Religious Education and of Christian Social Service.

The duties specified in the omitted words were also listed as the duties of the president of the National Council in Canon 60, and since, under its provisions, the Presiding Bishop was not to become the president of the National Council until after the death or resignation of the then incumbent, at which time the first elected Presiding Bishop would take office, the two canons would have been in conflict.

Convention of 1928

This Convention amended the canon by prefixing a new Section 1 as follows:

Before a Presiding Bishop is elected, a joint Nominating Committee consisting of eight Bishops (one from each Province) together with four clerical and four lay members of the House of Deputies (one member from each Province) shall present to the House of Bishops the names of three members thereof for its consideration in the choice of a Presiding Bishop.

Convention of 1931

The House of Bishops named the president of each province, or in his absence the senior bishop of the province, and the members of the joint nominating committee from the House of Deputies were named by its president.

This Convention also amended Section 2 of the canon to read:

The Presiding Bishop ... shall hold office for a term of six years, dating from the first day of January, succeeding the General Convention, at which he is elected. Except that when a Presiding Bishop has been elected by the House of Bishops to fill a vacancy, as provided for in the second paragraph of Article I, Section 3, of the Constitution, the Presiding Bishop elected by the next General Convention shall take office immediately.

Convention of 1934

This Convention amended Section 4 [formerly Section 3] to read:

The stipend of the Presiding Bishop and his necessary expenses shall be fixed by General Convention and shall be provided for in the budget to be submitted by the Treasurer as provided in the Canon, entitled "Of the General Convention."

Convention of 1937

The first sentence of Section 2 was amended to read:

The Presiding Bishop ... shall hold office until the first day of January succeeding the General Convention which follows his attainment of the age of sixty-eight years.

A new Section 3, reading as follows, was added, and the remaining sections renumbered:

When a Diocesan Bishop is elected Presiding Bishop it shall be his duty to relinquish the administration of his Diocese sufficiently to enable him fully to perform his duties as Presiding Bishop.

A resolution to strike Section 1, thus doing away with the joint nominating committee, was adopted by the House of Bishops, but rejected by the House of Deputies.

Convention of 1940

At this Convention the canon was renumbered Canon 18.

Section 8 of former Canon 18, "Of the Duties of Bishops," which was renumbered Canon 19, was transferred to this canon as Section 6. It read:

In the event of the disability of the Presiding Bishop, the Bishop who, according to the Rules of the House of Bishops, becomes its Presiding Officer, shall be substituted for the Presiding Bishop for all the purposes of these Canons, except the Canons entitled, "Of the Domestic and Foreign Missionary Society" and "Of the National Council."

Convention of 1943

In the rearrangement of this year the canon became Canon 2.

Section 2 was amended to provide for retirement at the age of sixty-eight.

Section 3 was amended to read:

- (a). Upon the expiration of the term of the Presiding Bishop, the Bishop who is elected to succeed him shall tender to the House of Bishops his resignation of his previous jurisdiction, to take effect upon the date of his assuming the office of Presiding Bishop, or not later than six months thereafter.
- (b). Such resignation shall be acted upon immediately by the House of Bishops.

A new section was added as follows:

Sec. 7. At the expiration of his term of office the Presiding Bishop, and any other Bishop who shall have held the office of Presiding Bishop, shall receive a retirement allowance of five thousand dollars per year, less whatever retiring allowance they may receive from the Church Pension Fund.

Convention of 1946

At this Convention, Section 2 was amended to read:

The Presiding Bishop ... shall hold office until the first day of January succeeding the General Convention which follows his attainment of the age of sixty-eight years or which occurs in the calendar year in which he attains that age....

Convention of 1952

Section 2 was amended by changing the words “first day of January” to “fifteenth day of November.”

The purpose and effect of this amendment was to begin the term of the Presiding Bishop early enough for him to preside at the first meeting of the National Council following his election.

Convention of 1958

This Convention amended Section 7 to increase the retiring allowance of a Presiding Bishop from five thousand dollars to six thousand dollars.

Convention of 1964

Section 7 [now Section 8] was amended by adding paragraph (b) to provide a disability allowance for a Presiding Bishop who resigns for reasons of disability.

Convention of 1967

An amendment was proposed which would have repealed former Section 1 and enacted a new section, providing for the election of a Presiding Bishop in a joint executive session of the two Houses. The Committee on Canons of the House of Bishops recommended nonconcurrence on the basis that the proposed canonical change presupposed an amendment of Article I, Section 3, of the Constitution. The House of Bishops, therefore, did not concur.

A proposal of the House of Deputies, which would have amended the Constitution so as to make possible the adoption of such a procedure at the following Convention was also defeated in the House of Bishops.

Section 2 of this canon was amended by this Convention to read as it does at present, except that it provided that a newly elected Presiding Bishop was not to assume office until twelve months after election. The effect of this provision was, essentially, to provide for a Presiding Bishop-Coadjutor.

Section 4, which had remained unchanged since 1922 (at which time it was Section 2), was revised and greatly expanded in order to prescribe the status and duties of the Presiding Bishop in much greater detail. The text, which for the first time in the history of the Church described the Presiding Bishop as “chief pastor,” was identical with the present wording, except for clauses (a)(1) and (c) which read as follows:

- (a)(1) Be charged with the responsibility for giving leadership in initiating and developing the policy and strategy of the Church;
- (c) The Presiding Bishop shall perform such other functions as shall be prescribed in these canons.

Prior to the vote, an amendment to this section as proposed was accepted, specifying that the initial letters of “Chief Pastor” be reduced to lower case.

Section 5 [now Section 6], providing for the stipend of the Presiding Bishop, was amended to read as at present. The effect of the amendment was to add a reference to his personal assistants.

Convention of 1973

A proposed amendment to Section 1, the purpose of which was to recognize that there were now nine, rather than eight, provinces in the Church, was adopted by the House of Deputies. In the House of Bishops other proposed amendments were added to the proposal of the House of Deputies and the amended proposal was returned for action. The amended proposal was not received by the House of Deputies in time for legislative action to be taken and the amendment failed of adoption.

Convention of 1976

Section 1 was amended as follows:

Section 1 became Section 1 (a) and was amended to read as at present. Clauses (b), (c), (d), and (e) were newly enacted additions and read as at present.

In Section 2, the words “twelve months” were replaced by the words “three months” in the two places where they occurred, thus repealing the provision for a “Presiding-Bishop-Coadjutor.”

In Section 4, clauses (a)(1) and (c) were expanded to read as at present.

A new Section 5, providing for a chancellor to the Presiding Bishop, was added, and the remaining sections renumbered.

EXPOSITION OF CANON I.2

The Constitution, in providing for the election of the Presiding Bishop, creates the office.

The history of legislation on the subject of a Presiding Bishop is told above in the exposition of Article I of the Constitution. In the 1901 revision a new Section 3 was added to that article, designating the senior bishop in order of consecration as the Presiding Bishop. In 1919 provision was made for the election of the Presiding Bishop.

The office of Presiding Bishop is a constitutional office, the tenure and duties of which are prescribed by canons, and he has no duties or

powers save as so prescribed. It is in the revisions of this canon that the more recent developments in the nature of the office are reflected.

At the Convention of 1967, as a result of a report of the Mutual Responsibility Commission, efforts were made to include the House of Deputies in the process of electing the Presiding Bishop. These efforts the House of Bishops resisted, citing among their reasons for doing so their close involvement with the Presiding Bishop and their intimate knowledge of their fellows in the House of Bishops who might be so elected.

Nevertheless, at the Convention of 1973, which Convention had the responsibility of selecting a new Presiding Bishop, several resolutions dealing with proposed changes in the method of election were introduced. A number of these took the form of proposed amendments to the Constitution, and provided for the election of a Presiding Bishop in a joint session of both houses of the Convention. No action was taken on these resolutions, however, until after the election of the new Presiding Bishop and the confirmation of that election by the House of Deputies.

The House of Bishops, in executive session, elected the Rt. Rev. John M. Allin, Bishop of Mississippi, as Presiding Bishop. Following customary procedure, the action of the bishops was reported to the House of Deputies (also meeting in executive session) and referred to its Committee on the Consecration of Bishops. This committee deliberately delayed its report in order to express its sympathy with those deputies who desired that some action be taken to call attention to their preference for direct participation of the House of Deputies in the election. The committee then recommended confirmation of the election, and the House of Deputies so resolved.

Later in the Convention, the resolutions dealing with proposed changes in the method of election were referred to the Standing Committee on Structure.

Following the Convention, this commission conducted an intensive study of the matter of electing a Presiding Bishop and of the attitudes within the Church with respect thereto. In its report, published in the Journal of the 1976 Convention, the commission stated that, inasmuch as the Presiding Bishop is the chief pastor of the whole Church, it would be logical to provide for his election by all of the people of the Church by means of an open election in a joint executive session of both houses. The commission then went on to point out that since one of the primary functions of the Presiding Bishop is to preside over the House of Bishops, that house should be permitted to choose its own presiding officer.

While not recommending the joint election of the Presiding Bishop, the commission did suggest that greater participation of the House of Deputies and of individual deputies be achieved through the selection of a more representative joint nominating committee.

The committee recommended that the canon be amended by creating a new first paragraph, to be numbered Section 1(a), reading as at present; and that four new paragraphs, (b) through (e), be added to Section 1. The first sentence of paragraph (d) as submitted is the same as now appears in the canon, except that in the original submission it was provided that only a bishop might nominate other members of the House of Bishops for consideration of the two houses. Paragraphs (b), (c), and (e) appear in the canon in the form in which they were submitted.

In the House of Bishops the matter was referred to its Committee on the Office of a Bishop, and it reported favorably on the amendments proposed by the Committee on Structure with one amendment to paragraph (d) of the report, the amendment being to provide that “any Bishop or Deputy may nominate” at the joint session.

The changes in the nominating procedure resulting from the 1976 amendments have been generally accepted by the Church as steps in the right direction.

A new Presiding Bishop, unless there are amendments to the Canons and the Constitution not now anticipated, will be elected at the 1985 General Convention. Steps required to comply with Section 1 are now being reviewed as that Section will apply to that election.

Questions were raised as to whether Section 1 provides for the election of a joint nominating committee at the Convention at which a Presiding Bishop will be elected, or if such election is to be held at the General Convention immediately preceding the Convention at which an election will be held.

The officers of the 1982 General Convention have considered this problem and will propose that the election of the nominating committee, which will report to the 1985 General Convention, take place at the 1982 Convention. It has been commented that deputies elected to the joint nominating committee in 1982 may not be elected to serve as deputies at the Convention of 1985, and that the report made to that Convention might well be a report of a committee some of the members of which would not be members of the House of Deputies when the report was received. It has been generally concluded that this is not a material defect.

Other provisions of the section have raised questions that are unanswered and may present practical difficulties. Uncertainty still exists about the nominating procedure to be used in nominating deputies from each province. Consideration is being given to a procedure in which each province will caucus separately for the purpose of arriving at nominations from that province. One suggestion that has been made is that each province by vote determine the clerical and lay deputies to be nominated from the province. If this procedure is followed and only one clerical and one lay deputy is nominated by each province, the provision that the election of the members of the committee shall be by the entire membership of the house would become meaningless.

Section 1 also provides that any bishop or deputy may at the joint session nominate a bishop to be placed on the list of bishops nominated.

Under the proposed amendment to the canon, only a bishop could make an additional nomination at the joint session, but that was amended in the House of Bishops and now any deputy may make such a nomination.

Admittedly, nominations presented by the nominating committee will have more weight when the House of Bishops elects than would a nomination by a single deputy, but the canon, as it is now drawn, could result in a very large number of bishops being nominated, many by a single deputy. It would appear that such a development would seriously undercut the purpose of the new provisions.

A more important question is raised by the fact that, while the canon provides for a second joint session to receive additional nominations if the House of Bishops fails to elect one of the bishops nominated at the first session, there is no procedure in the canon to cover the unlikely contingency that the House of Bishops may fail to elect a Presiding Bishop after the first joint session and again fail to act after the second joint session.

Clause (e) of the section does not relate to the three preceding clauses. It appears to have been added in an attempt to give clergy and lay people some participation in the election of the Presiding Bishop when an election is required by the resignation, death, or disability of a Presiding Bishop occurring more than three months before the next General Convention. Section 3 of Article I of the Constitution, however, makes no provision for receiving the report of a nominating committee appointed under the canons, and does not require that the election by the House of Bishops await either the appointing of a committee or the receipt of its report.

Section 2 of the canon, which defines the term of office of the Presiding Bishop, has been amended a number of times, reflecting a growing awareness of the implications of the development of the office into a full-time elective position. An amendment adopted in 1967 provided for a “Presiding-Bishop-Coadjutor” to be elected one year prior to the incumbent’s retirement. By 1976 experience had shown that the resulting “lame duck” period in the Presiding Bishop’s term of office was a disadvantage, and the canon was amended to provide for a three-month transition period. The Convention of 1967 also limited the term of office to twelve years or until the Convention in or following the year in which the Presiding Bishop attains the age of sixty-five, whichever is less.

Section 4 was developed in 1967 to define the status and duties of the Presiding Bishop as “chief pastor.” This definition seems overly ambitious, however, in its outline for visitations of the Presiding Bishop to dioceses, as though it were the same process as a diocesan bishop visiting his parishes. In 1976 this section was enlarged to clarify the administrative role of the Presiding Bishop, making him directly responsible for the staff of the national Church in the fulfillment of his responsibility to carry out the policies and programs of the General Convention and the Executive Council. In 1964 the General Convention had adopted a statement on “Levels of Authority Within the Church” in order to clarify who might speak for the Church and with what weight of authority. In that statement the Presiding Bishop was listed third, after the General Convention and the House of Bishops, and always in connection with the Executive Council. In 1967 mention of this prophetic role was incorporated into the canon, in the phrase “speak God’s words to the Church and to the world.”

Section 5, which was new in 1976, provided the Presiding Bishop, for the first time, with a chancellor. This appointment was the result of the increased complexity of ecclesiastical trials in the course of the previous triennium. The chancellor appointed under this section deals with the needs of the Presiding Bishop only, not with those of the whole Church or in connection with secular legal matters with which the Presiding Bishop and Executive Council are involved in the course of their work.

Section 8 provides a retiring allowance for Presiding Bishops. The Church has not been generous in its provisions for such allowances. It is suggested that \$6,000 per year, reduced by the amount he would be entitled to receive under the Church pension fund, is inadequate. It should be increased, and some provision should be made for automatic increases in this allowance based on the Consumer Price Index.



CANON 3. Of the Domestic and Foreign Missionary Society

The Constitution of the said Society, which was incorporated by an act of the Legislature of the State of New York, as from time to time amended, is hereby amended and established so as to read as follows:

Constitution of the Domestic and Foreign Missionary Society of the Protestant Episcopal Church in the United States of America as established in 1821, and since amended at various times.

ARTICLE I.

Name. This organization shall be called the Domestic and Foreign Missionary Society of the Protestant Episcopal Church in the United States of America, and shall be considered as comprehending all persons who are members of the Church.

ARTICLE II.

Board of Directors. The Executive Council, as constituted by Canon, shall be its Board of Directors, and shall adopt By-laws for its government not inconsistent with the Constitution and Canons.

ARTICLE III.

Officers. The officers of the Society shall be a President, a Vice-President, a Secretary, a Treasurer, and such Assistant Secretaries and Assistant Treasurers as may be appointed

President. in accordance with the Canons or By-laws. The Presiding Bishop of the Church shall be the President of the Society;

Vice-President. the Vice-President shall be the person who is the Vice-President of the Executive Council, and shall have such powers and shall perform such duties as may be assigned to him by the By-laws. The Treasurer shall be the person who

Treasurer. is the Treasurer of the Executive Council. The Secretary

Secretary. shall be the person who is the Secretary of the Executive Council. The other officers of the Society shall be such as are provided for by the By-laws thereof. The tenure of office, compensation, powers, and duties of the officers of the Society shall be such as are prescribed by the Canons and by the By-laws of the Society not inconsistent therewith.

ARTICLE IV.

Amendment. This Constitution of the Society may be altered or amended at any time by the General Convention of the Church.



This canon was Title III, Canon 9, when it was adopted in 1871. It became Canon 52 in 1904, Canon 3 in 1943, and Title I, Canon 3, in 1970.

The Domestic and Foreign Missionary Society was incorporated by chapter 331 of the Laws of 1846, as amended by chapter 226 of the Laws of 1880, of the State of New York, under which power is given to adopt and amend a constitution. This canon and its predecessors embody its constitution.

Convention of 1808

As early as 1808, the subject of domestic missions was considered in General Convention, when a committee appointed to address the Church at large on certain matters was “authorized and desired to consider and determine on the proper mode of sending a Bishop in said States and Territories,” meaning thereby those states and territories in which the Church was not yet organized.

Convention of 1811

The committee reported to the Convention that:

not having any reasonable prospect of accomplishing the object contemplated in the fourth resolution, of sending a Bishop into those States and Territories which have not acceded to the Constitution of the Protestant Episcopal Church in the United States of

America, [it] did not proceed to elect a person to said office, or to take any measures in that business.

The Convention adopted the following resolution:

Resolved, That the Bishops in Pennsylvania and Virginia be requested to devise means for supplying the congregations of this Church west of the Allegheny mountains with the ministrations and worship of the same, and for organizing the Church in the Western States, anything in the 37th Canon to the contrary notwithstanding.

This canon referred to was the Canon 37 of 1808, which forbade a congregation in one diocese to unite with any other diocese.

Convention of 1814

The Bishop of Pennsylvania, one of the bishops referred to in the foregoing resolution, reported to the House of Bishops that all progress in the matter referred to in the said resolution had been arrested by the death of the Bishop of Virginia, although he had received the consent of the convention of his diocese that, in the event of the settlement of a bishop in the western country, the congregations in the western counties of the state might be placed under his superintendence.

Convention of 1817

The Bishop of Pennsylvania reported to the House of Bishops that he had received several petitions from congregations and Episcopalians residing in the western country, asking leave to form a convention, and to be placed, provisionally, under the care of the Bishop of Pennsylvania.

The House of Bishops recommended that the congregations in the several states west of the Allegheny mountains organize a convention in each state, but refused to authorize a convention comprising several states.

The House of Bishops passed a resolution earnestly recommending that the authorities of the Church in each state adopt measures for sending missionaries to the destitute brethren in the western states.

This Convention enacted a canon limiting the operation of the second and the thirty-seventh canons by providing that when a bishop should be consecrated for any state or states west of the Allegheny mountains, that it should be lawful for the Episcopal congregations in Pennsylvania and Virginia west of said mountains to place themselves, with the consent of the bishops of those states respectively, under the provisionary superintendence of the bishop consecrated for the western states.

Convention of 1820

This Convention took the first real step toward promoting the cause of missions by establishing “The Protestant Episcopal Missionary Society in the United States for Foreign and Domestic Missions,” and adopting a Constitution for such Society.

As this Constitution was so imperfect that no action could be taken under it, and as it was repealed by the special convention held in the following year, it is not set forth at length.

Special Convention of 1821

The Presiding Bishop reported to the House of Bishops in this special convention that,

owing, as he supposes, to the state in which the business of that body [the General Convention] was concluded, neither were the intended managers constitutionally chosen, nor had any Bishop a right to a seat or a vote at their board: although, doubtless, the contrary was supposed to have been provided for by the Convention generally.

The intended managers perceived these defects, and have not carried the design into effect. They have reported their proceedings to the house of clerical and lay deputies, and the presiding Bishop judges it to be sufficient to refer this house to their report.

In order to remedy these defects in the former Constitution of the Society, and also to improve it, it was repealed and a new Constitution adopted to read as follows:

ARTICLE I.

This institution shall be denominated *The Domestic and Foreign Missionary Society of the Protestant Episcopal Church in the United States of America.*

ARTICLE II.

It shall be composed of the Bishops of the Protestant Episcopal Church, and of the members of the House of Clerical and Lay Deputies of the General Convention of said Church, for the time being: and of such other persons, as shall contribute, by subscription, three dollars or more, annually to the objects of the institution, during the continuance of such contributions; and of such as shall contribute at once thirty dollars, which contribution shall constitute them members for life.

Members who pay fifty dollars, on subscribing, shall be denominated patrons of the society.

It shall be the privilege of the subscribers to designate, on their subscriptions, to which of the objects, domestic or foreign, they desire their contributions to be applied. If no specifications be made, the board of directors, may apply them to either, or both, at their discretion.

ARTICLE III.

The society shall meet triennially, at the place in which the General Convention shall hold its session. The time of meeting shall be on the first day of the session, at five o'clock P.M.

A sermon shall be preached, and a collection made in aid of the funds of the society, at such time, during the session of the Convention, as may be determined at the annual meeting; the preacher to be appointed by the House of Bishops.

ARTICLE IV.

The presiding Bishop of this church shall be the president of the society; the other Bishops, according to seniority, vice-presidents. There shall be two secretaries, and twenty-four directors, who shall be chosen by ballot, at each meeting.

ARTICLE V.

The directors, together with the president, and vice-presidents, and patrons of the society—who shall *ex-officio*, be directors—shall compose a body to be denominated the Board of Directors of the Domestic and Foreign Missionary Society of the Protestant Episcopal Church in the United States of America. They shall meet annually in the city of Philadelphia, except in the year of the meeting of the General Convention, when they shall assemble at the place of the meeting thereof. *Nine* members of the board of directors shall be necessary to constitute a quorum to do business.

The meeting of the board of directors shall always be opened with using a form of prayer to be set forth by the House of Bishops for that purpose, or one or more suitable prayers selected from the liturgy.

ARTICLE VI.

At the annual meetings, all missionary stations, appointments of missionaries, and appropriations of money, and all by-laws necessary for their own government, and for conducting the affairs of the missions, shall be made; provided, that all appointments of missionaries shall be made with the approbation of the Bishops present. Special meetings may be called by the president, or by one of the vice-presidents, as often as may be necessary to carry into effect, the resolutions adopted at the annual meetings of the board; at which special meetings, *seven* members, including the president or one of the vice-presidents, shall be a quorum to transact business.

The board of directors, whether at their annual or special meetings, may appoint such committees as may be necessary or useful.

ARTICLE VII.

There shall be annually appointed a treasurer and two members of the society, who together shall be termed trustees of the permanent fund.

The treasurer shall receive all contributions which shall be made to the society, and enter them in detail, distinguishing between what may be contributed for domestic, and what for foreign purposes, if any such distinction should be made; and present a statement of his accounts annually, or oftener, if required, to the board of directors. He shall not pay monies unless on an order from the board, signed by the president, or in his absence, by the senior vice-president, who may attend the meeting, when such order is given.

Twenty per cent of all monies, which shall be contributed, to carry into effect the objects of the institution, shall be vested by the trustees, in their own name, as officers of the society, in some safe and productive stock, to constitute a permanent fund. The residue of the contributions, with the interest arising from the permanent fund, shall be appropriated to the objects, for which the society was formed.

ARTICLE VIII.

The board of directors, at their annual meetings, shall take such measures as they deem proper, to establish auxiliary societies in any diocese, with the advice and consent of

the Bishop of the same; to secure patronage, and to enlarge the funds of the institution. The Bishop of every diocese shall be president of the auxiliary societies organized within it.

ARTICLE IX.

In any Diocese where there is a Bishop or an ecclesiastical body duly constituted under the authority of the convention of the same for missionary purposes, aid may be given in money; but the appointment of the missionary shall rest with the Bishop or ecclesiastical body aforesaid. He shall act under their direction; and shall render to them a report of his proceedings, copies of which shall be forwarded to this society.

ARTICLE X.

The board of directors shall, at every meeting of the society, present a detailed report of their proceedings; which if approved and adopted by the society, shall, on the next day be presented by their president, to the General Convention, as the report of the society.

ARTICLE XI.

The present convention shall elect, by ballot, the twenty-four directors and two secretaries, provided for, by the 4th Article, to act till the first stated meeting of the society; and the first meeting of the board of directors shall take place at Philadelphia, on the third Wednesday in November instant.

ARTICLE XII.

It is recommended to every member of this society, to pray to Almighty God, for his blessings upon its designs under the full conviction, that unless he direct us in all our doings, with his most gracious favor, and further us, with his continual help, we cannot reasonably hope, either to procure suitable persons to act as missionaries, or expect that their endeavors will be successful.

Because the Constitution of 1820 was incomplete, and practically no action was taken under it, the missionary work of the Church has been considered as having had its real beginning at the Convention of 1821.

Convention of 1823

This Convention amended the Constitution of the Missionary Society in several particulars, most of them not important. Article VI, which had restricted the filling of vacancies among the missionaries to the annual meeting, was amended to permit this being done at special meetings as well.

A new article was added to the Constitution, to be numbered XII, and to read as follows:

Alterations of the Constitution may be proposed either by the Society or by the General Convention, at their respective triennial meetings, but no proposed alterations shall be adopted, unless by concurrent vote of the two bodies.

Former Article XII was renumbered XIII.

Convention of 1826

The Standing Committee on the Domestic and Foreign Missionary Society in the House of Deputies reported that “nearly \$2,000.00 had been subscribed for a mission to the western coast of Africa, and other considerable sums for establishing missions in other parts of the world,” and offered the following resolution, which was adopted by the House:

Resolved, That the Board of Directors of the Domestic and Foreign Missionary Society be requested to establish, and as soon as possible occupy, a missionary station at Liberia, the American colony on the western coast of Africa, and also at Buenos Aires, or its vicinity, in South America.

This was the first step taken towards the establishment of foreign mission stations of the American Church.

Convention of 1829

This Convention amended Article II of the Constitution so as to provide that members of the House of Deputies should no longer be constituted as members of the Society, and instead of members who paid fifty dollars being constituted patrons of the Society, clergymen who paid fifty dollars, and other persons who paid one hundred dollars, at one time, were to be denominated as patrons, and be counted as honorary members of the board of directors. Subscribers were no longer restricted to either domestic or foreign missions in making their contributions, but might designate any other missionary object to which they desired their contributions to be applied.

Article III was amended to provide that the triennial meeting of the Society was to be held on the second day of the session of General Convention, instead of the first day thereof. Also, that the preacher at that meeting was to be appointed by the board of directors instead of by the House of Bishops.

Article V was amended so as to provide that instead of the patrons being directors, *ex officio*, only those who were already such before the article was amended, together with the secretary and treasurer, and the president and vice-president, were to constitute the board of directors. Authority was given to the executive committee to determine the place of the annual meeting, except in the years when the General Convention met, instead of always holding the meeting in the city of Philadelphia.

Article VI was amended to provide that a month’s notice was to be given for a special meeting. New missionary stations could be fixed at any special meeting without authorization by the annual meeting, as formerly required. The board was also given power to appoint an executive committee. The former article provided that all appointments

of missionaries must have the approbation of the bishops present. The amended article required only the consent of the president or of the bishop to whose diocese the appointed missionary belonged.

Article VII was amended in several unimportant particulars, except that it was provided that only legacies and other sums specifically given for the permanent fund should be applied thereto, instead of the former provision that twenty per cent of all moneys contributed to the Society should be reserved to form a permanent fund.

Article VIII was amended to enlarge the power of the board of directors so as to permit them to do at any meeting what before could only be done at an annual meeting. The former provision that the bishop of the diocese should be the president of all auxiliary societies formed in his diocese was stricken out.

Article X was amended so as to provide that the board should publish each year a report of their proceedings for the information of the Church at large, and at every meeting of the Society, present a general view of the proceedings of the board since the last meeting, to be referred to a committee to prepare a report to be presented to the General Convention.

Other amendments were also made to the several articles, but were not of sufficient importance to require consideration.

Convention of 1832

This Convention amended Article III by providing that the time of the meeting of the Society should be appointed by the board of directors, instead of on the second day of the session of General Convention as formerly provided.

The former provision that a sermon was to be preached at this meeting and an offering taken was stricken out.

Convention of 1835

A committee of the House of Deputies, appointed to consider the question of the election of missionary bishops, reported that there was urgent need of such bishops, and that the reason why their election and consecration had so long been delayed was because there did not seem to be any reasonable prospect of supporting them, but that now "a missionary spirit on which reliance may be had, has been awakened in the Church, and the missionary department puts it in the power of the Convention to send the requisite number of bishops to those settlements."

The Convention enacted a canon on Missionary Bishops, which provided for the election of bishops in states and territories not organized into dioceses, and also in places outside of the United States, which the House of Bishops might designate. The consent of the Board of Missions as well as the consents of the bishops and various standing committees was made necessary by this canon, to the consecration of a missionary bishop.

This Convention adopted a new constitution for the Missionary Society as follows:

ARTICLE I.

This institution shall be denominated "The Domestic and Foreign Missionary Society of the Protestant Episcopal Church in the United States of America."

ARTICLE II.

The Society shall be considered as comprehending all persons who are members of this Church.

ARTICLE III.

At every Triennial meeting of the General Convention, which is the constituted representative body of the whole Protestant Episcopal Church in these United States, there shall be appointed, by a concurrent vote, on nomination by a joint Committee of the two Houses, a Board of thirty members, who, together with the Bishops of this Church, and such persons as became patrons of this Society before the meeting of the General Convention in the year 1829, shall be called the "Board of Missions of the Protestant Episcopal Church in the United States of America." The said Committee of Nominations shall consist of three Bishops, to be elected by ballot, in the House of Bishops, and three Presbyters and three laymen, to be elected by ballot in the House of Clerical and Lay Deputies.

ARTICLE IV.

To the Board of Missions shall be entrusted the supervision of the general missionary operations of the Church, with power to establish missionary stations, appoint missionaries, make appropriations of money, regulate the conducting of missions, fill any vacancies in their number which may occur, and also to enact all by-laws which they may deem necessary for their own government and the government of their committees.

ARTICLE V.

The presiding Bishop of this Church shall be the president of the Board; and in his absence, the senior bishop present shall preside; in the absence of all the Bishops, the Board shall elect a president *pro tempore*.

ARTICLE VI.

The Board of Missions shall hold its first meeting at the call of the presiding Bishop and meet annually thereafter at such time and place as may have been appointed at the previous annual meeting, and also on the second day of the meeting of the General Convention, at the place of its meeting. They shall publish an annual report of their proceedings for the information of the Society, and present a triennial report to each stated General Convention.

At all meetings of the Board, ten members shall form a quorum.

Special meetings of the Board may be called as shall be provided in their own by-laws.

ARTICLE VII.

The Board, as soon as may be after it has been constituted, shall proceed to appoint eight persons, four of whom shall be clergymen, and four of whom shall be laymen, who, together with the Bishop of the Diocese in which the Committee shall be located, shall be a Committee for Domestic Missions; and eight other persons, four of whom shall be Clergymen and four of whom shall be laymen, who, together with the Bishop of the Diocese in which the Committee shall be located, shall be a Committee for Foreign Missions; all of whom shall be *ex officio*, members of the Board of Missions.

The Board of Missions shall determine the location of the Committees respectively.

Any bishop or bishops present at the place of meeting, shall have a right, *ex-officio*, to attend as members of the same, the meetings of the Committees.

Vacancies occurring in either of the Committees, during the recess of the Board, may be filled by the Committees respectively, subject to the approval of the Board at its next meeting.

ARTICLE VIII.

To the Committees of the Board thus constituted, shall be referred, in their respective departments, during the recess of the Board, the whole administration of the general missionary work of the Church, subject to the regulations of the Board. Each Committee shall make a report of their proceedings to the Board of Missions at every meeting of the Board.

ARTICLE IX.

The Board of Missions shall appoint for each Committee, a Secretary and General Agent, with a suitable salary, who shall be the executive officer of the Committee to collect information, to conduct its correspondence, to devise and recommend plans of operation, and in general to execute all the purposes of the Board, in his proper sphere, submitting all his measures, before their adoption, to the Committee for whom he is appointed, for their approval.

Each Committee shall appoint a treasurer, and the Board shall designate which of the treasurers appointed shall be authorized to receive all moneys not specifically appropriated, which moneys shall be at the disposal of the Board.

The Secretaries and Treasurers shall be *ex-officio* members of their respective Committees and of the Board.

Local and subordinate agents and officers may, when necessary, be appointed by each Committee.

ARTICLE X.

For the guidance of the Committee it is declared that the missionary field is always to be regarded as one, THE WORLD—the terms domestic and foreign being understood as terms of locality adopted for convenience. *Domestic* missions are those which are established within, and *foreign* missions are those which are established *without*, the territory of the United States.

ARTICLE XI.

No clergyman shall be appointed a missionary by the Board, or by either of the Committees, without the recommendation of the ecclesiastical authority of the diocese to which he belongs; nor shall any missionary be sent to officiate in any diocese, without the consent of the ecclesiastical authority of the same; and no clergyman shall be

appointed a missionary who is not at the time a minister of the Protestant Episcopal Church of regular standing; and the appointment of a missionary may be annulled at any time by the written direction or order of a majority of the bishops of the Church.

ARTICLE XII.

The Board of Missions provided for in the 3rd Article of this Constitution, shall in all cases be continued in office until a new Board is elected.

ARTICLE XIII.

It is recommended to every member of this Society to pray to Almighty God for his blessing upon its designs, under the full conviction that unless He directs us in all our doings with His most gracious favor, and furthers us with his continual help, we cannot reasonably hope to procure suitable persons to act as missionaries, or expect that their endeavors will be successful.

This Constitution marks a great step in advance in the missionary organization of the Church.

The adoption of this Constitution and the enactment of the canon providing for the election of missionary bishops stamped the General Convention of 1835 as the great Missionary Convention of the Church.

For the missionary spirit shown by this Convention, no small part is due to the great sermon preached by Bishop McIlvaine of Ohio before the Missionary Society just before the meeting of the Convention, in which he said, "The Church is a great missionary association, divinely constituted, for the special work of sending into all the world the ministers and missionaries of the Word." When the committee of the board of directors of the Society met to consider the reorganization of the Society, they were unanimous in favor of the principle that the Church itself is the great missionary society and should carry on the work of missions by a board appointed by the General Convention.

We are not surprised to find that the new Constitution adopted by this Convention enunciated two great principles, viz.: that every baptized member of the Church was a member of the Society, and that the missionary field of the Church was the world.

Convention of 1838

This Convention amended Article IV of the new Constitution by adding the following proviso thereto:

Provided, always, that in relation to organized Dioceses having Bishops, the Board shall regulate the number of Missionary Stations, but the Bishop of the Diocese may select the Stations, and may at any time discontinue a Station, and in lieu of it establish one elsewhere.

Convention of 1856

This Convention amended Article III of the Society's Constitution so as to provide that there should be a representation of the clergy and of the

laity from each diocese in the Board of Missions, instead of a fixed number of thirty members as before.

Convention of 1862

This Convention amended Article IV by adding thereto the following proviso:

Provided, always, that in relation to organized Dioceses, having Bishops, the Board shall regulate the number of missionary stations, and, with the consent of the Bishop, shall select the stations.

Article XI was amended by changing the words “without the recommendation of the ecclesiastical authority of the Diocese to which he belongs,” to read: “until after conference with the Ecclesiastical Authority of the Diocese or Missionary District to which he belongs.”

A new article, numbered XII, was added to read as follows:

Associations designed to act in connection with the Board in the great missionary work committed to the Church may become auxiliary; and all contributions specially appropriated for such purpose by such Associations or by any individuals, shall be received and paid in accordance with the expressed wish of the donors.

This article is important as authorizing and laying the foundation for the Woman’s Auxiliary, later renamed the Episcopal Churchwomen, which has become such a powerful force in the missionary work of the Church.

Convention of 1865

A new article was added to the Constitution of the Missionary Society by the Convention of 1865, numbered V, and to read as follows:

There may be appointed, during the will of the Board of Missions, a Commission to be called the “Commission of Home Missions to Colored People,” to whom shall be committed the religious and other instruction of the freedmen; said Commission to meet quarterly; a majority to be a quorum, with authority to appoint a Secretary and General Agent and Treasurer, and to constitute, as its general representative, with full power to act for it during its recess, an Executive Committee composed of such a number of its members as it may prescribe, not to exceed eight; the members of said Executive Committee to be *ex officio* members of the Board of Missions; and said Commission to be governed in its actions by the principles laid down in the article of the Constitution of this Society concerning the appointment of Missionaries.

Convention of 1871

This Convention, sometimes called the Jubilee Convention because it met just fifty years after the establishing of the missionary organization of the Church and celebrated that anniversary, amended the first article of the Constitution of the Society by adding thereto the following:

And the Board of Missions of the Protestant Episcopal Church in the United States of America, hereinafter provided for, may exercise, subject to the General Convention, and within the limitations contained in this Constitution, and in any amendments hereafter made in the same, all the corporate powers of the institution aforesaid.

This amendment was designed to give larger powers to the Board of Missions, authorizing it to exercise all the corporate powers of the Society.

We have given a somewhat extended consideration to this Constitution of the Missionary Society, because, until the Convention of 1871, there was no canon regulating and controlling the work of the Society; the Constitution taking the place of a canon. As a canon was now enacted which, in some measure, superseded certain provisions of that Constitution, our consideration will now be confined to the canon and the amendments made thereto from time to time.

The following canon was enacted by this Convention as Title III, Canon 9.

Of the Board of Missions

Sec. 1. (i) It shall be the duty of the General Convention, at every triennial meeting, on nomination by a Joint Committee of the two Houses, designated for that purpose, to appoint a Board of Missions for the management of the General Missions, Foreign and Domestic, of this Church.

(ii) All the Bishops of this Church shall be *ex-officio* members of said Board. The elective members shall be selected from the Presbyters and Laymen of the several organized Dioceses of this Church, in such numerical proportions as shall from time to time be determined.

Sec. 2. The Board of Missions may adopt a Constitution, and modify the same as occasion shall require: *Provided*, that such Constitution and amendments shall be of no force until the same shall have been submitted to and approved by the General Convention.

Sec. 3. At every triennial Convention the Board of Missions shall make a report of its doings to the General Convention.

The principal change made by the canon, and wherein it differed from the Constitution of the Society, was the provision that the board itself might adopt a Constitution, subject to the approval of the General Convention.

Convention of 1877

Canon 9 of 1871 was very materially amended by the Convention of 1877. This canon and the Constitution of the Missionary Society were now combined into a canon, but denominated as the Constitution of the Missionary Society, to read as follows:

Of the Constitution of the Domestic and Foreign Missionary Society of the Protestant Episcopal Church in the United States of America

Sec. 1. The Constitution of the said Society, which was incorporated by an act of the Legislature of the State of New York, is hereby amended and established so as to read as follows:

Constitution of the Domestic and Foreign Missionary Society of the Protestant Episcopal Church in the United States of America, as established in 1821, and since amended at various times.

ARTICLE I.

This institution shall be denominated The Domestic and Foreign Missionary Society of the Protestant Episcopal Church in the United States of America.

ARTICLE II.

This Society shall be considered as comprehending all persons who are members of this Church.

ARTICLE III.

There shall be a Board of Missions of such Society, composed of the Bishops of this Church, and the members for the time being of the House of Deputies of the General Conventions of this Church, Bishops and Deputies sitting apart as in General Convention, or together when they shall so decide. The Board of Missions thus constituted shall convene on the third day of the session of the General Convention, and shall sit from time to time as the business of the Board shall demand.

ARTICLE IV.

There shall be a Board of Managers, comprising all the Bishops as Members *ex-officio*, and fifteen Presbyters and fifteen laymen, to be appointed by the Board of Missions at every triennial meeting of the General Convention, who shall have the management of the General Missions of this Church, and shall remain in office until their successors are chosen, and shall have power to fill any vacancies that may occur in their number. Eight Clerical members and eight Lay members shall constitute a quorum. This Board of Managers shall, during the recess of the Convention, exercise all the corporate powers of the Domestic and Foreign Missionary Society. The Board of Managers shall report to the General Convention, constituted as a Board of Missions, on or before the third day of the session of the General Convention. But nothing herein contained shall affect the rights of any surviving life members of the Board of Missions.

ARTICLE V.

The Board of Managers is authorized to form, from its own members, a Committee for Domestic Missions and a Committee for Foreign Missions, and such other Committees as it may seem desirable to promote special Missionary work, and is also authorized to appoint such officers as shall be needful for carrying out the work.

ARTICLE VI.

The Board of Managers is entrusted with power to establish and regulate such Missions as are not placed under Episcopal supervision, and to enact all by-laws which it may deem necessary for its own government and for the government of its Committees: *Provided, always*, that in relation to organized Dioceses and Missionary Jurisdictions having Bishops, the appropriations shall be made in gross to such Dioceses and Missionary Jurisdictions, to be disbursed by the local authorities thereof. The Board shall notify to the several Bishops the gross sums so appropriated; and those Bishops shall regulate the number of Mission Stations, appoint the Missionaries, and assign them their stipends, with the approval of the Board of Managers.

ARTICLE VII.

No person shall be appointed a Missionary who is not at the time a Minister of the Protestant Episcopal Church of regular standing; but nothing in this Section precludes

the Committees from making pecuniary appropriations in aid of Missions under the care of other Churches in communion with this Church, or of employing laymen or women, members of this Church, to do Missionary work.

ARTICLE VIII.

The Board of Managers is authorized to promote the formation of auxiliary Missionary Associations, whose contributions, as well as those specially appropriated by individuals, shall be received and paid in accordance with the wish of the donors, when expressed in writing. It shall be the duty of the Board of Managers to arrange for public Missionary meetings, to be held at the same time and place as the General Convention, and at such other times and places as may be determined upon, to which all auxiliaries approved by the Board of Managers may send one Clerical and one Lay Delegate.

ARTICLE IX.

This Constitution may be altered or amended at any time by the General Convention of this Church.

Sec. 2. All Canons, and all action by or under the authority of the General Convention, so far as inconsistent with the provisions of this Canon and of such amended Constitution, are hereby repealed: *Provided, however*, that nothing herein shall in any manner impair or affect any corporate rights of the said Society, or any vested right whatever.

Sec. 3. This Canon shall take effect immediately.

The Constitution of the Missionary Society was made a canon in order that it might stand as a permanent constitution, making the General Convention the Board of Missions of the Society. It was done to meet the needs of the Church, to put into the heart of the Church its own missionary work, and to give to it all that was necessary to be given in order that it might properly discharge its responsibilities to the great mission work of the Church.

Convention of 1880

It was to be expected that experience would show the necessity of further legislation to give the new canon more complete and practical efficiency.

It was believed that the delegates from missionary jurisdictions ought to be members of the Board of Missions, as well as the members of the Board of Managers, and the secretaries and treasurers of the two committees. When the provision that the House of Bishops and the House of Deputies might sit apart or together as a board of missions was placed in Article III by the former Convention, it met with much opposition. Its impracticability was soon demonstrated and it was proposed that the two houses meet together when sitting as a board of missions.

Article III was amended accordingly.

In Article IV the words, "during the recess of the Convention," in the third sentence, were stricken out, and these words inserted in place thereof: "when the Board of Missions is not in session."

As the Convention sat only a small part of its session as a board of missions, it might well happen that some action in the matter of the missionary work of the Church ought to be taken while the Convention was in session. Under the former article, no action could be taken in the matter until the Convention sat as a board of missions, or until after the adjournment of the Convention. For this reason the change was made, giving the Board of Managers power to act at any time when the Board of Missions was not in session.

Article VII was amended by striking out the word "Committees" and inserting in place thereof the following: "Board of Managers."

It was felt that the making of pecuniary appropriations in aid of missions under the care of other Churches was too important a matter to be left to the judgment of committees, but should be under the direction of the Board of Managers.

Convention of 1883

The provision of Article VII, authorizing the Board of Managers to make pecuniary contributions in aid of missions under the care of other Churches in communion with this Church, was stricken out. The Board of Managers, in its report to this Convention stated that the practical operation of this provision had not been satisfactory. The board had from time to time made appropriations to such a Church, but without the power of knowing or finding out how the expenditures were made. In the opinion of the board a change of policy in this matter was urgently demanded.

Article III was amended by striking the references to secretaries and treasurers which had been added by the previous Convention. It had been discovered that under the law of the state of New York, in which state the Missionary Society was incorporated, no trustee of the Board of Missions or the Board of Managers could be salaried officers thereof, and as said secretaries were salaried officers of the Society, they could not be members of the Board of Missions.

Article VIII was amended by inserting after the words "The Board of Managers" in the first sentence, the following:

shall have power to appoint local agents to represent the Society in different parts of this country, and...

Convention of 1886

A special committee of the Board of Managers, appointed to consider and report any measures necessary to carry out the provisions of the Missionary Canon, stated in their report that, while the present

organization was a great improvement in many respects on that which had preceded it, there was still room for improvement. The committee felt that one reason why it was not more effective was that the board was equally divided into two committees, domestic and foreign, “thus practically divesting the Board of all active connection with the details of the work committed to its charge, beyond a quarterly meeting to ratify and record the action of the two Committees.” The committee recommended that the board should meet monthly as a board and act in the first instance on all matters that came before it.

Acting on these recommendations of the special committee, the Convention amended Articles IV and V of the canon so as to provide for a smaller Board of Managers to have the management of the general missions of the Church, doing away with the two former committees on domestic and foreign missions. Where, before, all the bishops were members of the Board of Managers, under the amended canon only the Presiding Bishop and fifteen other bishops chosen by the General Convention from the Missionary Council were to be members of the board. All other bishops were made *ex officio* members of the board with all the privileges of the elected bishops except the right to vote.

A Missionary Council was also provided for, to comprise all the bishops of the Church and an equal number of presbyters and also of laymen. This council was to meet annually in the years appointed for the meeting of the Board of Missions. It was given power to take all necessary action regarding the missionary work, provided that such action did not conflict with the general policy of the Board of Missions as determined upon at its triennial session.

Article VI was also amended.

Under the former article, appropriations were to be made in bulk to foreign missionary jurisdictions as well as domestic ones. This was objected to by some of the foreign missionary bishops, who preferred that the appropriations should not be disbursed by them, and the article as amended exempted such jurisdictions from the provision requiring the appropriations to be made to each diocese and jurisdiction in bulk.

These appropriations were formerly to be disbursed by the local authorities of each diocese and jurisdiction; under the provisions of the amended article they were to be disbursed by the bishops with the approval of the standing committee or Board of Missions of the diocese or jurisdiction. Provision was also made that no part of this annual appropriation should be used for any other purpose than the support of the missionaries, without the concurrence of the Board of Managers. An itemized account of how the appropriations had been expended was

to be made annually to the Board of Managers. The article is silent, however, as to who should make this account.

Article VII was a new article relating to the salary of a missionary bishop and read as follows:

The salary of a Missionary Bishop shall be fixed at or before the time of his election, to take effect from the date of his Consecration, and shall not be diminished during his official relation to the Board of Missions without his consent. But all contributions by the Missionary Jurisdictions for the support of their Bishops shall be reported to the Board of Managers and accounted for as a part of such salary. Whenever the Board shall be satisfied of the ability of a Missionary Jurisdiction to support its Bishop with a salary not less than that provided for at his Consecration, the relation of such Missionary Bishop to the Board of Missions may be terminated by said Board.

Former Article VII was renumbered VIII.

Article VIII was renumbered IX, and amended to do away with the requirement that public missionary meetings should be held at the time and place of the meeting of the General Convention, and put the holding of such meetings as to time and place under the direction of the Board of Managers; also permitting auxiliaries approved by the Board of Managers to send representatives to such meetings.

Articles IX and X were renumbered X and XI respectively.

Convention of 1889

Article IV was amended in a number of particulars:

The former Article IV neglected to provide that the Board of Managers should have membership in the Missionary Council, a serious omission, as their presence in the council was necessary to insure a correct understanding of the details of the missionary work.

The former article also made no provision for diocesan representation in the Missionary Council; it only provided that the council should comprise a number of presbyters, and a number of laymen, each number equal to the number of bishops. The amendment provided that there should be one clerical and one lay delegate to the council from each diocese. No provision seems to have been made for any representation from missionary jurisdictions.

In case of a vacancy in a diocesan representation, the bishop was given power to fill the vacancy.

This article was further amended by adding at the close thereof the following:

There shall be appointed at each meeting of the General Convention and of the Missionary Council a Committee consisting of two Bishops, two Presbyters and two

laymen, together with the General Secretary of the Board of Missions, whose duty it shall be to arrange an order of work for the ensuing meeting of the Board of Missions, or of the Missionary Council.

In this amendment occurs the first mention of a general secretary of the Board of Missions. The Board of Managers in their report to the General Convention of 1886 strongly urged that provision be made for the appointment of such an officer, one who would be not a “mere Secretary and financial agent managing the office and pleading for means to support our missionary operations, but as the active living centre and representative of our work.”

The Board of Managers reported that they had adopted a by-law providing for such an officer, and had elected the Rev. Dr. Langford as secretary.

The board was given this power under the provisions of Article V, which provided that the board might “appoint such officers as shall be needful for carrying on such work, and to enact all by-laws, etc.”

Convention of 1892

The first paragraph of Article IV was amended to read as follows:

There shall be a Missionary Council of this Church. it shall comprise all the Bishops of this Church, all the members of the Board of Managers, such other clergymen or laymen as may be selected by the General Convention at its triennial meetings, and in addition thereto, one presbyter and one layman from each Diocese and Missionary Jurisdiction to be chosen by the Convention, Council, or Convocation of such Diocese or Missionary Jurisdiction. This Council so formed shall meet annually except in those years appointed for the meeting of the Board of Missions, at such time and place as may be designated by the Board of Managers with the approval of the presiding Bishop. Said Council shall be competent to take all necessary action in regard to the missionary work of the Church, which shall not conflict with the general policy of the Board of Missions as from time to time determined at its triennial session. It shall be competent for the Bishop of a Diocese or Missionary Jurisdiction to fill vacancies in the representation of his Diocese or Jurisdiction occurring by removal, resignation, or death, between the sessions of the Convention, Council, or Convocation of his Diocese or Missionary Jurisdiction.

The failure, hitherto, to provide for any representation from missionary jurisdictions in the Missionary Council was now corrected. The membership of the council was further enlarged by the provision for the appointment of such clergymen and laymen as might be selected by the General Convention.

No provision was made in the former article as to how the representatives from the several dioceses should be chosen. This was now remedied.

The article was further amended by striking out the proviso that the filling of vacancies in the Board of Managers should be restricted to members of the Missionary Council. The board was now left free to elect to such vacancies such persons as it might see fit to choose.

Convention of 1895

Article IV seems to have been a subject for amendment in every Convention, and the Convention of 1895 continued to amend it, as follows:

At the end of the second sentence were added the words:

said Presbyter and said laymen to continue for one year or until a successor is appointed.

Also, the words

which shall be competent to take all necessary action, in regard to the Missionary work of the Church which shall not conflict with the general policy of the Board as from time to time determined at its triennial sessions

were stricken out, and in place thereof the following words were inserted:

Said Council shall be competent to consider the Missionary work of the Church, to make such recommendations to the Board of Managers as it may deem expedient, and to increase interest in the work of the Board of Missions.

Instead of empowering the Missionary Council to take all necessary action regarding the missionary work of the Church, it was now confined to the making of recommendations to the Board of Managers, and to increasing the interest in the missionary work.

The canon was further amended by the addition of a new article to be numbered X, and to read as follows:

Whenever there shall be a meeting of the Board of Missions, as provided for in Article III. of this Canon, there shall be a roll call of the Bishops and of all deputations and delegations, and of the other members of the Board, and in all votes such call shall also be made whenever demanded by the Clerical or Lay Deputation of any Diocese, or by any three members appointed under Article III. A majority of the Board shall constitute a quorum for business. A majority of all members of the Board present at any meeting shall be necessary to pass any motion.

This article was enacted to prevent important action being taken when less than a majority of the members of the board were present.

Article X was renumbered as Article XI.

Convention of 1898

Article IV was again amended by the Convention.

In the second paragraph of said article, the words, “to be selected from the Missionary Council,” were stricken out.

In the first part of the article it was declared that the Missionary Council should comprise, among other members, “all the members of the Board of Managers.” This would seem to assume that the members of the Board of Managers were to be members of the council by reason of their office. In the second paragraph, however, the General Convention tied itself up to the appointment of the Board of Managers from the membership of the council. Formerly the Board of Managers in filling vacancies in its membership was restricted in like manner; but the Convention of 1892 removed this particular restriction. Hence it would appear as if that Convention, while intending to release the Board of Managers from any limitation in the matter, left it self-bound.

Attention to this fact was called by the Board of Managers in its report to the Convention, with the result that the restriction was removed.

Article VI was amended by adding at the end thereof, the following:

In Missionary Jurisdictions, both Foreign and Domestic, the titles to all Church property and funds, not distinctly parochial, shall be reported to the Board of Managers; and copies of all deeds conveying or affecting such property or funds shall be forwarded to the Board of Managers by the Bishop of the Jurisdiction.

Every Missionary Bishop shall annually report to the Board of Managers all contributions received by him for his work, except such as shall come to him through the Treasurer of the Board.

Under the provisions of the former Article IX the Board of Managers, in the appointment of agents to represent it in different parts of the country, was obliged to choose local agents. This restriction seemed unnecessary, and inadvisable, and was removed by striking the word “local.”

Convention of 1901

The only change made in this canon by the Convention of 1901 was the changing of the words “Missionary Jurisdiction” to “Missionary District,” wherever they occurred therein.

Convention of 1904

In the revision of the Digest of Canons by this Convention, Title III, Canon 7, was made Canon 52 and very radically amended to read as follows:

Of the Domestic and Foreign Missionary Society

The Constitution of the said Society, which was incorporated by an Act of the Legislature of the State of New York, as from time to time amended, is hereby amended and established so as to read as follows:

Constitution of the Domestic and Foreign Missionary Society of the Protestant Episcopal Church in the United States of America, as established in 1820, and since amended at various times.

ARTICLE I.

This Organization shall be called The Domestic and Foreign Missionary Society of the Protestant Episcopal Church in the United States of America, and shall be considered as comprehending all persons who are members of the Church. The Presiding Bishop of the Church shall be, *ex-officio*, the President of the Society.

ARTICLE II.

Sec. 1. There shall be a Board of Missions for the purpose of exercising the administrative functions of the Society, the members of which shall be triennially chosen and appointed by the General Convention of the Church.

Sec. 2. The Presiding Bishop shall be, *ex-officio*, the President of the Board of Missions. Fifteen other Bishops, fifteen Presbyters, and fifteen Laymen shall complete the active membership of the Board. The Board thus constituted shall exercise all the corporate powers of the Domestic and Foreign Missionary Society; its members shall remain in office until their successors are chosen, and they shall have power to fill any vacancies that may occur in their number, save when a vacancy occurs within three months of a meeting of the General Convention.

Sec. 3. The Board of Missions shall elect a Vice-President, who, in the absence of the President, *ex-officio*, shall preside at all meetings.

Sec. 4. The Bishops of this Church, other than those chosen for active membership, shall be honorary members of the Board, with all the rights and privileges of the elected members, except the right to vote.

Sec. 5. The Board of Missions may organize such Committees as may be needful for the better prosecution of its work, and may enact all necessary By-Laws for its own government and for the government of its Officers and Committees, subject always to the provisions of this Canon.

Sec. 6. For ordinary purposes, ten active members shall constitute a quorum, but for the election or removal of Officers and Committees, for the making of the annual appropriations or for changing the By-Laws, a majority of the active members must be present at a meeting.

Sec. 7. Each General Convention shall also elect a General Secretary and a Treasurer, to hold office until their places are filled by the General Convention. Each of these Officers may be removed by a two-thirds vote at any meeting of the Board of Missions.

Sec. 8. The General Secretary, so elected, shall nominate for election by the Board of Missions certain Associate Secretaries, their number to be determined by the said Board. The Board of Missions shall determine the division of work of any and all such Associate Secretaries. These additional Secretaries shall hold office during the pleasure of the Board of Missions by which they have been elected, or until their successors are appointed.

Sec. 9. The Treasurer shall nominate an Assistant Treasurer to be elected by the Board of Missions and to hold office during its pleasure, or until his successor is appointed. The Assistant Treasurer shall give bonds in such amounts as the Board of Missions may deem necessary.

Sec. 10. In the event of a vacancy occurring in the office of General Secretary or Treasurer between sessions of the General Convention, the Board of Missions shall appoint a successor to act during the unexpired term.

Sec. 11. The salaries of all the Secretaries and of the Assistant Treasurer shall be fixed by the Board of Missions. The Treasurer shall serve without compensation.

Sec. 12. The Board of Missions shall have power to appoint agents to represent the Society in different parts of the country, and is authorized to promote the formation of Auxiliary Missionary Associations, whose contributions, as well as those specially designated by individuals, shall be received and paid in accordance with the wish of the donors when expressed in writing.

ARTICLE III.

Sec. 1. The Board of Missions shall make a full annual report to the Church of its work by publication. It shall also make a triennial report to each General Convention, which report shall be the order of the day on the third day of the session. For the reception and the discussion of the report the House of Bishops and the House of Deputies shall sit in joint session; but all action upon the report shall be taken by the concurrent vote of the two Houses meeting separately.

Sec. 2. The Board of Missions shall also make frequent report to the Church at large alike of its transactions as a deliberative body and of the progress of its enterprises; that so all the members of the Society may be the more earnestly moved to intercessory prayer and generous giving.

Sec. 3. As a further means of obtaining accurate information concerning the progress of the Church's Missions, a committee, consisting of two Bishops, two Presbyters, and two Laymen, together with the Officers of the Domestic and Foreign Missionary Society, shall be appointed by each General Convention, to arrange with the Missionary Bishops and others to address joint sessions of the two Houses of the next following General Convention, upon the needs, conditions, and opportunities for Church extension in the several fields. This committee shall also arrange for the holding of public missionary mass meetings at the time and place of the General Convention, in consultation with the local committee of arrangements therefore. The report of this committee shall be submitted for approval at the opening of the joint session provided for in this Article.

Sec. 4. The elected members of the Board of Missions and the Secretaries, Treasurers, and Assistant Treasurer of the Domestic and Foreign Missionary Society shall have the right of the floor at all joint sessions of the two Houses at which missionary matters are under discussion, but without the right to vote unless they be also Deputies to the General Convention.

ARTICLE IV.

The Board of Missions shall, from time to time, arrange, through its officers, for the holding of Missionary Conferences for the systematic study of Missions and for the arousing among the people a greater missionary zeal. These Conferences shall be held in various parts of the country under such regulations as the Board may deem proper. The Missionary Conferences may pass advisory resolutions, and may memorialize or petition either the General Convention or the Board of Missions at any time.

ARTICLE V.

Sec. 1. Bishops of Missionary Districts shall draw their salaries from the treasury of the Society. The salaries shall, in all cases, date from the time of consecration, and shall not be diminished, in any case, during the official connection of the Bishop in question with the Board of Missions, except with the consent of said Bishop. Collections made by the

people of Missionary Districts for the support of their Bishops, shall be reported to the Board and accounted contributory to the salaries pledged as aforesaid.

Sec. 2. Whenever the Board shall be satisfied of the ability of a Missionary District to support its Bishop with a salary not less than that provided for at his Consecration, the relation of such Bishop to the Board of Missions may be terminated by said Board.

Sec. 3. Every Missionary Bishop shall annually report to the Board of Missions all contributions received by him for his work, except such as shall come to him through the Treasurer of the Society.

ARTICLE VI.

Sec. 1. In all organized Dioceses and Missionary Districts having Bishops in the Domestic field, the Board of Missions is authorized to make annual appropriations to be disbursed by the Bishops with the approval of the Standing Committee, Council of Advice, or Board of Missions of the Diocese or District, and whenever any of said Bishops may so elect, the Board of Missions shall act as above provided, instead of such Standing Committee, Council of Advice, or Board of Missions: *Provided*, that no part of such annual appropriation shall be expended for any other purpose than the support of Missionaries, or the supply of Mission Stations with clerical service, without the concurrence of the Board of Missions; and an itemized account of the expenditure of all appropriations shall be made annually to the President of the Board of Missions; and, *Provided*, that in the management of the Foreign Missions, the Bishops shall have as their Council of Advice the Board of Missions for the general schedule of expenditures; but for the details of the local work, they may have as their advisers the Council of Advice of their respective Districts.

Sec. 2. In the management and general expenditure of the Foreign Missions, the Bishop shall act with the advice and consent of the Board of Missions.

ARTICLE VII.

No person shall be appointed a Missionary, who is not, at the time, a Minister in regular standing of the Protestant Episcopal Church, or of some Church in communion with this Church; but nothing in this Article shall preclude the Board of Missions from employing lay men or women, members of this Church, or of some Church in communion with the same, to do missionary work.

ARTICLE VIII.

Sec. 1. This Constitution may be altered or amended at any time by the General Convention of this Church.

Sec. 2. All Canons and all action by or under the authority of the General Convention, so far as inconsistent with the provisions of this Canon, and of such amended Constitution, are hereby repealed: *Provided, however*, that nothing herein shall in any manner impair or affect any corporate rights of the said Society, or any vested right whatever.

Sec. 3. Every parish and congregation of this Church shall make at least one annual offering for the missionary work of the Church conducted by the Board of Missions.

Sec. 4. This Canon shall take effect immediately.

Under this canon the General Convention was no longer the Board of Missions. The former Board of Managers was now the Board of Missions, and the Presiding Bishop, *ex officio*, was the president of the board.

Convention of 1907

After the refusal of the House of Deputies, by noncurrence of orders, to concur with the House of Bishops in enacting a canon establishing the Provincial System, an amendment to the Missionary Canon was adopted as a substitute for provinces.

Section 12 of Article II was repealed, and in its place were inserted six new sections. These grouped the various dioceses of the Church into eight “departments” and made provision for the local organization, officers, and powers of such departments.

The text of these provisions is printed in the 1954 edition of this work, page 208.

Article VIII, Section 3 was amended by adding at the end of said section the following:

And it shall be the duty of every Minister in charge of a Parish or Congregation to inform himself and his Congregation of the needs of the work as officially set forth.

Convention of 1910

This Convention again materially amended Canon 52. Article II was amended so as to read as follows:

Sec. 1. There shall be a Board of Missions for the purpose of discharging the corporate duties of the Society.

Sec. 2. The Board of Missions shall be composed of forty-eight elected members, of whom sixteen shall be Bishops, sixteen shall be Presbyters, and sixteen shall be Laymen. Eight of said Bishops, eight of said Presbyters, and eight of said Laymen shall be elected triennially by the General Convention of the Church. Eight Bishops, eight Presbyters, and eight Laymen shall be elected triennially by the Missionary Council of the several Departments at the last meeting of the respective Councils prior to the triennial meeting of the General Convention, the Missionary Council in each Department choosing to represent it upon the Board of Missions, one Bishop, one Presbyter and one Layman. The persons so chosen may be residents within the limits of the Department, or all or any of them, at the option of said Council, may be chosen at large. The persons chosen by the Missionary Councils shall become members of the Board upon certification of their election to the Secretary of the House of Bishops and to the Secretary of the House of Deputies not later than the third day of the session of the General Convention. All members of the Board shall remain in office until their successors are elected. The Board shall have power to fill any vacancy that may occur through the death, resignation, or removal of any member elected by the General Convention, save when such vacancy shall occur within three months prior to a meeting of the General Convention. In case the Missionary Council in any department shall fail to elect one or more members to represent it on the Board or in case a vacancy occurs in the representation from any department at any time the Board shall have the power to fill said vacancy or vacancies, until such time as they shall be filled by the Missionary Council or Councils.

The three members of the board representing each Missionary Department shall in the year 1910 be elected during the session of the General Convention by the Bishops and

Clerical and Lay Deputies from the dioceses and missionary districts constituting said department.

Sec. 3. The General Convention shall elect the Presiding Officer of the Board of Missions, who shall be styled the President of the Board of Missions and shall be *ex officio* a member thereof. Bishops, Presbyters, and Laymen shall be eligible for said office. If a Bishop be chosen, he shall resign his jurisdiction (in accordance with Section 4 of Article II, of the Constitution), or make suitable provision for its care. Should he resign, a special jurisdiction may be assigned to him by the Presiding Bishop or by the House of Bishops. The person chosen shall hold office for six years, unless in the meantime he shall resign or be removed by the General Convention by a majority vote of each House, the House of Deputies voting by orders; but he shall be eligible for re-election.

The salary of the President of the Board of Missions shall be fixed and paid by the Board and shall not be diminished during his tenure of office. Upon reaching the age of sixty-five, the President may be retired and entitled to receive from the Board an annual pension of one-half the salary of which at that time he shall be in receipt. The President of the Board shall have his headquarters in the Church Mission House, and shall be the executive head of the Board and its presiding officer.

Sec. 4. The Bishops of this Church, other than those chosen for active membership, shall be honorary members of the Board, with all the rights and privileges of the elected members, except the right to vote.

Sec. 5. The Board shall hold four regular meetings in each year. Special meetings of the Board may be held in pursuance of resolutions of the Board, or may be convened by the President. It shall be the duty of the President to call a special meeting whenever thereunto requested in writing by three members of the Board in each Order.

The Board shall choose from its own membership an Executive Committee, to which large discretionary powers may be delegated. The President of the Board shall be *ex officio* Chairman of said Committee. The Board may organize auxiliary associations to co-operate with the Board in the furtherance of the missionary work of the Church. The Board may also enact all necessary by-laws for its own government and for the government of its officers and of the Executive Committee, subject always to the provisions of this Canon.

Sec. 6. For ordinary purposes, ten active members shall constitute a quorum, but for the election or removal of Officers and Committees, for the making of the annual appropriations or for changing the By-laws, a majority of the active members must be present at a meeting.

Sec. 7. Each General Convention shall elect a Treasurer of the Board of Missions, who shall hold office for three years, and shall be *ex officio* a member of the Board. Said officer shall be removable by a two-thirds vote at any meeting of the Board of Missions.

Sec. 8. Upon the nomination of the President of the Board of Missions, the Board shall elect such Secretaries as may be necessary, who shall perform such duties as the President of the Board shall assign to them. The persons so elected shall hold office during the pleasure of the Board of Missions, or until their successors are chosen.

Sec. 9. The Treasurer shall nominate an Assistant Treasurer to be elected by the Board of Missions and to hold office during its pleasure, or until his successor is appointed. The Treasurer and the Assistant Treasurer shall give bonds in such amounts as the Board of Missions may deem necessary.

Sec. 10. In the event of a vacancy occurring in the office of Treasurer between the sessions of the General Convention, the Board of Missions shall appoint a successor to act during the unexpired term.

Sec. 11. The salaries of all the Secretaries and of the Assistant Treasurer shall be fixed by the Board of Missions. The Treasurer shall serve without compensation. The Secretaries, the Treasurer and the Assistant Treasurer shall constitute a Council of Advice for the President. The scope of the powers of the Council shall be determined by the President, subject to the approval of the Board.

Sec. 12. The Dioceses and Missionary Districts, specified in this Section are grouped for Missionary purposes into eight Departments, as follows:

The First Department shall consist of the Dioceses within the States of Maine, New Hampshire, Vermont, Massachusetts, Rhode island, and Connecticut.

The Second Department shall consist of the Dioceses within the States of New York and New Jersey, and the Missionary District of Porto Rico.

The Third Department shall consist of the Dioceses within the States of Pennsylvania, Delaware, Maryland, Virginia, West Virginia, and the Diocese of Washington.

The Fourth Department shall consist of the Dioceses and Missionary Districts within the States of North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, Tennessee, and Kentucky.

The Fifth Department shall consist of the Dioceses within the States of Ohio, Indiana, Illinois, Michigan, and Wisconsin.

The Sixth Department shall consist of the Dioceses and Missionary Districts within the States of Minnesota, Iowa, North Dakota, South Dakota, Nebraska, Montana, Wyoming, and Colorado.

The Seventh Department shall consist of the Dioceses and Missionary Districts within the States of Missouri, Arkansas, Texas, Kansas, Oklahoma, and the Territory of New Mexico.

The Eighth Department shall consist of the Dioceses and Missionary Districts within the States of Idaho, Utah, Washington, Oregon, Nevada, California, and the Territories of Arizona, Alaska, and Hawaii, and of the Missionary Districts of the Philippine Islands.

Provided, however, That the composition of any Department shall be altered in accordance with the provisions of Section 11 of Canon 29, whenever a new Diocese or Missionary District shall be formed.

Sec. 13. Every department shall organize a Missionary Council auxiliary to the Board of Missions. Said Council shall be composed of all the Bishops officially resident with the Department and of four clerical and four lay representatives from each of the several Dioceses and Missionary Districts within said Department, to be elected by the Conventions or Councils of such Dioceses and by the Convocations of such Districts, respectively. *Provided,* that the Council may provide for the filling of vacancies occurring in the representation of the Dioceses or Missionary Districts within the Department; and *Provided, further,* that the Council may at any time increase or diminish the number of representatives from the Dioceses and Missionary Districts within the Department.

Sec. 14. The Missionary Council in any Department shall have the following powers:

First. To provide for its own organization and to select a descriptive name for the Department.

Second. To elect, subject to the approval of the Board of Missions, a Department Secretary who shall work under the direction of the Board, and whose compensation shall be fixed and paid by said Board. He shall hold office during the pleasure of the said Board.

Third. To elect as members of the Board of Missions a Bishop, a Presbyter and a Layman to be the representatives of the Department.

Fourth. To promote the holding of missionary meetings and to take all such measures to foster missionary interest within the Department as are not inconsistent with the Constitution and Canons of the General Convention, or of any Diocese or Missionary District within the Department.

Sec. 15. Each Department shall have the right to require that the Board of Missions, in making an annual apportionment shall make such apportionment in gross for subdivision by the Missionary Council thereof, as the said Council may determine.

The first three sections of Article III remained without change, except for a few verbal alterations.

Section 4 was amended to read as follows:

The President of the Board of Missions, the elected members thereof, the Secretaries, the Treasurer, the Assistant Treasurer, and the Department Secretaries, shall have the right of the floor at all joint sessions of the two Houses of the General Convention at which missionary matters are under discussion, but without the right to vote unless they are already entitled to vote as members of either House.

Article IV was made the first section of the new Article IV without amendment. A new section was added to this article to read as follows:

Sec. 2. (a) The support of the general missionary work of the Church is a responsibility resting upon all members of the Church, as individuals, and in their collective capacity as Congregations, Dioceses or Missionary districts.

(b) It is the duty of each Bishop and of each minister in charge of a congregation to make known the needs of the work to the people in his Diocese or Congregation.

(c) Every congregation of this Church shall make at least one annual offering for the missionary work of the Church, and each Minister in charge of a congregation and the lay officers thereof shall use all diligence to secure each year the funds required by the Board of Missions for the spread of Christ's Kingdom, at least to the amount of the apportionment for the year.

Minor changes were made in Article V.

Article VII was amended to read as follows:

No person shall be appointed a Missionary, who is not, at the time, a Minister in regular standing of this Church, or of some Church in Communion with this Church, or a member thereof. But nothing in this Article shall preclude the Board of Missions from employing for work not directly religious, according to their discretion, and at the request of the Bishop of the Diocese or Missionary District, other persons not so qualified.

Article VIII remained without amendment, save that Section 3 was stricken, as it was already included in Article IV, Section 2.

Convention of 1913

This Convention enacted a Canon of Provinces, thus providing for a provincial system in the Church. The expedient of missionary departments adopted in 1907 had proven a failure. Not possessing any power of legislation they were soon recognized, especially by the laymen, as more or less interesting debating assemblies, and were but slimly attended.

The adoption of the provincial system made necessary a change in the Missionary Canon, which was accordingly amended as follows:

Article II, Section 2, was amended to read as follows:

The Board of Missions shall be composed of forty-eight elected members, of whom sixteen shall be Bishops, sixteen shall be Presbyters, and sixteen shall be Laymen. Eight of said Bishops, eight of said Presbyters, and eight of said Laymen, shall be elected triennially by the General Convention of the Church. Eight Bishops, eight Presbyters, and eight Laymen shall be elected triennially by the several Provincial Synods at the last meeting of the respective Synods prior to the triennial meeting of the General Convention, the Synod in each Province choosing to represent the Province upon the Board of Missions, one Bishop, one Presbyter, and one Layman. The persons so chosen may be residents within the limits of the Province, or all or any of them, at the option of the Synod, may be chosen at large. The persons chosen by the Provincial Synods shall become members of the Board upon certification of their election to the Secretary of the House of Bishops, and to the Secretary of the House of Deputies, not later than the third day of the session of the General Convention. All members of the Board shall remain in office until their successors are elected. The Board shall have power to fill any vacancy that may occur through the death, resignation, or removal of any member elected by the General Convention save when such vacancy shall occur within three months prior to a meeting of the General Convention. In case the Provincial Synod in any Province shall fail to elect one or more members to represent it on the Board or, in case a vacancy occurs in the representation of any Province at any time, the Board shall have the power to fill said vacancy or vacancies until such time as they shall be filled by the Provincial Synod or Synods. The three members of the Board representing each Province shall in the year 1913 be the members elected by the Missionary Councils immediately preceding the meeting of the General Convention of that year and shall hold office until the General Convention of 1916, and until their successors are elected.

In Section 3 of the same article, the reference to Article II of the Constitution was changed by substituting Section 5 for Section 4.

Sections 12 and 13 of the same article were stricken, and the following sections were renumbered accordingly.

Section 14 of the same article was amended to read as follows:

Sec. 12. Each Provincial Synod shall have the right:

First: To elect subject to the approval of the Board of Missions, a Provincial Secretary who shall work under the direction of the Board, and whose compensation shall be fixed and paid by said Board. He shall hold office during the pleasure of the said Board.

Second: To elect as members of the Board of Missions, a Bishop, a Presbyter, and a Layman, to be the representatives of the Province.

Third: To promote the holding of Missionary Meetings and to take all such measures to foster missionary interests within the Province as are not inconsistent with the Constitution and Canons of the General Convention or of any Diocese or Missionary District within the Province.

Section 13 of the same article was amended to read:

Each Province shall have the right to require that the Board of Missions in making an annual apportionment shall make such apportionment in gross for sub-division by the Provincial Synod thereof, as the said Synod may determine.

Article III, Section 4, was amended by substituting "Provincial" for "Department."

Convention of 1916

The Convention of 1913, recognizing the ineffectiveness of the Church's missionary organization, appointed a Joint Commission on Missionary Organization and Administration to report to the Convention of 1916.

This commission in its report recommended four fundamental changes in organization, as follows:

1. That the General Convention shall recognize and assume its inherent responsibility for the missionary work of the Church.
2. That the Presiding Bishop, so soon as the office of Presiding Bishop becomes an elective office, shall be the active and responsible head of the Missionary Society.
3. That the work of the Board of Missions, the General Board of Religious Education, and the Commission on Social Service be coordinated and unified.
4. That the provision that the Board of Missions be composed of an equal number of Bishops, Presbyters, and Laymen be annulled.

The commission also recommended a number of changes in administration, and submitted a draft of canons embodying its recommendations. This draft of canons looked, somewhat, toward the same methods of organization and administration that were authorized by the Convention of 1919. The Convention of 1916, however, was not quite ready to effect so radical a change in the matter, and amended the Missionary Canon as follows:

Article II, Section 3, was amended by the addition thereto of the following:

If the office of President shall become vacant between sessions of the General Convention, the Board may elect a President, who shall hold office until the General Convention elects his successor. The Board of Missions may in its discretion elect from among its members a Vice-President and prescribe his duties, or any other communicant of the Church, whether clerical or lay, may be so elected and shall become, *ex officio*, a Member of the Board.

Article II was further amended by the addition of a new section to be numbered Section 5, and to read as follows:

At the General Convention of 1919, and at each subsequent Convention the Board of Missions shall submit a budget for the ensuing year, and a provisional estimate for each of the succeeding two years. The budget and estimate, and the report of the Board of Missions hereinafter required, shall be considered by the two Houses of General Convention in Joint Session assembled. Such Joint Session shall begin on the first Monday of the Convention, and shall continue for three consecutive days, or such part thereof as shall be necessary for the consideration and disposition of such budget and estimate and of such report, and for the consideration also of general questions of missionary policy and action. A report of action by the Joint Session shall be made to each of the two Houses for such concurrent action as may be necessary.

Article III, Section 1, was amended to read:

The Board of Missions so soon as practicable after the close of each fiscal year shall make and publish a full report to the Church of its work. This report shall contain an account of receipts and expenditures, and an exhibit of all trust funds and other resources of the Society.

The Board shall make a like report to each General Convention, which report shall include also a detailed statement of the salaries paid to all principal officers.

Article III, Section 4, was amended to read as follows:

The President and Vice-President of the Board of Missions, the elected members thereof, the Secretaries, the Treasurer, the Assistant Treasurer, and the Provincial Secretaries, shall have the right of the floor at all Joint Sessions of the two Houses of General Convention at which missionary matters are under discussion, and when such matters are under discussion in the House of Deputies the President and Vice-President shall likewise have the right of the floor.

Article V, Section 3, was amended to read as follows:

Every Bishop of a Missionary District shall make an annual report to the Board of Missions of the funds received for the work of his District, together with a specification of all disbursements thereof made by him or under his direction. This report shall include a statement of the funds received directly by the Bishop, by Trustees (whether incorporated or unincorporated), or by any local fiscal officer, and whether received from the treasury of the Domestic and Foreign Missionary Society or from any other source. For the making of such report, the Treasurer of the Board shall provide suitable blanks prepared in conformity with a uniform system of accounting which the Board of Missions shall establish for all Missionary Districts.

Article VI, Section 1, was amended by striking out the words “and an itemized ... Board of Missions,” and substituting therefor the following:

and an itemized account of the expenditure of any appropriation received by a Diocesan Bishop shall be made by him annually to the Board of Missions.

Article VI was further amended by striking Section 2.

Convention of 1919

Canon 57, "Of the Domestic and Foreign Missionary Society," was renumbered as Canon 59 and amended by striking out all of said canon except the first article and the matter preceding it. Article I was amended by adding thereto the following:

Each General Convention shall elect a Treasurer of the Society who shall hold office for three years and until his successor shall be elected.

This amendment was contained in former Article VIII of Canon 57.

A new article was added, providing in the first section thereof that the Presiding Bishop and Council should be the directors of the society and were to exercise all its powers.

The second section of Article II provided how the Constitution of the Society might be amended.

Most of the subject matter contained in former Canon 57 was incorporated in the new Canon 60, "Of the Presiding Bishop and Council."

Convention of 1922

This Convention renumbered the canon as Canon 60, amended Article I, rewrote Article II, Section 1, added a new Article III, and enacted the former Article II, Section 2, as Article IV, so that it read as follows:

ARTICLE I.

This organization shall be called the Domestic and Foreign Missionary Society of the Protestant Episcopal Church in the United States of America, and shall be considered as comprehending all persons who are members of the Church. Until a Presiding Bishop is elected in accordance with the Constitution the Presiding Bishop of the Church shall be the Honorary President of the Society.

ARTICLE II.

The National Council, as constituted by Canon, shall exercise all the powers of the Society, shall be its Board of Directors, and shall adopt by-laws for its government not inconsistent with the Constitution and Canons.

ARTICLE III.

The officers of the Society shall be a President, a Vice-President, a Secretary and a Treasurer. The President shall be the Presiding Bishop elected in accordance with the Constitution, and until such Presiding Bishop is so elected, the President of the National Council shall be *ex-officio* President of the Society. The Vice-President shall be the person who is the Vice-President of the National Council, and he shall have such powers and perform such duties as may be assigned to him by the by-laws. The Treasurer of the Society shall be elected by the General Convention, and shall hold office for three years and until his successor shall be elected and qualified. In the event of a vacancy in the office of Treasurer through death, resignation or disability, the Directors of the Domestic and Foreign Missionary Society shall appoint a Treasurer to fill such vacancy until the General Convention shall elect a Treasurer. The Secretary shall be the person who is the Secretary of the National Council. The Board of Directors may make by-laws to provide for the appointment of subordinate administrative officers. The tenure of

office, compensation, powers and duties of the officers of the Society shall be such as are prescribed by the Canons and by the by-laws of the Society not inconsistent therewith.

ARTICLE IV.

This Constitution of the Society may be altered or amended at any time by the General Convention of the Church.

Convention of 1931

The canon was renumbered Canon 58, the second sentence of Article I was deleted, and the words “shall exercise all the powers of the Society” were dropped from Article II.

Article III was amended to read as follows:

The officers of the Society shall be a President, two Vice-Presidents, a Secretary, a Treasurer and such Assistant Secretaries and Assistant Treasurers as may be appointed in accordance with the Canons or by-laws. The President shall be the Presiding Bishop of the Church, elected in accordance with the Constitution, and in the event of a vacancy in the office of Presiding Bishop, caused by death, resignation or inability to serve, the Presiding Officer of the National Council shall be ex-officio President of the Society. The two Vice-Presidents shall be the persons who are the Vice-Presidents of the National Council and they shall have such powers and shall perform such duties as may be assigned to them by the by-laws. The Treasurer of the Society shall be elected by the General Convention, and shall hold office for three years and until his successor shall be elected and qualified. In the event of a vacancy in the office of Treasurer through death, resignation or disability, the Directors of the Domestic and Foreign Missionary Society shall appoint a Treasurer to fill such vacancy until the General Convention shall elect a Treasurer. The Secretary shall be the person who is the Secretary of the National Council. The other officers of the Society shall be such as are provided for by the by-laws thereof. The tenure of office, compensation, powers and duties of the officers of the Society shall be such as are prescribed by the Canons and by the By-laws of the Society not inconsistent therewith.

Convention of 1937

The Canon was renumbered Canon 59, and the first part of Article III was amended to read as follows:

The officers of the Society shall be a President, a Vice-President, a Secretary, a Treasurer and such Assistant Secretaries and Assistant Treasurers as may be appointed in accordance with the Canons or By-laws. The Presiding Bishop of the Church shall be the President of the Society; the Vice-President shall be the person who is the Vice-President of the National Council in executive charge (under the Presiding Bishop) of administration, and shall have such powers and shall perform such duties as may be assigned to him by the By-laws.

Convention of 1943

In the rearrangement adopted by this Convention, this canon was renumbered Canon 3 and amended to its present form, except that the provisions for the election of the treasurer remained the same as in 1931 and the Council was still designated the “National Council.”

Convention of 1958

The date in the preamble to this canon was corrected from 1820 to 1821.

Convention of 1964

Article III was amended by changing the name of the Council to “Executive Council” and by providing that the treasurer of the General Convention, rather than a specially elected treasurer, should be the treasurer of the Council, so as to read as at present.

EXPOSITION OF CANON I.3

The Domestic and Foreign Missionary Society is the corporate body of the national Church, General Convention not being incorporated, and, until the formation of the Episcopal Church Foundation in 1949, the only corporate body for receipt of gifts and legacies for administration by national authority.

While all the powers and duties of the Domestic and Foreign Missionary Society are to be exercised by the Executive (formerly the National) Council, whose members are the directors of the society, it was necessary to retain the prefatory matter and Article I of the canon as it stood before 1919, as well as to provide for the officers of the society, as the society was an incorporated body, holding the title to the real estate of said society. The only present function of the society is to act in the nature of a holding corporation.

The Missionary Society may be said to have had its actual beginning in the special Convention of 1821, when a constitution was adopted for its government. A constitution was indeed adopted in 1820, but it was so imperfect that it was found impossible to effect any organization of the society under its provisions.

In the first few years of its existence, the Church gave meager support to its missionary work, and it was not until 1835 that the Church awoke to its responsibilities in the matter. The General Convention of that year enunciated two great principles: first, that every baptized member of the Church was a member of the society, and, second, that the whole world was its field of work. The constitution of the society was amended so as to make it more effective; a canon was enacted providing for the election of missionary bishops, and the whole Church began to be pervaded by a true missionary spirit.

It was not, however, until fifty years after the Missionary Society had been established, that the General Convention, in 1871, enacted a

missionary canon, and not until 1877, that the constitution of the society was enacted as a canon of the General Convention.

The General Convention of 1919, recognizing that it must assume the inherent responsibility for the whole work of the Church; that the work of religious education, and of Christian social service, were both different phases of missionary work and should, therefore, be co-ordinated and unified, and that there ought to be an active and responsible head to all this work, enacted a canon establishing "The Presiding Bishop and Council" to take the place of the former canon "Of the Domestic and Foreign Missionary Society," and to administer the work of missions, religious education, and Christian social service.

The present canon, "Of the Domestic and Foreign Missionary Society," is the constitution of the society. The first article prescribes the name of the society, and who are to be considered as members thereof.

Article II provides that the Executive Council shall be the directors of the society and shall adopt by-laws.

Article III provides for the officers of the society.

Article IV provides for the amendment of the constitution of the society.



CANON 4. Of the Executive Council

Function. Sec. 1 (a). There shall be an Executive Council of the General Convention (which council shall generally be called simply the Executive Council) whose duty it shall be to carry out the program and policies adopted by the General Convention. The Executive Council shall have charge of the unification, development, and prosecution of the Missionary, Educational, and Social Work of the Church, and of such other work as may be committed to it by the General Convention.

Accountability. (b). The Executive Council shall be accountable to the General Convention and shall render a full report concerning the work with which it is charged to each meeting of the said Convention.

How constituted. (c). Except as its membership may include additional persons elected prior to the adjournment of the meeting of the General Convention in 1976 for terms which have not expired, the Executive Council shall be composed (a) of twenty members elected by the General Convention, of whom four shall be Bishops, four shall be Presbyters or Deacons, and twelve shall be Lay Persons (two Bishops, two Presbyters or Deacons, and six Lay Persons to be elected by each subsequent regular meeting of the General Convention); (b) of eighteen members elected by the Provincial Synods; and (c) of the following *ex officio* members: the Presiding Bishop and the President of the House of Deputies. Each Province shall be entitled to be represented by one Bishop or Presbyter or Deacon canonically resident in a Diocese which is a constituent

member of the Province and by one Lay Person who is a communicant of a Diocese which is a constituent member of the Province, and the terms of the representatives of each Province shall be so rotated that two persons shall not be simultaneously elected for equal terms.

How elected. Sec. 2 (a). Of the members to be elected by the General Convention, the Bishops shall be elected by the House of Bishops subject to confirmation by the House of Deputies, and the Presbyters or Deacons and Lay Persons shall be elected by the House of Deputies subject to confirmation by the House of Bishops.

Term of office. (b). Except in the case of members initially elected for shorter terms in order to achieve rotation of terms, the terms of office of the members of the Council (other than *ex officio* members) shall be equal to twice the interval between regular meetings of the General Convention. The terms of office of all members shall commence immediately upon the adjournment of the General Convention at which they were elected, or in the case of election by a Synod, upon the adjournment of the first regular meeting of General Convention following such election. Members shall remain in office until their successors are elected and qualified. No person who has served at least three consecutive years on the Executive Council shall be eligible for immediate reelection for a term of more than three years. After any person shall have served six consecutive years on the Executive Council, a period of three years shall elapse before such person shall be eligible for re-election to the Council.

Vacancies, how filled. (c). Should any vacancy occur in the Council through the death or resignation of a member elected by the General Convention or through the change in status of any such member by consecration or ordination, the Council shall fill such vacancy by the election of a suitable person to serve until his successor is elected by the General Convention. The General Convention shall elect a suitable person to serve the portion of any term which will remain unexpired.

(d). Should any vacancy occur in the Council through the failure of any Provincial Synod to elect a member, or through the death, resignation, or removal from the

Province, of any such member, the President and Executive Council of the Province shall appoint a suitable person, canonically resident in such Province, to serve until the Provincial Synod shall by election fill the vacancy.

Powers of Council. (e). The Council shall exercise the powers conferred upon it by Canon, and such further powers as may be designated by the General Convention, and between sessions of the General Convention may initiate and develop such new work as it may deem necessary. It may, subject to the provision of this Canon, enact By-laws for its own government and the government of its several departments.

(f). In its capacity as the Board of Directors of The Domestic and Foreign Missionary Society, the Council shall have the power to direct the disposition of the moneys and other property of said Society in accordance with the provisions of this Canon and the orders and budgets adopted or approved by the General Convention.

Officers of Council. Sec. 3. The Presiding Bishop shall be *ex officio* the President. The Secretary of the General Convention shall be *ex officio* the Secretary. The Executive Council shall elect the Vice-Presidents and the Treasurer, such elections to be upon the nomination of the President. The additional officers, agents, and employees of the Council shall be such and shall perform such duties as the Presiding Bishop and the Council may from time to time designate.

Meetings. Sec. 4 (a). The Council shall meet at such place, and at such stated times, at least three times each year, as it shall appoint and at such other times as it may be convened. The Council shall be convened at the request of the President, or on the written request of any nine members thereof.

Quorum. (b). A majority of the elected members of the Council shall be necessary to constitute a quorum at any meeting of the Council. No action shall be taken in the name of the Council except when a quorum, so defined, is present and voting.

Salaries. Sec. 5 (a). With the exception of the salary of the President, the salaries of all officers of the Council and of all agents and employees of the Council shall be fixed by the Council and paid by the Treasurer.

Program Budgets and Apportionment. Sec. 6 (a). The Council shall submit to the General Convention at each regular session thereof a program for the ensuing budgetary period, which budgetary period shall be equal to the interval between regular meetings of the General Convention. The program so submitted shall include a detailed budget of that part of the program for which it proposes to make appropriations for the ensuing year, and estimated budgets for the succeeding portion of the budgetary period.

After the preparation of the budget the Executive Council shall, at least four months before the sessions of the General Convention, transmit to the Bishop of each Diocese and to the President of each Province a statement of the existing and the proposed appropriations for all items in the budget. The Executive Council shall also submit to the General Convention with the budget a plan for the apportionment to the respective Dioceses of the sum needed to execute the program.

Joint Sessions for the presentation of program. (b). There shall be joint sessions of the two Houses for the presentation of such program; and thereafter consideration shall be given and appropriate action taken thereon by the General Convention. The Council shall have the power to expend all sums of money covered by the budget and estimated budgets approved by the Convention, subject to such restrictions as may be imposed by the General Convention. It shall also have power to undertake such other work provided for in the program approved by the General Convention, or other work under the jurisdiction of the Council, the need for which may have arisen after the action of the General Convention, as in the judgment of the Council its income will warrant.

Notice of allotted objectives to be given. (c). Upon the adoption by the General Convention of a program and plan of apportionment for the budgetary period, the Council shall formally advise each Diocese with respect to its proportionate part of the estimated expenditure involved in the execution of the program in accordance with the plan of apportionment adopted by the General Convention. Such objectives shall be determined by the Council upon an equitable basis.

Diocese to allot objectives to Parishes. (d). Each Diocese shall thereupon notify each Parish and Mission of the amount of the objective allotted to such

Diocese, and the amount of such objective to be raised by each Parish or Mission. Each Diocese shall present to each Parish and Mission a total objective which shall include both its share of the proposed Diocesan Budget and its share of the objective apportioned to the Diocese by the Executive Council in accordance with the plan adopted by the General Convention.

Report Form. (e). The Executive Council shall approve a standard form for use in Dioceses, for the purpose of showing receipts and the distribution of receipts for all purposes. Each Diocese shall annually report to the Executive Council all receipts and the distribution of such receipts on the standard form.

Bishops receiving aid to report to Council. Sec. 7 (a). Every Missionary Bishop or, in case of a vacancy, the Bishop in charge of the jurisdiction, receiving aid from the Council, shall report at the close of each fiscal year to the Council, giving account of his work, of money received from all sources and disbursed for all purposes, and of the state of the Church in his jurisdiction at the date of such report, all in such form as the Council may prescribe.

(b). Every Bishop of a Diocese receiving aid from the Council shall report at the close of each fiscal year to the Council, giving account of the work in his Diocese supported in whole or in part by the Council.

Reports of the Council. Sec. 8. The Council, as soon as practicable after the close of each fiscal year, shall make and publish a full report of its work to the Church. Such report shall contain an itemized statement of all receipts and disbursements and a statement of all trust funds and other property of The Domestic and Foreign Missionary Society, and of all other trust funds and property in its possession or under its control. The Council shall make a like report, including a detailed schedule of the salaries paid to all officers, agents, and principal employees, to each General Convention.

Qualifications of Missionaries. Sec. 9 (a). Ordained Ministers and lay Communicants of this Church, or of some Church in communion with this Church, in good standing, who qualify in accordance with the standards and procedures adopted from time to time by the Executive Council, shall be eligible for appointment as Missionaries of this Church.

- Employment of non-communicants.* (b). Members in good standing of Churches not in communion with this Church, but otherwise qualified as above, may, at the request of the Ecclesiastical Authority of the jurisdiction in which the requirement exists, be employed and assigned to positions for which they are professionally prepared; and may receive the same stipends and other allowances as appointed Missionaries. The Ecclesiastical Authority of a jurisdiction may employ
- a) *Professionals.* any qualified person for work in the jurisdiction.
- b) *Others.*



This canon was Canon 60 when it was adopted in 1919. It became Canon 4 in 1943, and Title I, Canon 4, in 1970.

Before the Convention of 1919, much of the subject matter of this canon was contained in the canon "Of the Domestic and Foreign Missionary Society." See Title I, Canon 3, above.

Convention of 1919

The report of the Joint Commission on Missionary Organization and Administration, recommending radical changes therein, made to the Convention of 1916, failed to be approved by that Convention. There was, however, strong sentiment in the Church that there should be a co-ordination of the missionary, religious education, and social service departments; and a closer relation between the Presiding Bishop, especially when that officer became an elected officer, and the several departments of the Church's work. Added to that was the belief that the Board of Missions was no longer functioning as it ought, and that a different method of administering the Church's missionary work must be found if that work was to be successful in the future. None felt this more strongly than did the officers of the Board of Missions, and none advocated a change in methods more urgently than did they. It was recognized that if any changes therein were to be made by the General Convention of 1919, some concrete plan, embodied in a canon, must be presented to that Convention. Accordingly, early in the spring of 1919, committees from the Board of Missions, the General Board of Religious Education, and the Joint Commission on Social Service, met with the chairman of the Committee on Canons of the House of Deputies, for the purpose of formulating a canon that would co-ordinate the different departments of the Church's work, uniting them under one organization, of which the Presiding Bishop should be the chief executive, the actual as well as the nominal head. This joint special committee prepared a proposed canon which was introduced into the General Convention of 1919, and

after having been amended by the committee on canons of both houses, meeting together, was finally enacted as Canon 60, and read as follows:

Of the Presiding Bishop and Council

Sec. 1. The Presiding Bishop and Council, as hereinafter constituted, shall administer and carry on the Missionary, Educational, and Social work of the Church, of which work the Presiding Bishop shall be the executive head.

Sec. 2. The Presiding Bishop and Council shall exercise all the powers of The Domestic and Foreign Missionary Society, as provided in Canon 59, Article II, Section I, and have charge of the unification, development and prosecution of the work of Missions, Church Extension, Religious Education, and Christian Social Service; of the performance of such work as may be committed to them by the General Convention, and of the initiation and development of such new work between the sessions of the General Convention as they may deem necessary, subject, however, to the provisions of the Constitution and Canons and other directions of the General Convention.

Sec. 3. (i.) The Council shall be composed of the following members: sixteen to be elected triennially by the General Convention of the Church, of whom four shall be Bishops, four Presbyters, and eight Laymen, communicants of the Church, and of eight members to be elected by the Provincial Synods at their last meeting prior to the triennial meeting of the General Convention, each Synod having the right to elect one member, and of the Vice-President and Treasurer as hereinafter provided. The member of the Council representing each Province shall, in the year 1919, be elected by the Bishops and the Clerical and Lay Deputies attending the Convention of 1919 from the constituent Dioceses and Missionary Districts of such Province. In the event of a failure of any Provincial Synod to elect a member of the Council, election shall be made by the General Convention.

(ii.) Members of the Council shall remain in office until their successors are elected. The Presiding Bishop and Council shall have power to fill any vacancies that may occur through the death, resignation, or removal of any member elected by the General Convention. When a vacancy occurs in the representation of a Province, save when the same happens within one month prior to a meeting of the Synod thereof, the Presiding Bishop and Council shall fill such vacancy by the appointment of a person, canonically resident in such Province, who shall hold office until his successor is elected.

Sec. 4. Until a Presiding Bishop shall have been elected in accordance with the provisions of the Constitution, a Bishop shall be elected in like manner to exercise the powers assigned in this Canon to the Presiding Bishop as President of the Council.

Sec. 5. The Council may, in its discretion, elect one of its own members or any other male communicant of the Church, whether clerical or lay, to be Vice-President of the Council, and prescribe his duties. The Vice-President, when elected, if not already a member of the Council, shall become, *ex officio*, a member thereof. The Presiding Bishop and Council shall also elect a Secretary.

Sec. 6. The Presiding Bishop and Council shall organize from the membership of the Council the following Departments, and shall determine the scope of the work of each Department.

First: A Department of Missions and Church Extension.

Second: A Department of Religious Education.

Third: A Department of Christian Social Service.

Fourth: A Department of Finance.

Fifth: A Department of Publicity.

The Presiding Bishop and Council shall have power to organize such other Departments as the work may demand.

Each Department shall have power to appoint, subject to confirmation by the Presiding Bishop and Council, additional members of the Department, not to exceed twelve in number, who shall have seats and votes in the Department, but without seats and votes in the Council. Women shall be eligible as additional members.

The Presiding Bishop shall be, *ex officio*, the chairman of each Department. The Presiding Bishop and Council may also enact all necessary by-laws for their own government, and for the government of the several Departments, subject to the provisions of this Canon. Each Department shall make to the Presiding Bishop, annually, and at such other times and in such form as he may require, a report of the work done under its direction.

Sec. 7. The Presiding Bishop and Council shall submit to each General Convention after the year 1919, for its approval and adoption, a budget for all the work, committed to them, including the general work of the Church, and for such other work as they may have undertaken, or purpose to undertake for the ensuing year, and a provisional estimate for each of the succeeding years. Provision shall also be made in the said budget for the necessary and reasonable expenses of the officers and members of the Council. Such budget and estimate shall be considered by the General Convention and appropriate action taken. The Presiding Bishop and Council shall have the power to expend all sums of money provided for in the budget as adopted by the General Convention. They also shall have power to expend any money actually received by them in any year over and above the amount required for the budget of that year for the work above described. The budget as adopted by the Convention shall be sent by the Presiding Bishop and Council to each of the Provinces, and to each Diocese and Missionary District within the Province. There shall be joint sessions of both Houses in each General Convention for the presentation of the subject relating to the work of the Departments as follows: Two for the Department of Missions and Church Extension, not exceeding two hours each; one for the Department of Religious Education not exceeding two hours; one for the Department of Christian Social Service not exceeding two hours; *Provided, however*, that the time allotted to any Department may be extended by the General Convention.

Sec. 8. The Council shall meet with the Presiding Bishop at such stated times as it, with his concurrence, shall appoint, at least four times a year, and at such other times as he shall convene it. Nine elected members of the Council, with the Presiding Bishop or Vice-President, shall constitute a quorum.

Sec. 9. The Treasurer of The Domestic and Foreign Missionary Society shall be the Treasurer of the Council. He shall hold office for three years, and until such time as his successor is elected, and shall be *ex officio*, a member of the Council. He shall be the Treasurer of all the funds collected and administered by the Presiding Bishop and Council.

Sec. 10. The Treasurer shall nominate such Assistant Treasurers as may be necessary, to be appointed by the Presiding Bishop and Council, to hold office during the pleasure of the Presiding Bishop and Council, or until their successors are appointed. The

Treasurer and the Assistant Treasurers shall give bonds in such form and amounts as the Presiding Bishop and Council may determine. The accounts of the Treasurer and Assistant Treasurers shall be audited, annually, by certified public accountants.

Sec. 11. In the event of a vacancy occurring in the office of Treasurer between the sessions of the General Convention, the Presiding Bishop and Council shall appoint a successor to act during the unexpired term, and until his successor is elected.

Sec. 12. Upon the nomination of a Department, the Presiding Bishop and Council may appoint an Executive Secretary and such other secretaries as may be necessary, who shall perform such duties as the Department shall assign to them, subject to the approval of the Presiding Bishop and Council. The persons so appointed shall hold office during the pleasure of the Presiding Bishop and Council.

Sec. 13. The salaries of all officers, other than that of the Presiding Bishop, shall be fixed by the Presiding Bishop and Council.

Sec. 14. Each Provincial Synod shall have the right to nominate for appointment by the Presiding Bishop and Council, one or more Provincial Secretaries who shall work under the direction of, and whose compensation shall be fixed and paid by the Presiding Bishop and Council. Such Secretaries shall hold office during the pleasure of the Presiding Bishop and Council.

Sec. 15. The Presiding Bishop and Council, in making an annual apportionment or an annual appropriation, if requested by the Province, shall make such apportionment or appropriation for and from the several funds in each Department, for subdivision by the Synod thereof. *Provided*, that in the case of Alaska and extra-continental Districts, all appropriations shall be made and paid to them direct. Each Province shall make a full report to the Presiding Bishop at the close of each fiscal year of the condition of its work. The sums appropriated as herein provided shall be paid by the Treasurer of the Presiding Bishop and Council to the several Dioceses and Missionary Districts within each Province. In making appropriations as provided herein, the Presiding Bishop and Council shall not appropriate funds received for the work of one Department, for the prosecution of the work of any other Department.

Sec. 16. The Presiding Bishop and Council as soon as practicable after the close of each fiscal year, shall make and publish a full report to the Church of their work. This report shall contain an itemized statement of all receipts and disbursements, and a statement of all trust funds and other property of The Domestic and Foreign Missionary Society, and also of all other trust funds and property in their possession, or under their control. The Presiding Bishop and Council shall make a like report to the General Convention, which shall also include a detailed statement of the salaries paid to all principal officers.

Sec. 17. The salaries of all Bishops of Missionary Districts shall be paid by the Treasurer. Such salaries shall date from the time of the Bishop's consecration, or from the date of his translation, if already consecrated, and shall not be diminished while the Bishop remains in charge of a District, except with the consent of the said Bishop; *Provided, however*, that contributions made directly to Missionary Districts for the support of their Bishops shall be reported by the said Bishops to the Presiding Bishop and Council, and upon the receipt of such report, the amount paid by the Treasurer toward the salary of the Missionary Bishop shall be reduced to the extent of such contribution.

Sec. 18. Whenever the Presiding Bishop and Council shall be satisfied of the ability of a Missionary District to support its Bishop with a salary of not less than that which he was then receiving, the Presiding Bishop and Council may, in their discretion, discontinue payment of a salary to the said Bishop.

Sec. 19. Every Missionary Bishop, or in case of a vacancy, the Bishop in charge of the District, shall report annually to the Presiding Bishop, and shall give an account of his proceedings, of money received from all sources, and disbursed for all purposes, and of the state of the Church in his District at the date of his report, at such time and in such form as the Presiding Bishop shall prescribe. Reports so made shall be submitted by the Presiding Bishop to the Council.

Sec. 20. No person shall be appointed a Missionary who is not, at the time, a Minister or a member of this Church, or of some Church in communion with this Church, in regular standing, except that the Presiding Bishop and Council may employ for work not directly religious, according to their discretion, and at the request of the Bishop of the Diocese or Missionary District, other persons not so qualified.

Sec. 21. (i) The Bishop elected pursuant to Section 4 of this Canon, and the Council, shall enter upon the discharge of their duties on the first day of January, in the year of our Lord, 1920. They shall be the sole custodian of all the records of The Domestic and Foreign Missionary Society, and of the Board of Missions, and the said records shall be delivered to the said Council by the Board of Missions on or before the 31st day of December, 1919.

(ii) The Presiding Bishop and Council shall likewise be the sole custodian of all the property, both real and personal, of The Domestic and Foreign Missionary Society, including all income therefrom.

(iii) The Presiding Bishop and Council shall have power to disburse the money of The Domestic and Foreign Missionary Society in accordance with the provisions of the budget as adopted by the General Convention.

(iv) The Joint Commission on Social Service, on or before the 31st day of December, 1919, shall transfer and deliver to the Council all of its records and property of whatever kind, to be used and expended by the Presiding Bishop and Council in accordance with the provisions of this Canon.

(v) The Council shall also have power and authority to receive from the General Board of Religious Education any or all of its property, of whatever kind, to be used and expended by the Presiding Bishop and Council in accordance with the provisions of this Canon.

Sec. 22. Canon 59 is hereby repealed, the repeal to take effect January 1, 1920. All other Canons so far as the same are inconsistent with the provisions of this Canon are hereby repealed.

Sec. 23. This Canon shall take effect immediately.

The Convention of 1916 had ordered the Board of Missions to bring to the Convention of 1919 a detailed budget of expenditures for the first and two succeeding years of the coming triennium, which was a revolutionary step at that time.

Bishop Lloyd, president of the Board of Missions, had the vision to see what these instructions meant and the courage to act accordingly. It was the beginning of the whole idea of a program of work to be done, instead of a sum of money to be raised. The budget would evolve in its proper perspective as the cost of executing the program.

Bishop Lloyd realized that in order to present such a program to the General Convention there must be a survey of all the missionary work of the Church at home and abroad in order to find out what should go into the program and budget to be submitted in 1919.

He further realized that, in order to do a complete job, the Board of Missions must join with the General Board of Religious Education and the Joint Commission on Social Service and present the full needs of what he preferred to call "The Church's Mission." His thesis was that we were not dealing with three things but with three phases of the one mission of the Church.

Without any authority adequate to his vision, he took it upon himself to invite the general board and the joint commission to join in this unified survey and presentation to the 1919 Convention. Thus was born the Nation Wide Campaign of 1919.

When the Convention was presented with a uniform program or plan of work, sentiment swung in favor of the proposed new canon because the Convention saw that it would take a National Council to administer such a program, and it is believed that Bishop Lloyd's leadership played a determining part in the decision of the Convention of 1919 to scrap all of its unrelated boards and agencies and adopt the unified council form of organization.

This canon was enacted after the Convention of 1919 had finally enacted the amendment to Article I of the Constitution providing for the election of the Presiding Bishop of the Church upon the expiration of the term of office of the then Presiding Bishop, and hence provision was made that such Presiding Bishop should be the executive head of the whole work of the Church. It was for this reason that the name "Presiding Bishop and Council" was adopted as expressing the administrative features of the canon.

Convention of 1922

Three years' experience under the Canon of 1919 showed, as it was expected, that certain amendments to the canon were advisable. The amending of Canon 60 of 1919 was referred to a special committee of the Presiding Bishop and Council, which committee decided to recast the whole canon, and submitted to the Presiding Bishop and Council the draft of a proposed canon, which, having been approved by that body, was introduced into both houses of the Convention of 1922, and after being amended in both houses was finally enacted.

Section 1 (i) as amended was practically the same as former Section 1, except that the name "National Council" was substituted for the

former name “Council,” and the Presiding Bishop was made the administrative as well as the executive head of the Church’s work.

Section 1 (ii) was former Section 4, amended so as to provide for the election of a president of the council in case of a vacancy in that office.

Section 2 (i) was former Section 3 (i), amended by providing that the National Council shall be known as the Council, and that the president, vice-president, and treasurer shall be *ex officio* members thereof. A new provision was incorporated in this clause, that at the General Convention of 1925 one-half of the members elected by the General Convention should be elected for terms of three years each, and the other half for terms of six years each, and thereafter members elected by the Convention to be elected for terms of six years each. The former provisions relating to the election of members in 1919 were stricken out as being no longer necessary.

Section 2 (ii) was the former Section 3 (ii) amended to provide that the term of office of members of the Council, except the president, until 1925, shall be three years, and that such term of office shall commence on the first day of January next after each regular meeting of the General Convention. The former provision that if a vacancy occurred in the representation of a province, except when such vacancy occurred within one month prior to the meeting of the synod of such province, the Presiding Bishop and Council might fill such vacancy, was stricken out, and the power of appointment to fill such vacancy placed in the hands of the president of the province. The causes of vacancies were also more definitely stated.

Section 2 (iii) was former Section 2, amended by making the Council the custodian of all the records and property of the Domestic and Foreign Missionary Society, including the income therefrom, and giving it power to expend such income in accordance with the provisions of this canon, and the orders and budgets adopted or approved by the General Convention. It was also given power to enact by-laws for its own government and the government of the several departments, a power which was formerly contained in Section 6.

Section 3 (i) was former Section 5, amended by making it mandatory upon the Presiding Bishop to appoint, subject to confirmation by the Council, a vice-president, who shall be the vice-president of the several departments as well as of the Council, and who is to perform such duties as may be assigned to him by the Presiding Bishop. Under the former canon, the appointment of a vice-president was placed in the hands of the Council and made discretionary.

Section 3 (ii) providing for the election of a secretary was practically the same as the last sentence of former Section 5.

Section 4 (i) was a reenactment of former Section 9, except that the last sentence thereof was stricken out.

Section 4 (ii) was practically the same as the first sentence of former Section 10, but amended by giving the treasurer power to appoint his assistants, subject to confirmation by the Council, instead of giving the power of their appointment to the Council on nomination by the treasurer. Such assistants are to hold office during the pleasure of the treasurer, instead of during the pleasure of the Presiding Bishop and Council as before.

Section 4 (iii) and (iv) were practically the same as the last two sentences of former Section 10.

Section 4 (v) was also practically the same as former Section 11.

Section 5 (i) was the first part of former Section 6, amended by adding a new department, as follows: "*Fifth*: A Field Department."

The Council was given power to combine existing departments as well as to organize new departments.

Section 5 (ii) was practically the same as the second paragraph of former Section 6.

Section 5 (iii) and (iv) were reenactments of a part of the third paragraph for former Section 6, and former Section 12, but amended by giving to the Presiding Bishop, subject to confirmation by the Council, power to appoint an executive secretary for each department, and such other secretaries as may be necessary, who shall perform such duties as the department, subject to the approval of the Presiding Bishop, shall assign to them. These secretaries were to hold office during the pleasure of the Presiding Bishop. Under the provisions of the former canon, the Presiding Bishop and Council, upon nomination by the department, appointed the executive secretaries and such other secretaries as were necessary. Also, these secretaries were to perform such duties as might be assigned to them subject to the approval of the Presiding Bishop and Council.

Section 6 (i) was former Section 8, except the last sentence thereof, but amended by changing the words "and at such other times as he may convene it," to "and at such other times as it may be convened." Also, the provision was inserted that the Council shall be convened at the written request of any nine members thereof.

Section 6 (ii) was the last sentence of former Section 8, amended by adding the proviso that any nine members of the Council shall constitute a quorum for the election of a president to fill a vacancy.

Section 7 (i) was former Section 13, amended by giving power to the Council to fix the salary of the president as well as of the other members of the Council, and authorizing the treasurer to pay such salaries. The former canon gave no power to the Council to fix the salary of the president.

Section 7 (ii) contained the subject matter of former Sections 17 and 18, but amended by changing the words “that contributions made directly to Missionary Districts for the support of their Bishops,” to “that all contributions made by a Missionary District for the support of its Bishop;” also, the words “after six months notice given to the Council of Advice of such District,” were added to the clause. The former canon provided that the Council might discontinue the payment of the missionary bishop’s salary when it was satisfied that the district was able to pay its bishop’s salary, without any notice whatever.

Section 8 (i), (ii), and (iii) contained the subject matter of former Section 7, but with radical amendments.

The former canon provided that the budget adopted by the General Convention should be sent to each province; the canon as amended did not make any provision for sending such budget to the several provinces.

The former canon made provision for four joint sessions of the two houses of Convention, the new canon for only such joint sessions as are necessary to consider the program and plan of apportionment submitted by the Presiding Bishop and the National Council. The Council was given power to undertake any work under the jurisdiction of the Council, the need for which may have arisen after the action of the General Convention.

The Council was also directed to advise each diocese and missionary district with respect to its proportionate share of the estimated expenditure involved in the execution of the program and plan of apportionment adopted by the Convention. The Council was directed to determine the quotas allotted to the several dioceses and missionary districts upon an equitable basis.

Clause (iii) was a new provision and was the occasion of a decided difference of opinion between the two houses of Convention. The House of Bishops desired that it should be made mandatory upon the several dioceses to meet the quota allotted to them, while the House of Deputies opposed the mandatory provision, and inserted the words “as far as

practicable.” The House of Bishops refused to incorporate these words in the canon, and a Committee of Conference was appointed which decided upon clause (iii) as enacted.

The former canon, Section 15, provided that if requested by a province, the Presiding Bishop and Council were to make the annual apportionments and appropriations to such province in bulk, to be divided by the synod thereof among the several dioceses and missionary districts in such province. This provision was stricken out as it had been found not to be practicable.

Section 9 (i) contained the subject matter of former Section 19, amended.

Section 9 (ii), requiring the bishop of a diocese receiving aid from the Council to report annually concerning the work supported in whole or in part by the Council, was a new provision.

Section 10 was practically the same as former Section 16.

Section 11 was also practically the same as former Section 20.

Sections 14, 21, and 22, of the former canon were stricken out as being no longer necessary.

Convention of 1925

As already noted in discussing present Canon I.2, the Convention of 1919 had amended the Constitution by making the office of Presiding Bishop elective.

In 1925 the second sentence of Section 1 (ii) was amended to read:

In case of the death or disability of the Presiding Bishop so much of his duties as pertains to the National Council shall be performed by a Bishop elected for this purpose by the National Council, to serve until the next General Convention.

Convention of 1928

Section 8 was rearranged by putting a portion of clause (i) in clause (ii), and clauses (ii) and (iii) were renumbered (iii) and (iv), respectively.

Convention of 1931

At this Convention the canon was renumbered Canon 59 and substantially amended.

Section 1 (ii) was amended to read:

The Presiding Bishop shall be, *ex officio*, the President of the Council. In case of a vacancy in the office of the Presiding Bishop, caused by death, resignation or in case of inability to serve, so much of his duties as pertain to the National Council shall be

performed by the First Vice-President of the National Council, or in case of his death, resignation or inability to serve, the Second Vice-President of the National Council as President thereof, to serve until a Presiding Bishop shall have been elected in accordance with the constitution and shall have taken office.

Section 2 (i) was amended to read:

The National Council, herein referred to as the Council, shall be composed of sixteen members elected by the General Convention, of whom four shall be Bishops, four shall be Presbyters, and eight shall be Laymen, to be elected at each triennial meeting of General Convention; and of members elected by the Provincial Synods, each Synod having the right to elect one member at its last regular meeting prior to the triennial meeting of the General Convention. The President, the Vice-Presidents, and the Treasurer of the Council shall be *ex officio* members thereof.

Section 2 (ii) was amended to read:

The term of office of the members of the Council elected by the General Convention (other than the *ex officio* members) shall be six years, commencing on the ensuing first day of January and the term of office of the members elected by the Provincial Synods shall be three years, commencing on the first day of January following the ensuing regular meeting of the General Convention, and all such members shall remain in office until their duly elected successors are entitled, respectively, to assume their offices.

No member of the Council, elected by a Provincial Synod, who, at the expiration of his then current term will have served for six consecutive years shall be eligible for immediate re-election.

Should any vacancy occur in the Council through the death or resignation of a member elected by the General Convention or through the change in status of any such member by consecration or ordination, the Council shall fill such vacancy by the election of a suitable person to serve until his successor is elected by General Convention. The General Convention shall elect a suitable person to serve the portion of any term which will remain unexpired.

Should any vacancy occur in the Council through the failure of any Provincial Synod to elect a member, or through the death, resignation or removal from the Province, of any such member, the President and Executive Council of the Province shall appoint a suitable person, canonically resident in such Province, to serve until the Provincial Synod shall by election, fill the vacancy.

Section 2 (iii). Second paragraph was amended to read:

In its capacity as the Board of Directors of the Domestic and Foreign Missionary Society, the Council shall have the power to direct the disposition of the moneys and other property of said Society in accordance with the provisions of this Canon and the orders and budgets adopted or approved by the General Convention.

Section 3 (i) was amended to read:

The President shall appoint, subject to confirmation by the Council, two male communicants of the Church, either clerical or lay, to be Vice-Presidents of the Council who shall be *ex officio* members thereof. They shall be designated by the President and the Council as First and Second Vice-President, respectively. Each of such Vice-Presidents shall be the Vice-Chairman and a member of such of the Departments,

organized under the provisions of Section 5 hereof, as may be assigned by the President and Council to his charge, and shall perform such other duties as may from time to time be assigned by the President.

Section 4 (ii) was amended to read:

The Presiding Bishop and the Council shall appoint such Assistant Treasurers as may be necessary, to hold office during their pleasure, and until their successors are appointed.

Section 4 (v) which had dealt with a vacancy in the office of Treasurer was stricken.

Section 5 (i) was amended to read:

The Council shall organize the following executive Departments and shall define their duties:

First: A Department of Domestic Missions.

Second: A Department of Foreign Missions.

Third: A Department of Religious Education.

Fourth: A Department of Christian Social Service.

Fifth: A Department of Finance.

Sixth: A Department of Publicity.

Seventh: A Field Department.

The Council shall have power to combine existing departments and to organize and define the duties of such other departments as the work may demand.

Section 5 (ii) was amended to read:

Each Department may appoint, subject to confirmation by the Council, additional members as provided by the By-laws, who shall have seats and votes in the Department, but shall have no seat or vote in the Council. Women shall be eligible by appointment as such additional members.

Section 5 was also amended by the addition of a new clause as follows:

The Council shall also organize an Advisory Commission on Ecclesiastical Relations, with such officers, attached thereto as the Presiding Bishop and the National Council may from time to time determine.

Section 6 (i) was amended to read:

The Council shall meet with the Presiding Bishop at such place, and at such stated times, at least four times each year, as it, with his concurrence, shall appoint, and at such other times as it may be convened. The Council shall be convened at the request of the Presiding Officer or at the written request of any nine members thereof.

Section 6 (ii) was amended to read:

Nine elected members of the Council shall be necessary to constitute a quorum at any meeting of the Council.

Section 7 (ii) was amended to read:

The salary of each Bishop of a Missionary District shall be paid by the Treasurer. Such salary shall date from the Bishop's consecration or from the date of his translation, if he be already consecrated, and shall not be diminished without his consent while such Bishop remains in charge of a District.

Section 8 (ii) was amended to read:

There shall be joint sessions of the two Houses for the presentation of such program; and thereafter consideration shall be given and appropriate action taken thereon by the General Convention. The Council shall have the power to expend all sums of money covered by the budget and estimated budgets approved by the Convention, subject to such restrictions as may be imposed by General Convention. It shall also have power to undertake such other work provided for in the program approved by General Convention, or other work under the jurisdiction of the Council, the need for which may have arisen after the action of the General Convention, as in the judgment of the Council its income will warrant.

Section 11 was amended to read:

No person shall, under any power or authority delegated by this Canon, be appointed a Missionary, who is not, at the time, a Minister or a member of this Church, or of some Church in communion with this Church, in regular standing: *Provided, however,* that at the request of the Bishop of a Diocese or Missionary District, other persons not so qualified may be employed in exceptional cases.

Convention of 1934

The canon was renumbered Canon 60 and its title changed to "Of the National Council."

Section 1 (i) was amended by striking the first four words "The Presiding Bishop and" so that the clause began "The National Council, etc." These words were later restored.

It is also interesting to find this Convention striking out the words "of which work the Presiding Bishop shall be the executive and administrative head" and inserting a new clause (i) in Section 3 providing for a president of the council elected by the House of Deputies subject to confirmation by the House of Bishops and that he shall be the executive and administrative head of the council. (The Bishop of Delaware was elected.)

Section 1 (ii) was amended to make the Presiding Bishop *ex officio* chairman of the council and provided that he should preside when present.

Section 2 (i) was amended to make the Presiding Bishop *ex officio* a member of the council and to provide that four members of the Woman's Auxiliary should be nominated by it and elected at each meeting of General Convention as members of the council.

Section 2 (ii) was amended by striking out the prohibition against a member elected by a provincial synod serving more than six years.

Section 3 (ii) was amended to provide one vice-president instead of two, a return to the provision of Canon 61 of 1922.

Section 3 (ii) became clause (iii).

Section 4 (i) became Section 3 (iv).

Section 4 (i) was amended by striking the Presiding Bishop from the provision for appointment of assistant treasurers.

Section 5 (iii) was amended by substituting the president instead of the Presiding Bishop as *ex officio* member and chairman of each department.

Section 5 (iv) was amended to provide for departmental reports when the president or council may require.

Section 6 (i) was amended to read:

The Council shall meet at such place, and at such stated times, at least four times each year, as it shall appoint and at such other times as it may be convened. The Council shall be convened at the request of the Chairman of the Council, or by the President, or on the written request of any nine members thereof.

A new clause was added as Section 8 (v) providing that the National Council shall approve a standard form for reports of dioceses and missionary districts.

By these amendments, the Presiding Bishop and National Council were separated temporarily, and he went from president to chairman of the board.

Convention of 1937

At this Convention there was a return to the old order.

Section 1 (i) was amended to read:

The Presiding Bishop and the National Council as hereinafter constituted shall have charge of the unification, development and prosecution of the Missionary, Educational, and Social Work of the Church, of which the Presiding Bishop shall be the executive head.

This was a return to 1922 save that the Presiding Bishop is now “executive” rather than “executive and administrative head.”

Section 1 (ii) was amended to read:

The officers of the National Council shall be a President, a First and a Second Vice-President, a Secretary, and a Treasurer, with such duties as the Council, pursuant to this Canon, from time to time, may prescribe.

This created a second vice-president and omitted assistant secretaries and treasurers.

The last sentence of Section 2 (i) was amended to read:

The President, the Vice-Presidents and the Treasurer of the Council shall be *ex officio* members thereof,

and the word “the” was inserted before “General Convention” in two places.

In the fourth paragraph of Section 2 (ii) the word “nominate” was substituted for the word “elect” with reference to members from the Woman’s Auxiliary as an editorial correction.

Section 3 was amended to read:

The Presiding Bishop shall be *ex officio* the President, and the Treasurer of the Domestic and Foreign Missionary Society shall be *ex officio* the Treasurer of the Council. The Council shall elect the First and the Second Vice-President and the Secretary, such elections to be upon nomination of the President. The additional officers, agents and employees of the Council shall be such and perform such duties as the Presiding Bishop and the Council may from time to time designate.

Section 4 and Section 5 were stricken out. These provided for assistant treasurers and executive departments.

Section 6 was renumbered Section 4 and clause (i) was amended to read:

The Council shall meet at such place and such stated times at least four times each year as it shall appoint and at such other times as it may be convened. The Council shall be convened at the request of the President or on the written request of any nine members thereof.

Section 7 was renumbered Section 5 and clause (i) was amended to read:

With the exception of the salary of the President the salaries of all officers of the Council and all agents and employees of the Council, shall be fixed by the Council and paid by the Treasurer.

Section 8 was renumbered Section 6, and clauses (iii) and (iv) were amended to read:

(iii) Upon the adoption by the General Convention of a program and plan of apportionment for the ensuing triennium, the Council shall formally advise each Diocese and Domestic Missionary District with respect to its proportionate part of the estimated expenditure involved in the execution of the program in accordance with the plan of apportionment adopted by the General Convention. Such objectives shall be determined by the Council upon an equitable basis.

(iv) Each Diocese and Missionary District shall thereupon notify each Parish and Mission of the amount of the objective allotted to such Diocese, or District, and the

amount of such objective to be raised by such Parish or Mission. Each Diocese and Missionary District shall present to each Parish and Mission a total objective which shall include both its share of the proposed Diocesan budget or that of the Missionary District and its share of the objective apportioned to the Diocese or Missionary District by the National Council in accordance with the plan adopted by the General Convention. The division of all funds which the Diocese or Missionary District receives for these purposes shall be strictly in accordance with the proportions which the total proposed budget of the Diocese or Missionary District bears to the total objective presented on behalf of the National Council.

By the amendment of clause (iv), the objective presented to a parish or mission was made to include its share of both national and diocesan or district budgets and disposition of diocesan and district receipts was regulated.

Sections 9 to 12, inclusive, were renumbered Sections 7 to 10.

Convention of 1940

At this Convention the canon was renumbered Canon 62.

Section 1 (ii) was amended to read:

The officers of the National Council shall be a President, a Vice-President in charge of Administration, a Vice-President in charge of Promotion, a Secretary, and a Treasurer, with such duties as the Council, pursuant to this Canon, from time to time, may prescribe.

Section 3 was corrected to conform to these changes by striking out the words "First and a Second" and changing "Vice-President" to "Vice-Presidents."

Section 2 (ii) was amended by substituting for the words "on the first day of January following their election" the words "immediately upon their election and their written acceptance thereof filed with the Secretary of the National Council."

Convention of 1943

In the rearrangement of the canons made at this Convention, this canon became Canon 4 and read as follows:

Sec. 1 (a). The Presiding Bishop and the National Council as hereinafter constituted shall have charge of the unification, development and prosecution of the Missionary, Educational, and Social Work of the Church, of which work the Presiding Bishop shall be the executive head.

(b). The officers of the National Council shall be a President, one or more Vice Presidents, a Secretary and a Treasurer, with such duties as the Council, pursuant to this Canon, from time to time, may prescribe.

Sec. 2 (a). The National Council, herein referred to as the Council, shall be composed of sixteen members elected by the General Convention, of whom four shall be Bishops, four shall be Presbyters, and eight shall be Laymen, two Bishops, two Presbyters, and

four Laymen to be elected at each triennial meeting of the General Convention; of members elected by the Provincial Synods, each Synod having the right to elect one member at its last regular meeting prior to the triennial meeting of the General Convention; and of four members of the Woman's Auxiliary to the National Council to be nominated by it and elected at each triennial meeting of the General Convention. The President, the Vice-Presidents and the Treasurer of the Council shall be *ex-officio* members thereof.

(b). The term of office of the members of the Council elected by the General Convention (other than *ex-officio* members) shall be six years; the term of office of the members of the Council elected by the Provincial Synods shall be three years; and the term of office of the members of the Council nominated by the Woman's Auxiliary shall be three years. The term of office of all members elected as above provided shall commence immediately upon their election and their written acceptance thereof filed with the Secretary of the National Council. Members shall remain in office until their successors are elected and qualified. After any person shall have served six consecutive years on the National Council, a period of three years shall elapse before such person shall be eligible for re-election to the Council.

Should any vacancy occur in the Council through the death or resignation of a member elected by the General Convention or through the change in status of any such member by consecration or ordination the Council shall fill such vacancy by the election of a suitable person to serve until his successor is elected by General Convention. The General Convention shall elect a suitable person to serve the portion of any term which will remain unexpired.

Should any vacancy occur in the Council through the failure of any Provincial Synod to elect a member, or through the death, resignation or removal from the Province, of any such member, the President and Executive Council of the Province shall appoint a suitable person, canonically resident in such Province, to serve until the Provincial Synod shall by election fill the vacancy.

Should any vacancy occur in the Council through the death or resignation of a member elected from the Woman's Auxiliary to the National Council, the Executive Board of the Woman's Auxiliary shall nominate a suitable person to fill the portion of the term which will remain unexpired.

(c). The Council shall exercise the powers conferred upon it by Canon, and such further powers as may be designated by the General Convention, and between sessions of the General Convention may initiate and develop such new work as it may deem necessary. It may, subject to the provision of this Canon, enact By-laws for its own government and the government of its several departments.

In its capacity as the Board of Directors of the Domestic and Foreign Missionary Society, the Council shall have the power to direct the disposition of the moneys and other property of said Society in accordance with the provisions of this Canon and the orders and budgets adopted or approved by the General Convention.

Sec. 3. The Presiding Bishop shall be *ex-officio* the President, and the Treasurer of the Domestic and Foreign Missionary Society shall be *ex-officio* the Treasurer, of the Council. The Council shall elect the Vice Presidents and the Secretary, such elections to be upon the nomination of the President. The additional officers, agents, and employees of the Council shall be such and shall perform such duties as the Presiding Bishop and the Council may from time to time designate.

Sec. 4 (a). The Council shall meet at such place, and at such stated times, at least four times each year, as it shall appoint and at such other times as it may be convened. The Council shall be convened at the request of the President, or on the written request of any nine members thereof.

(b). Nine elected members of the Council shall be necessary to constitute a quorum at any meeting of the Council.

Sec. 5 (a). With the exception of the salary of the President the salaries of all officers of the Council and of all agents and employees of the Council, shall be fixed by the Council and paid by the Treasurer.

(b). The salary of each Bishop of a Missionary District shall be paid by the Treasurer. Such salary shall date from the Bishop's consecration or from the date of his translation, if he be already consecrated, and shall not be diminished without his consent while such Bishop remains in charge of a District. Every Missionary District shall bear a part of the expense of the salary of its Bishop, the amount to be fixed from time to time by the National Council and charged against the District in such manner as may be most convenient.

Sec. 6 (a). The Council shall submit to the General Convention at each regular session thereof a program for the triennium, including a detailed budget of that part of the program for which it proposes to make appropriation for the ensuing year, and estimated budgets for the two succeeding years. In connection with the preparation of such budget the National Council shall, at least fifteen months before the session of the General Convention, transmit to the President of each Province a statement of its existing appropriations for the Dioceses and Missionary Districts within such Province, showing the items for which such appropriations are expended, for the purpose of obtaining the advice of the Province as to changes therein. The Synod, or Council, of each Province shall thereupon, in such manner as the Synod shall determine, consider such budget and report its findings to the National Council for its information. The National Council shall also submit to the General Convention with the budget a plan for the apportionment to the respective Dioceses and Missionary Districts of the sum needed to execute the program.

(b). There shall be joint sessions of the two Houses for the presentation of such program; and thereafter consideration shall be given and appropriate action taken thereon by the General Convention. The Council shall have the power to expend all sums of money covered by the budget and estimated budgets approved by the Convention, subject to such restrictions as may be imposed by General Convention. It shall also have power to undertake such other work provided for in the program approved by General Convention, or other work under the jurisdiction of the Council, the need for which may have arisen after the action of the General Convention, as in the judgment of the Council its income will warrant.

(c). Upon the adoption by the General Convention of a program and plan of apportionment for the ensuing triennium, the Council shall formally advise each Diocese and Domestic Missionary District with respect to its proportionate part of the estimated expenditure involved in the execution of the program in accordance with the plan of apportionment adopted by the General Convention. Such objectives shall be determined by the Council upon an equitable basis.

(d). Each Diocese and Missionary District shall thereupon notify each Parish and Mission of the amount of the objective allotted to such Diocese or District, and the amount of such objective to be raised by each Parish or Mission. Each Diocese and

Missionary District shall present to each Parish and Mission a total objective which shall include both its share of the proposed Diocesan Budget or that of the Missionary District and its share of the objective apportioned to the Diocese or Missionary District by the National Council in accordance with the plan adopted by the General Convention. The division of all funds which the Diocese or Missionary District receives for these purposes shall be strictly in accordance with the proportion which the total proposed budget of the Diocese or Missionary District bears to the total objective presented on behalf of the National Council.

(e). The National Council shall approve a standard form for use in Dioceses and Missionary Districts, for the purpose of showing the distribution of their receipts for all purposes as between administrative expense, diocesan missionary work, missionary work of the general Church, and other purposes. Each Diocese and Missionary District shall annually report to the National Council the distribution of its receipts on the standard form, and this report shall be the basis for determination of the status of its partnership with the general Church in the promotion of its missionary work.

Sec. 7 (a). Every Missionary Bishop, or in case of a vacancy, the Bishop in charge of the District, receiving aid from the Council, shall report at the close of each fiscal year to the Council, giving account of his work, of money received from all sources and disbursed for all purposes, and of the state of the Church in his District at the date of such report, all in such form as the Council may prescribe.

(b). Every Bishop of a Diocese receiving aid from the Council shall report at the close of each fiscal year to the Council giving account of the work in his Diocese supported in whole or in part by the Council.

Sec. 8. The Council, as soon as practicable after the close of each fiscal year, shall make and publish a full report of its work to the Church. Such report shall contain an itemized statement of all receipts and disbursements and a statement of all trust funds and other property of the Domestic and Foreign Missionary Society, and of all other trust funds and property in its possession or under its control. The Council shall make a like report including a detailed schedule of the salaries paid to all officers, agents and principal employees, to each General Convention.

Sec. 9. No person shall, under any power or authority delegated by this Canon, be appointed a Missionary, who is not, at the time, a Minister or a member of this Church, or of some Church in communion with this Church, in regular standing; *Provided, however,* that, at the request of the Bishop of a Diocese or Missionary District, other persons not so qualified may be employed in exceptional cases.

Sec. 10. All Canons or parts of Canons inconsistent with the provisions of this Canon are hereby repealed.

The wording of Section 1 (b) and the final sentences of Section 2 (b) and Section 5 (b) were the work of this Convention.

Convention of 1946

Section 2 (a) was amended by the addition of a second paragraph reading:

Of the members elected by the General Convention, the Bishops shall be elected by the House of Bishops subject to confirmation by the House of Deputies, and the Presbyters and Laymen shall be elected by the House of Deputies subject to confirmation by the House of Bishops.

Section 4 (a) was amended by substituting the word “three” for the word “four.”

Section 6 (a) was amended by inserting the following new sentence:

After the preparation of the budget the National Council shall, at least four months before the session of the General Convention, transmit to the Bishop of each Diocese and each Missionary District a statement of the existing and the proposed appropriations for all items in the budget.

Prior to the amendment of Section 2 (a), it was the practice for a joint nominating committee of bishops and clerical and lay deputies to receive and submit nominations, after which an election was held in the House of Bishops in which the House of Deputies then concurred.

At the Convention of 1946, before the amendment took effect, the election took place first in the House of Deputies.

The amendment of Section 4 (a) reduced the required number of meetings of the council per year from four to three.

The amendment of Section 6 (a) gave the bishops of dioceses and missionary districts an opportunity to examine the proposed budget before the Convention.

At this Convention a resolution from the Convocation of the Missionary District of North Texas was presented in both houses asking that the Convention give consideration to a new canon that would give the missionary districts at least one bishop, one presbyter, and one layman as their representatives on the Council. In the House of Bishops the Committee on Domestic Missions and in the House of Deputies the Committee on Canons reported their opinions that the proposed legislation was unnecessary.

Convention of 1949

Amendment of Section 2 (c) and Section 6 (d) and the addition of a new Section 6 (f) were proposed in the House of Deputies and, on recommendation of the Committee on Canons, not adopted (*Journal*, pp. 160-62).

Convention of 1952

The Diocese of Maine having presented a memorial proposing the amendment of Canon 4, Section 6, deleting the third sentence of subdivision (d), and the matter having been referred to the Committee on Canons in the House of Deputies, which reported the resolution without recommendation, the matter was laid on the table.

At the request of the National Council, on the recommendation of its Department of Finance, Canon 4, Section 6 (e) was amended to read:

The National Council shall approve a standard form for uses in Dioceses and Missionary Districts, for the purpose of showing receipts and the distribution of receipts for all purposes. Each Diocese and Missionary District shall annually report to the National Council all receipts and the distribution of such receipts on the standard form.

Convention of 1955

An amendment of Canon 4, Section 6 (d), which would have added the following sentence after the second sentence thereof, was defeated:

Such total parish and mission objectives shall be determined by each diocese and missionary district upon an equitable basis. Each parish and mission shall include these objectives within their yearly operating budgets.

Convention of 1961

Section 2 (a) and (b) was amended by substituting the terms “Episcopal Churchwomen” and “General Division of Women’s Work” for the references to the “Woman’s Auxiliary.”

Convention of 1964

Section 2 (a) was amended to increase the elected membership of the Council to 22 members.

The references to the Women of the Church in Section 2 (a) and (b) regarding the persons to be nominated by them were amended to read “The Triennial Meeting of the Women of the Church.”

The concluding sentence of Section 6 (d) was deleted as possibly limiting the amount a diocese might give to the general Church program (*Journal*, pp. 757 ff).

Throughout the canon, the term “Executive Council” was substituted for “National Council” in accordance with the amendment of Article I, Section 7, of the Constitution adopted by this Convention.

Convention of 1967

This Convention amended Canon 4 by repealing the first section and paragraph (a) of the second section and enacting a new Section 1 reading as follows:

(a). There shall be an Executive Council, whose duty it shall be to carry out the program and policies adopted by the General Convention. The Executive Council shall have charge of the unification, development, and prosecution of the Missionary, Educational, and Social Work of the Church and of such other work as may be committed to it by the General Convention.

(b). The Executive Council shall be accountable to the General Convention and shall render a full report concerning the work with which it is charged to each meeting of the said Convention.

(c). The Executive Council shall be composed of twenty-four members elected by the General Convention, of whom six shall be Bishops, six shall be Presbyters, and twelve shall be Laymen (three Bishops, three Presbyters, and six Laymen to be elected by each regular meeting of the General Convention); of members elected by the Provincial Synods, each Synod having the right to elect one member at the last regular meeting prior to the regular meeting of the General Convention; and of six members to be nominated by the Triennial meeting of the Women of the Church and elected by the General Convention at each regular meeting thereof. The Presiding Bishop, who shall be the Chairman; the President of the House of Deputies, who shall be the Vice-Chairman; and the Vice-Presidents (if there be one or more), the Secretary, and the Treasurer of the Executive Council shall be *ex officio* members thereof.

Section 9, concerning the appointment of missionaries and other professionals to work in various jurisdictions, was amended to read as at present.

Special Convention of 1969

Acting on a recommendation from the Committee on Social Relations of the House of Deputies, Section 1 (c) as adopted in 1967 was amended to require the election by the Executive Council of six additional members to serve until the Convention of 1970. These members were to be elected pursuant to a resolution specifying:

of the number so elected, two shall be persons not less than 18 nor more than 30 years of age at the time of their election, and four shall be representatives of racial and ethnic minorities; of which four, at least two shall be named from nominations made by the Union of Black Clergy and Laity.

This same section was also amended by striking the requirement that six women be nominated by the Triennial Meeting of the Women of the Church and by raising the number of lay members to be elected by the Convention from twelve to eighteen, of which number “at least six shall be women.”

Convention of 1970

Acting on a proposal by the Committee on Structure of the House of Deputies, this Convention amended Section 1 (c), reducing the size of the Council from 51 to 41 members by eliminating all categories except those of order and limiting *ex officio* membership to two, so that it read as follows:

(c). The Executive Council shall be composed (a) of thirty members elected by the General Convention, of whom six shall be Bishops, six shall be Presbyters, and eighteen shall be Lay Persons (three Bishops, three Presbyters, and nine Lay Persons to be elected by each regular meeting of the General Convention); *Provided*, that the 1970 meeting of the General Convention shall elect three Lay Persons for three-year terms in addition

to nine Lay Persons for regular terms); (b) of members elected by the Provincial Synods, each Synod having the right to elect one member at the last regular meeting prior to the regular meeting of the General Convention; and (c) of the following *ex officio* members, the Presiding Bishop and the President of the House of Deputies.

A substitute for the amendment, proposed by the Executive Council, which would have retained membership at 51 and made permanent provisions for a specific number of women members and of members of racial and ethnic groups and young people, like that which had been adopted in 1968, was defeated, after considerable debate, in a vote by orders.

The category of women members nominated by the Triennial Meeting of the Women of the Church having been eliminated in 1969, the first paragraph of Section 2 (b) was amended accordingly and the fourth paragraph repealed.

Section 4 (b) was amended to define a quorum as a majority of the elected members of the Council.

A resolution to amend Section 6 (a) to remove a number of requirements in the preparation of the budget, including the requirement of estimated budgets for the second and third years of a triennium, was adopted by the House of Bishops but failed because the House of Deputies did not receive it in time to consider the matter.

Convention of 1973

To clarify an ambiguity in the canon whereby a person might serve as long as nine years on the Executive Council, Section 2 (b) was amended to read as follows:

The term of office of the members of the Council elected by the General Convention (other than *ex officio* members) shall be six years, except as otherwise provided; and the term of office of the members of the Council elected by Provincial Synods shall be three years. The term of office of all members elected as above provided shall commence immediately upon their election and their written acceptance thereof filed with the Secretary of the Executive Council. Members shall remain in office until their successors are elected and qualified. No person who has served at least three consecutive years on the Executive Council shall be eligible for immediate re-election for a term of more than three years.

After any person shall have served six consecutive years on the Executive Council, a period of three years shall elapse before such person shall be eligible for re-election to the Council.

Section 5 (b), which provided that the salaries and perquisites of missionary bishops be set and administered by the Executive Council, was repealed.

A proposal to provide for an executive vice-president of the Council by amending Section 3 was adopted by the House of Deputies but failed, after reconsideration, in the House of Bishops.

Convention of 1976

To identify more precisely the relationship of the Executive Council to the General Convention, the first sentence of Canon 4, Section 1 (a) was amended to read as at present.

Section 1 (c) was amended to the present wording, which increases the proportion of the membership of the Council elected by the provinces and makes deacons eligible for membership.

Section 2 (a) was amended by adding the words “or Deacons” after the words “Presbyters.”

Section 2 (b) was amended to read as at present.

Section 3 was amended to its present wording, the effect of which is to make the secretary of the General Convention *ex officio* the secretary of the Executive Council.

Convention of 1979

Section 6 (a) and (c) were amended to their present wording to take into account the possibility of other than triennial meetings of the General Convention and to remove the provision, long found unworkable, for securing discussion of budget and program by the several provinces in the year immediately preceding a General Convention.

Section 10 was repealed as being “superfluous and potentially confusing.”

EXPOSITION OF CANON I.4

Canon 60 of the Canons of 1919 (with the amendments made by the Convention of 1922) marked a major change in the policy of the American Church.

The American nation and the American Church began their life at the same time. In the beginning, one was a confederation of independent states, and the other, to some extent, a confederation of congregations. In both cases, there was a strong opposition to any form of centralized government. In each case, there was as little of executive authority provided for as conditions would permit. But the parallel between the nation and the Church ceases soon after the beginning of each. Gradually, there was either granted to the executive branch of the national

government, or else assumed by it, additional power and authority. But the Church did not keep pace with the nation in this matter. The Church began her national life with practically no executive head, and with no central governing power, save only the General Convention, meeting once in three years, and whose functions were chiefly legislative, not executive.

As it began, so it continued in great measure for one hundred and thirty years, until the Convention of 1919, when in one fell swoop it discarded all its past traditions in the matter of executive government, and, by the enactment of Canon 60, erected a strong form of centralized government. To one central body the Church committed the administration of its work, giving to the Presiding Bishop and the National Council (now the Executive Council) not only the performance of such works as the General Convention may commit to that body, but also the power to initiate and develop such new work as it may deem necessary. In the initiation and development of such new work, the Council is restricted only by the provisions of the Constitution and Canons and such directions as may be given to it by the Convention; but outside of these restrictions, there is a large field in which the Council may act, unhampered by any restraints.

The Council is composed of forty members: twenty elected by the General Convention, eighteen elected by the provincial synods, and the presiding officers of the two houses of the Convention *ex officio*. The Presiding Bishop is the president of the council and the secretary of the Convention is its secretary.

The Council is made the custodian of all the records and property of the Domestic and Foreign Missionary Society and given power to expend the income of the society in accordance with the provisions of the canon, as well as all sums of money covered by the budget and estimated budgets approved by General Convention. The Council is given power to undertake such new work during the interim between sessions of General Convention as it may deem necessary. It is made the duty of the Council to advise each diocese of its proportionate part of the estimated expenditure necessary to execute the plan of apportionment adopted by the General Convention.

The Council fixes the salaries of its officers, agents, and employees, with the exception of the president.

The Council is directed to submit to the General Convention, at each regular session thereof, a program of its proposed activities for the ensuing three years, together with a detailed budget for the ensuing year, and estimated budgets for the two succeeding years. The Council

is also directed to publish a full report of its work at the close of each fiscal year.

The functioning of this highly centralized structure, however, has not gone unchallenged by members of the Church. While it has undoubtedly accomplished much, it has, at times, been accused (rightly or wrongly) not only of failing to carry out clear mandates of the Convention, but of actually contravening them.

In 1967, the Mutual Responsibility Commission came to the Convention with proposals that incorporated the concept of the Council "acting for" the General Convention. This was quickly rejected on the basis of expressed concern that the Council would take over the functions of the Convention itself. It was, indeed, because of an all too frequent adversary relationship between the two bodies that the Convention of 1976 inserted at the beginning of the canon the words that define the Council as an agency and servant of the General Convention. In addition, in the belief that it would serve to make the point even clearer, the secretary of the Convention was made the secretary of the Council.

Recent Conventions have sought to regularize the period of membership on the Council. After the decision to admit women as deputies to the Convention, the special category of nominees from the Women's Triennial was dropped as no longer needed. All terms were then fixed at a maximum of six years, and it was required that individuals be off the Council for a three-year period before again becoming eligible for election. The Convention continued to give provincial synods the right to elect some of the members of the Council, and in 1976 increased the number to one clerical and one lay member from each province.

A proposal presented to the 1973 Convention would have authorized the Executive Council to elect an executive vice-president, thereby separating the Presiding Bishop from administrative responsibilities for the national Church staff, a proposal that was promptly defeated. Such a separation of responsibilities had, in fact, been tried in 1934 and had proved unworkable.

In 1970 there was an effort to stop the required budget projections for the second and third years of each triennium. This also was defeated. General Convention had always been optimistic about its income projections, leaving the Executive Council with the responsibility to cut the projections in the second and third years and to absorb the ensuing "blame."

Future Conventions will doubtless see continued efforts to define more clearly the role of the Executive Council in implementing policy

as a “servant” of the General Convention, as well as the Council’s role in supporting the Presiding Bishop as chief administrator and chief pastor.

Although attempts have been made to limit it, the Council’s power to spend money and to undertake new work has remained the same since the canon was adopted in 1922.



CANON 5. Of the Mode of Securing an Accurate View of the State of this Church

Ministers to make annual reports to Bishop. Sec. 1. A report of every Parish and other Congregation of this Church shall be prepared annually for the year ending December 31st preceding, upon the blank form prepared by the Executive Council and approved by the Committee on the State of the Church, and shall be sent in duplicate not later than February 1st to the Bishop of the Diocese, or, where there is no Bishop, to the Secretary of the Diocese. The Bishop or the Secretary, as the case may be, shall send the duplicate copy to the Executive Council not later than March 1st. In every Parish the preparation and delivery of this report shall be the joint duty of the Rector and Vestry; and in every other Congregation the duty of the Minister in charge thereof. This report shall include the following information: (1) the number of baptisms, confirmations, marriages, and burials during the year; the total number of baptized persons and communicants in good standing at the time of the report; and for all purposes the number of members of this Church shall be deemed to be the number of baptized persons; (2) a summary of all the receipts and expenditures, from whatever source derived and for whatever purpose used; (3) a statement of the property held by the Parish, whether real or personal, with an appraisal of its value, together with a statement of the indebtedness of the Parish, if any, and of the amount of insurance carried; and (4) such other relevant information as is needed to secure an accurate view of the state of this Church, as required by the approved form. Every Bishop, Presbyter, or Deacon whose report is

Information to be included.

Non-parochial clergy to report. not included in a parochial report shall also report his occasional services, and if there have been none, the causes or reasons which have prevented the same. And these reports, or such parts of them as the Bishop may deem proper, shall be entered in the Journal.

Annual Diocesan Reports. Sec. 2. Likewise, a report of every Diocese shall be prepared annually for the year ending December 31st preceding, upon the blank form prepared by the Executive Council and approved by the Committee on the State of the Church, and shall be sent, not later than February 1st, to the Executive Council. The report shall include statistical information concerning the parishes and missions of the Diocese, the clergy and other ministries, and the institutions in any way connected with said Diocese; together with the financial information required by Title I, Canon 4, Section 6 (e).

Journals of

Diocesan Conventions to be sent to Secretary of the General Convention by

Secretaries.

Committee on the State of the Church.

Sec. 3 (a). It shall be the duty of the Secretary of the Convention or Convocation of every jurisdiction to forward to the Secretary of the House of Deputies, immediately upon publication, five copies of the Journals of the Convention or Convocation of the jurisdiction, together with episcopal charges, statements, and such other papers as may show the state of the Church in his jurisdiction.

(b). A Committee of the House of Deputies shall be appointed following the close of each General Convention, to serve *ad interim*, and to prepare and present to the next meeting of the House of Deputies a report on the State of the Church; which report, when agreed to by the said House, shall be sent to the House of Bishops.



This canon was numbered Title I, Canon 15, in 1859. It became Canon 47 in 1904, Canon 5 in 1943, and Title I, Canon 5, in 1970.

Convention of 1804

The first legislation of General Convention on the subject of this canon was by the Convention of 1804, which enacted Canon 11 of that year, with the title "Providing for an accurate view of the State of the Church from time to time," and which read as follows:

As a full and accurate view of the State of the Church, from time to time, is highly useful and necessary, it is hereby ordered, that every minister of this Church shall present or forward, at every annual Convention, to the Bishop of the Diocese, or, where there is no Bishop to the President of the Convention, a particular account of the state of his parish or Church; and these parochial reports shall be read, and entered on the Journals of the Convention. At every General Convention, the Journals of the different State Conventions, since the last General Convention, together with such other papers, viz., Episcopal charges, addresses, and pastoral letters, as may tend to throw light on the state of the Church in each Diocese, shall be presented to the House of Clerical and Lay Deputies. And the parochial reports inserted on those journals together with the Episcopal addresses and the Episcopal registers, specified in the 2nd Canon of 1801, shall be read in the said House. These journals and documents shall then be sent by the House of Clerical and Lay Deputies to the House of Bishops, who shall be requested to draw up a view of the state of the Church, adding such remarks or counsel as they may think proper: the whole in the form of a Pastoral Letter from the House of Bishops, which shall be read in the House of Clerical and Lay Deputies, and printed with the Journals of the Convention, for the general information of the Church.

It shall be the duty of the Secretary of the Convention of every Diocese or state, or of the person or persons with whom the journals, or other Ecclesiastical papers are lodged, to forward to the House of Clerical and Lay Deputies, at every General Convention, the documents and papers specified in this Canon. At the first General Convention held after the passing of this Canon, the Journals of the state Conventions, since the organization of those Conventions, with the Constitution and Canons of the Church in each state respectively, with all other useful Ecclesiastical documents, shall be presented to the House of Clerical and Lay Deputies, and sent, as before directed, to the House of Bishops.

The principal point to be noted is that the data gathered was to be used as the basis for the bishops' pastoral letter.

Convention of 1808

This Convention renumbered Canon 11 of 1804 as Canon 45 and amended it as follows:

The words, "a particular account of the state of his parish or Church," after the words "the president of the Convention" in the first sentence were stricken and the following inserted in place thereof:

a statement of the number of baptisms, marriages, and funerals, and of the number of communicants in his parish or Church, and all other matters that may throw light on the state of the same.

It having been found under the provisions of the former canon that many clergymen failed to present complete reports of the state of their parishes, it was deemed best to state in the canon certain requirements.

The Convention also inserted a new sentence after the first sentence reading as follows:

At every annual State or Diocesan Convention, the Bishop shall deliver an address, stating the affairs of the Diocese since the last meeting of the Convention; the names

of the churches which he has visited; the number of persons confirmed; the names of those who have been received as Candidates for Orders, and of those who have been ordained, suspended, or degraded; the changes by death, removal, or otherwise, which have taken place among the Clergy; and, in general, all matters tending to show light on the affairs of the Diocese; which address shall be inserted on the Journals.

The Convention further amended the canon by striking out all of the third and fourth sentences beginning with the words, “and the parochial reports,” and ending with the words, “for the general information of the Church,” and inserting in place thereof, the following:

And the parochial reports inserted on those journals, together with the Episcopal addresses, shall be read in the said House. And a particular inquiry shall be instituted into the state of the Church in each Diocese, and particularly into the attention paid to the Canons and rules of the Church. A Committee shall then be appointed to draw up a view of the state of the Church, and to make report to the House of Clerical and Lay Deputies; which report, when agreed to by the said House, shall be sent to the House of Bishops, with a request that they will draw up, and cause to be published, a Pastoral Letter to the members of the Church.

This was the first canonical provision for a Committee on the State of the Church.

The last sentence of the former canon, beginning with the words “At the first General Convention after the passing of this Canon,” was stricken, as being no longer necessary, the purpose sought thereby having been fulfilled.

Convention of 1814

This Convention enacted the third canon of that year as follows:

That part of the forty-fifth Canon of 1808, which requires that the parochial reports, inserted on the journals of each State or Diocesan Convention, shall be read in the House of Clerical and Lay Deputies in General Convention, is hereby repealed.

It must have consumed much time as well as being exceedingly uninteresting to the deputies in General Convention to listen to the reading of the reports made to each diocesan convention. As they had been already read in the diocesan convention, which was naturally most interested in them, their reading in the General Convention would seem to have been a most useless proceeding. The General Convention was not so much interested in parochial details as it was in a general view of the condition of the Church in each diocese. It is not surprising that the Convention repealed this requirement of the canon; the wonder is that it should ever have been required.

Convention of 1820

This Convention enacted two canons having reference to Canon 45 of 1808.

The first canon read as follows:

That part of the forty-fifth Canon which requires the Episcopal addresses, inserted in the Journal of each State or Diocesan Convention, to be read in the House of Clerical and Lay Deputies in General Convention, is hereby repealed.

The third canon of this convention read:

Whereas there is reason to fear that the Pastoral Letters issued from time to time, by the House of Bishops, and addressed to the members of the Episcopal Church, fail of their intended effect for want of sufficient publicity; it is hereby made the duty of every Clergyman having a pastoral charge, when any such letter is published, to read the same to his congregation on some occasion of public worship.

Convention of 1832

In the revision of the canons by this Convention, the several canons of 1804, 1808, 1814, and 1820, above noted, were combined into one canon, numbered Canon 51, and amended as follows:

Sec. 1. As a full and accurate view of the state of the Church, from time to time, is highly useful and necessary, it is hereby ordered, that every Minister of this Church shall present or cause to be delivered, on or before the first day of every annual convention, to the Bishop of the Diocese, or, where there is no Bishop, to the President of the Convention, a statement of the number of baptisms, confirmations, marriages, and funerals, and of the number of communicants in his parish or church, and of all matters that may throw light on the state of the same; and these parochial reports, or such parts of them as the Bishop shall think fit, shall be read and entered on the Journals of the Convention.

This section is composed of the first sentence of the eleventh canon of 1804 as amended by the Convention of 1808.

Sec. 2. At every annual Diocesan Convention, the Bishop shall deliver an address, stating the affairs of the Diocese since the last meeting of the Convention; the names of the churches which he has visited; the number of persons confirmed; the names of those who have been received as candidates for Orders, and of those who have been ordained, suspended, or degraded; the changes by death, removal, or otherwise, which have taken place among the Clergy; and, in general, all matters tending to throw light on the affairs of the Diocese: which address shall be inserted on the journals.

This section comprises the amendment made to Canon 11 of 1804 by the Convention of 1808.

Sec. 3. At every General Convention, the journals of the different Diocesan Conventions since the last General Conventions, together with such other papers, viz. Episcopal charges, addresses, and pastoral letters, as may tend to throw light on the state of the Church in each Diocese, shall be presented to the House of Clerical and Lay Deputies. A Committee shall then be appointed to draw up a view of the state of the Church, and to make a report to the House of Clerical and Lay Deputies; which report, when agreed to by the said House, shall be sent to the House of Bishops, with a request that they will draw up and cause to be published, a pastoral letter to the members of the Church. And it is hereby made the duty of every Clergyman having a pastoral charge, when any such letter is published, to read the said pastoral letter to his congregation on some occasion of public worship.

This section comprised that part of Canon 11 of 1804 not included in Section 1 (as amended by the Conventions of 1808, 1814, and 1820) except the last paragraph thereof. The last sentence of the section was practically the same as Canon 3 of 1820.

Sec. 4. It shall be the duty of the Secretary of the Convention of every Diocese, or of the person or persons with whom the journals or other ecclesiastical papers are lodged, to forward to the House of Clerical and Lay Deputies, at every General Convention, the documents and papers specified in this Canon.

This section contained the first sentence of the last paragraph of Canon 11 of 1804, unamended, except that the words "or state" were stricken.

Sec. 5. It is recommended that the ecclesiastical authority of the Church in every Diocese, prepare a condensed report and a tabular view of the state of the Church in their Diocese, previously to the meeting of every General Convention, for the purpose of aiding the Committee on the state of the Church, appointed by the House of Clerical and Lay Deputies, in drafting their report.

This was a new section.

Convention of 1835

This Convention amended the first section of Canon 51 by adding the following:

And every other Clergyman not regularly settled in any parish or church, shall also report to the ecclesiastical authority of his Diocese, the occasional services he may have performed, and if he has performed no such services, the causes or reasons which have prevented the same.

An addition to the canon was proposed in the House of Deputies to provide for the securing of reports from clergymen who were chaplains in the Army and Navy, but owing to the large number of unemployed clergy, even at that early day, the House of Bishops deemed it wise to provide that all clergymen who did not have parochial charges should make an annual statement to the bishop, of how they had employed themselves during the year, or, if they had done no clerical work, the reasons why they had been idle.

Convention of 1841

This Convention amended Section 1 of Canon 51 by transposing the last two sentences and amending the last sentence to read as follows:

And these reports, or such parts of them as the Bishop shall think fit, may be read in Convention, and shall be entered on the Journals thereof.

The principal change made by this amendment was to authorize the bishop of a diocese to have the parochial reports read in the diocesan convention or such portions as he might see fit.

Section 5 was also amended by striking out the words, “ecclesiastical authority of the Church in every Diocese,” in the first line, and inserting in place thereof, the words,

The Bishop and Standing Committee of the Church in every Diocese, or, if there be no Bishop, the Standing Committee only.

Convention of 1853

Canon 51, renumbered Canon 8 in 1841, was renumbered Canon 12, and amended as follows:

Section 1 was amended to read:

As a full and accurate view of the state of the Church, from time to time, is highly useful and necessary, it is hereby ordered that every Minister of this Church, or, if the Parish be vacant, the Wardens shall present, or cause to be delivered, on or before the first day of every annual Convention, to the Bishop of the Diocese, or, where there is no Bishop, to the President of the Convention, a statement of the number of Baptisms, Confirmations, Marriages and Funerals, and of the number of Communicants in his parish or Church, also the state and condition of the Sunday Schools in his parish, also of the amount of the communion alms, the contributions for missions, diocesan, domestic, and foreign, for parochial schools, for church purposes in general, and of all other matters that may throw light on the state of the same. And every other clergyman, not regularly settled in any parish or Church, shall also report the occasional services he may have performed; and if he has performed no such services, the causes or reasons which have prevented the same. And these reports, or such parts of them as the Bishop shall think fit, may be read in Convention, and shall be entered on the journals thereof.

The two purposes sought by this amendment were: first, that in the case of a vacant parish, the wardens were to make the parochial report; second, to provide for a fuller parochial report, requiring, in addition to the former requirements, a statement as to the Sunday school in the parish, the amount of the communion alms, and the contributions to missions and for parochial schools.

The canon, as amended, contains the first requirement for the submission of financial information.

Section 5 was also amended to read:

It is recommended that the Bishop and Standing Committee of the Church in every Diocese, or if there be no Bishop, the Standing Committee only, prepare previously to the meeting of every General Convention, a condensed report, and a tabular view of the state of the Church in their Diocese, comprising therein a summary of the statistics from the Parochial Reports, and from the Bishop's Addresses, specifying the capitals and proceeds of the Episcopal Fund, and of all benevolent and Missionary associations of Churchmen within the Diocese, for the purpose of aiding the Committee on the state of the Church, appointed by the House of Clerical and Lay Deputies in drafting their reports.

Convention of 1859

This Convention made no amendment to Canon 12 of 1853, simply changing the numbering thereof, making it Title I, Canon 15.

Convention of 1862

This Convention amended Title I, Canon 15, by adding thereto a new section, as follows:

Sec. 6. All incorporated schools, all parochial schools, all academies and colleges, and all hospitals, asylums for orphans or other children, of either sex, maintained at the expense or conducted under the management of members of this Church, are expected to report annually to the Bishop of the Diocese at the annual Convention, such reports to be disposed of as the Parochial Reports; and at every General Convention the tabular view of the state of the Church in each Diocese, and the report of the Committee on the state of the Church, shall include the results of such reports.

While Church-related institutions were now expected to report, few did so, and the provision was repealed in 1904.

Convention of 1874

This Convention renumbered the canon as Title I, Canon 17, and amended Section 5 as follows:

The words at the beginning of the section,

It is recommended that the Bishop and Standing Committee,

were stricken, and these words inserted in place thereof:

It shall be the duty of the Bishop and Standing Committee.

Also, striking all the words of said section after the words, "Bishop's Addresses," and inserting in place thereof the following:

specifying, as far as possible, the capital and proceeds of the Episcopal Fund, and of all Benevolent and Missionary associations of Churchmen within the Diocese, and present the same to the Secretary of the House of Deputies on or before the first Monday of the session, for the purpose of aiding the Committee on the state of the Church, appointed by the House of Deputies, in drafting their reports.

By this amendment the provisions of this section, which before rested on recommendation only, were now made mandatory. Also, provision was made that the condensed summary of the parochial reports should be presented to the secretary of the House of Deputies at a specified time.

Convention of 1892

This Convention renumbered the canon as Title I, Canon 20, and amended Section 5 to read as follows:

It shall be the duty of the Secretary of the Convention in every Diocese to prepare immediately after the adjournment of the meeting of the Diocesan Convention next preceding the Session of every General Convention, a list of the Clergy canonically resident therein and of persons admitted since the previous General Convention to the Order of Deacons or Priests and of persons deposed from the sacred ministry and of clergy that have died, and also a condensed report and tabular review of the state of the Church in said Diocese, comprising therein a summary of the statistics from the parochial reports, and from the Bishop's addresses, specifying as far as possible the capital and proceeds of the Episcopal fund and of the funds of all benevolent and missionary associations of Churchmen within the Diocese, and promptly to forward the same to the Secretary of the House of Deputies for the purpose of aiding the Committee on the State of the Church, appointed by the House of Deputies in drafting their report.

By this amendment, what was formerly made the duty of the bishop and standing committee regarding the forwarding of the condensed summary of the parochial reports to the secretary of the House of Deputies, was now made the duty of the secretary of the diocesan convention. Included in that summary was to be a canonical list of the clergy of the diocese, the candidates for orders, and the names of any of the clergy who had died or been deposed since the last session of the General Convention. Also, instead of this summary being delivered to the secretary of the House of Deputies on or before the first Monday of the session of the General Convention, it was to be forwarded to him promptly.

Convention of 1904

In the revision of the Digest of Canons by the Convention of 1904, Title I, Canon 20 was made Canon 47, and very materially amended. The six sections of the former canon were now combined into two sections. The first section, which covered the provisions of the first section of the former canon, was amended to read as follows:

It shall be the duty of every Minister of this Church in charge of a Parish or Congregation, or, if there be no Minister in charge, of the Churchwardens, or other proper officer, to deliver, on or before the first day of every annual Convention to the Bishop of the Diocese, or, where there is no Bishop, to the Presiding Officer of the Convention, a report of the number of Baptisms, Confirmations, Marriages, and Burials, and the number of Communicants in the Parish or Congregation; of the condition of the Sunday schools; of all contributions for parochial purposes, for charities, for Missions, Diocesan, Domestic and Foreign, or for any purpose whatever; and of other matters that may throw light upon the state of the Parish or Congregation. And every Minister not in charge of any Parish or Congregation shall also report his occasional services; and if there have been none, the causes or reasons which have prevented the same. And these reports, or such parts of them as the Bishop may deem proper, shall be entered in the Journal.

The changes made by the amendment were merely verbal with a restatement of certain provisions.

The second section comprised the matter contained in Sections 3, 4, and 5 of the former canon, and read as follows:

Sec. 2. It shall be the duty of the Secretary of the Convention of every Diocese or Missionary District to forward to the Secretary of the House of Deputies, on or before the first day of each regular meeting of the General Convention, the Journals of the Conventions or Convocations of the Diocese or Missionary District since the last regular meeting of the General Convention, together with such other papers including Episcopal Charges, Statements and Pastoral Letters, as may tend to throw light upon the state of the Church in the Diocese or Missionary District. It shall also be his duty to prepare, immediately after the adjournment of the Diocesan Convention, or the Convocation of a Missionary District, next preceding the regular Meeting of every General Convention, a list of the Ministers canonically resident therein, and of persons who, since the previous regular meeting of the General Convention, have been ordered Deacons or Priests, and of Ministers who have died, and of persons suspended or deposed from the Sacred Ministry; and also a condensed report and a tabular review of the state of the Church in the said Diocese or Missionary District, comprising a summary of the statistics from the parochial reports and from the Bishop's Statements, specifying, as far as possible, the statistics of all institutions of education or charity in any way connected with the Church within the Diocese or Missionary District, the condition of the ecclesiastical funds, and the amount of contributions within the Diocese or Missionary District, and of all contributions received by the Bishop for Church purposes; and these documents and statistics he shall thereupon forward to the Secretary of the House of Deputies. The Secretary of the House of Deputies shall, as soon as may be, present these papers to the House, and a Committee shall then be appointed to prepare and present to the House a report on the state of the Church, which report, when agreed to by the said House, shall be sent to the House of Bishops, with the request that they will draw up, and cause to be published, a Pastoral Letter to the members of the Church.

Sections 2 and 6 of the former canon, relating to the duty of the bishop to make an annual address to his diocesan convention, and the recommendation that all educational institutions, hospitals, etc., conducted under the management of members of the Church should make an annual report to the bishop, were repealed.

Convention of 1907

This Convention amended Section 1 of Canon 47 by inserting after the word "Congregation," at the end of the first sentence, the words "together with the whole number of souls under pastoral care."

Convention of 1910

This Convention amended Section 2 of the canon by striking out the following words at the end of said section:

with the request that they will draw up and cause to be published a Pastoral Letter to the members of the Church.

This amendment was caused by the fact that the House of Bishops in the preceding Convention issued no pastoral letter due to certain circumstances which, in the minds of the said house, rendered it

inadvisable to issue such letter. The House of Bishops at this next Convention adopted an amendment which would make it optional with the House of Bishops to issue a pastoral letter or not. The House of Deputies concurred in the amendment.

Convention of 1913

This Convention made a slight amendment to Section 1 of the canon, inserting the words “or Missionary District” after the word “Diocese.”

Convention of 1916

The Convention of 1913 appointed a Joint Commission on Business Methods in Church Affairs and directed it to report to the Convention of 1916. This commission recommended that the General Convention “adopt a uniform form of report from the Dioceses to the General Convention.” In accordance with this recommendation, the Convention amended the canon, now Canon 49, to read as follows:

Sec. 1. it shall be the duty of every Minister of this Church in charge of a Parish or Congregation, or, if there be no Minister in charge, of the Churchwardens, or other proper officer, to prepare upon the blank form adopted by the General Convention a report for the year ending December 31st preceding, and to deliver the same on or before the first day of every annual Convention to the Bishop of the Diocese or Missionary District, or where there is no Bishop, to the presiding officer of the Convention. This report shall include the following information: (1) the number of baptisms, confirmations, marriages, and burials during the year; the total number of baptized persons and communicants at the time of the report; (2) a summary of all receipts and expenditures, from whatever source derived, and for whatever purpose used; and (3) a statement of the property held by the Parish, whether real or personal, with an appraisal of its value, together with a statement of the indebtedness of the Parish, if any, and of the amount of insurance carried. And every Minister not in charge of any Parish or Congregation shall also report his occasional services, and if there have been none, the causes or reasons which have prevented the same. And these reports, or such parts of them as the Bishop may deem proper, shall be entered in the Journal.

Sec. 2. It shall be the duty of the Secretary of the Convention of every Diocese and of the Convocation of every Missionary District to forward to the Secretary of the House of Deputies immediately upon publication the Journals of the Convention of the Diocese or Convocation of the Missionary District, together with Episcopal charges, statements and such other papers as may show the State of the Church in his Diocese or Missionary District. It shall also be his duty to prepare, immediately after the adjournment of the Diocesan Convention or the Convocation of a Missionary District next preceding the regular meeting of every General Convention, and forward forthwith to the Secretary of the House of Deputies, upon the blank provided for that purpose, a condensed summary of the statistics contained in the Parochial reports and Bishop's statements, with information as to all institutions in any way connected with the Church within the Diocese or Missionary District, and also as to the condition of all invested funds and the amount of all contributions received and expended by the Bishops, or otherwise within the Diocese or District. The Secretary of the House of Deputies shall, as soon as may be, present these papers to the House, and a committee shall be appointed to prepare and present to the House a report on the State of the Church, which report, when agreed to by the said House, shall be sent to the House of Bishops.

The requirements of this canon were the precursors of a centralized system of annual parochial and diocesan reports with analysis by the Committee on the State of the Church.

Convention of 1919

This Convention amended Section 1 by adding after the word “report” and before (2) the following words:

and for all purposes the number of members of the Church shall be deemed to be the number of baptized persons.

The purpose of this amendment was to define the words “Church members” for statistical and other purposes, as there seemed to be some confusion in the use of the words “Church members,” the words sometimes being used to state the number of communicants, and at other times the number of baptized persons. It was represented that in reporting the number of communicants as the number of members of the Church, this Church was placed at a disadvantage, as some of the other religious bodies reported the number of their members as the number of baptized persons. As an instance of such disadvantage, it was pointed out that during the late war [World War I] the Church did not obtain its due proportion of chaplains as compared with the Roman Catholic and Lutheran bodies, because those bodies reported the number of baptized persons as the number of their members, while this Church had reported the number of communicants as the number of members.

The Convention adopted a further amendment to the canon by the addition of a new section as follows:

Sec. 3. it shall be the duty of the Secretary of the House of Deputies to furnish to all Compilers of Religious Statistics, publishers of Year Books and Religious or other publications desiring them, the figures of the total number of baptized persons as indicating the membership of this Church.

Through some oversight this amendment failed to be incorporated in published editions of the Digest of Canons.

Convention of 1922

This Convention amended Section 2 of the canon by inserting after the word “purpose” the words:

which shall conform to the reports required in the previous Section of this Canon, and shall give ...

Convention of 1925

The first sentence of Section 1 was replaced by the following two sentences:

A report of every Parish and other congregation of this Church shall be prepared annually for the year ending December 31st preceding, upon the blank form adopted by the General Convention, and shall be sent not later than February 1st to the Bishop of the Diocese or Missionary District, or, where there is no Bishop, to the Secretary of the Diocese or District. In every Parish the preparation and delivery of this report shall be the joint duty of the Rector and Vestry, and in every other congregation the duty of the Minister in charge thereof.

Convention of 1937

Section 2 was amended by moving the words “to prepare” from their former position to follow the word “Convention,” by deleting the words “and shall give;” and by adding a new sentence after the word “District” as follows:

Such information shall be tabulated separately for each of the three years.

Convention of 1943

In the rearrangement of canons made at this Convention, this canon became Canon 5.

Convention of 1949

An amendment of Section 1 was adopted in the House of Bishops to read:

This report shall include the following information: (i) The number of baptisms, confirmations, marriages and burials during the year; the total number of baptized persons and communicants *in good standing* at the time of the report, etc.

In the House of Deputies the committee on canons recommended that the house not concur because it believed the amendment unnecessary and that it would tend toward confusion in the meaning of the words “in good standing.” (The same words occurred, in a wholly undefined sense, in the canon on Holy Matrimony.)

The House of Deputies agreed with its committee and did not concur.

Convention of 1952

The words “in good standing” were added to item (i) of Section 1.

A proposed amendment of the section, changing the date when such reports should be made from February first to March first, was laid on the table in the House of Deputies.

In the House of Bishops the resolution was presented and not adopted.

A resolution was adopted in the House of Bishops defining terms in parochial reports in a proposed new Section 2.

When this matter reached the House of Deputies its committee on canons reported it had considered the message from the House of Bishops and, because of the complexity of the questions presented and the lateness of the hour, recommended the house not concur. The house did not concur.

Convention of 1955

A proposal to add to the statement of the amount of insurance carried, in item (3) of Section 1, the words:

and of the names of the companies which write the policy or policies and the expiration dates thereof;

was not acted upon, pending a general revision of national, diocesan, and parish report forms.

Convention of 1958

Section 1 was amended by substituting the words “upon the blank form prepared by the National Council and approved by the Committee on the State of the Church” for the words “upon a blank form adopted by the General Convention.”

Convention of 1961

In order to accomplish the desire of the Committee on the State of the Church that the General Division of Research and Field Study have available duplicate copies of parochial and diocesan reports, Section 1 was amended to require that a duplicate copy of all parochial report forms be sent to the Executive Council. Item (4), as it presently stands, was added.

The second sentence of Section 2 was amended to read as follows:

It shall also be his duty, immediately after the adjournment of the Convention or Convocation to prepare in duplicate and forward forthwith, one copy to the Secretary of the House of Deputies and one copy to the Executive Council, upon the blank form prepared by the Executive Council and approved by the Committee on the State of the Church, a condensed summary of the statistics required by the preceding section of this Canon, together with the information required by the blank form specified in this Section pertaining to the Diocese or Missionary District and to all institutions in any way connected with the Diocese or Missionary District.

Convention of 1967

The canon was amended to read as at present except for minor changes noted below under 1973 and 1979.

The only change in Section 1 was the addition of the words “not later than March 1st” at the end of the second sentence.

Section 2, requiring that diocesan reports be submitted annually, was new.

Section 3 (a) was an amendment of the first sentence of former Section 2, and clause (b) established an *ad interim* Committee on the State of the Church.

Convention of 1973

Pursuant to the adoption of Title V, Canon 2, the references to dioceses and missionary jurisdictions were simplified.

Convention of 1979

Section 1 was amended by deleting the words “and every Minister not in charge of a Parish or Congregation” and inserting in place thereof the words “Every Bishop, Presbyter, or Deacon whose report is not included in a parochial report.” The purpose was to eliminate the possibility of tabulating the same data twice.

EXPOSITION OF CANON I.5

The Committee on the State of the Church was the first committee to be established by the General Convention. Created at the beginning of the nineteenth century, it originally was constituted to function only for the duration of the assembly, rather than *ad interim* as today. But its basic charter has not changed. It was established to examine all the available data about the Church and present its evaluation to the House of Deputies. This is still done.

In recent years, no resolution has been introduced in the House of Deputies to “agree with,” or even “receive” the committee’s report. Instead, consideration is given to the committee’s proposals as to how it is to carry out its work in the triennium by the appropriation of funds. Since all but the latest statistical report has been published prior to the Convention — and, presumably, been read by the bishops — no attempt is made to send the committee’s report to the House of Bishops. The original canonical provision that the report should be the basis for the Pastoral Letter was removed in 1910.

It is surprising that the proposal to secure a view of the state of the Church survived some of the initial procedures required. The Convention was required to receive parochial reports, diocesan journals, episcopal addresses, and registers. They were to be *read* in the House of Deputies, then sent to the House of Bishops who were to draw up their view of the state of the Church and issue their pastoral.

The Committee on the State of the Church came into being in 1808. At the same Convention, more specific reporting was required of the parishes and also from the bishops, thus providing for the separation of data as it is today — into parochial and diocesan reports. Instead of empowering the bishops to draw up their own view of the ecclesiastical situation, the committee (of deputies only) was assigned this task. In 1814 the canon was amended to eliminate the requirement that the parochial reports be read in the house.

Subsequent Conventions specified more fully the type of data that was to be included, as well as the methods and times for reporting. Not so evident in the canon is the use to which the data is put. In addition to statistical record-keeping and trend analysis to provide a mirror to the Church's past and indications of future directions, the detailed financial and vital information is used to determine the allocation of assessments on the dioceses and askings for support of the program of the Church. In recent years the committee has engaged in sophisticated public opinion research. It has published "profiles" of demographic trends and the results of attitudinal research to learn the opinions of Church people. To assist its reporting, it has aided in the establishment, in the General Convention Office, of a management information system which has become a pilot for similar computer-based systems at the Church Center and a model for dioceses.



CANON 6. Of Business Methods in Church Affairs

Standard methods prescribed. Sec. 1. In every Diocese, Parish, Mission, and Institution, connected with this Church, the following standard business methods shall be observed:

Deposit of funds. (1). Trust and permanent funds and all securities of whatsoever kind shall be deposited with a Federal or State Bank, or a Diocesan Corporation, or with some other agency approved in writing by the Finance Committee or the Department of Finance of the Diocese, under either a deed of trust or an agency agreement, providing for at least two signatures on any order of withdrawal of such funds or securities.

Proviso. But this paragraph shall not apply to funds and securities refused by the depositories named as being too small for acceptance. Such small funds and securities shall be under the care of the persons or corporations properly responsible for them.

Record of trust funds. (2). Records shall be made and kept of all trust and permanent funds showing at least the following: (a) Source and date. (b) Terms governing the use of principal and income. (c) To whom and how often reports of condition are to be made. (d) How the funds are invested.

Treasurers to be bonded. (3). Treasurers and custodians, other than banking institutions, shall be adequately bonded; except treasurers of funds that do not exceed five hundred dollars at any one time during the fiscal year.

Books of account and audits. (4). Books of account shall be so kept as to provide the basis for satisfactory accounting.

(5). All accounts of the Diocese shall be audited annually by an independent Certified Public Accountant. All accounts of Parishes, Missions or other institutions shall be audited annually by an independent Certified Public Accountant, or independent Licensed Public Accountant, or such audit committee as shall be authorized by the Finance Committee, Department of Finance, or other appropriate diocesan authority.

All reports of such audits, including any memorandum issued by the auditors or audit committee regarding internal controls or other accounting matters, together with a summary of action taken or proposed to be taken to correct deficiencies or implement recommendations contained in any such memorandum, shall be filed with the Bishop or Ecclesiastical Authority not later than 30 days following the date of such report, and in no event, not later than September 1 of each year covering the financial reports of the previous calendar year.

Adequate insurance. (6). All buildings and their contents shall be kept adequately insured.

Report to Convention. (7). The Finance Committee or Department of Finance of the Diocese may require copies of any or all accounts described in this Section to be filed with it and shall report annually to the Convention of the Diocese upon its administration of this Canon.

Fiscal year. (8). The fiscal year shall begin January 1.

Dioceses to enforce by Canon. Sec. 2. The several Dioceses shall give effect to the foregoing standard business methods by the enactment of Canons appropriate thereto, which Canons shall invariably provide for a Finance Committee or a Department of Finance of the Diocese.

Encumbrance of property requires consent of Bishop and Standing Committee. See. 3. No Vestry, Trustee, or other Body, authorized by Civil or Canon law to hold, manage, or administer real property for any Parish, Mission, Congregation, or Institution, shall encumber or alienate the same or any part thereof without the written consent of the Bishop and Standing Committee of the Diocese of which the Parish, Mission, Congregation, or Institution is a part, except under such regulations as may be prescribed by Canon of the Diocese.

Sec. 4. All real and personal property held by or for the benefit of any Parish, Mission or Congregation is held in trust for this Church and the Diocese thereof in which such Parish, Mission or Congregation is located. The existence of this trust, however, shall in no way limit the power and authority of the Parish, Mission or Congregation otherwise existing over such property so long as the particular Parish, Mission or Congregation remains a part of, and subject to this Church and its Constitution and Canons.

Sec. 5. The several Dioceses may, at their election, further confirm the trust declared under the foregoing Section 4 by appropriate action but no such action shall be necessary for the existence and validity of the trust.



This canon was Canon 50 when it was adopted in 1916. It became Canon 6 in 1943, and Title I, Canon 6, in 1970.

Convention of 1916

The enactment of this canon was due to the recommendation of a joint commission appointed by the Convention of 1913 “to examine the present business methods throughout the Church, and to promote the establishment of modern systems.”

This commission made a very extended inquiry into the business methods employed, both in parishes and in dioceses, and reported that it had

evidence which in some cases shows exceedingly bad conditions, in more cases lax and unbusiness-like habits, and generally a lack of such system as is necessary for safety and for intelligent understanding of the work of the Church as a whole.

The commission proposed the following canon, which was adopted by the Convention as Canon 50:

Sec. 1. The fiscal year shall begin January 1st.

Sec. 2. All accounts, having to do with the receipt, and expenditure, or investments of money of all church organizations shall be audited at the close of each year by a certified public accountant; *Provided, however*, that if the amount of income for the year, as shown by the account shall be less than \$3,000, or if a certified accountant is not available, the audit may be made by an accountant bookkeeper in no way connected with the subject matter of the account.

Sec. 3. Each Diocese and Missionary District shall appoint at its next regular Convention or Convocation—provided one has not hertofore been appointed—and annually thereafter a Finance Committee for the following purposes:

(i) To maintain general supervision of the financial affairs of the Diocese or District; to secure simplicity and accuracy in collection and disbursement of all funds, and co-operation between the various officers, trusts and boards of the Convention or District; for which purpose it shall establish its own rules and keep a record of its meetings, all of which shall be submitted annually to the Convention or Convocation.

(ii) To act as advisor of the Bishop in financial matters; and, upon request, as advisor to individual parishes within the Diocese or District.

(iii) To perform such other duties relating to the business affairs of the Diocese or District as may be referred to it.

Convention of 1919

To carry out more fully the recommendations of the joint commission made to the previous Convention, the following sections were added and the remaining sections renumbered:

Sec. 2. A permanent Board consisting of one Bishop, one Clergyman and three Laymen, shall be constituted under the name of the Board of Church Finance, to promote the establishment of a uniform system of Parochial and Diocesan finances and reports, and to devise and recommend such improvements in methods of conducting Church finances, and of securing statistical information as may be found by experience from time to time to be desirable. The members of the Board shall be appointed triennially, and vacancies occurring therein shall be filled by the Presidents of the two Houses.

Sec. 3. It shall be the duty of the custodians of all trust and permanent funds for Church purposes to deposit the same in trust with some Trust Company or Bank organized under the laws of the United States, or of a State, or with a corporation of the Diocese, such as an incorporated Board of Trustees, and a full and detailed statement of each fund shall be annually reported to the Diocesan Convention, or the District Convocation.

The following new clause was inserted in Section 5 (formerly Section 3):

(iii) To see to it that adequate insurance is maintained upon all Church property and that the budget system be introduced into all Parishes.

Convention of 1925

Section 5 was amended by inserting after the words "Board of Church Finance" the words "or a Department of Finance."

Convention of 1931

Section 2 was repealed and the following sections renumbered, thus abolishing the Board of Church Finance.

Convention of 1940

The canon, now Canon 53, was amended to read as follows:

Sec. 1. In every Diocese, Missionary District, Parish, Mission, and Institution, connected with this Church, the following standard business methods shall be observed:

(1) Trust and permanent funds and all securities of whatsoever kind shall be deposited with a Federal or State bank, or a Diocesan Corporation, or other agency approved in writing by the Finance Committee or the Department of Finance of the Diocese or Missionary District, under either a deed of trust or an agency agreement.

(2) Treasurers and custodians, other than banking institutions, shall be adequately bonded.

(3) Such books of account shall be kept as shall make them available for satisfactory accounting.

(4) All accounts shall be audited annually by a Certified Public Accountant or by such an accounting agency as shall be approved by the Finance Committee or Department of Finance of the Diocese or Missionary District.

(5) Annual reports of all accounts shall be made to the Convention of the Diocese or Convocation of the Missionary District, which reports shall be referred to and reported upon by the Finance Committee or Department of Finance.

(6) All buildings and their contents shall be kept adequately insured.

Sec. 2. The several Dioceses and Missionary Districts shall give effect to the foregoing standard business methods by the enactment of Canons appropriate thereto, which Canons shall invariably provide for a Finance Committee or a Department of Finance of the Diocese or Missionary District.

Convention of 1943

The canon was renumbered as Canon 6. Section 1, clauses (1) through (7) were amended to their present form, except for clause (5), which read as follows:

All accounts shall be audited annually by a Certified or Independent Public Accountant, or by such an accounting agency as shall be permitted by the Finance Committee or Department of Finance of the Diocese or Missionary District.

Section 4 of old Canon 59, "Of Parish Vestries," which forbade the encumbrance or alienation of the real property of any parish, mission, congregation, or institution or any part thereof, save for the refinancing of an existing loan, without the written consent of the bishop and standing committee or council of advice, was transferred to new Canon 6 as Section 3.

Convention of 1958

Clause (8), prescribing a uniform fiscal year throughout the Church, was added to Section 1.

Convention of 1961

The following sentence was added to clause (5) of Section 1:

A certificate of audit shall be forwarded to the Bishop or Ecclesiastical Authority not later than July 1 of each year, covering the financial reports of the previous calendar year.

Convention of 1964

In Section 3, the exception in the provisions on the encumbrance of property, permitting the refinancing of an existing loan without the permission of the bishop and standing committee or council of advice, was repealed.

Convention of 1979

Clause (5) of Section 1 was amended to its present wording.

Sections 4 and 5 were added by this Convention. (*Journal*, pp. B-60, D-154. The account of this legislation does not appear under “Concurrent Actions.” The reference in the index is to a related action.)

EXPOSITION OF CANON I.6

Section 1, clause (1), of the present canon requires the deposit of trust and permanent funds and all securities with a federal or state bank or diocesan corporation or with some other agency approved in writing by the finance committee or department of finance of the diocese under a deed of trust or an agency agreement providing for at least two signatures on any order of withdrawal.

An exception is made for funds and securities refused by the depositories named as being too small for acceptance.

Few lay members of the Church are familiar with this canonical provision. Clergy to whom this canonical requirement is known frequently neglect to call the attention of the wardens and vestry to its provisions. Experience has taught that frequent changes in parish treasurers and lay leadership contribute to imperfect record keeping. Records of trusts, permanent funds, and securities are easily misplaced through lack of business-like procedures at the parish and mission level. While the provisions of this canon do protect against wrongdoing, their main purpose is to ensure business-like procedures. They are important for the protection and safeguarding of Church property and their existence should be generally known within the Church. Bishops and rectors should be alerted to instruct treasurers and those charged with Church funds about the obligation the Church has imposed for the special protection of such funds.

Clause (2) prescribes the form of records of trust and permanent funds to be kept.

Clause (3) provides for the bonding of treasurers and custodians, other than banking institutions, of funds in excess of five hundred dollars during the fiscal year.

Clause (4) provides for books of account susceptible of satisfactory audit.

Clause (5) requires an annual audit of accounts and the filing of reports with the Ecclesiastical Authority.

Clause (6) requires adequate insurance of buildings and their contents.

Clause (7) authorizes the finance committee or department of finance of a diocese to require copies of any and all accounts described in the section to be filed with it and that it report annually to the diocesan convention upon its administration of this canon.

Clause (8) prescribes a uniform fiscal year.

Section 2 requires each diocese to give effect to standards established by this canon by the enactment of appropriate canons which shall provide for a finance committee or department of finance.

Section 3, governing the power of vestries and trustees or other bodies authorized by civil or canon law to hold, manage, or administer real property, requires particular attention. By its terms, the limitation imposed by this section applies not only to a parish, mission, or congregation, but also to an institution, so that the trustees of a hospital or school are forbidden by it to encumber or alienate real property without the written consent of the bishop and standing committee except under regulations prescribed by diocesan canon.

State laws control the conveying and encumbering of real estate, and each case which arises must be decided according to the law of the situs of the property. This is recognized by the exception at the end of the section that gives power to diocesan conventions to make provision by local canon for the encumbrance or alienation of real property, differing from that prescribed by this canon, and so adapt the process to local law.

Dr. Dykman commented on this Canon in 1952 with particular reference to the State of New York. His comment was as follows:

The power of the General Convention over the disposition of real property is questionable, governed as it is by the law of the state in which it is situated. In a somewhat similar situation it has been held that the creation and dissolution of the pastoral relation are governed by the law of the Church in spite of the fact that a rector is an officer of a corporation created by the state. (*Fiske v. Beatty*, 206 App. Div. 349, 238 N.Y. 598.)

However, in spite of the provisions of Section 12 of the Religious Corporations Law of New York, containing the same requirement as the canon, and the common law of the state up to the time of its enactment, it has been held in New York that the real property of an incorporated Protestant Episcopal Church is subject to execution under a judgment for moneys due on a contract made by the vestry. (*Rector etc. Church of the Nativity v. Fleming*, 174 Misc. 473, aff'd 260 App. Div. 930; aff'd 285 N.Y. 706.)

In states where the common law of England, as it existed at the time of our Revolution and was adapted to conditions, governs in the absence of later statutes, it would seem the better view that the real property of any ecclesiastical foundation, parish, or other institution cannot be encumbered or aliened without legislative authority.

Taking the State of New York as an example, until the enactment of Chapter 43 of the Laws of 1806, the real property of a church could not be sold or encumbered except by permission of the legislature contained in a special act.

This authority was then vested in the chancellor and later in the Supreme Court, it being, however, a condition precedent in the case of Protestant Episcopal Churches that the bishop and standing committee of the diocese in which the property is situated give separate written consents.

This rule in New York unquestionably had its origin in an ancient English statute of 1570 designed to prevent dilapidation or alienation of ecclesiastical property.

In *Rector v. Fleming*, cited by Dr. Dykman, the court commented on the question and wrote as follows:

The only question arising on this motion to dismiss the complaint for insufficiency is whether the property of a religious corporation is exempt from execution.

The plaintiffs' contention is, essentially, that under the common law of this state the real property of religious corporations was inalienable (1 Evans Stat., 381-390; *Madison Ave. Baptist Church v. The Baptist Church in O St.*, 46 N.Y. 131, 141-142) and now, by statute, may be sold or mortgaged only upon fulfilling certain prescribed conditions (*Religious Corp. Law Sec. 12*).

Plaintiff further contends that since a religious corporation may not voluntarily alienate its real property without compliance with the statute, it may not, by incurring an obligation which ripens into a judgment, and to satisfy which the property must be sold, accomplish by indirection what it cannot do directly.

No adjudicated case is found in this state determining the question presented.

Counsel for the plaintiff called attention to a Nebraska case (*Horton v. Tabitha Home*, 95 Neb. 491), an action to foreclose a mechanic's lien against the real property of an incorporated charitable institution operated by a religious society.

After pointing out that the owners or trustees of the home did not contract for the work and had indicated clearly that the property was not to be charged with the expense, the court held, two justices dissenting, that no lien was created upon the property of the charitable institution.

The opinion sets forth many other facts and circumstances to indicate that the conclusion reached effected substantial justice in that particular case.

However, it stands alone, the great weight of authority being to the contrary (*Harrisburg Lumber Co. v. Washburn*, 29 Ore. 150; *Presbyterian Church v. Allison*, 10 Pa. 413; *Morris v. Nomlin Lumber Co.*, 100 Ark. 253; *Ray County Sav. Bank v. Cramer*, 54 Mo. App. 587; *North Presbyterian Church v. Jevne*, 32 Ill. 214; *Gortemiller v. Rosengarn*, 103 Ind. 414; *Keller v. Tracy*, 11 Iowa 530; *Jones v. Mt. Zion*, 30 La. Ann. 711; *Hoekstra v. Chambers-Wylie Mem. Presbyterian Church*, 51 Pa. Super. Ct. 405).

That the real property of a religious corporation may be sold to satisfy a judgment against it has apparently never been questioned in this state, and innumerable such sales have been made.

Sections 4 and 5 of the canon make specific the trust in favor of the Church under which all real and personal property is held by parishes, missions, and congregations.

In the opinion in *Watson v. Jones*, 80 U.S. 679 (13 WALL 679) (1872), Mr. Justice Miller divided into three categories disputes concerning rights to property held by ecclesiastical bodies which had come before the civil courts for decision. The cases were divided into those in which an express trust could be found to exist, those in which property was held by independent religious congregations which were under no obligation to any higher authority, and those involving situations in which the congregation or religious body holding title was a subordinate member “of some general church organization in which there are superior ecclesiastical tribunals with a general and ultimate power of control more or less complete, in some supreme judicatory over the whole membership of that general organization.”

As to the third group of cases, the Court said that those who unite or join with hierarchical church bodies do so with an implied consent to their government and control and that property owned by subordinate groups is held for the ultimate benefit of the entire group and may not be alienated by a group possessing temporal control at a particular period of time. Numerous state courts have reached similar results.*

In *Watson*, the Court commented as follows:

In this country the full and free right to entertain any religious belief, to practice any religious principle, and to teach any religious doctrine which does not violate the laws of morality and property, and which does not infringe personal rights, is conceded to all. The law knows no heresy, and is committed to the support of no dogma, the establishment of no sect. The right to organize voluntary religious associations to assist in the expression and dissemination of any religious doctrine, and to create tribunals for the decision of controverted questions of faith within the association, and for the ecclesiastical government of all the individual members, congregations, and officers within the general association, is unquestioned. All who unite themselves to such a body do so with an implied consent to this government, and are bound to submit to it. But it would be a vain consent and would lead to the total subversion of such religious bodies, if any one aggrieved by one of their decisions could appeal to the secular courts and have them reversed. It is of the essence of these religious unions, and of their right to establish tribunals for the decision of questions arising among themselves, that those decisions should be binding in all cases of ecclesiastical cognizance, subject only to such appeals as the organism itself provides for.

Nor do we see that justice would be likely to be promoted by submitting those decisions to review in the ordinary judicial tribunals. Each of these large and influential

*See “Determination of Property Rights Between Local Church and Parent Church Body: Modern View,” 52 A.L.R. 3rd 324 (1973) and “Judicial Intervention in Disputes Over The Use Of Church Property,” 75 Harv. L. Rev. 1142 (1962).

bodies (to mention no others, let reference be had to the Protestant Episcopal, the Methodist Episcopal, and the Presbyterian churches), has a body of constitutional and ecclesiastical law of its own, to be found in their written organic laws, their books of discipline, in their collections of precedents, in their usage and customs, which as to each constitute a system of ecclesiastical law and religious faith that tasks the ablest minds to become familiar with. It is not to be supposed that the judges of the civil courts can be as competent in the ecclesiastical law and religious faith of all these bodies as the ablest men in each are in reference to their own. It would therefore be an appeal from the more learned tribunal in the law which should decide the case, to one which is less so.

In 1969, the United States Supreme Court in *Presbyterian Church v. Mary Elizabeth Blue Hull Presbyterian Church*, 393 U.S. 440, 21 L. Ed. 2d 658 (1969), again addressed a property dispute involving a hierarchical church. The Court pointed out that, although the First Amendment does circumscribe the role of civil courts in resolving church property litigation, “not every civil court decision as to property claimed by a religious organization jeopardizes values protected by the First Amendment.” The Court continued by saying that neutral principles of law existed, developed for use in all property disputes and that the courts could apply “neutral principles of law,” but should not attempt to resolve “underlying controversies over a religious doctrine.

Mr. Justice Brennan in his concurring opinion in the case of *Maryland and Virginia Eldership v. Church of God at Sharpsburg, Inc.*, 396 U.S. 367, 24 L.Ed.2d 582 (1970), said:

a state may adopt any one of the various approaches for settling church property disputes so long as it involves no consideration of doctrinal matters ... (396 U.S. at 368.)

The implied trust theory of *Watson v. Jones*, according to Justice Brennan, was one of the possible alternatives. Another basic approach, according to the justice, was the so-called “neutral principles of law” or “formal title” doctrine under which a state might resolve the dispute by studying deeds, general state corporation laws, the organic documents of the church, and the like. (*Id.* at 370.)

After the decisions in *Hull Church* and *Sharpsburg*, some states adopted the “neutral principles” approach. Many other states continued to follow the implied trust theory.*

*See *Presbytery of Seattle, Inc. v. Rohrbaugh*, 485 P.2d. 615, 619, 79 Wash.2d 367, cert. denied, 405 U.S. 996 (1971); *United Methodist Church v. St. Louis Crossing Independent Methodist Church*, 150 Ind. App. 574, 276 N.E.2d 916 (1971); *Protestant Episcopal Church in the Diocese of New Jersey v. Graves*, 417 A.2d 19, 83 N.J. 572 (1980); (Episcopal Church held to be hierarchical in character and property of a local congregation held subject to implied trust for the parent church); *Church of God in Christ, Inc. v. Cawthon*, 507 F.2d 599, 602 (5th Cir. 1975); *Church of God in Christ v. Stone*, 452 F.

In 1979, two developments made clear the need for action by the General Convention. First, following the 1976 adoption of the new (Proposed) Book of Common Prayer and the canonical changes permitting the ordination of women as priests, dissident groups in several parishes attempted, in effect, to secede from the Episcopal Church and take parish property with them.

Second, the United States Supreme Court in *Jones v. Wolf*, 443 U.S. 595, 61 L. Ed. 2d 775 (1979), decided in July, 1979, in a five to four decision, that states, consistent with the First and Fourteenth Amendments, could resolve disputes over the ownership of church property by adopting a “neutral principles of law” approach and are not required to adopt a rule of compulsory deference to religious authority in resolving such disputes where no issue of doctrinal controversy is involved.

This approach gives great weight to the actions of controlling majorities, and would appear to permit a majority faction in a parish to amend its parish charter to delete all references to the Episcopal Church, and thereafter to affiliate the parish — and its property — with a new ecclesiastical group.

Although considered by some to be declaratory of existing law, Sections 4 and 5 of this canon were adopted by General Convention in 1979 in response to the following invitation contained in the decision in *Jones v. Wolf*:

At any time before the dispute erupts, the parties can ensure, if they so desire, that the faction loyal to the hierarchical church will retain the church property. They can modify the deeds or the corporate charter to include a right of reversion or trust in favor of the general church. *Alternatively, the constitution of the general church can be made to recite an express trust in favor of the denominational church.* (Emphasis added.) 443 U.S. at 606.

In *Barker v. Protestant Episcopal Church in the Diocese of Los Angeles*, 171 Cal. Repr. 541 (2d DCA), *cert. denied*, 70 L.Ed 2d 163 (1981), the intermediate Court of Appeals in California permitted three

Supp. 162, 617 (D.Kan. 1976); *Paradise Hills Church, Inc. v. International Church of the Foursquare Gospel*, 467 F. Supp. 357, 360-61 (D. Ariz. 1979); *Colin v. Iancu*, 267 N.W.2d 438, 82 Mich. App. 521 (1978). See also *Diocese of Southwestern Virginia, etc., et al. v. Buhrman, et al.* (Clifton Forge, Virginia Court Case No. 1748, November 18, 1977, *aff'd*, June 15, 1978); *Bishop & Diocese of Colorado, et al. v. Mote, et al.* (Denver County, Colorado District Court Case No. C-75959, January 21, 1980); *Protestant Episcopal Church, etc. et al. v. Tea, et al.* (Clark County, Nevada District Court Case No. A165130, April 30, 1980).

seceding Episcopal Churches to take their property with them, finding no express trust which would bind the property to the diocese or national Church. The property of a fourth seceding church was held to revert to the diocese because of an express provision to that effect in its charter and in some recently adopted canons that were not applicable to the others. The records in all four cases were made before the 1979 amendments to this canon and the result might have been otherwise in the first three cases had these provisions been in effect before the dispute arose.

The California court in *Barker* rejected the “hierarchical theory” as a means in itself of resolving property disputes between a local congregation and its denomination. Other courts continue to apply that “hierarchical theory” to the Episcopal Church; see, for example, *Protestant Episcopal Church in the Diocese of New Jersey et al. v. Graves et al.*, Supreme Court of New Jersey, Union County, Chancery Division Docket No. C-422-77 (February 10, 1978), relying chiefly on *Kelly v. McIntire*, 123 N.J. Eq. 351. The Court in *Graves* ruled in favor of the diocese.

Recent cases influenced by *Jones v. Wolf, supra*, hold that a determination of hierarchical status is but the first step in the analysis and that, once that determination is made, one must move on to see if the dispute can be resolved by reference to “neutral principles of law” found in documents of independent legal significance such as deeds, charters, by-laws, canons, etc. This was the approach taken by the California court in *Barker* with respect to the one seceding church whose property was held to revert to the diocese because of specific language in its charter and in diocesan canons. The same approach was used in the Diocese of Southeast Florida in which the diocese also prevailed: *Rt. Rev. James L. Duncan v. Rev. Peter Watterson*, In the Circuit Court for the Fifteenth Judicial Circuit of Florida, in and for Palm Beach County, No. 77-3926 CA (L) 01 K (Feb. 1979). The 1979 amendments to this canon lend further support to that reasoning.



CANON 7. Of the Church Pension Fund

- Authorized to administer pension system.* Sec. 1. The Church Pension Fund, a corporation created by Chapter 97 of the Laws of 1914 of the State of New York as subsequently amended, is hereby authorized to establish and administer the clergy pension system, including life, accident and health benefits, of this Church substantially in accordance with the principles adopted by the General Convention of 1913 and approved thereafter by the several Dioceses, with the view to providing pensions and related benefits for the Clergy who reach normal age of retirement, for the Clergy disabled by age or infirmity and for the surviving spouses and minor children of deceased Clergy.
- Trustees, how elected.* Sec. 2. The General Convention at each regular meeting shall elect, on the nomination of a Joint Committee thereof, twelve persons to serve as Trustees of The Church Pension Fund for a term of six years and until their successors shall have been elected and have qualified, and shall also fill such vacancies as may exist on the Board of Trustees; except that at the meeting held in the year 1970, the General Convention shall elect four persons to serve for a term of three years and four persons to serve for a term of six years. Any person elected after the date of this amendment may serve not more than two consecutive six-year terms. Any vacancy which occurs at a time when the General Convention is not in session may be filled by the Board of Trustees by appointment, *ad interim*, of a Trustee who shall serve until the next session of the General Convention thereafter shall have elected a trustee to serve for the remainder of the unexpired term pertaining to such vacancy.

Nothing in this section shall be construed as prohibiting any Trustee elected before it was amended as herein set forth from serving the full term for which he was elected or from being subsequently elected or re-elected as a Trustee under the provisions hereof.

- Royalties.* Sec. 3. For the purpose of administering the pension system, The Church Pension Fund shall be entitled to receive and to use all net royalties from publications authorized by the General Convention, and to levy upon and to collect from all Parishes, Missions, and other ecclesiastical organizations or bodies subject to the authority of this Church, and any other societies, organizations, or bodies in the Church which under the regulations of The Church Pension Fund shall elect to come into the pension system, assessments based upon the salaries and other compensation paid to Clergy by such Parishes, Missions, and other ecclesiastical organizations or bodies for services rendered currently or in the past, prior to their becoming beneficiaries of the Fund.
- Assessments.*
- Limit on allotment.* Sec. 4. The pension system shall be so administered that no pension shall be allotted before there shall be in the hands of The Church Pension Fund sufficient funds to meet such pension, except as directed by the General Convention in 1967.
- To all Clergy in continuous service.* Sec. 5. To every Member of the Clergy who shall have been ordained in this Church or received into this Church from another Church, and who shall have remained in service in the office and work of the Ministry in this Church for a period of at least twenty-five years, and in respect of whom the conditions of this Canon shall have been fulfilled in the payment of assessments on such reasonable basis as The Church Pension Fund may establish under its Rules of Administration, The Church Pension Fund shall provide a minimum retiring allowance the amount of which shall be determined by the Trustees of the Fund, and shall also provide surviving spouses' and minor children's allowances related thereto. In the case of a Member of the Clergy in whose behalf assessments shall not have been fully paid for a period of at least twenty-five years, The Church Pension Fund shall be empowered to recompute the aforesaid minimum retiring allowance and the other allowances related thereto at a rate or rates consistent with proper
- Minimum Pension.*
- Retiring Allowance.*

Empowered to establish Rules. actuarial practice. The Trustees of The Church Pension Fund are hereby empowered to establish such Rules and Regulations as will fulfill the intention of this Canon and are consistent with sound actuarial practice. Subject to the provisions of this Canon, the general principle shall be observed that there shall be an actuarial relation between the several benefits; provided, however, that the *Maximum Pension.* Board of Trustees shall have power to establish such maximum of annuities greater than two thousand dollars as shall be in the best interests of the Church, within the limits of sound actuarial practice.

Initial Reserve Fund. Sec. 6. An Initial Reserve Fund, derived from voluntary gifts, shall be administered by The Church Pension Fund so as to assure clergy ordained prior to March 1, 1917, and their families such addition to the support to which they may become entitled on the basis of assessments authorized by this Canon as may bring their several allowances up to the scale herein established.

Merger of General Clergy Relief Fund with Church Pension Fund. Sec. 7. The action of the Trustees of the General Clergy Relief Fund in accepting the provisions of Chapter 239 of the Laws of 1915 of the State of New York, authorizing a merger with The Church Pension Fund, upon terms agreed upon between said two Funds, is hereby approved. Any corporation, society, or other organization which hitherto has administered clergy relief funds, may to such extent as may be compatible with its corporate powers and its existing obligations, and in so far as may be sanctioned in the case of diocesan societies by the respective Dioceses, merge with The Church Pension Fund, or if merger be impracticable, may establish by agreement with The Church Pension Fund the closest practicable system of cooperation with that fund. Nothing herein contained shall be construed to the prejudice of existing corporations or societies whose funds are derived from payments made by members thereof.

Pensions for Women. Sec. 8. Women ordained to the Diaconate prior to January 1, 1971, who are not employed in active service on January 1, 1977, shall continue to have the benefit of their present provisions for pension protection at the expense of their employers, through the Pension Plan for Deaconesses provided by the Church Life Insurance Corporation, or through some other pension plan providing equivalent or

better guarantees of a dependable retirement income, approved by proper authority. Women ordained to the Diaconate prior to January 1, 1971, and who are employed in active service on or after January 1, 1977, shall be entitled to the same provisions for pension protection as other Deacons based on prospective service on or after January 1, 1977. Women ordained to the Diaconate on or after January 1, 1971, shall be entitled to the same pension protection as other Deacons.

General Convention reserves the right to amend this Canon. Sec. 9. The General Convention reserves the power to alter or amend this Canon, but no such alteration or amendment shall be made until after the same shall have been communicated to the Trustees of The Church Pension Fund and such Trustees shall have had ample opportunity to be heard with respect thereto.



This canon was Canon 56 when it was adopted in 1916, replacing an older canon “Of General Clergy Relief.” It became Canon 7 in 1943, and Title I, Canon 7, in 1970.

Convention of 1853

The first action taken by General Convention looking toward making provision for the relief of clergymen and their dependents was the adoption of a resolution by both houses of the Convention of 1853, for the appointment of a joint committee to take “in consideration the expediency of establishing a General Society designed to comprehend the whole Church, having for its object the relief of Widows and Orphans of Deceased Clergymen.”

This committee reported later in the session that they were “impressed with a solemn conviction that there should be no delay” in establishing such a fund.

On recommendation of the committee, the Convention adopted the following resolutions:

Resolved, That a fund for the relief of the widows and orphans of deceased clergymen of the Protestant Episcopal Church in the United States of America, be, and is hereby instituted by the authority of the General Convention of said Church.

Resolved, That said fund be placed under the management of seven Trustees, to be appointed triennially by the General Convention, on nomination by a joint Committee.

The next resolution names the trustees and provides:

Resolved, That the Board of Trustees named in the preceding resolution have full power to procure an act of incorporation, to receive, invest, or otherwise dispose of, all funds, which may come into their hands from annual subscribers, from the contributions of individuals or congregations, or from bequests, that they may make such grants as circumstances may justify and require until the next General Convention, to which they shall report all their proceedings, and also a carefully digested system for future operations.

Resolved, That the Bishops be requested to bring the subject to the notice of their clergy and congregations, and to endeavor to procure from each congregation an annual contribution to this very important object.

Convention of 1856

Only a verbal report was made to the Convention of 1856, which Convention selected a board of trustees for the fund.

Convention of 1859

The trustees made an extended report to this Convention, in which they stated that they had secured the incorporation of the trustees of said fund on April 13, 1855. The board also submitted a code of by-laws for the government of the said corporation, for approval by the Convention, which was approved and adopted, and the object of the fund was commended to the sympathy and support of the Church at large.

Convention of 1862

The trustees reported that they

were not encouraged by a favorable response to this appeal, and have been reluctantly brought to the conclusion that there is not such interest felt in the Church at large in the creation of such a Fund as their charter contemplates as to invite further attempts of a similar kind at the present time.... Efforts at this juncture to create an adequate Fund are manifestly hopeless.

The board advised the appointment of trustees, however, as necessary to preserve their charter.

The Convention adopted their report and appointed the necessary trustees.

Convention of 1868

The trustees of the fund for widows and orphans, etc., reported:

That since their appointment, no endowments or donations have been placed in their hands, although a charter was obtained, and an earnest appeal issued in the year 1859.

The trustees assigned as the principal causes of their failure, the existence of diocesan funds for this purpose in the older and larger dioceses, and the extended operations of life insurance and annuity

companies. The trustees asked to be discharged and that the charter of the board be deposited with the registrar of the General Convention. The Convention voted to discharge the trustees and to lodge the charter with the registrar.

Thus ended the first attempt of General Convention to provide a fund for the widows and orphans of deceased clergymen, and for the aged and infirm clergy of the Church.

Convention of 1871

To the honor of the Church, the efforts to establish a fund for the benefit of the widows and orphans of deceased clergymen, and of the aged and infirm clergy of the Church, were not allowed to lapse into innocuous desuetude. The House of Bishops in the Convention of 1871 appointed a special committee to inquire whether any legislation providing for the relief of disabled clergymen was practicable and expedient. This committee reported to the house that, in its opinion, the time had come for an energetic effort to give "this Fund substantial existence, and to render effectual the beneficence of the Church toward a most deserving class of her members." The committee recommended that a new board of trustees be elected and that the said board adopt such measures as may be necessary and expedient to revive and extend interest throughout the Church in this important charity.

This report was adopted by the House of Bishops and concurred in by the House of Deputies, and a board of trustees was elected.

This Convention also took the first practical step toward establishing a fund for the relief of the clergy by the adoption of the following resolution:

Resolved, That the Hymnal, now finally corrected by the Committee thereon, shall be free to be printed and published by all responsible publishers, who shall obtain a license to that effect from the Trustees of the Fund for the Relief of Widows and Orphans of Deceased Clergymen, and of Aged, Infirm, and Disabled Clergymen, and who shall assure to such Trustees a payment, to be applied for the uses of said fund, equivalent to *ten per cent* upon the retail selling price; and that the copyright of the Hymnal be vested in said Trustees.

Convention of 1874

The trustees reported that, while the income for the three years past had not equalled all that might have been hoped for,

that it had sufficed to form the nucleus of an effective fund, and to enable the Trustees to extend some measure of timely relief to highly deserving and necessitous applicants.

They reported a total royalty of \$12,650.86.

Convention of 1880

A committee from the House of Bishops presented to the House of Deputies an appeal for the cause of disabled clergy and their dependents. As a result of this appeal the Convention adopted a series of resolutions, among which were the following:

Resolved, That the Committee appointed to consider the subject of the Increase of the Fund for the Relief of the Widows and Orphans of Deceased Clergymen, and of Aged, Infirm, and Disabled Clergymen, be continued, with an increased membership, with instructions to act in the premises during the time intervening before the next General Convention, to the end that they may better accomplish the objects for which the Committee was raised.

Resolved, That every Minister in charge of a Congregation be requested to reserve, from this time forth, out of "the alms and other devotions of the people, collected upon each and every occasion of the administration of the Lord's Supper, a percentage of the whole amount, not less than one or more than ten per cent, at the discretion of the Minister, the same to be forwarded and paid over to the Trustees of the Fund for the Relief of the Widows and Orphans of Deceased Clergymen and of Aged, Infirm, and Disabled Clergymen.

The committee was also directed to correspond with the authorities of each diocese and missionary district, for the purposes of collecting statistics, and to report to the next Convention a digest of all the information thus gathered, with reference to further and more formal action.

Convention of 1883

This Convention adopted the following resolution:

Resolved, That the General Convention earnestly recommend the devotion, by the Ministers of this Church, of a part of the alms and contributions at the administration of the Holy Communion, to the support of disabled Clergymen, and the Widows and Orphans of deceased Clergymen.

A special joint committee was appointed on increasing the fund for disabled clergymen and their dependents, which committee reported that the Bishop of Minnesota had offered to give the trustees of the fund a lot in the city of Faribault, Minnesota, with a building on it well-adapted to be used as a home for aged and infirm clergymen, and recommended that the gift be accepted. This recommendation was adopted by the House of Deputies, but not concurred in by the House of Bishops, on the ground that the matter might better be left to the trustees of the fund without instructions.

The House of Deputies, on the last day of the session, adopted an amendment to Title I, Canon 14, Section 3, recommending the devotion by the ministers of the Church of a part of the alms at celebrations of the Holy Communion to the aged and infirm clergy fund. No action

on this proposed amendment to the canon was taken by the House of Bishops.

Convention of 1889

The Diocese of Connecticut presented a memorial to the Convention of this year on the subject of pensions for the clergy, which was referred in the House of Deputies to the Committee on the State of the Church. This committee reported the following resolutions which were adopted by the House of Deputies:

Resolved, That the Clergyman's Retiring Fund Society is heartily approved in its principles and methods, and is commended to the support of the Clergy and Laity of the Church.

Resolved, That every Diocese of this Church be asked to pass a Canon similar to that of the Diocese of Newark on the subject of a Clergy Pension Fund.

Resolved, That the Secretary of this House be instructed to transmit these resolutions, together with copies of the report of the Clergyman's Retiring Fund Society, and of the aforesaid Canon of the Diocese of Newark, to the Convention of each Diocese.

Convention of 1892

The trustees of the fund made a stirring report to the Convention of this year. This report was referred to a special joint committee which made a strong report, presenting as its

unanimous conviction that it ought to be earnestly considered by the Church whether there ought not to be substituted for the present inadequate and disappointing efforts at relief a well planned system of clergy pensions for clergymen incapacitated for active service by age or infirmity and for the widows and orphans of needy clergymen deceased.

To accomplish this the committee recommended the adoption of a proposed canon.

In response to the earnest appeal of both the trustees and the special joint committee, the Convention enacted the following canon, as Title III, Canon 8.

Of General Clergy Relief

Sec. 1. (1) The General Convention at each Triennial Meeting shall elect, on the nomination of a Joint Committee thereof, fifteen persons to serve as Trustees of the Fund for the Relief of Widows and Orphans of Deceased Clergymen, and of Aged, Infirm and Disabled Clergymen, instituted by the General Convention in 1853, and incorporated in Chapter 459 of the laws of the State of New York in 1855. Said Trustees shall hold office until the succeeding General Convention, or until their successors shall be elected, and shall have power to fill vacancies occurring in their own Board, and to appoint officers and agents.

(2) The first named seven Trustees elected by the General Convention of 1892 shall manage the affairs of the Fund until the enactment of such legislation as shall enlarge

the number of Trustees from seven to fifteen, and after such enactment, the remaining eight Trustees elected by the Convention as hereinbefore provided, shall enter upon the discharge of their duties.

Sec. 2. (1) The widow of any deceased clergyman, remaining unmarried, the children of any deceased clergyman until they have reached the age of twenty-one years, unless they shall have married before that age, and any clergyman being permanently disabled, or having reached the age of sixty-four years, shall be entitled, in the discretion of the Trustees, to share in the benefits of this Fund.

(2) All applications to the Trustees shall bear the recommendation of the Bishop, or in case there be no Bishop, of the clerical members of the Standing Committee of the Diocese or Jurisdiction to which the applicant may belong.

Sec. 3. The resources of the Fund shall be from such royalties as shall be established by the General Convention, from offerings in parishes, and from such other voluntary gifts and legacies as may be received.

Sec. 4. The Trustees shall publish a report on the first of September, in each year, showing a complete list of all contributions to the Fund within the year past, and shall cause a copy of such report to be sent to every Bishop and Clergyman of the church.

Sec. 5. Contributors to the Fund shall have the right to designate how their contributions shall be applied, and the Bishop of any Diocese or Jurisdiction may, within one year after the report is issued, direct how the contributions of congregations in his Diocese or Jurisdiction so reported the use of which has not been designated, shall be applied.

Sec. 6. the Trustees may enter into relations with all kindred funds and societies in the Church, and so far as may be practicable, secure their co-operation to the end that there may be a complete record of all clergy relief in the Church, and that such relief may be distributed wisely, equitably, and efficiently.

Thus, after more than thirty years from its inception, the General Convention of the Church recognized its duty to provide for the relief of its aged and infirm clergy, and for the dependents of deceased clergymen, and substituted for high-sounding resolutions, which had had no effect upon the Church's members, a canon providing an efficient organization for the collection and distribution of funds for that purpose.

Convention of 1898

This Convention amended Section 1 of this canon by striking the word "fifteen," and substituting therefor the word "seven," thus reducing the number of trustees from fifteen to seven. The Convention also repealed clause (2) of Section 1.

Convention of 1904

In the revision of the Digest of the Canons by the Convention of this year, no amendment was made to this canon, which now became Canon 53.

Convention of 1907

The first section of this canon was amended by striking all of said section between the words "Trustees of," and the word "instituted," and inserting in place thereof, the words, "General Clergy Relief Fund."

The words stricken out formed the former name of the fund, which had now been superseded by the name General Clergy Relief Fund.

Section 4 was also amended by inserting the word "Convention," between the word "each" and the word "year," so that it would read,

The Trustees shall publish a report on the first of September of each Convention year, etc.

The former canon required the trustees to publish a report each year; as amended, it required a published report only in each Convention year.

A memorial was presented to this Convention from the Diocese of Los Angeles praying for the appointment of a commission to raise the sum of five million dollars, to be added to the fund for general clergy relief. In response to this memorial, the Convention appointed a joint commission to take in hand the raising of the said five million dollars.

Convention of 1910

At this Convention, the Bishop of Massachusetts introduced a resolution providing for the appointment of a joint commission on the support of the clergy to consider the whole question of the support of the clergy, including salaries, sustentation, insurance, annuities, and pensions.

This resolution was adopted and the joint commission appointed, with the Bishop of Massachusetts as chairman.

The joint commission called into consultation Mr. Monell Sayre, the pension expert of the Carnegie Foundation for the Advancement of Teaching, and under his direction a questionnaire was sent to every clergyman of the Church, containing questions concerning the date of his birth, the date of his ordination, whether he was married and, if so, the date of his wife's birth and the date of his marriage and the date of birth and sex of any minor child. The questionnaire also asked minutely concerning the financial support which the clergyman received from the Church.

Eventually, through persistent effort, replies were received from 98½ per cent of the entire canonical roll of the clergy. The joint commission thus had at its disposal complete information concerning the vital statistics and the financial support of almost all of the existing clergy.

Mr. Sayre then undertook the reconstruction of the mortality record of the clergy of the American Church from the date of its formal separation from the Church of England in 1787 down to the time of the questionnaire above mentioned. Through the use of the great libraries in New York, Boston, and Washington, this was done to an extent which would justify actuarial calculations therefrom.

Mr. Sayre, who had been made a member of the joint commission about this time, placed at its disposal his own library of pension literature, probably the most extensive in the world, containing a fairly complete record of every pension system which had ever existed, and copy of every piece of pension literature or a synopsis of it. This collection was thoroughly indexed, with appropriate cross references, so that any problem concerning pensions could immediately be examined in the light of experience and the writings concerning it.

Thus supplied with data concerning the Church, and with the entire experience of the world concerning pensions, the joint commission proceeded to deliberate on the report which it should make to the General Convention of 1913. It resolved to recommend a comprehensive pension system, of the group method, whose essential characteristics should be as follows: A modest but adequate provision should be made for a clergyman upon retirement on account of age, and upon retirement for total and permanent disability. There should also be a provision for the widow and for each minor child. In all of these provisions there should be a basic amount, assuring a minimum provision for the whole body of working clergy and for their families. Actuarial calculations should be made of the cost of said provisions, considering the mortality and marital experience of the whole body of the clergy, and the salary schedule, in the case of the situation of the Church when all of the clergy in active service should have been ordained after the pension system started; and this cost should be expressed in a given percentage of the salary received by the clergy. The parishes and all other organizations paying a salary to any ordained man should then, by the authority of the Church, be assessed this given percentage on the salary paid.

The joint commission thus planned a pension system looking far into the future when every clergyman would be in the normal position of having been ordained after the pension system started and when a provision for his retirement or his total and permanent disability, and for his widow and any minor children should have been taken during all of the years of his service in the Church.

In order to cover the abnormal case of the clergy in service when the pension system started, it was provided that they and their families should not be entitled to more than the basic pensions unless the assessments paid by their respective parishes, under the group method, entitled them to more. But also, in order to provide them with the basic pensions which could not be provided by pension assessments paid on their behalf from the date of the establishment of the pension system, an initial reserve of five million dollars was to be created.

Convention of 1913

The joint commission presented the above outlined solution of the pension problem in the Church to the General Convention of 1913 in a pamphlet, mailed to all of the clergy and many of the lay officers of the Church, which was probably, up to that time, the most comprehensive pension document in existence.

The Convention, after exhaustive consideration in both houses and questioning of authorities, accepted the report of the joint commission in a series of resolutions which were drawn in very general terms so as to cover only the main outlines of the pension system as recommended.

In conformity with the resolutions, the joint commission set up an office in New York City; elected Mr. J. Pierpont Morgan treasurer; secured the entire time of Mr. Monell Sayre; and procured a special charter from the legislature of New York on April 3, 1914, creating them trustees of the Church Pension Fund.

The action of the General Convention in the matter, accompanied with a very careful exposition of that legislation supplied by the trustees of the Church Pension Fund, was mailed to all the deputies to the several diocesan conventions meeting in the year 1914, and presented to the said conventions with the request that they appoint committees to consider if the legislation of General Convention thus presented to them was one to which they could promise their support. Most of the diocesan conventions appointed such committees with instructions to report to the conventions of 1915.

At the diocesan conventions of 1915, these committees made unanimous reports in favor of the dioceses accepting the legislation of the General Convention, and more than three-fourths of these conventions formally accepted the legislation of the General Convention in the matter of the Church Pension Fund.

On December 28, 1915, the trustees of the Church Pension Fund resolved that, in view of the favorable action of most of the dioceses, and the reasonable anticipation that the remaining dioceses would also

act favorably when they had opportunity to consider the reports of their committees, a comprehensive plan should be undertaken to raise the indispensable five million dollars for that part of the accrued liabilities of the pension system represented by the basic pensions to the existing clergy and the families. An expense account of \$125,000 was created for the campaign, with the promise of \$125,000 more being supplied if necessary. On January 1, 1916, a campaign to last fourteen months was launched throughout the Church. The Bishop of Massachusetts secured a year's leave of absence from his diocese to give his personal attention to this work.

Convention of 1916

The canon providing for the Church Pension Fund was enacted and the trustees thereof formally elected.

The text of new Canon 56, "Of the Church Pension Fund," which replaced old 56, "Of General Clergy Relief," read as follows:

Sec. 1. The Church Pension Fund, a corporation created by Chapter 97 of the Laws of 1914 of the State of New York is hereby authorized to establish and administer the pension system of this Church substantially in accordance with the principles adopted by the General Convention of 1913 (See Journal, pp. 290-319) and approved thereafter by the several Dioceses, with the view of providing for the clergy disabled by age or other infirmity and for the widows and minor children of deceased clergymen.

Sec. 2. The General Convention at each triennial meeting (except in the year 1916) shall elect, on the nomination of a Joint Committee thereof, six persons to serve as Trustees of the Church Pension Fund for a term of nine years and until their successors shall have been elected and have qualified. At the General Convention of 1916, eighteen persons shall be so chosen, six for the term of three years, six for the term of six years, and six for the term of nine years.

Sec. 3. For the purpose of establishing and administering the pension system, the Church Pension Fund shall be entitled to receive and to use all net royalties arising from publications authorized by the General Convention, and to institute throughout the Church, and in accordance with the Canons of the several Dioceses to levy upon and to collect from all parishes and congregations of the Church and any other societies or organizations in the Church which under the regulations of the Church Pension Fund shall elect to come into the Pension system, assessments based upon the salaries of the clergymen employed by them respectively in the office and work of the Ministry.

Sec. 4. The pension system shall be so administered that no pension shall be allotted before there shall be in the hands of the Church Pension Fund, funds sufficient to meet such pension.

Sec. 5. To every clergyman, who, at an age which the Church Pension Fund shall ascertain and determine to be the usual age of ordination, shall be ordained in this Church or received into this Church from another Church, and who shall remain in continuous service in the office and work of the Ministry in this Church, and in respect of whom the conditions of this Canon shall have been fulfilled, the Church Pension Fund shall make a retiring allowance of at least \$600 a year, "Provided, however, that

the Board of Trustees shall have power to establish such maximum of annuities greater than \$2,000 as shall be agreeable to sound actuarial practice." In the case of a clergyman who at the time of his ordination or reception shall be older than such usual age of ordination, the Church Pension Fund shall determine his retiring allowance, upon fulfillment of the other conditions of this Canon, at a rate consistent with proper actuarial practices. Subject to the provisions of this Canon, the general principle shall be observed in allotting pensions that there shall be an actuarial relation between the several assessments and the several benefits.

Sec. 6. An Initial Reserve Fund, to be derived from voluntary gifts, shall be administered by the Church Pension Fund so as to assure to the present clergy and their families such addition to the support to which they may become entitled on the basis of assessments authorized by this Canon as may bring their several allowances tip to the scale herein established. The Church Pension Fund shall not begin to levy or to collect assessments or to pay pensions anywhere until such Initial Reserve Fund shall amount to \$5,000,000.

Sections 7 and 8 [now 9], never having been amended, read as they do today.

This canon was so drawn, after careful consideration thereof in the House of Deputies, as to eliminate the maximum pension being set at \$2,000, as it was explained that this would endanger the stability of the pension system and not produce any advantage to the poorer paid clergy.

Every part of the Church participated in the campaign to raise the necessary five million dollars to take care of the accrued liabilities, and on March 1, 1917, when the campaign closed, there had been subscribed the sum of \$8,750,000. The cost of raising this amount was \$115,000.

The campaign to raise the initial reserve closed at the end of business on February 28, 1917. On March 1, 1917, the Church Pension Fund opened its doors prepared to administer the pension system, by which every parish and other organization in the Church paying a salary to a clergyman was under obligation to pay a sum equivalent to 7½ per cent of that salary to the trustees of the Church Pension Fund. This was gradually put in force with practically complete effectiveness so that at the end of the first fiscal year of the fund on December 31, 1918, approximately 99 per cent of all parishes and other organizations paying salaries to the clergy of the Church were paying the pension assessments; and this response to the legislation of the General Convention has continued at the same high percentage.

Convention of 1919

The proviso in Section 5, without the quotation marks, was transferred to the end of the section.

Convention of 1940

The canon, at this time Canon 60, was amended as follows:

In Section 1, the words “of 1914” were dropped (apparently inadvertently in printing the canon). The words “as subsequently amended” were added after “New York,” and the word “clergy” was inserted before “pension system.” A reference to missionary districts was added after “Dioceses.”

In Section 2, the references to the Convention of 1916 were dropped, and the Convention was given the right to fill vacancies on the board.

Section 3 was amended to read as at present.

Section 4 was slightly reworded to read as it does now, except for a clause at the end added later.

Section 5 was quite substantially amended. Words were inserted to place clergymen, in whose behalf assessments had not been continuously and regularly paid, in the same class as those ordained or received after attaining an age greater than the “normal” age of ordination, which had previously been called the “usual” age.

Widows’ and minor orphans’ allowances were added.

A new sentence was added empowering the trustees to make rules and regulations.

In the last, the words “in allotting pensions,” which formerly occurred after the word “observed,” were omitted, and the proviso, which formerly read “*Provided, however,* that the Board of Trustees shall have power to establish such maximum of annuities greater than \$2000 as shall be agreeable to sound actuarial practice,” was amended to read as at present.

The last sentence of Section 6 was dropped.

At this Convention a report of the trustees was presented on the question of establishing a temporary or partial disability insurance for the clergy and recommending it be not established as likely to impair the fund’s ability to discharge the obligations already laid upon it (*Journal*, p. 505). Both houses concurred in a resolution approving the recommendation.

Convention of 1943

In the rearrangement of canons at this Convention, this canon became Canon 7.

Convention of 1946

Section 2 was amended to increase the number of trustees elected at each Convention from six to eight.

Convention of 1952

The trustees reported that, as a result of the very substantial increase authorized in 1949 for those already retired and widowed in the future, pensions had been allotted before there were funds in hand sufficient to meet such pensions as required by Section 4 of this canon.

Section 4 was thereupon amended by adding at the end thereof the words: "except as directed by the General Convention of 1949."

Convention of 1958

The Church Pension Fund Report (*Journal*, p. 375) recommended amendment of Section 4 by substituting the year "1958" for the year 1949 for the reason that the year "1949" no longer had meaning and if the plan recommended in its report were adopted the amendment must be made. The amendment was adopted.

Convention of 1961

A resolution to amend the first sentence of Section 2 by striking out the word "persons" and substituting the words "members of this Church" was defeated in the House of Deputies.

Convention of 1964

The following sentence was added at the end of Section 2:

Any vacancy which occurs at a time when the General Convention is not in session may be filled by the Board of Trustees by appointment, *ad interim*, of a Trustee who shall serve until the next session of the General Convention thereafter shall have elected a Trustee to serve for the remainder of the unexpired time pertaining to such vacancy.

Convention of 1967

Section 1 was amended by adding after the words "pension system" the words "including life, accident, and health benefits."

In Section 4, the figure "1958" was replaced with the figure "1967."

Convention of 1970

Acting on a recommendation of the trustees of the fund, Section 2 was amended to read as it does at present. The effect of the amendment was to increase the number of trustees, reduce the term of office, and provide for rotation in membership.

Proposals to amend the section further, in order to permit nominations from the floor, were not accepted after being reported on unfavorably by the Committee on the Church Pension Fund as not speaking to the original intent of the trustees' recommendation and as violating Section 8 of the canon.

Convention of 1979

Section 1 was amended to its present wording in order to take into account the permission to admit women to the various orders of the ministry and to bring it into conformity with the amendment of Section 5.

Section 5 was amended to permit pension and related benefits to persons with twenty-five years of service, even though they have not achieved the age of normal retirement, and to free the computation of minimum allowances from a specific dollar figure.

Former Section 7 of Title III, Canon 26, "Of Women in the Diaconate," was amended and transferred to this canon as Section 7 so that all legislation dealing with pensions might be found in one place.

Former Section 7 of this canon was made Section 8.

EXPOSITION OF CANON I.7

The Convention of 1913 authorized the Joint Commission on the Support of the Clergy to incorporate itself for the purpose of implementing an actuarially sound and comprehensive clergy pension system for the whole Church, as recommended by the commission. Pursuant to this authorization, the commission in 1914 procured the incorporation of The Church Pension Fund (the "Fund") in New York by special act of the State Legislature. The original act of incorporation and subsequent amendments (Chapter 97 of the Laws of 1914, as amended by Chapter 121 of the Laws of 1926 and Chapter 140 of the Laws of 1940) constitute the governing Charter of the Fund.

The Charter empowers the Fund broadly to provide retirement and disability pensions or other forms of support, including death benefits, for eligible clergy and their present or former dependents on such terms and conditions as the corporation may from time to time approve and adopt. Pursuant to its Charter, the Fund has adopted a constitution for its governance which provides for 25 trustees, composed of the president of the Fund, *ex officio*, and 24 trustees as elected by the General Convention pursuant to Section 2 of Canon 7, on nomination of the Joint Committee on Nominations as provided in VII.18 of the Joint

Rules of Order. Although the constitution may be amended by the trustees, no amendment abridging in any way the right of the General Convention to elect trustees may become effective without the consent of the Convention.

The Fund was formally authorized to establish and administer the Church's clergy pension system by the enactment of the canon "Of The Church Pension Fund" and the first election of trustees by the Convention of 1916. Although the Canon has been amended frequently since then, the original approach of affording the trustees wide latitude to design and operate a financially sound and actuarially based pension system within very general guidelines set by Convention has been preserved. The requirement that the trustees be given ample opportunity to review and be heard with respect to any proposed amendment of the canon has been part of the canon since its inception, and is intended to insulate the pension system from the passions and pressures of the moment. In practice, this limitation has been interpreted to give the Fund until the next General Convention to respond, effectively deferring any action by Convention until then. By design, the primary means by which the Convention exercises its control over the Fund is through its election of the trustees.

The Fund is dependent on assessments levied on parishes and other Church organizations employing clergy and which are based upon the compensation paid by them. Assessments paid are not accounted for separately by the Fund, and no minister has any legal or beneficial interest in any assessments paid with respect to his employment, With limited exceptions (e.g., a priest between cures or whose ministry is otherwise temporarily in abeyance), the pension plan is noncontributory. Besides assessments, the Fund derives additional revenue from the net earnings of its wholly owned affiliates, particularly The Church Hymnal Corporation, The Church Life Insurance Corporation, and The Church Insurance Company; from time to time the Fund has also been the recipient of private charitable contributions and bequests. These monies are held and invested by the trustees in accordance with "prudent man" principles for future payment of pension obligations, consistent with the intent of Canon 7 and sound actuarial practice.

The benefit structure of the pension system is not to be found in the canon itself, which does little more than specify the general character of benefits to be provided, but in the official rules of the Fund, promulgated by the trustees pursuant to their canonical authority "to establish such Rules and Regulations as will fulfill the intention of this Canon and are consistent with sound actuarial practice." The existing rules provide for both normal and actuarially reduced early retirement

annuities for a minister, based upon his highest ten-year average compensation and years of credited service. Disability retirement benefits are also provided, as well as separate benefits for surviving spouses and surviving minor dependent children. A lump sum resettlement allowance is payable at retirement as well as a modest lump sum benefit upon the minister's death.

The pension system administered by the Fund is exempt, as a "church plan," from the requirements of the Employee Retirement Income Security Act of 1974 ("ERISA"), as amended in 1980. The Fund's charter makes it exempt, with limited exceptions, from the Insurance Law of the State of New York, but the Fund has elected to be subject to examination by and certain reporting to the Superintendent of Insurance. The Internal Revenue Service has ruled the Fund to be entitled to exemption from Federal income tax as an organization described in Section 501(c)(3) of the Internal Revenue Code of 1954, as amended, and exempt from such tax under Section 501(a). In order to take advantage of recent rulings by the Internal Revenue Service, the Fund has also designated the full amount of pension payments as a housing or rental allowance, but pointed out that such will be excludable from a retired minister's gross income pursuant to Section 107 of the Internal Revenue Code only to the extent actually used by him to rent or provide a home, furnished, plus the cost of utilities.



CANON 8. Of Provinces

How constituted. Sec. 1. Subject to the proviso in Article VII. of the Constitution, the Dioceses of this Church shall be and are hereby united into Provinces as follows:

The First Province shall consist of the Dioceses within the States of Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, and Connecticut.

The Second Province shall consist of the Dioceses within the States of New York and New Jersey, and Missionary Dioceses of Haiti and the Virgin Islands.

The Third Province shall consist of the Dioceses within the States of Pennsylvania, Delaware, Maryland, Virginia, West Virginia, and the District of Columbia.

The Fourth Province shall consist of the Dioceses within the States of North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, Tennessee, and Kentucky.

The Fifth Province shall consist of the Diocese of Missouri and of the Dioceses within the States of Ohio, Indiana, Illinois, Michigan, and Wisconsin.

The Sixth Province shall consist of the Dioceses within the States of Minnesota, Iowa, North Dakota, South Dakota, Nebraska, Montana, Wyoming, and Colorado.

The Seventh Province shall consist of the Diocese of West Missouri, and of the Dioceses within the States of Arkansas, Texas, Kansas, Oklahoma, and New Mexico.

The Eighth Province shall consist of the Dioceses within the States of Idaho, Utah, Washington, Oregon, Nevada, California, Arizona, Alaska, and Hawaii, and the Dioceses of this Church in the Philippines and Taiwan.

The Ninth Province shall consist of the Dioceses of this Church in Colombia, Costa Rica, the Dominican Republic, Ecuador, El Salvador, Guatemala, Honduras, Mexico, Nicaragua, Panama and the Canal Zone, and Puerto Rico.

- New Dioceses.* Sec. 2 (a). When a new Diocese shall be created wholly within any Province, such new Diocese shall be included in such Province. In case a new Diocese shall embrace territory in two or more Provinces, it shall be included in and form a part of the Province wherein the greater number of Presbyters and Deacons in such new Diocese shall at the time of its creation be canonically resident. Whenever a new Diocese shall be formed of territory not before included in any Diocese, the General Convention shall designate the Province to which it shall be annexed.
- Transfer of Dioceses.* (b). By mutual agreement between the Synods of two adjoining Provinces, a Diocese may transfer itself from one of such Provinces to the other, such transfer to be considered complete upon approval thereof by the General Convention. Following such approval, Canon I.8.1 shall be appropriately amended.
- Synodical rights and privileges.* Sec. 3. For the purpose of the Province the Synodical rights and privileges of the several Dioceses within the Province shall be such as from time to time shall be determined by the Synod of the Province.
- Provincial Synod.* Sec. 4. There shall be in each Province a Synod consisting of a House of Bishops and a House of Deputies, which Houses shall sit and deliberate either separately or together. The Synod shall meet on a regular basis as determined by each Province for the purpose of organizing and carrying out the responsibilities of the Province as provided in the Canons.
- All bishops have seat and vote.* Sec. 5. Every Bishop of this Church, having jurisdiction within the Province, every Bishop Coadjutor and Suffragan Bishop, and every Bishop whose episcopal work has been within the Province, but who by reason of advanced age or bodily infirmity has resigned, shall have a seat and vote in the House of Bishops of the Province.

President of Province. Sec. 6 (a). The President of each Province may be one of the Bishops, Presbyters, Deacons, or Lay Persons of the Province, elected by the Synod. The method of election and term of office shall be determined by the rules of the Synod.

(b). When the person elected is not a Bishop, a Vice-President shall be elected who shall be a Bishop member of the Province. In this event the Bishop so elected shall serve, *ex officio*, as President of the House of Bishops of the Synod, and shall represent the Province in all matters requiring the participation of a Bishop.

Representatives of Dioceses. Sec. 7. Each Diocese within the Province shall be entitled to representation in the Provincial House of Deputies by Presbyters or Deacons canonically resident in the Diocese, and Lay Persons, communicants of this Church having domicile in the Diocese, in such number as the Provincial Synod, by Ordinance, may provide. Each Diocese shall determine the manner in which its Deputies shall be chosen.

Powers of Provincial Synod. Sec. 8. The Provincial Synod shall have power: (1) to enact Ordinances for its own regulation and government; (2) to elect judges of the Provincial Court of Review; (3) to perform such duties as may be committed to it by the General Convention; (4) to deal with all matters within the Province; *Provided, however*, that no Provincial Synod shall have power to regulate or control the internal policy or affairs of any constituent Diocese; and *Provided, further*, that all actions and proceedings of the Synod shall be subject to and in conformity with the provisions of the Constitution and the Canons for the government of this Church; (5) to adopt a budget for the maintenance of any Provincial work undertaken by the Synod, such budget to be raised in such manner as the Synod may determine; (6) to create by Ordinance a Provincial Council with power to administer and carry on such work as may be committed to it by the General Convention, or by the Presiding Bishop and the Executive Council, or by the Synod of the Province.

May take over administration of work. Sec. 9. The Synod of a Province may take over from the Executive Council, with its consent, and during its pleasure, the administration of any given work within the Province. If the Province shall provide the funds for such work, the constituent Dioceses then members of and supporting such

Province shall receive proportional credit therefor upon the quotas assigned to them for the support of the Program of the Church, provided that the total amount of such credits shall not exceed the sum appropriated in the budget of the Executive Council for the maintenance of the work so taken over.

To consider subjects referred by General Convention. Sec. 10. Within sixty days after each session of the General Convention, the Presidents of the two Houses thereof shall refer to the Provincial Synods, or any of them, such subjects as the General Convention may direct, or as they may deem advisable, for consideration thereof by the Synods, and it shall be the duty of such Synods to consider the subject or subjects so referred to them at the first meeting of the Synod held after the adjournment of the General Convention, and to report their action and judgment in the matter to the Secretary of the House of Bishops and to the Secretary of the House of Deputies at least six months before the date of the meeting of the next General Convention.



This canon was numbered Canon 50 when it was adopted in 1913. It became Canon 8 in 1943, and Title I, Canon 8, in 1970.

The number of bishops and dioceses taking part in the organization of the Church in the United States at the close of the Revolutionary War was so small that the whole national Church was nothing more than what is known, in proper ecclesiastical language, as a province.

That this should be a permanent arrangement was early seen to be inadvisable. Bishop White anticipated a subdivision of the Church into provinces and indicated some of the leading features of such an arrangement. But it was not until over seventy-five years after the national Church was organized that any steps were taken in General Convention looking to a division of the Church into provinces.

Convention of 1865

The Diocese of New York presented a memorial to the General Convention of 1865, containing the following resolution:

Resolved, That it is the opinion of this Convention that a Provincial System, adapted to the present position of the Church in this country be established. It therefore prays the General Convention to make provision for the organization of the Protestant Episcopal Church in the United States of America, into Provinces.

This memorial, with the accompanying resolution, was referred to a joint committee to report on the expediency of dividing the Church into provinces.

Resolutions were also adopted by the Diocese of Pennsylvania instructing the deputies from that diocese to secure, if possible, legislation in the General Convention to provide for the establishment of federate councils to be composed of the several dioceses within a state.

These resolutions, together with the memorial from the Diocese of New York, were then referred to a committee of thirteen to report to the Convention.

This committee reported that they were not prepared to recommend any system of provinces that would comprise dioceses in different states, and would recommend federate unions of dioceses coextensive with states, only on the principle and in the way of permitted growth. The committee submitted the form of a proposed canon making it lawful for dioceses existing within the limits of any state to establish for themselves a federate council, representing such dioceses, but with very limited powers.

The House of Deputies adopted the proposed canon, but the House of Bishops took no action in the matter, as the message of the House of Deputies conveying their action was not received by the House of Bishops until the last day of the session.

A proposed canon "Of the Provincial System" was referred, in the House of Deputies, to a committee of five to report at the next Convention.

Convention of 1868

The committee appointed by the last Convention reported to this Convention in favor of the adoption of the canon proposed, dividing the Church into six or eight provinces, with a primate at the head of each province. This report was referred to a committee of five, to consider and report. The committee of five reported adversely to the proposed division into six or eight provinces, and in favor of a federate council, each council to include all the dioceses within a single state.

The House of Deputies adopted the report of the committee of five, and the canon recommended by that committee. This canon failed of adoption in the House of Bishops by a tie vote, when the vote was first taken, but a call of the house was ordered, and on this vote the proposed canon received a majority of two. The canon as adopted, was numbered Title III, Canon 8, and read as follows:

Authorizing the Formation as a Federate Convention or Council of the Dioceses within Any State

It is hereby declared lawful for the Dioceses now existing, or hereafter to exist, within the limits of any State or Commonwealth, to establish for themselves a Federate Convention, or Council representing such Dioceses, which may deliberate and decide upon the common interests of the Church within the limits aforesaid, but before any determinate action of such Convention, or Council shall be had, the powers proposed to be exercised thereby shall be submitted to the General Convention for its approval.

Nothing in this Canon shall be construed as forbidding any Federate Council from taking such action as they may deem necessary to secure such legislative enactments as the common interests of the Church in the State may require.

Convention of 1871

A proposed amendment to the Constitution was introduced in the House of Bishops, providing for a division of the Church into provinces, on similar lines to the present division, but the only action taken thereon was to refer the matter to a committee to report to the next Convention.

Convention of 1874

In the House of Bishops, the committee reported that they were not prepared to recommend immediate action in the matter and asked to be continued.

In the House of Deputies, the committee on amendments to the Constitution was directed to report upon the expediency of appointing a joint commission to devise a provincial system for the Church. This committee made a report in which it condemned, unreservedly, the whole provincial system. Among other statements made by the committee, were the following:

Any institution of Provinces or Provincial Synods with powers subject at all times to revocation by the General Convention, would be useless and illusory. The Provinces, if invested with irrevocable powers, and discharged from the constant and necessary authority and supervision of the General Convention, certainly might, and probably would, soon diverge into widely-differing practices and opinions, engendering ecclesiastical conflicts threatening the unity of our Church.

Apart from these fearful consequences in the future, reaching far down the ages, the separation of our Church into geographical and sectional provinces would work immediate injury in discontinuing or rendering less frequent the General Convention (now triennial) of the Bishops and the representatives of the Clergy and Laity, in which fraternal assemblies the efforts of all to advance the highest interests of the Church, and especially its widespread missionary labors, are encouraged and invigorated, thereby more closely uniting our now undivided Church in a perpetual bond of Christian sympathy and affection.

The committee recommended the adoption of a resolution by the House that it was not expedient to establish a provincial system for the Church.

The whole subject was then laid upon the table.

Convention of 1877

In contrast with the opinion of the committee on amendments to the Constitution in the House of Deputies, above noted, a special committee, appointed in the House of Bishops at the previous Convention, reported for adoption a resolution, "That in the judgment of this House the time has arrived when it is expedient that the Church shall take order for the association of its Dioceses into Provinces."

This resolution, together with the whole subject of provinces, was recommitted to the same committee with instructions to report to the house at its next session in General Convention.

In the House of Deputies, the committee on canons, to which was referred a memorial from the Diocese of Minnesota embodying a canon on the provincial system, reported a canon of Federate Councils. This proposed canon was adopted by the House of Deputies, but the House of Bishops refused to concur therein.

Convention of 1880

The special committee of the House of Bishops, having been continued from the last Convention, reported for adoption a resolution, instructing the committees on amendments to the Constitution, and on Canons, to report a canon or canons embodying five provisions, among which was one proposing the establishment of five provinces, and another, that the General Convention should meet stately once in nine years.

This resolution, and the report accompanying it, was referred to the Constitutional Commission, should such a commission be appointed. The committee was again continued and instructed to report to the next Convention.

In the House of Deputies, a proposed Canon of Federate Councils was referred to the next Convention.

Convention of 1883

The long continued committee of the House of Bishops on provinces, unable to secure consideration of the question in the Convention, asked to be discharged, and their request was granted.

The Convention amended Title III, Canon 8, "Authorizing the Formation of a Federate Convention or Council of the Dioceses within any State," by dividing the canon into sections, and inserting therein a new section as follows:

Sec. 2. Any such Federate Convention or Council may exercise any powers that shall have been previously approved by the General Convention for any other Federate Convention or Council.

The Convention also renumbered Canon 8, as Canon 7, of the same Title.

Convention of 1889

This Convention appointed a joint committee to consider and report to the next Convention as to the expediency of dividing the Church into provinces, what changes in the Constitution and Canons were necessary to establish such a system, and on what general plan such a division might be effected.

Convention of 1892

The committee appointed by the previous Convention made a report to each house. In that report the committee stated:

That at every step they have been impressed more and more both with its intrinsic importance to the prosperity of the Church in the United States, and by an evident conviction in the public mind that some decisive action on the main interests touched in the terms of the resolution by which the Committee was created ought to be taken without unnecessary delay....

The fact that our Church here is in itself a province might very well forestall opposition to a further application of the provincial principle. To a majority of your Committee the same conditions of territorial expansion and the distribution of a vast people seem now to impose upon us a farther conforming of our ecclesiastical methods to the primitive pattern. Added to this reason of conformity are others, such as the dimensions, cost, and unwieldiness of our Triennial Convention, if not now at least in the near future, the need of a higher and safer judiciary than that of a single Diocese, a more intelligent mode of assent to the consecration of Bishops, a more simple and effective working of missions, and a foreclosure of sporadic, grotesque, and inconsistent measures of combination.

The committee asked to be continued, in order that a more specific report be presented to the next Convention.

This request was granted and the committee continued.

Convention of 1895

This committee asked to be continued, which request was granted.

The House of Bishops approved a new article to the Constitution, providing for the division of the Church into provinces; each province to consist of not less than five contiguous dioceses, with an archbishop at the head of each province.

The House of Deputies referred this message of the House of Bishops, together with the report of the joint commission on the revision of the

Constitution and Canons, to the joint commission to report to the next Convention.

Convention of 1898

Article VII of the Constitution was proposed by both houses of this Convention, after another proposed article providing for state provinces had been defeated by an overwhelming majority.

Convention of 1901

This Convention, in its completion of the revision of the Constitution, adopted the present article of the Constitution, providing for a division of the Church into provinces. From the Convention of 1865, when the subject of provinces was mooted in General Convention, until the General Convention of 1901, when the article of the Constitution authorizing the erection of provinces was enacted, there was not a single General Convention in which some action was not taken, in one house or the other, either upon the provincial system or on federate councils.

The article of the Constitution provided that dioceses and missionary districts might be united into provinces in such manner, under such conditions, and with such powers, as should be provided by canon of the General Convention. This was simply an authorization for the General Convention to enact a canon that would establish the provincial system. Two canons to effect this were introduced in the House of Deputies in the Convention of 1901, and both were referred to a joint commission created by the Convention to draw up and present to the next General Convention a canon on the subject of provinces as provided in Article VII.

Convention of 1904

This joint commission reported a proposed canon on provinces, but no action was taken in either house thereon, except to continue the commission, and recommit the proposed canon to the commission.

Convention of 1907

The joint commission again reported a proposed canon on provinces, which the House of Bishops adopted with slight amendments. The House of Deputies refused to concur in the adoption of the proposed Canon through nonconcurrence of orders; the clergy favoring the canon by a large majority; and the laity opposing it by an equally large majority. The commission was continued with instructions to report to the next Convention. After the defeat of the proposed canon to establish provinces, an amendment to the canon "Of the Domestic and Foreign Missionary Society" was adopted by the House of Deputies and concurred in by the House of Bishops.

This amendment provided for the organization of the Church into missionary departments, following the proposed geographical division as provided in the canon on provinces. Each department was given power to organize a missionary council auxiliary to the Board of Missions, and was intended to take the place of a provincial system.

Convention of 1910

The joint commission reported to this Convention that, in their judgment,

it was undesirable at this time to press the matter of Provinces, more especially since several of the most important objects aimed at by the proposed provincial organization are secured by the provision of Judicial Departments and of the Missionary Departments, and it seems desirable to allow the Missionary Councils to develop.

The commission, however, requested that it be continued, and the request was granted.

Convention of 1913

After six years' trial, missionary councils were found to be a poor substitute for provincial synods. The one great weakness of the missionary councils was their inability to legislate; they could only talk on missionary matters, with the result that few laymen attended the councils. They were universally acknowledged to be failures as substitutes for provincial synods. Realizing that the Convention was now ready to adopt a provincial system, the joint commission reported a proposed canon on provinces to the General Convention of 1913, which, after being amended in the House of Deputies, was enacted by both houses of Convention, with practically no opposition; only two dioceses voting in the negative in the clerical order, and ten in the lay order.

Canon 50 as adopted read as follows:

Of Provinces

Sec. 1. Subject to the proviso in Article VII of the Constitution, the Dioceses and Missionary Districts of this Church shall be and are hereby united into Provinces as follows:

The First Province shall consist of the Dioceses within the States of Maine, New Hampshire, Vermont, Massachusetts, Rhode Island and Connecticut.

The Second Province shall consist of the Dioceses within the States of New York and New Jersey, and the Missionary District of Puerto Rico.

The Third Province shall consist of the Dioceses within the States of Pennsylvania, Delaware, Maryland, Virginia, West Virginia and the Diocese of Washington.

The Fourth Province shall consist of the Dioceses and Missionary Districts within the States of North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, Tennessee and Kentucky.

The Fifth Province shall consist of the Dioceses within the States of Ohio, Indiana, Illinois, Michigan and Wisconsin.

The Sixth Province shall consist of the Dioceses and Missionary Districts within the States of Minnesota, Iowa, North Dakota, South Dakota, Nebraska, Montana, Wyoming and Colorado.

The Seventh Province shall consist of all the Dioceses and Missionary Districts within the States of Missouri, Arkansas, Texas, Kansas, Oklahoma and New Mexico.

The Eighth Province shall consist of the Dioceses and Missionary Districts within the States of Idaho, Utah, Washington, Oregon, Nevada, California, Arizona, the Territories of Alaska and Hawaii, and the Missionary District of the Philippine Islands.

Sec. 2. When a new Diocese or Missionary District shall be created wholly within any Province, such new Diocese or Missionary District shall be included in such Province. In case a new Diocese or Missionary District shall embrace territory in two or more Provinces, it shall be included in and form a part of the Province wherein the greater number of Presbyters and Deacons in such new Diocese or Missionary District shall at the time of its creation be canonically resident. Whenever a new Diocese or Missionary District shall be formed of territory not before included in any Diocese or Missionary District, the General Convention shall designate the Province to which it shall be annexed.

Sec. 3. For the purposes of the Province the Synodical rights and privileges of the several Dioceses and Missionary Districts within the Province shall be such as from time to time shall be determined by the Synod of the Province.

Sec. 4. The representative body in the Province shall be a Provincial Synod composed of all the Bishops residing within the bounds of the Province having seats in the House of Bishops of the General Convention, and Clerical and Lay Deputies chosen by the several Dioceses and Missionary Districts. Each Diocese and Missionary District shall prescribe the manner in which its Deputies shall be chosen. The Bishops may sit and deliberate in council separately whenever they may deem it necessary.

Sec. 5. The President of each Provincial Synod shall be one of the Bishops of the Province elected by the Synod by the concurrent vote of the three orders and by a plurality in each order. He shall hold office for such term as the Synod may determine.

Sec. 6. The Provincial Synod when duly organized shall have power (1) to enact ordinances for its own regulation and government; (2) to act as or to provide for (a) a Provincial Board of Missions, (b) a Provincial Board of Religious Education, and (c) a Provincial Board of Social Service, to be severally auxiliary to the general Boards having jurisdiction of these subjects; (3) to elect judges of the Court of Review; (4) to perform such other duties as may be committed to it by General Convention; (5) to deal with all matters within the Province, provided that no Provincial Synod shall have power to regulate or control the policy or internal affairs of any constituent Dioceses or Missionary Districts, and provided further that all actions and proceedings of the Synod shall be subject to and in conformity with the provisions of the Constitutions and Canons for the government of this Church.

Sec. 7. The President of the existing Missionary Council in each Department shall within one year after this Canon takes effect summon the Primary Synod of the Province to meet at some convenient place within the Province.

Sec. 8. The Primary Synod, in addition to the Bishops, shall consist of four Clerical and four Lay Deputies from each Diocese and Missionary District in the Province, elected

by its Convention or Convocation. In case there be no meeting of the Convention of a Diocese or of the Convocation of a Missionary District before the meeting of the Primary Synod, the delegates elected for the last Missionary Council shall serve.

Sec. 9. The Primary Synod when thus convened, a majority of those entitled to seats being present, and when it shall have chosen its proper officers, shall be organized for business.

Sec. 10. Upon the completion of the organization of any Province it shall be entitled to receive and there shall be transferred to it from the officers of the Missionary or Educational Department theretofore embraced within the territory of such Province, all of the records and the funds held by such officers, and thereafter such funds shall be devoted to the purposes for which the same were held by the Missionary or Educational Department.

Sec. 11. The present organization of the Missionary Departments and of Department Boards of Religious Education, and all officers and committees elected or appointed by the same shall continue until the Provincial Synods are duly organized.

Convention of 1919

Three of the provincial synods presented memorials praying for such amendments to the canon on provinces as would give increased powers to provincial synods.

These memorials were referred to a Joint Committee on Provincial Memorials relating to enlarged powers of provincial synods.

This joint committee reported to each house several amendments to the canon on provinces, of which the following were adopted by the Convention:

Sec. 4. There shall be in each Province a Synod consisting of a House of Bishops and a House of Deputies, which Houses shall sit and deliberate either separately or together.

Sec. 5. Every Bishop of this Church, having jurisdiction within the Province, every Bishop Coadjutor and Suffragan Bishop, and every Bishop whose episcopal work has been within the Province, but who by reason of advanced age or bodily infirmity has resigned, shall have a seat and vote in the House of Bishops of the Province.

Sec. 6. Each Diocese within the Province shall be entitled to representation in the Provincial House of Deputies by four Presbyters, canonically resident in the Diocese, and four Laymen, communicants of this Church, having a domicile in the Diocese, but the Provincial Synod, by Ordinance, may increase the representation to not more than six in each order. Each Diocese shall determine the qualifications of its Deputies and the manner in which they shall be chosen. Each Missionary District within the Province shall be entitled to representation in the Provincial House of Deputies by two Presbyters, canonically resident in the District, and by two Laymen, communicants of this Church, having domicile in the Missionary District, but the Provincial Synod, by Ordinance, may increase the representation to not more than three in each order. Each Missionary District shall determine the manner in which its Deputies shall be chosen.

Sec. 7. The Provincial Synod when duly organized shall have power (1) to enact Ordinances for its own regulation and government; (2) to act as or to provide for (a) a Provincial Board of Missions; (b) a Provincial Board of Religious Education, and (c)

a Provincial Board of Social Service, to be severally auxiliary to the general Boards having jurisdiction of these subjects; (3) to elect judges of the Court of Review; (4) to perform such other duties as may be committed to it by General Convention; (5) to provide for the making of a survey of resources and needs, Provincial and Diocesan, preceding the meeting of each General Convention, for presentation to the General Convention; (6) to deal with all matters within the Province, provided that no Provincial Synod shall have power to regulate or control the policy or internal affairs of any constituent Diocese or Missionary District, and provided further that all actions and proceedings of the Synod shall be subject to and in conformity with the provisions of the Constitutions and Canons for the government of this Church.

Sec. 8. Whenever the General Convention shall refer any subject to the Provincial Synods, or any of them, for their consideration, it shall be the duty of such Synods to consider the subject or subjects so referred to them at the first meeting of the Synod held after the adjournment of the General Convention, and to report their action and judgment in the matter to the Secretary of the House of Bishops and to the Secretary of the House of Deputies at least six months before the date of the meeting of the next General Convention.

Sections 10 and 11 of the former canon were repealed.

The Convention also enacted an amendment to Canon 6, giving to provincial synods the power to form provincial boards of examining chaplains.

Convention of 1922

This Convention made three amendments to Canon 54, as follows: A new section was inserted in the canon, numbered 6, to read as follows:

The President of each Province shall be one of the Bishops of the Province, elected by the Synod by the concurrent vote of the three orders, and by a plurality in each order. He shall hold office for such term as the Synod may determine.

The following sections were renumbered accordingly.

By a singular oversight, when the canon was amended by the Convention of 1919, no provision was made for the election of the president of the synod. Section 6 was inserted to correct this omission.

Section 7 [formerly Section 6] was amended by striking out the words "Each Diocese shall" at the beginning of the second sentence, and inserting in place thereof the following words: "Each Province may."

Section 8 was amended to read as follows:

The Provincial Synod when duly organized, shall have power (1) to enact Ordinances for its own regulation and government; (2) to elect the judges of the Provincial Court of Review; (3) to create by Ordinance a Provincial Council with power to administer and carry on such Missionary, Educational, and Social work of the Church in the Province, as may be committed to it by the General Convention or by the Presiding Bishop and the National Council; (4) to perform such other duties as may be committed to it by the General Convention; (5) to deal with all matters within the Province;

Provided, however, that no Provincial Synod shall have power to regulate or control the internal policy or affairs of any constituent Diocese or Missionary District, and, *Provided, further,* that all actions and proceedings of the Synod shall be subject to and in conformity with the provision of the Constitution and Canons for the government of this Church.

The former provision (5) for the synod making a survey of resources and need, both provincial and diocesan, for presentation to the General Convention was stricken out, as it seemed unnecessary for the synod to do the same work that the National Council was doing.

Convention of 1925

Section 1 was amended by adding Haiti to the Second Province and the Panama Canal Zone to the Fourth Province.

Convention of 1928

Section 8 was amended by adding clause (6), giving the provincial synod power to create a provincial council to administer and carry on such work as may be committed to it by the General Convention, or by the Presiding Bishop and the National Council, or by the synod of the province.

A new Section 9 was added (identical with the present Section 9 except for the later substitution of “Executive Council” for “National Council”), and former Section 9 was renumbered Section 10.

Convention of 1934

Section 1 was amended by transferring the Panama Canal Zone to the Second Province.

Convention of 1937

Section 7 was amended to read substantially as it did in 1919. The effect was to remove from the synod and restore to the dioceses the right to determine the qualifications of deputies.

Convention of 1943

In the rearrangement of canons at this Convention, this canon became Canon 8.

Convention of 1952

Section 1 was amended by inserting the words “The Virgin Islands” in the paragraph defining the Second Province; and in the paragraph defining the Eighth Province, the words “the Philippine Islands” were corrected to read “the Philippines.”

Convention of 1958

Section 1 was amended by adding Central America to the list of jurisdictions in Province 2 and the Republic of Mexico to those in Province 7.

Convention of 1961

In Section 1 the listing under Province 8 was amended by striking out the words “the Territories of” before “Alaska and Hawaii” and adding “and Taiwan.”

Convention of 1964

This Convention created a new Ninth Province consisting of the Missionary Districts of Central America, Colombia, Cuba, the Dominican Republic, Mexico, the Panama Canal Zone, Puerto Rico, and the Virgin Islands.

The listings under the Second and Seventh Provinces were amended accordingly.

Section 10 was amended to read as at present, the effect of which is to give to the presidents of each house, as well as to the Convention itself, the right to refer matters to provincial synods.

Convention of 1967

Section 1 was amended by adding Okinawa to the jurisdictions included in Province 8.

To take into account a number of new missionary districts the listing under Province 9 was amended to read as follows:

The Ninth Province shall consist of the Missionary Districts of Colombia, Costa Rica, the Dominican Republic, Ecuador, El Salvador, Guatamala, Honduras, Panama and the Canal Zone, Puerto Rico, and the Virgin Islands.

The Missionary District of Cuba, formerly a part of the Ninth Province, was constituted an autonomous diocese by resolution of the House of Bishops at their meeting in 1966 and placed, *pro tempore*, under the jurisdiction of a metropolitan council consisting of the Primate of Canada, the Archbishop of the West Indies, and the President of the Ninth Province.

Section 7 was amended by this Convention to read as at present. The effect is to make the size of the representation of jurisdictions at provincial synods a matter to be regulated by provincial ordinance.

Section 9 was amended to read as it does now, in order to provide that credit on quotas shall be granted only to dioceses represented in provincial synods and who contribute to the provincial budget.

Convention of 1969

The Convention granted the request of the Missionary District of the Virgin Islands to withdraw from the Ninth Province by amending Section 1 to remove the reference to it.

Convention of 1973

To take into account the facts that the Diocese of Okinawa had been transferred to the Japanese Church and that the Missionary Dioceses of Mexico and the Philippines had each been divided into three missionary dioceses, the listings in Section 1 under Provinces 8 and 9 were amended to read as they do now.

Convention of 1976

In response to a request of the Missionary Diocese of the West Indies, which had been extra-provincial since 1969, to be included in the Second Province, the listing under that province was amended to read as it does at present.

Section 2 (b) was added to provide for the transfer of dioceses from one province to another.

Section 4 was amended to read as it does now by adding a sentence requiring regular meetings of synods.

Section 7 was amended to its present wording, thus making deacons eligible for election as clerical deputies to provincial synods.

Convention of 1979

In Section 1 the listings of jurisdictions in Provinces 5 and 7 were amended to read as at present. The effect was to transfer the Diocese of Missouri to the Fifth Province in accordance with a petition of the said diocese while leaving the Diocese of West Missouri in the Seventh Province.

Section 6 was amended, on the recommendation of the Standing Commission on Structure, to remove the requirement that the president of a province be one of the bishops of the province, and to require that if a person not a bishop is elected president, the vice-president must be a bishop.

EXPOSITION OF CANON I.8

The canon establishing the provincial system in the American Church was enacted in 1913, and with very little opposition, although for fifty years there had been agitation of the subject at every General Convention.

The powers granted to the provincial synods by the canon of 1913 were exceedingly limited. Memorials seeking increased powers were introduced in the Convention of 1919, but few were granted. The history of the canon is largely that of changes in the composition of the provinces, most of which took place in geographical areas outside the contiguous forty-eight states.

The most significant of these was the creation in 1964 of the Ninth Province, consisting principally of Spanish-speaking missionary districts with what were considered to be common concerns. One of the other changes of significance was the transfer of jurisdiction over the Missionary District of Okinawa from the Episcopal Church to the Nippon Sei Ko Kai in 1973, subsequent to the reincorporation of Okinawa into the nation of Japan. The only inter-provincial movement which occurred within the contiguous forty-eight states was the transfer, in 1979, of the Diocese of Missouri from the Seventh Province to the Fifth Province, a move made possible by the amendment of Section 2 in 1976. That section provides that a diocese, with the agreement of the synods of two adjoining provinces, may move from one such province to the other, subject to the approval of the General Convention. The Diocese of Missouri, it should be noted, is geographically located on the boundary between those two provinces. Section 2 of the canon, however, does not require that a diocese desiring such a transfer must border on the new province. This raises the question whether, for instance, the Diocese of Hawaii (which is located in the Eighth Province) would be eligible to consider a transfer to either the Sixth Province or the Seventh Province, both of which border on parts of the Eighth Province but neither of which borders on the Pacific Ocean. Given the present composition of the provinces, it is unlikely that such a move would be considered, but it would be prudent to amend the section to provide that, for a diocese to make such a transfer, portions of its borders would have to be geographically contiguous with the border of the province it proposes to join.

The Convention of 1976, in an effort to encourage the provinces to assume a more responsible role within the structure of the Church, amended Section 4 to require that the synods of the provinces “shall meet on a regular basis as determined by each Province for the purpose of organizing and carrying out the responsibilities of the Provinces as provided in the Canons.” At the risk of generalizing, experience to date has not shown that this “positive move” has had the effect that the authors of the amendment had initially hoped.

In what was perhaps the most radical change to the canon, Section 6 was amended to permit the president of a province to be other than

a bishop. In the event that an individual other than a bishop is elected president, the section requires that the vice president shall be a bishop. This provision was made because the Presiding Bishop has traditionally utilized the presidents of the nine provinces as his council of advice and, in the event that one of the presidents was not a bishop, it would be necessary for a substitute to be provided. The individual occupying the office of vice president was a logical choice. This same individual would also serve as the president of the house of bishops of the province. The impetus for this change was apparently the understanding that the role of the provinces within the Episcopal Church is one of information and education rather than one encompassing authority, and the further understanding that the workload of bishops is such that few can devote the time required for the effective leadership and administration of a province. To date, at least one province (Province Eight) has taken advantage of this new provision, and has elected a member of the clergy as its president. The efficacy of this change remains to be evaluated in the light of history yet to be made.

In a move designed to permit more autonomy in the regulation of the affairs of the provinces, the Convention of 1976 amended Section 7 to permit each province to set the number of deputies from each diocese in the synod of the province. The majority of provinces have elected to utilize the power given to them under this section and the results have been quite varied. One province has decided to include an additional number of clerical and lay deputies equal to its General Convention representation within its provincial synod, so that each diocese is represented by a total of sixteen individuals in the provincial house of deputies. Other provinces have increased the number of representatives to six clerical and six lay members in the provincial house of deputies, while yet other provinces have decreased the total number of representatives to the synod to provide that one clerical deputy and two lay deputies shall be elected from each diocese. In some provinces, the distinction between “dioceses” and “missionary dioceses” has been preserved, with the latter having one-half the number of deputies as the former, while in others, complete equality is the rule.

In another amendment to Section 7 passed in 1976, deacons were permitted seats within the provincial houses of deputies so that they are now eligible for election to that body, while to date such entitlement has not occurred within the House of Deputies of the General Convention.

Section 9 has long provided that provinces may take over the administration of work of the Executive Council within the province with the Council’s consent. While this section has not been utilized with any degree of regularity, the Convention of 1967 amended the provision

to preclude the possibility of a diocese, not actively involved in a province (or in the Council's work given to the province), from unfairly gaining advantage by receiving proportional credit on its assessment for what is assigned to the diocese, without its having made appropriate contributions to the province. The ability of a diocese to withhold support from the province continues to plague the overall efficacy of the system.

The Convention of 1964 enlarged on the provisions of Section 10 by adding the language that permits the presidents of the House of Bishops and House of Deputies to refer such subjects as they may deem advisable to the synods for consideration and reporting back. As has been the case with the majority of enabling provisions within the canon, this one has characteristically not been utilized.

Other canons dealing with provinces, not found within the purview of this canon, have had a substantial effect on the provinces. In 1973, Title I, Canon 4, Section 1(c) was amended to provide that eighteen members of the Executive Council be elected from the provinces. The two individuals from each province are of alternate orders, either lay or clerical, and their terms rotate so that each is elected at three-year intervals for six-year terms. In that same year, Title III, Canon 15, Section 1(b) was amended to permit the election of a bishop of a missionary diocese by the synod of a province at the request of the missionary diocese. In 1976, this section was further amended to permit the alternative of the election of the bishop of a missionary diocese by the provincial house of bishops with confirmation by the provincial council.

The provision noted in the two earlier editions of this work regarding the power of a provincial synod to form a provincial board of examining chaplains was vitiated in 1970 when the diocesan boards for the forty-eight contiguous states were eliminated in favor of a General Board of Examining Chaplains as provided in Title III, Canon 7.

As noted in the exposition of this canon in the 1954 edition of this work, the General Convention has been reluctant to grant enlarged powers to provincial synods. This has continued to be the trend. As also noted in that exposition, "it may be well to let the Provincial system prove its worth before granting extensive powers..." The recent amendment which permits other than a bishop to be the president of a province may well prove to be the catalyst for further development. If this occurs, it is certainly the case that additional powers will have to be granted. The responsibility now given to provincial synods in the election of a substantial percentage of the members of the Executive

Council is considerable. Were a provincial synod to do nothing other than exercise this right, its actions would be quite significant. But there remains much that can be done within the provinces internally, and perhaps the selective utilization of Section 9 will be the initial step taken by the provinces in their development as effective regional organizations.



CANON 9. Of New Dioceses

Primary Convention. Sec. 1. Whenever a new Diocese shall be formed within the limits of any Diocese, or by the junction of two or more Dioceses, or parts of Dioceses, and such action shall have been ratified by the General Convention, the Bishop of the Diocese within the limits of which a Diocese is formed, or in case of the junction of two or more Dioceses, or parts of Dioceses, the senior Bishop by consecration, shall thereupon call the Primary Convention of the new Diocese, for the purpose of enabling to organize, and shall fix the time and place of holding the same, such place being within the territorial limits of the new Diocese.

How called when there is no Bishop. Sec. 2. In case there should be no Bishop who can call such Primary Convention, pursuant to the foregoing provision, then the duty of calling such Convention for the purpose of organizing and of fixing the time and place of its meeting, shall be vested in the Standing Committee of the Diocese within the limits of which the new one is erected, or in the Standing Committee of the oldest of the Dioceses by the junction of which, or of parts of which, the new Diocese may be formed. And such Standing Committee shall make the call immediately after ratification of the General Convention.

In case of division of existing Diocese. Sec. 3. Whenever one Diocese is about to be divided into two Dioceses, the Convention of such Diocese shall declare which portion thereof is to be in the new Diocese, and shall make the same known to the General Convention before the ratification of such division.

How admitted into union with General Convention. Sec. 4. Whenever a new Diocese shall have organized in Primary Convention in accordance with the provisions of the Constitution and Canons in such case made and provided, and in the manner prescribed in the previous Sections of this Canon, and shall have chosen a name and acceded to the Constitution of the General Convention in accordance with Article V., Section 1, of the Constitution, and shall have laid before the General Convention certified copies of the Constitution adopted at its Primary Convention, and the proceedings preparatory to the formation of the proposed new Diocese, such new Diocese shall thereupon be admitted into union with the General Convention.

Convocation may elect Deputies and Bishop. Sec. 5. In the event of the erection of an Area Mission into a Diocese of this Church, as provided in Art. V. Sec. 1, the Convocation of the said Area Mission shall be entitled to elect Deputies to the succeeding General Convention, and also to elect a Bishop. The jurisdiction previously assigned to the Bishop in the Area Mission shall be terminated upon the admission of the new Diocese.

Provision for reunion of Diocese. Sec. 6. (a). When a Diocese, and another Diocese which has been formed either by division therefrom or by erection into a Diocese of a Missionary Diocese formed by division therefrom, shall desire to be reunited into one Diocese, the proposed reunion must be initiated by a mutual agreement between the Conventions of the two Dioceses, consented to by the Ecclesiastical Authority of each Diocese. If the said agreement is made and the consents given more than three months before the next meeting of the General Convention, the fact of the agreement and consents shall be certified by the Ecclesiastical Authority and the Secretary of the Convention of each Diocese to all the Bishops of the Church having jurisdiction and to the Standing Committees of all the Dioceses; and when the consents of a majority of such Bishops and of a majority of the Standing Committees to the proposed reunion shall have been received, the facts shall be similarly certified to the Secretary of the House of Deputies of the General Convention, and thereupon the reunion shall be considered complete. But if the agreement is made and the consents given within three months of the next meeting of the General Convention, the facts shall be certified instead to the Secretary of the

House of Deputies, who shall lay them before the two Houses; and the reunion shall be deemed to be complete when it shall have been sanctioned by a majority vote in the House of Bishops, and in the House of Deputies voting by orders.

*Rights and
jurisdictions
of Bishops.*

(b). The Bishop of the parent Diocese shall be the Bishop, and the Bishop of the junior Diocese shall be the Bishop Coadjutor, of the reunited Diocese; but if there be a vacancy in the Episcopate of either Diocese, the Bishop of the other Diocese shall be the Bishop, and the Bishop Coadjutor if there be one shall be the Bishop Coadjutor, of the reunited Diocese.

(c). When the reunion of the two Dioceses shall have been completed, the facts shall be certified to the Presiding Bishop and to the Secretary of the House of Deputies. Thereupon the Presiding Bishop shall notify the Secretary of the House of Bishops of any alteration in the status or style of the Bishop or Bishops concerned, and the Secretary of the House of Deputies shall strike the name of the junior Diocese from the roll of Dioceses in union with the General Convention.



This canon was numbered Title III, Canon 6, in 1859, Canon 49 in 1904, Canon 9 in 1943, and Title I, Canon 9, in 1970.

Convention of 1838

When the Constitution was adopted by the Convention of 1789, the bounds of a state and of a diocese were coterminous, and the state was considered the unit of diocesan organization.

It was not until the Diocese of New York, having become too large for one bishop to administer effectively, through its Convention, presented a memorial to the General Convention of 1835, praying for a division of that diocese, that consideration of the question became necessary. A committee was appointed to determine what alterations were necessary in the Constitution to authorize the division of a diocese, or the creation of a diocese of less extent than a state, thus indicating that it was supposed there was no authority for either in the Constitution as it existed at that time.

This committee reported that it was evident that a division of the larger dioceses would soon be necessary, and recommended certain changes in the Constitution necessary to effect such division. The Convention approved the changes recommended, and adopted the proposed amendments to Article V, in 1838.

In order to carry out the provisions of this amended article, the same Convention enacted a new canon, Canon 8 of that year, which read as follows:

Sec. 1. Whenever any new Diocese shall be formed within the limits of any other Diocese, or by the junction of two or more Dioceses or parts of Dioceses, and the same shall have been ratified by the General Convention, the Bishop of the Diocese within the limits of which another is formed, or in case of the junction of two or more Dioceses or parts of Dioceses, the Bishop of eldest consecration over the Dioceses furnishing portions of such new Diocese, shall thereupon call the Primary Convention of the new Diocese for the purpose of enabling it to organize, and shall fix the time and place of holding the same, such place being within the territorial limits of the new Diocese.

Sec. 2. In case there should be no Bishop who can call such Primary Convention pursuant to the foregoing provisions, then the duty of calling such Convention for the purpose of organizing, and the duty of fixing the time and place of its meeting, shall be vested in the Standing Committee of the oldest of the Dioceses, by the junction of which, or parts of which, the new Diocese may be formed. And such Standing Committee shall make such call immediately after the ratification of a division by the General Convention.

Sec. 3. Whenever one Diocese is about to be divided into two Dioceses, the Convention of the said Diocese shall declare which portion is to be the new Diocese, and shall make the same known to the General Convention before the ratification of such division.

Convention of 1871

A question having arisen in the House of Deputies as to the time when the act of ratification of the division of the Diocese of Pennsylvania should take place, it was deemed advisable, in order to prevent controversy in the future over the admission of a new diocese, to add a new section to the canon on the admission of new dioceses, then Title III, Canon 6, and the Convention enacted the following amendment thereto:

Sec. 4. Whenever the formation of a new Diocese shall be ratified by the General Convention, such new Diocese shall be considered as admitted under Article V of the Constitution, so soon as it shall have organized in Primary Convention, in the manner prescribed in the previous Sections of this Canon, and the naming of the new Diocese shall be a part of its organization.

Convention of 1874

This Convention amended Section 2 of the canon by inserting, after the words "Standing Committee," the following:

of the Diocese within the limits of which the new one is elected, or the Standing Committee.

Convention of 1904

In the revision of the canons by this Convention, Sections 1 and 2 were amended to read as follows:

Sec. 1. Whenever a new Diocese shall be formed within the limits of any Diocese, or by the junction of two or more Dioceses, or parts of Dioceses, or in a Missionary District, and such action shall have been ratified by the General Convention, the Bishop of the Diocese or Missionary District within the limits of which a Diocese is formed, or in case of the junction of two or more Dioceses or Missionary Districts, or parts of Dioceses or Missionary Districts, the senior Bishop by consecration, shall thereupon call the Primary Convention of the new Diocese, for the purpose of enabling to organize, and shall fix the time and place of holding the same, such place being within the territorial limits of the new Diocese.

Sec. 2. In case there should be no Bishop who can call such Primary Convention, pursuant to the foregoing provision, then the duty of calling such Convention for the purpose of organizing and of fixing the time and place of its meeting, shall be vested in the Standing Committee of the Diocese or Council of Advice of the Missionary District within the limits of which the new one is erected, or in the Standing Committee or Council of Advice of the oldest of the Dioceses or Missionary Districts by the junction of which, or of parts of which, the new Diocese may be formed. And such Standing Committee, or Council of Advice, shall make the call immediately after ratification of the General Convention.

Section 3 remained without amendment.

Section 4 was amended by inserting after the word "Canon," the following:

and shall have acceded to the Constitution.

A new section was added as follows:

Sec. 5. The convocation of a Missionary District at the time of its organization as a Diocese, shall be entitled to elect a Bishop and also Deputies to the succeeding General Convention.

Convention of 1916

Section 4 was amended to its present wording. The effect of the amendment was to require the new diocese, before being admitted, to show by certified copies that all the proceedings preparatory to its formation had been canonically performed and to lay before the General Convention a certified copy of its diocesan constitution.

Convention of 1922

This Convention amended the canon, now Canon 56, by striking out Section 5, and inserting a new Section 5, to read as follows:

The Convocation of a Missionary District at the time of its organization as a Diocese, shall be entitled to elect Deputies to the succeeding General Convention, and also to elect a Bishop, if the Missionary Bishop in charge of such District shall elect not to become the Bishop of said Diocese.

This amended section was necessary, as the section before it was amended was in conflict with Article II, Section 1, of the Constitution, which prescribed that when a diocese shall be formed out of a missionary district, the missionary bishop in charge thereof shall become the bishop of said diocese, if he shall so elect, while the former section provided that the new diocese should be entitled to elect a bishop.

Convention of 1943

In the rearrangement of canons at this Convention, this canon was renumbered Canon 9 and a new Section 6, providing for the reunion of dioceses, was added substantially in its present form.

Convention of 1973

In keeping with the change in the status of missionary jurisdictions adopted in 1970 by the amendment of Article V, Section 1, of the Constitution, the various references to "missionary districts" were struck from this canon.

Former Section 5 was repealed, and the present provisions regarding area missions adopted in a new Section 5.

Section 6 was amended to require the consent of a majority of all dioceses, rather than only those in the United States, to the reunion of two jurisdictions into a single diocese.

EXPOSITION OF CANON I.9

See the exposition of Article V of the Constitution. The material there set forth is a sufficient exposition of this canon.



CANON 10. Of Missionary Jurisdictions

Area Missions special responsibility of whole Church. Sec. 1. Area Missions established in accordance with Article VI., Sec. 1 and Missionary Dioceses organized in accordance with Article VI., Sec. 3 shall constitute jurisdictions for which this Church as a whole assumes a special responsibility.

House of Bishops may establish Area Missions. Sec. 2 (a). The House of Bishops may establish a Mission in any Area not included within the boundaries of a Diocese of this Church, or of a Church in communion with this Church, under such conditions and agreements, not inconsistent with the Constitution and Canons of this Church, as shall be approved by the House of Bishops from time to time.

Area Missions may be undertaken ecumenically. (b). Such Area Mission may be undertaken under the sole auspices of this Church, or it may be undertaken jointly with another Christian body or bodies, on such terms as shall not compromise the doctrines of the Christian faith as this Church has received the same.

Bishop to be assigned. (c). For every such Area Mission, a Bishop of this Church, or of a Church in communion with this Church, shall be assigned by the House of Bishops to give episcopal oversight.

Bishop assigned to function as Missionary Bishop. If the person so assigned be a Bishop of this Church he shall, for the duration of such assignment, exercise jurisdiction as a Missionary Bishop under these Canons, so far as they are applicable to the Area Mission; and should occasion arise for the function of a Standing Committee or a Commission on Ministry, he shall appoint a board or

May appoint Board. boards of clergy and lay persons resident in the area, to fulfil such functions as may be required.

May authorize forms of worship as appropriate. (d). Except as may be expressly provided otherwise in the agreements referred to in paragraph (a) of this Section, the Bishop having jurisdiction in an Area Mission may authorize the use of such forms of worship as he may judge appropriate to the circumstances.

Area Mission may be terminated by House of Bishops. (e). An Area Mission may be terminated by the House of Bishops as a mission of this Church; or it may be transferred by them to become a mission of another Church, or to become a constituent part of an autonomous Province in communion with this Church; or it may organize itself as an extra-provincial Diocese.

Area Mission may be organized as Missionary Diocese. Missionary Dioceses to be governed by Constitution and Canons adopted by its Convention. Sec. 3 (a). An Area not previously organized as a Diocese, and not under the permanent jurisdiction of a Bishop in communion with this Church, may, upon application for admission, in accordance with the procedures of Article V, Section 1, be admitted as a Diocese, and may be accepted as a Missionary Diocese within the meaning of Sec. 1 of this Canon. Such Missionary Diocese, and every present Missionary Diocese organized by the House of Bishops under previously existing Canons and admitted into union with the General Convention, shall be governed by a Constitution and Canons, adopted by the Convention of the said Diocese, which acknowledge the authority of the Constitution and Canons of the General Convention, and incorporate the provisions set forth in the subsequent paragraphs of this section.

Transfer to other Province. (b). In the event a Missionary Diocese beyond the territory of the United States of America is incapable of functioning as a jurisdiction in union with the Episcopal Church, and the Bishop, or if there be none the Ecclesiastical Authority, of such Diocese, after consultation with appropriate diocesan authorities, and the Presiding Bishop agree that continuation in union with this Church is no longer feasible, the Presiding Bishop is authorized, after consultation with the appropriate authorities in the Anglican Communion, to take such action as needed for such Diocese to become a constituent part of another Province or Regional Council in communion with this Church.

Annual Convention in every Missionary Diocese. (c). In every Missionary Diocese there shall be an annual Convention, composed of the Bishop or Bishops, the other Clergy or the Diocese, and Lay Delegates from the

How organized Congregations. Such Convention shall elect a Standing Committee, in accordance with the diocesan Canons, which shall have the powers and duties set forth for Standing Committees in Canon I.11 and in other Canons of the General Convention. It shall also elect Clerical and Lay Deputies and Alternate Deputies to the General Convention, in accordance with its diocesan Canons, and the provisions of Article I.4 of the Constitution. If the Missionary Diocese is a member of a Province of this Church, it shall also provide for Clerical and Lay Deputies and alternate Deputies to the Synod, in accordance with the diocesan Canons and the provisions of the Ordinances of the Province.

Annual budget and program. (d). The Convention of a Missionary Diocese shall also adopt an annual budget and program for the Diocese, and provide for the means of its administration throughout the year; and shall make provision for the review and approval of requests for grants in aid from the Executive Council or other sources of funds, both toward current operations and for capital needs.

Requests for grants in aid.

Election of Bishop. (e). The election of the Bishop of a Missionary Diocese, in the event of a vacancy, or, when canonical consent is given, the election of a person to be Bishop Coadjutor or Suffragan Bishop, shall be made by a Diocesan Convention in accordance with its own Canons, and the provisions of Canons III.14 and III.15 of the General Convention.

General Convention may grant Missionary Diocese autonomy. May transfer to another autonomous Province or Regional Council. (f). At the request of the Convention of a Missionary Diocese, supported by the presentation of relevant facts and a reasonable plan, the General Convention may by joint Resolution (1) permit the Diocese seeking autonomy to unite with another Province, or Regional Council having metropolitan authority, of the Anglican Communion, or (2) permit the Diocese seeking autonomy but not planning to unite with another Province or Regional Council, to unite with no less than three (3) other viable Dioceses at the same time which are geographically contiguous, or so located geographically as to be considered of the same region, for the purpose of establishing a new Province, or new Regional Council having metropolitan authority, of the Anglican Communion.

Status of Missionary Diocese may be altered to Area Mission. (g). At the request of the Convention of a Missionary Diocese, accompanied by the Bishop's written resignation of his permanent jurisdiction therein, the General Convention may alter the status of a Missionary Diocese to that of an Area Mission, under such terms and conditions as may be stipulated by the House of Bishops in accordance with Canon I.10.2(a); and in such case, its right to representation by Deputies in the General Convention and the Provincial Synod shall cease.

Notice to be sent to Primates. Sec. 4. Notice shall be sent to all Archbishops and Metropolitans, and all Presiding Bishops, of Churches in communion with this Church, of the establishment of any Area Mission, or of the organization or change of status of any Missionary Diocese outside the United States; and of the consecration, or assignment, of a Missionary Bishop therefor.

Two Bishops of Churches in communion not to exercise jurisdiction in same place. It is hereby declared as the judgment of this Church that no two Bishops of Churches in communion with each other should exercise jurisdiction in the same place; except as may be defined by a concordat adopted jointly by the competent authority of each of the said Churches, after consultation with the appropriate inter-Anglican body.

Exception.



This canon, numbered as at present, was enacted in 1973.

Convention of 1946

This Convention adopted a new canon, numbered Canon 10, "Of Changes in the Territory of Missionary Districts," which read as follows:

Sec. 1. Whenever it is proposed to increase, diminish, retrocede, or otherwise change the territory of a Missionary District within the United States, no action shall be taken by the General Convention until the proposal has been submitted to the Bishop and Convention and the Bishop and Convocation of each Diocese and Missionary District involved.

Sec. 2. Any action taken by the Convention or Convocation upon such proposal, as prescribed in the foregoing Section, shall be certified without delay to the Secretary of the House of Bishops and the Secretary of the House of Deputies, whereupon the General Convention may proceed to act in accordance with Article VI, Section 3, of the Constitution.

The purpose of the canon was to ensure that proposed changes in the territory of a missionary district not be acted upon until the various

jurisdictions affected had an opportunity to consider and respond to them.

Convention of 1958

The reference to Section 3 of Article VI was corrected to read “Section 2.”

Convention of 1970

The House of Bishops adopted a resolution to amend the canon by adding three sections at the beginning to conform to the changes in the Constitution adopted at this Convention respecting missionary jurisdictions. The Committee on Canons of the House of Deputies did not have opportunity to consider the resolution and no action was taken.

Convention of 1973

Canon 10 as it then stood was repealed, and a new Canon 10, “Of Missionary Jurisdictions,” was enacted. The text of the new canon read as at present, except for clause (b) of Section 3 which was added later and clause (e) [now (f)] of the same section which read as follows:

At the request of the Convention of a Missionary Diocese, supported by the presentation of relevant facts and a feasible plan, the General Convention may by joint Resolution (1) grant autonomy to the said Diocese as an extra-provincial Diocese, or (2) transfer it to another autonomous Province or Regional Council of Churches in communion with this Church.

Convention of 1979

The present clause (b) of Section 3 was added to make possible, under certain circumstances, the transfer of a missionary diocese of this Church to another province or regional council of the Anglican Communion. The subsequent clauses were relettered.

Section 3 (e) [now (f)] was amended to bring the options available to dioceses seeking autonomy into conformity with the guidelines adopted by the Anglican Consultative Council.

EXPOSITION OF CANON I.10

This canon, enacted in 1973, provides for the organization and administration of area missions and missionary dioceses established in accordance with Article VI of the Constitution. The provisions for area missions were new and represented an unprecedented and flexible approach to the missionary work of the Church.

Under Section 2 of the canon, area missions may be established by the Episcopal Church itself, or may be undertaken ecumenically, with the understanding that there be no compromise in matters of doctrine. Provision is expressly made for use, when needed, of forms of worship, authorized by the bishop having jurisdiction, which may not be in conformity with the established Book of Common Prayer.

The section provides for the transition of an area mission into a missionary diocese to be admitted to union with the General Convention, but also envisions the possibilities of its becoming a mission of another Church, a constituent part of another province in communion with this Church, or an extra-provincial diocese.

Though apparently intended primarily to facilitate the work of the Church outside the United States, the only area mission established thus far is Navajoland, located at the junction of the States of Arizona, New Mexico, and Utah.

The provisions for missionary dioceses in Section 3 not only brought into one place a number of canonical requirements formerly scattered throughout the canons, but also introduced orderly procedures for the transfer of jurisdictions outside the territory of the United States to other provinces or regional councils when political or other exigencies make this desirable. Such a transfer was effected in the case of Cuba in 1966 even though nothing like Section 3(b) existed at the time. The provisions of Section 3(f), which follow guidelines adopted by the Anglican Consultative Council, make possible the honoring of requests such as those addressed to the Convention of 1979, by which the Diocese of Liberia asked permission to become a part of the Province of West Africa, and Puerto Rico asked to be made an extra-provincial diocese pending the establishment of a proposed Province of the Caribbean.



CANON 11. Of Standing Committees

- Meetings.* Sec. 1. In every Diocese the Standing Committee shall elect from their own body a President and a Secretary. They may meet in conformity with their own rules from time to time, and shall keep a record of their proceedings; and the President may summon a special meeting whenever he may deem it necessary. They shall be summoned on the requisition of the Bishop, whenever he shall desire their advice; and they may meet of their own accord and agreeably to their own rules when they may be disposed to advise the Bishop.
- Quorum.* Sec. 2. In all cases in which a Canon of the General Convention directs a duty to be performed, or a power to be exercised, by a Standing Committee, or by the Clerical members thereof, or by any other body consisting of several members, a majority of said members, the whole having been duly cited to meet, shall be a quorum; and a majority of the quorum so convened shall be competent to act, unless the contrary is expressly required by the Canon.
- Majority of a quorum competent to act.*



This canon was numbered Title IV, Canon 2, in 1859. It became Canon 48 in 1904, Canon 10 in 1943, and Title I, Canon 11, in 1970.

Convention of 1789

As has been shown above, in the exposition of Article IV of the Constitution, the first references to standing committees were incidental, and occurred in Canons 6, 9, 14, and 17 of the Convention of 1789.

Canon 6 also contained the following provision:

In every State in which there is no Standing Committee, such Committee shall be appointed at its next ensuing Convention.

Before the General Convention of 1789 there were bodies called standing committees in several of the states. In Virginia, a standing committee was appointed in 1785. Its powers were considerable, among which was the power to receive complaints against the clergy and provide for courts of examination.

In Maryland, a standing committee was appointed in 1788, to which was committed all matters of government and discipline during the recess of the diocesan convention.

In New York, a standing committee was appointed in 1787, to advise with the bishop in all matters on which he desired to consult them.

In Connecticut, on the other hand, where there was a bishop before 1789, and where lay participation in the councils of the Church had been strongly resisted, no such body existed.

As Judge Hoffman says (*Church Law*, p. 212), "These bodies arose, in fact, from the necessities of the Church, and were the organs of government, where there was no Bishop, during the recess of the convention; and this may account for the 6th Canon of 1789 appearing to refer to them as already known in the Church system."

Convention of 1808

The next canons on this subject were Canons 4 and 24 of 1808, the first of which read as follows:

In every State or Diocese, there shall be a Standing Committee, to be appointed by the Convention thereof.

Canon 24 was as follows:

In every Diocese or State where there is a Bishop, the Standing Committee shall be a council of advice to the Bishop. The president of the Standing Committee shall be the person to summon them. They shall be summoned on the requisition of the Bishop, whenever he shall wish for their advice. And they may meet of their own accord, and agreeably to their own rules, when they may be disposed to advise the Bishop.

Convention of 1832

In the revision of the canons by the Convention of 1832, these canons were combined in one canon, numbered Canon 4, and amended to read as follows:

Sec. 1. In every Diocese there shall be a Standing Committee, to be appointed by the Convention thereof, whose duties except so far as provided for by the Canons of the

General Convention, may be prescribed by the Canons of the respective Dioceses. They shall elect from their own body a President and a Secretary. They may meet on their own adjournment, from time to time; and the President shall have power to summon special meetings whenever he shall deem it necessary.

Sec. 2. In every Diocese where there is a Bishop, the Standing Committee shall be a council of advice to the Bishop. They shall be summoned on the requisition of the Bishop whenever he shall wish for their advice. And they may meet of their own accord, and agreeably to their own rules, when they may be disposed to advise the Bishop.

Sec. 3. When there is no Bishop, the Standing Committee is the ecclesiastical authority for all purposes declared in these canons.

This canon appears to have made specific the implication of the former canon that the bishop was not entitled of right to a seat in the standing committee, except when he had summoned them as a council of advice. Even in the latter circumstance, it should be noted, the bishop is not entitled to preside.

Section 3, which was new, extended the powers of standing committees from those specified in 1789 to a more general application.

The Convention of 1832 also enacted the following canon, Canon 53, "On the Requisites of a Quorum:"

In all cases in which a canon directs a duty to be performed, or a power to be exercised, by a Standing Committee, or by the Clerical Members thereof, or any other body consisting of several members, a majority of the said members, the whole having been duly cited to meet, shall be a quorum: and a majority of the quorum so convened, shall be competent to act, unless the contrary is expressly required by the Canon.

While this canon was designed principally to apply to the case of standing committees, it extended to all committees and made necessary a meeting of the members who were empowered to act.

A similar provision, with respect to bodies of the General Convention itself, will be found under Title V, Canon 3.

Convention of 1841

A joint committee appointed by this Convention to report a canon defining the meaning of the words "ecclesiastical authority" in the several canons in which the words occur, and are not sufficiently explained, recommended the adoption of a canon of explanation, in part, as follows:

In Canon 4 of 1832, Section 3, it is implied that where there is a Bishop, he is the Ecclesiastical Authority of the Diocese unless it is otherwise declared in a Canon.

In Canon 10 of 1832, the words "other Ecclesiastical Authority, who may have the superintendence of candidates for Orders," mean the Clerical members of the Standing Committee, where there is no Bishop.

In Canon 17 of 1832, the words "Ecclesiastical Authority" mean the Clerical members of the Standing Committee, where there is no Bishop.

In Canon 19 of 1832, the words “Ecclesiastical Authority,” mean the Bishop, if there be one, if not, the Standing Committee.

The four expositions were adopted by the House of Deputies, after which the whole matter was laid upon the table, and no further action taken thereon.

Convention of 1859

Canon 4 of 1832, “Of Standing Committees,” was made Title IV, Canon 2.

Convention of 1865

Canon 53, of the Canons of 1832, “Of The Requisites of a Quorum,” was omitted in the revision of the Digest of Canons by the Convention of 1859, but was re-enacted by the Convention of 1865, as Title III, Canon 7.

Convention of 1904

In the major revision of the canons made by this Convention, the canon “Of Standing Committees” was made Canon 48. Sections 1 and 2 of the former canon were combined and amended to form a new Section 1, reading as at present.

Former Section 3 was omitted since its substance had been incorporated into Article IV of the Constitution in 1901.

The former canon “On the Requisites of a Quorum,” unchanged, was made Section 2 of the new canon.

A new Section 3, setting forth procedures to be followed in the event of the disability of the bishop, was added. Since this section was subsequently repealed and, in substance, reenacted as Title III, Canon 18, Section 10, it will be discussed under that heading.

There have been no amendments of the two present sections of this canon since 1904. It was renumbered Canon 10 in 1943 and received its present designation in 1970.

EXPOSITION OF CANON I.11

This canon deals with the structure of, and decision-making by, the standing committee of a diocese.

The first references to standing committees are discussed above in the exposition of Article IV of the Constitution. In 1808 came the duty to serve the bishop as a “council of advice” when requested by the bishop.

In 1832 the duty to act as the ecclesiastical authority of a diocese when there is no bishop was added.

Section 1 clearly indicates the status of the standing committee as distinct and separate from the office of bishop. The committee is elected by the diocesan convention, chooses its own officers, sets its own rules, and may advise the bishop whether or not the bishop requests such advice. However, when so requested by the bishop, the committee must be summoned to render the bishop advice.

Section 2 dates from Canon 53 of the Canons of 1832 and Canon 7 of Title III of the Canons of 1865. It applies primarily to standing committees, but it also establishes the quorum requirements of “any other body consisting of several members.” The principle is that any such body to be competent to act must have a majority of its members present after all members are duly cited to meet.

The exercise by the standing committee of certain powers, the performance of duties of governance, and its functions with regard to candidates for Holy Orders and prospective ordinands are detailed in other canons.

The provision of Canon III.14, that a bishop-elect must receive the consent of a majority of all standing committees or, under certain conditions, a majority of the House of Deputies, in order to be ordained and consecrated, represents a fundamental principle, viz.: that the clergy and laity of the whole Church, as duly represented, are entitled to a vote in the election and consecration of bishops.

Under the authority of Article IV of the Constitution, the rights and duties of the standing committee within a diocese are properly the subject of canonical legislation within each diocese.



CANON 12. Of Parishes and Congregations

*Congregation
to belong to
Diocese
where its
place of
worship is
situated.*

Sec. 1. Every Congregation of this Church shall belong to the Church in the Diocese in which its place of worship is situated; and no Minister having a Parish or Cure in more than one jurisdiction shall have a seat in the Convention of any jurisdiction other than that in which he has canonical residence.

*No Minister
shall have a
seat in more
than one
Convention.*

Sec. 2. (a). The ascertainment and defining of the boundaries of existing Parishes or Parochial Cures, as well as the establishment of a new Parish or Congregation, and the formation of a new Parish within the limits of any other Parish, is left to the action of the several Diocesan Conventions.

*Parish
boundaries.*

(b). Until a Canon or other regulation of a Diocesan Convention shall have been adopted, the formation of new Parishes, or the establishment of new Parishes or Congregations within the limits of existing Parishes, shall be vested in the Bishop of the Diocese, acting by and with the advice and consent of the Standing Committee thereof, and, in case of there being no Bishop, in the Ecclesiastical Authority.

*Formation of
new Parish
within limits
of existing
Parish.*

*Parish
boundaries
when not
defined by
law.*

Sec. 3 (a). Where Parish boundaries are not defined by law, or settled by Diocesan Authority under Section 2 of this Canon, or are not otherwise settled, they shall be defined by the civil divisions of the State as follows:

Parochial boundaries shall be the limits as fixed by law, of a village, town, township, incorporated borough, city, or of some division of any such civil district, which may be

recognized by the Bishop, acting with the advice and consent of the Standing Committee, as constituting the boundaries of a Parish.

Parochial Cure. (b). If there be but one Church or Congregation within the limits of such village, town, township, borough, city, or such division of a civil district, as herein provided, the same shall be deemed the Parochial Cure of the Minister having charge thereof. If there be two or more Churches of Congregations therein, it shall be deemed the Cure of the Ministers thereof.

Not to affect legal rights. (c). This Canon shall not affect the legal rights of property of any Parish or Congregation.



This canon was numbered Title III, Canon 5, in 1859. It became Canon 50 in 1904, Canon 11 in 1943, and Title I, Canon 12, in 1970.

Convention of 1795

The first canon on the subject was Canon 8 of 1795, which read as follows:

whereas a question may arise, whether a congregation within the diocese of any bishop, or within any State in which there is not any bishop settled, may unite themselves with the Church in any other diocese or State, it is hereby determined and declared that all such unions shall be considered as irregular and void; and that every congregation of this Church shall be considered as belonging to the body of the Church of the diocese, or of the State, within the limits of which they dwell or within which there is seated a Church to which they belong. And no clergyman having a parish or cure in more than one State, shall have a seat in the Convention of any State, other than that in which he resides.

This canon was necessitated by a case which occurred a short time before the Convention of 1795 met. For many years before the War of the Revolution, there had been a church in what was known as the Narragansett country, in the state of Rhode Island. After the consecration of Bishop Seabury as Bishop of Connecticut, the convention of the churches in Rhode Island declared Bishop Seabury to be the Bishop of the Church in that state. The church in Narragansett, however, decided to unite itself with the Church in Massachusetts. In 1793, the standing committee of Massachusetts applied to Bishop Provost of New York, who ordained a clergyman for the Narragansett church. A committee of the convention of Rhode Island reported that "this proceeding of the authority in Massachusetts was inconsistent with every principle of Episcopal government, and had a tendency to induce disorder and promote schism" (Hawks' *Constitution and Canons*, p. 130).

The point of the Rhode island committee was well taken. The destruction of all unity would ensue, if a congregation in one diocese could choose what bishop it would have minister to it. To prevent this, the canon was enacted.

Convention of 1817

This Convention enacted a canon, the first of that year, which was intended to be only temporary in its character. Its purpose was to permit episcopal congregations in Pennsylvania and Virginia, west of the Allegheny mountains, to place themselves under the charge of any bishop who might be consecrated for any state west of those mountains. This canon restricted the general application of the Canon 8 of 1795, afterwards, the Canon 37 of 1808, and read as follows:

In the event of there being a Bishop consecrated for any State or States westward of the Allegheny Mountains, it shall be lawful for the Episcopal congregations in Pennsylvania and Virginia, westward of the said mountains, or for those of either of the said States, to place themselves, with the consent of the Bishops of these States respectively, under the provisional superintendence of the Bishop the first referred to; the thirty-seventh Canon to the contrary notwithstanding. Further; it shall be lawful for such congregations in Pennsylvania, and for those in Virginia, the majority in each case concurring, to unite in Convention with the Church in any western State or States. These provisions are to cease whenever the consent for the continuance of them on the part of the Bishop of the Church in Pennsylvania or in Virginia, as the case may be, with the approbation of the General Convention, shall be withdrawn. In the case above referred to, the number of Clergymen specified in the second Canon shall not be requisite.

Convention of 1820

This Convention repealed Canon 1 of 1817 as follows:

The principal object contemplated by the first Canon, passed in General Convention, in 1817, having been accomplished by the election and consecration of a Bishop for the Diocese of Ohio, the said Canon is hereby repealed.

Convention of 1832

In the revision of the canons by this Convention, the canon under consideration became Canon 43. No amendment was made, except in the use of the word "diocese" in place of the word "state" in certain parts.

Convention of 1859

This Convention made a very thorough revision of the canons, placing them under appropriate Titles. Canon 43 was made Title III, Canon 5, and amended by the addition of two new sections.

New Section 2 read as follows:

(i) The ascertainment and defining of the boundaries of existing Parishes or parochial Cures, as well as the establishment of a new Church or Congregation, and forming a new parish within the limits of any other Parish, is left to the action of the several Diocesan Conventions, for the Dioceses respectively.

(ii) Until a Canon or other regulation of a Diocesan Convention shall have been adopted, the formation of new Parishes, or establishment of new Churches or Congregations within the limits of other Parishes, shall be vested in the Bishop of the Diocese acting by and with the advice and consent of the Standing Committee thereof; and in case of there being no Bishop, in the ecclesiastical authority.

(iii) Nothing contained in this Section shall affect any legal rights of property of any Parish.

New Section 3 (which became Section 4 in 1904) was the ancestor of the present Title I, Canon 14, and will be considered under that heading.

Convention of 1904

In the revision of the canons made by this Convention, the canon under consideration was made Canon 50, and amended as follows:

Section 1 was amended to read as at present, except that the words “or Missionary District” occurred immediately after the word “Diocese.”

Section 2 was amended to read as at present.

Section 3 was added, and read as at present except for the amendment made in 1907.

Convention of 1907

This Convention amended Section 3 (i) by inserting the words “which may be” for the words “which may have been” before the words “recognized by the Bishop.”

Convention of 1973

The reference to missionary districts, no longer needed, was dropped, thus bringing the canon to its present form.

EXPOSITION OF CANON I.12

This canon relates to parishes and congregations in the United States. It dates from Canon 8 of 1795.

Section 1 provides that every “Congregation” of this Church shall “belong to the Church” in the diocese within which its place of worship is located. It further provides that a minister having cures in more than one diocese shall have a seat only in the convention of the diocese in which the minister is canonically resident.

Section 2 asserts the control of parish boundaries, their formation and division, if needed, as being vested in the several diocesan conventions or, if no relevant diocesan legislation or regulation exists, in the bishop of the diocese, acting with the advice and consent of the standing committee thereof. If the office of bishop be vacant, this responsibility is vested in the (temporary) ecclesiastical authority.

Section 3 (a) establishes a method for defining parish boundaries according to the civil divisions of the State unless otherwise defined by civil law or ecclesiastical (diocesan) authority under the provisions of Section 2. When not otherwise defined, parochial boundaries shall be according to such civil division as may be recognized by the bishop, acting with the advice and consent of the standing committee.

Section 3 (b) defines what constitutes the boundaries of a minister's parochial cure or, in the case of two or more churches within the same civil division, the cure of more than one minister.

Section 3 (c) makes it clear this canon has no effect on any parish's or congregation's property rights under civil law.

Few dioceses have provided for parish boundaries. However, in Canon III.20 provision is made that no minister shall officiate within the cure of another minister without such minister's consent or, in such minister's absence or disability, without the consent of one of its churchwardens. Thus, the establishment of parochial boundaries can be and has been a subject of action by ecclesiastical courts. Definition of a cure according to territorial boundaries, rather than its being identified with the people belonging to a congregation, is a settled matter of construction.

In the celebrated Tyng case, discussed under Canon III.21, "Of Ministers and Their Duties," it was contended that the parochial cure of a minister extended only to the people belonging to his congregation, and did not mean the territory of the civil division in which his parish or congregation was located; and therefore, the canon forbidding a clergyman to intrude into the cure of another clergyman without his permission did not debar a clergyman of this Church from officiating in a congregation of another religious body within the territorial limits of such church or congregation. The ecclesiastical court in that case unanimously negated such a construction of the canon, and held that the cure of a clergyman was not the people belonging to his congregation in such civil division, but the territory included therein. This decision of the court correctly construed the canon, and is today universally acknowledged as being the true meaning of the canon.



CANON 13. Of Parish Vestries

Regulations left to State or Diocesan law. Sec. 1. In every Parish of this Church the number, mode of selection, and term of office of Wardens and Members of the Vestry, with the qualifications of voters, shall be such as the State or Diocesan law may permit or require, and the Wardens and Members of the Vestry selected under such law shall hold office until their successors are selected and have qualified.

The agents and legal representatives. Sec. 2. Except as provided by the law of the State or of the Diocese, the Vestry shall be agents and legal representatives of the Parish in all matters concerning its corporate property and the relations of the Parish to its Clergy.

The Rector to preside. Sec. 3. Unless it conflict with the law as aforesaid, the Rector, when present, shall preside in all the meetings of the Vestry.



This canon was Canon 51 in 1904. It became Canon 12 in 1943, and Title I, Canon 13, in 1970.

Convention of 1904

At the time of the enactment of this canon by this Convention, Section 1 read as follows:

In every Parish of this Church the number, mode of election, and term of office of Wardens and Vestrymen, with the qualifications of voters, shall be such as the State or Diocesan law may permit or require, and the Wardens and Vestrymen elected under such law shall hold office until their successors are elected and have qualified.

Sections 2 and 3 read as at present.

Convention of 1979

Section 1 was amended by the substitution of the words “selection” and “selected” for the words “election” and “elected,” in order to reflect the variety of ways by which wardens and members of vestries are actually chosen.

The term “Member of the Vestry” was substituted for “Vestrymen.”

EXPOSITION OF CANON I.13

This canon identifies state or diocesan law as governing the number, mode of selection, and term of office of wardens and members of vestries. It also sets forth the principal duties of the vestry. It dates from the General Convention of 1904.

Over the years since its initial adoption, this canon has at times been a battleground. It has been contended that the vestry, as “agents and legal representatives of the Parish,” may be bound to act according to specific directives contained in resolutions adopted at a duly held parish meeting, both in regard to the parish’s relations to its clergy and concerning its corporate property. After litigation in trial courts and appeal to at least one state supreme court (Virginia in *Terrett v. Taylor*, 9 Crouch 43), and to the Supreme Court of the United States (*Mason v. Muncaster*, 9 Wheaton 445), it is now well established that the property rights of a parish do not vest in the individual members of a parish. Rather, these rights are those of the parish as a whole, in its corporate or aggregate capacity, to be applied and disposed of for parochial purposes, under the authority of the vestry, which is the legal agent and representative of this corporate body.

This canon has at times been the basis of a contention—by the vestry of a congregation which chooses to separate itself from the authority of its Ordinary—that the vestry is the owner in fee simple of the properties of the parish. Civil litigation, resulting in judgments affirmed by supreme courts of several states, has consistently upheld the provisions of Canon I.6 and Canon II.7 relating to the status of parish properties.

Further interpretation of the role of the vestry in its capacity as agent for the corporate body of the parish and its relation to the rector will be found in the New York case styled *Fiske v. Beatty* (206 App. Div. 349, 238 N.Y. 598).

In the 1949 General Convention an effort was made to secure an interpretation of this canon by means of a resolution introduced in the

House of Bishops. The committees on canons of both houses asserted the opinion that it is not the proper function of General Convention to render interpretations of the Canons, particularly by means of resolutions. These committees expressed the view that if a canon is deemed to be ambiguous, any member of either house of General Convention is at liberty to propose an amendment which would, in the member's judgment, remove the ambiguity.



CANON 14. Of Congregations in Foreign Lands

Congregations in foreign lands. Sec. 1. It shall be lawful, under the conditions hereinafter stated, to organize a Congregation in any foreign land not within the jurisdiction of any Missionary Bishop of this Church nor within any Diocese, Province, or Regional Church of the Anglican Communion.

Who may officiate temporarily. Sec. 2. The Bishop in charge of such Congregations and the Council of Advice hereinafter provided for, may authorize any Presbyter of this Church to officiate temporarily at any place to be named by them within any such foreign land, upon being satisfied that it is expedient to establish at such place a Congregation of this Church.

Organization of a Congregation. Sec. 3. Such Presbyter, after having publicly officiated at such place on four consecutive Sundays, may give notice, in the time of Divine Service, that a meeting of the persons of full age and attending the services, will be held, at a time and place to be named by the Presbyter in charge, to organize the Congregation. The said meeting may proceed to effect an organization subject to the approval of the said Bishop and Council of Advice and in conformity to such regulations as the said Council of Advice may provide.

Congregation to recognize Constitution and Canons. Sec. 4. Before being taken under the direction of the General Convention of this Church, such Congregation shall be required, in its Constitution, or Plan, or Articles of Organization, to recognize and accede to the Constitution, Canons, Doctrine, Discipline, and Worship of this Church, and to agree to submit to and obey such directions as may be, from time to time, received from the Bishop in charge and Council of Advice.

Desire to be received by General Convention to be certified. Sec. 5. The desire of such Congregation to be taken under the direction of the General Convention shall be duly certified by the Minister, one Warden, and two Vestrymen or Trustees of said Congregation, duly elected.

How accepted. Sec. 6. Such certificate, and the Constitution, Plan, or Articles of Organization, shall be submitted to the General Convention, if it be in session, or to the Presiding Bishop at any other time; and in case the same are found satisfactory, the Secretary of the House of Deputies of the General Convention, under written instruction from the Presiding Bishop, shall thereupon place the name of the Congregation on the list of Congregations in foreign lands under the direction of the General Convention; and a certificate of the said official action shall be forwarded to and filed by the Registrar of this Church. Such Congregations are placed under the government and jurisdiction of the Presiding Bishop.

Presiding Bishop may assign jurisdiction. Sec. 7. The Presiding Bishop may, from time to time, by written commission under his own signature and seal, assign to a Bishop or Bishops of this Church or of a Church in communion with this Church, the care of, and responsibility for, one or more of such Congregations and the ministers officiating therein, for such period of time as he may deem expedient; *Provided*, that should such term expire in a year during which a General Convention is to be held, prior to said Convention, the commission may be extended until the adjournment of the Convention.

Sec. 8. Nothing in this Canon is to be construed as preventing the election of a Bishop to have charge of such Congregations under the provision of Canon III.16.

Council of Advice and its function. Sec. 9. To aid the Presiding Bishop or the Bishop in charge of these foreign Churches in administering the affairs of the same, and in settling such questions as may, by means of their peculiar situation, arise, a Council of Advice, consisting of four Clergy and four Lay Persons, shall be constituted as follows, and shall act as a Council of Advice to the Bishop in charge of the foreign Churches. They shall be chosen to serve for two years and until their successors are elected and have accepted election, by a Convocation duly convened, of all the Clergy of the foreign Churches or Chapels, and of two Lay representatives of each Church

or Chapel, chosen by its Vestry or Committee. The Council of Advice shall be convened on the requisition of the Bishop whenever he may desire their advice, and they may meet of their own accord and agreeably to their own rules when they may wish to advise the Bishop. When a meeting is not practicable, the Bishop may ascertain their mind by letter.

It shall be lawful for the Presiding Bishop at any time to authorize by writing under his hand and seal the Council of Advice to act as the Ecclesiastical Authority.

Ministers charged with canonical offense. Sec. 10. In case a Minister in charge of a Congregation in a foreign land shall be accused of any offense under the Canons of this Church, it shall be the duty of the Bishop in charge of such Congregations to summon the Council of Advice, and cause an inquiry to be instituted as to the truth of such accusation; and should there be reasonable grounds for believing the same to be true, the said Bishop and the Council of Advice shall appoint a Commission, consisting of three Ministers and two Lay Persons, whose duty it shall be to meet in the place where the accused resides, and to obtain all the evidence in the case from the parties interested; they shall give to the accused all rights under the Canons of this Church which can be exercised in a foreign land. The judgment of the said Commission, solemnly made, shall then be sent to the Bishop in charge, and to the Presiding Bishop, and if approved by them, shall be carried into effect; *Provided*, that no such Commission shall recommend any other discipline than admonition or removal from his charge of Minister of said Congregation. Should the result of the inquiry of the aforesaid Commission reveal evidence tending, in their judgment, to show that said Minister deserves a severer discipline, all the documents in the case shall be placed in the hands of the Presiding Bishop, who may proceed against the said Minister, as far as possible, according to the Canons of the General Convention.

Proviso.

Formation of new Congregations. Sec. 11. If there be a Congregation within the limits of any city in a foreign land, no new Congregation shall be established in that city, except with the consent of the Bishop in charge and the Council of Advice.

Differences between Minister and Congregation. Sec. 12. In case of a difference between the Minister and a Congregation in a foreign land, the Bishop in charge shall duly examine the same, and the said Bishop shall, with the Council of Advice, have full power to settle and adjust such difference upon principles recognized in the Canons of the General Convention.

Ministers, how appointed. Sec. 13. No Minister shall be allowed to take charge of a Congregation in a foreign land, organized under this Canon, until he shall have been nominated by the Vestry thereof, or, if there be no Vestry, by the Council of Advice, and approved by the Bishop in charge, and when such appointments shall have been accepted by the Minister so appointed, he shall be transferred to the jurisdiction of the Presiding Bishop.



This canon was part of Title III, Canon 5, in 1859. That canon became Canon 50 in 1904. This material was detached and made Canon 13 in 1943. It became Title I, Canon 14, in 1970.

Convention of 1859

The first legislation on this subject was occasioned by the establishment of a church and congregation of Americans in Paris, France, who desired to place themselves under the direction of the General Convention.

To make this possible the Convention added a new Section 3 to Title III, Canon 5, "Of Parishes and Congregations," reading as follows:

- (i) It shall be lawful for persons belonging to this Church, but resident in any foreign country (other than Great Britain and Ireland and the Colonies and dependencies thereof), not within the limits of any Foreign Missionary Bishop of this Church, to organize as a Church or Congregation.
- (ii) Such Church or Congregation shall be required, in its constitution, or plan, or articles of organization, to recognize and accede to the Constitution, Canons, Doctrine, Discipline and Worship of the Protestant Episcopal Church in the United States of America, in order to its being received under the direction of the General Convention of this Church.
- (iii) In order to such reception, it shall be required to declare its desire therefor, duly certified by the Minister, one Church Warden, and two Vestrymen or Trustees of said Church or Congregation.
- (iv) Such certificate and the constitution, plan or articles of organization shall be submitted to the General Convention during its session, or the Presiding Bishop of the House of Bishops at any other time; and in case the same are found satisfactory, a certificate thereof shall be forwarded to and filed by the Registrar of the Church, and

such Church or Congregation shall thereupon become subject to and placed under the Episcopal government and jurisdiction of such Presiding Bishop for the time being.

(v) Such Presiding Bishop may from time to time assign to any other Bishop of this Church having jurisdiction in the United States, the exercise of any Episcopal power or functions, in relation to such Church or Congregation, for such period of time as he may deem expedient.

(vi) The Clergyman settled in such Church or Congregation shall, in all respects, be subject to the jurisdiction of the Presiding Bishop, while in charge of such Church or Congregation.

Convention of 1871

This Convention made very material amendments to Section 3, Title III, Canon 5, as follows:

(i) It shall be lawful, under the conditions hereinafter stated, to organize a Church or Congregation in any foreign country (other than Great Britain and Ireland, and the colonies and dependencies thereof), and not within the limits of any foreign Missionary Bishop of this Church.

(ii) The Bishop in charge of such Congregations, and the Standing Committee hereinafter provided for, may authorize any Presbyter of this Church to officiate temporarily at any place to be named by them, within any such foreign country, upon being satisfactorily assured that it is expedient to establish at such place a Congregation of this Church. Such Presbyter, having publicly officiated at such place not less than four Sundays consecutively, may give notice, in the time of Divine Service, that a meeting of the members of this Church attending such services will be held, at a time and place to be named by him, to organize a Church or Congregation. All male persons of full age belonging to this Church may take part in said meeting. And the said meeting may proceed to effect an organization, subject to the approval of the said Bishop and Standing Committee, and in conformity to such regulations as the said Standing Committee may prescribe.

(iii) Such Church or Congregation shall be required, in its Constitution, or Plan, or Articles of Organization, to recognize and accede to the Constitution, Canons, Doctrine, Discipline, and Worship of the Protestant Episcopal Church in the United States of America and particularly to submit to and abide by such directions as may be, from time to time, received from the Bishop in charge, and the Standing Committee hereinafter provided for, in order to its being received under the direction of the General Convention of this Church.

(iv) In order to such reception, it shall be required to declare its desire therefor, duly certified by the Minister, one Churchwarden, and two Vestrymen or Trustees of said Church or Congregation.

(v) Such certificate, and the Constitution, Plan, or Articles of Organization, shall be submitted to the General Convention during its session, or to the Presiding Bishop of the House of Bishops at any other time; and in case the same are found satisfactory, a certificate thereof shall be forwarded to the Secretary of the House of Clerical and Lay Deputies of the General Convention, who shall thereupon place its name on the list of foreign Churches under the direction of the General Convention; and also a copy of the same shall be forwarded to and filed by the Registrar of the Church, and such Church or Congregation shall thereupon become subject to and placed under the Episcopal government and jurisdiction of such Presiding Bishop for the time being.

(vi) Such Presiding Bishop may, from time to time, by written commission under his own signature and seal, assign to any other Bishop of this Church, having jurisdiction in the United States, the full Episcopal charge of such Churches or Congregations, and the Clergymen officiating therein, for such period of time as he may deem expedient; *Provided*, such commissions shall not extend to a period longer than three years, and shall then cease and determine, unless renewed by the Presiding Bishop.

(vii) To aid the Presiding Bishop, or the Bishop in charge of these foreign Churches, in administering the affairs of the same, and in settling such questions as may, by means of their peculiar situation, arise, there shall be a Standing Committee, to consist of communicants of this Church, who shall be chosen and elected as follows: Each Church or Congregation thus in union with the General Convention, shall have the right to nominate to the Bishop in charge, one person, who shall be a communicant, and the General Convention shall nominate four persons, of whom two at least shall be Clergymen, who shall hold office until the General Convention next ensuing, and until their successors are elected, and together they shall constitute the said Standing Committee, of which the Bishop in charge of said foreign Churches shall be the chairman. Said Committee shall have power to fill all vacancies in the same. A majority of all the members resident in the United States shall be a quorum. This Standing Committee shall be a Council of Advice to the Bishop. They shall be summoned on the requisition of the Bishop, whenever he shall desire their advice. And they may meet of their own accord, and agreeably to their own rules, when they may be disposed to advise the Bishop.

(viii) In case a Clergyman in charge of either of these Congregations in foreign lands shall be charged with either of the punishable offences, as specified in Section 1 of Canon 2 of Title II of the Digest, it shall be the duty of the Bishop in charge of such Churches to summon the Standing Committee above provided for, and to see that an inquiry be instituted as to the truth of such public charges; and should there be reasonable grounds for believing them to be true, the Bishop in charge and the Standing Committee shall appoint a Commission, consisting of three Clergymen and two Laymen, whose duty it shall be to obtain all the evidence in the case from the parties interested, and who shall, if possible, hold their meeting in the place where the accused resides, giving to the accused all rights under the Canons of the Protestant Episcopal Church which can be exercised in a foreign land. The judgment of said Commission, solemnly made and subscribed to, shall then be sent to the Bishop in charge, and to the Presiding Bishop, and, if approved by them, shall be carried into effect: *Provided*, that no such Commission shall recommend any other discipline than admonition or removal from his charge as Minister of said Congregation. Should the result of the inquiry of the aforementioned Commission reveal evidence tending to show that said Clergyman deserves a severer discipline, then all the documents in the case shall be placed in the hands of the Presiding Bishop, who shall then proceed against said Clergyman (as far as possible) according to the Canon of Discipline, under Title II of the Digest, and the Diocesan Canons of the Diocese of the said Presiding Bishop.

(ix) If there be but one such Church or Congregation within the limits of any city, said city shall be deemed the parochial Cure of the Minister having charge of the same, and no new Church or Congregation shall be established therein, unless with the consent of the Bishop in charge, and of the Standing Committee herein appointed. Nor shall any Church or Congregation be organized in any foreign city, under the provisions of this Canon, unless with the approval of the Bishop in charge, and the Standing Committee herein provided for.

(x) In cases of difference between the Minister and his Congregation, the Bishop in charge shall, with the Standing Committee, duly examine the same, and said Bishop

and Standing Committee shall have full power to settle, and, if possible, adjust such differences upon the recognized principles of Ecclesiastical law, as laid down in the Canon law of the Protestant Episcopal Church.

(xi) No Clergyman shall hereafter be allowed to take charge of any such Church or Congregation in foreign lands, unless and until he shall be approved of, and be licensed by the Bishop in charge of such Churches, and shall have been duly transferred to his jurisdiction by the Letter Dimissory provided for in Canon 12, Sec. 7, Title I of the Digest.

Convention of 1874

Clause (xi) was amended to require that the rector of such a congregation be nominated by the bishop in charge and approved by the standing committee, instead of being approved and licensed by the bishop in charge.

A new clause (xii), making provision for the dissolution of the connection between a clergyman and his congregation, was added.

Convention of 1877

This Convention repealed clause (xii) of Section 3, enacted by the Convention of 1874, as it was deemed best to place the parishes in foreign lands more nearly on a footing with parishes at home.

For the same reason, clause (xi) was amended to read as follows:

(xi) No Clergyman shall be allowed to take charge of such Congregation until he shall have been nominated by the Vestry thereof (or, if there be no such Vestry, by the Standing Committee, provided for by this Canon), and approved by the Bishop in charge; and when such appointment shall have been accepted by the Clergyman so appointed, he shall be transferred to the jurisdiction of the Bishop in charge.

Convention of 1886

Clause (vi) was amended by the insertion of the words "one or more of" after the words "the full Episcopal charge of."

Convention of 1889

In response to a memorial from the American Churches in Europe, this Convention amended clause (vii) by removing the words "resident in the United States" in the sentence defining a quorum of the standing committee and by removing the provision that the committee had power to fill vacancies in its membership.

Convention of 1898

In response to another memorial from the American Churches in Europe, clause (vii) was again amended. The principal change was the giving to the Convocation of the American Churches in Europe the right to

elect the standing committee, instead of a part of its members being elected by the several churches in Europe and a part by the General Convention. Owing to the difficulty of securing a meeting of the members of this standing committee, the right was given to the bishop to ascertain the mind of the members of the standing committee by letter.

Convention of 1904

In the revision of the canons by this Convention, the canon under consideration was made Canon 50. Former Section 3 was made Section 4 and was amended as follows:

Clause (i) stated:

It shall be lawful, under the conditions hereinafter stated, to organize a Congregation in any foreign land, other than Great Britain and Ireland, and the colonies and dependencies thereof, and not within the jurisdiction of any Missionary Bishop of this Church.

Clauses (ii) through (vi) were identical with the present Sections 2 through 6, except that in Section 3 the word “male” appeared before the words “persons of full age.”

Clauses (vii) and (viii) read as follows:

(vii) The Presiding Bishop may, from time to time, by written commission under his own signature and seal, assign to any other Bishop of this Church, having a seat and vote in the House of Bishops, the full charge of one or more of such Congregations, and the Ministers officiating therein, for such period of time as he may deem expedient; *Provided*, that such commission shall not extend to a period longer than three years, and shall then cease and determine, unless renewed by the Presiding Bishop.

(viii) To aid the Presiding Bishop, or the Bishop in charge of these foreign Churches, in administering the affairs of the same, and in settling such questions as may, by means of their peculiar situation, arise, a Council of Advice, consisting of four Clergymen and four Laymen, shall be constituted as follows, and shall act as a Council of Advice to the Bishop in charge of the foreign Churches. They shall be chosen annually, to serve until their successors are chosen, by a Convocation duly convened, of all the Clergy of the foreign Churches or Chapels, and of one Lay representative of each Church or Chapel, chosen by its Vestry or Committee. The Council of Advice shall be convened on the requisition of the Bishop whenever he may desire their advice, and they may meet of their own accord and agreeably to their own rules when they may wish to advise the Bishop. When a meeting is not practicable, the Bishop may ascertain their mind by letter.

It shall be lawful for the Presiding Bishop at any time to authorize by writing under his hand and seal the Council of Advice to act as the Ecclesiastical Authority.

Clauses (ix) through (xii) were identical with the present Sections 10 through 13, except that in Section 10 it was prescribed that a commission of inquiry was to include two “laymen,” and the section concluded with a reference to the Presiding Bishop’s own diocese, as follows:

according to the Canons of the General Convention, and the Canons of the Diocese of the Presiding Bishop.

Convention of 1922

This Convention amended clause (vii), by striking out the proviso, and inserting after the word “expedient” the following words:

not exceeding three years; *Provided*, that should such term expire in a year during which a General Convention is to be held, prior to said Convention, the commission may be extended until the adjournment of the Convention.

The Convention also inserted a new clause in this section, numbered (viii), and to read as follows:

Nothing in this Canon is to be construed as preventing the election of a Bishop to have charge of such Congregations under the provisions of Canon 13.

Convention of 1943

In the rearrangement of the canons made by this Convention, Section 4 of the canon “Of Parishes and Congregations” was made Canon 13, “Of Congregations in Foreign Lands.” The numbered clauses of the former section became the numbered sections of the new canon.

The canon was renumbered 14 in 1946.

Convention of 1952

At this Convention the words “and the Canons of the Diocese of the Presiding Bishop,” at the end of Section 10, were deleted as being obsolete.

Convention of 1958

Section 3 was amended by striking out the word “male” before the word “persons” thus making women eligible to vote at meetings to organize a congregation in a foreign land.

Section 9 [formerly clause viii] was amended by substituting the words “to serve for two years and until their successors are elected and have accepted election” for the words “annually, to serve until their successors are chosen” and the words “two Lay representatives” for the words “one Lay representative.”

These amendments were made at the request of the Convocation of American Churches in Europe.

Convention of 1970

To make possible the placing of one or more of the American Congregations in Europe under the episcopal supervision of a bishop of

the Church of England, as a possible step in the consolidation of Anglican work in Europe, Section 7 was amended to its present wording.

Convention of 1979

Section 1 was amended by deleting the reference to the British empire and substituting a phrase which would include the various parts of the Anglican Communion.

EXPOSITION OF CANON I.14

This canon was enacted to provide for an American Church in Paris. Its provisions now extend to congregations of this Church in any foreign country which is not within the jurisdiction of a missionary Bishop of this Church or under the jurisdiction of another branch of the Anglican Communion, but at present its terms apply only to the American Churches in Europe.

These foreign congregations are placed by the canon under the government and charge of the Presiding Bishop, who is authorized to assign to any other bishop of this Church, or of a Church in communion with this Church, the care of and responsibility for one or more of such congregations.

Before such a congregation can be taken under the charge of the Presiding Bishop, it must submit to the General Convention its Constitution, Plan, or Articles of Organization, in which there must be a recognition and accession to the Constitution, Canons, Doctrine, Discipline, and Worship of this Church, and an agreement to submit to and obey such directions as may at any time be received from the bishop in charge, and the Council of Advice. The desire of the congregation to be taken under the direction of this Church must be duly certified by the minister, one warden, and two members of the vestry or trustees of said congregation.

The canon also provides for a Council of Advice, consisting of four clergy and four lay persons, to aid the bishop in administering the affairs of the congregations under his charge. The members of this council are to be chosen by a convocation composed of all the clergy of the foreign churches or chapels, and two lay representatives of each of such churches or chapels, chosen by its vestry or committee, as the case may be. The duties of the said council are very similar to those of a standing committee. While no provision is made in the canon for a presiding officer of such council, one is evidently presumed, as the council is authorized to meet of its own accord, which necessarily implies there must be a proper officer to summon such meeting and to preside therein.

The bishop in charge is given power to settle and adjust all differences between ministers and their congregations.

A minister of a congregation in a foreign land must be nominated by the vestry thereof or, if there be no vestry, by the Council of Advice, and the nomination approved by the bishop in charge. A minister who accepts such an appointment is transferred to the jurisdiction of the Presiding Bishop.

It should be noted that the Church in Micronesia is not administered under the provisions of this canon, though its structure is modelled on it. For reasons of geographic distance, it is constituted as an extra-canonical archdeaconry under the jurisdiction of the Presiding Bishop, who has designated the Suffragan Bishop for the Armed Forces as Bishop in Charge.



CANON 15. Of Clergy and Congregations Seeking Affiliation with this Church

- Congregation seeking affiliation with this Church.* Sec. 1. Whenever a Congregation of Christian people, holding the Christian faith as set forth in the Catholic creeds and recognizing the Scriptures as containing all things necessary to salvation, but using a rite other than that set forth by this Church, shall desire affiliation with this Church, while retaining the use of its own rite, such congregation shall with the consent of the Bishop in whose Diocese it is situated make application through the Bishop to the Presiding Bishop for status.
- Non-episcopally ordained Ministers.* Sec. 2. Any minister who has not received episcopal ordination and desires to serve such a congregation shall conform to the provisions of Canon III.12.
- Ministers regularly ordained.* Sec. 3. In case the minister of such congregation shall have been ordained by a Bishop not in communion with this Church, but the regularity of whose ordination is approved by the Presiding Bishop, he shall be admitted in his Orders under the provision of Canon III.12.
- Shall have seats but no vote.* Sec. 4. Ministers and delegates of such congregations may have seats but no vote in the Diocesan Convention unless by formal action of such Convention they are so admitted.
- Oversight with Bishop of Diocese.* Sec. 5. The oversight of congregations so admitted shall rest with the Bishop of the Diocese unless he shall delegate this authority to a Bishop who may be commissioned by the Presiding Bishop to have oversight of such congregations.



This canon, which has never been amended, was adopted by the Convention of 1934. Numbered Canon 56 at that time, it was renumbered Canon 14 in 1943 and received its present designation in 1970.

EXPOSITION OF CANON I.15

This canon was adopted by General Convention in 1934 as a result of a particular opportunity in the life of the Episcopal Church.

The years immediately preceding the first World War saw the peak of immigration of Europeans to the United States. Many of these people were Roman Catholics, and in America were members of “national” parishes established and largely supported by the hierarchies and governments of the countries from which they had come. The years following the war—which resulted in major changes in the face of Europe—witnessed a sharp decrease in financial and moral support for these parishes, and an increasing restlessness under pressures to conform to “normal American” Roman Catholic ways.

In this period, a number of the clergy and laity of such “national” parishes sought membership in the Episcopal Church. While many of these congregations were ultimately combined with neighboring Episcopal churches, a few still survive as active parishes. The Church of St. Anthony of Padua in Hackensack, New Jersey, is one example. Incorporated in 1914 as the “Independent National Roman Catholic Church of St. Anthony of Padua,” it was received into the Episcopal Church by the Bishop of Newark in 1925. St. Rocco’s Church in Youngstown, Ohio, is another such active parish.

In these as in all such cases, conformity with the doctrine, discipline, and worship of the Episcopal Church was required—a brief transitional period being permitted to effect the change from the Latin Missal to the Italian version of the Prayer Book. Given the similarities between the 1928 Communion Service and the Latin Mass, the transition was not difficult.

A different situation, however, existed with regard to the so-called Uniats—congregations of Eastern European Roman Catholics, whose forms of worship were derived from Eastern Orthodox forms, were in a language understood by the people, and were regarded as a vital part of the people’s cultural inheritance. It was to make possible the admission of such congregations into communion with the Episcopal Church—under circumstances permitting them to continue the use of their traditional liturgies—that this canon was drafted.

The desirability of such an approach became evident in 1922 when, at the invitation of the Foreign-Born American Division of the National [now Executive] Council, Bishop Gorazd of the newly independent (formerly Uniat) Czechoslovakian National Church addressed the House of Deputies of the General Convention. As a result, a form of practical intercommunion was established between the Czechoslovakian Church and the Episcopal Church.

Bishop Gorazd, however, impressed with the terms and spirit of the Chicago-Lambeth Quadrilateral (Prayer Book, p. 876), desired an even closer relationship. In consultation with Bishop Weller of Fond du Lac, the editor of *The Living Church*, Frederick C. Morehouse, and a representative of the National Council, Bishop Gorazd proposed a plan whereby a missionary jurisdiction of the Czechoslovakian Church would be formed in the United States, and a bishop—to be consecrated in Europe—elected for the specific purpose of leading the American congregations into union with the Episcopal Church. Other Uniat groups, he believed, would soon follow.

Such a jurisdiction was formed, and the congregations involved elected the Rev. John Torok of the Diocese of Fond du Lac as bishop.

John Torok was a former Uniat priest, a doctor of canon law, a Hungarian by birth, who had been imprisoned after World War I for his political beliefs, and came to the United States in 1920. He was received into the Episcopal Church in 1921, and by 1922 was an archdeacon of Fond du Lac and a member of the standing committee of the diocese.

Torok's consecration took place in Vienna in 1924, and was duly reported in both the Church and secular press, but on his return to New York, when he attempted to present his credentials to the National Council, he was rebuffed. The plan, in fact, had been executed so quickly and so quietly that not even the Presiding Bishop had been apprised of it. Torok, moreover, had powerful enemies, not the least of whom were highly placed ecclesiastics desirous of seeing the plan fail, aware as they were that Uniat congregations in the United States generally were unhappy about attempts being made to impose a celibate clergy upon them.

Faced with what he judged to be an impossible situation, Torok retired to private life as a businessman.

However, interest in aiding the Uniats continued, and, having received several requests, Presiding Bishop Perry, in 1933, appointed a committee of distinguished Churchmen, under the chairmanship of Bishop Frank

Wilson of Eau Claire, to consider the matter. This committee (which included the Rev. Dr. Frank Gavin of the General Theological Seminary) reported to the special meeting of the House of Bishops in 1933, which received the report favorably, and unanimously adopted "in principle" a number of provisions which, in the form of a new canon, were to be proposed to the General Convention of 1934.

Of special significance in the proposal (and in the canon as adopted) was the special place accorded the Presiding Bishop. Since the Uniat congregations were scattered among a number of dioceses, it was believed that a clearer sense of unity would be manifested if the Presiding Bishop received the applications and granted status. Since the committee also believed that the ministrations of a bishop familiar with the rites and customs of these parishes would be needed, provision was made in Section 5 for the delegation of oversight to a bishop having such qualifications.

The draft canon, together with an explanation of its significance, was published in the Church press and received favorable comment.

In addition to preparing the canon, the committee recommended the election of a suffragan bishop for the diocese of Eau Claire, who (once the canon was passed) would perform the duties described in Section 5. Upon the assurance of the Presiding Bishop that the expenses of such a ministry would not be charged to the diocese, and that a formal request of confirmation of the election would be made to the House of Bishops, the council (diocesan convention) of Eau Claire unanimously elected Dr. Torok as suffragan bishop for the "racial Episcopate."

No sooner was Torok's election reported in the press than questions began to be raised, some having been voiced earlier, about his qualifications.

Faced with both an unprecedented situation and conflicting rumors concerning Dr. Torok's early career, the House of Bishops, in the General Convention of 1934, in executive session, adopted, on the recommendation of a special committee, the following resolution:

Resolved, That this House declines to approve the action of the Diocese of Eau Claire in the election of the Right Reverend John William Torok, D.C.L., as Suffragan Bishop of Eau Claire.

The house then adopted the proposed canon, in which the House of Deputies concurred.

At the House of Bishops' meeting in Houston the following year, the matter was again discussed, but the bishops took no action. Disappointed, but undeterred, and in the absence of canons to the contrary (the canons

at the time did not require consents to the election of a suffragan bishop), Bishop Wilson formally installed Bishop Torok as suffragan bishop of Eau Claire.

This act provoked a demand for a review of the entire matter, which was widely discussed in both the secular and Church press; and in the light of accusations that Bishop Torok's episcopal orders were invalid, it was agreed that he should perform no episcopal functions until the matter could be thoroughly investigated.

Although none of the rumors or allegations were ever proved true, it became the opinion of both Dr. Torok and Bishop Wilson that the vituperation shown in articles in the press had damaged irreparably the hope for union with the Uniats, and that to press further would serve no purpose.

In 1936, at its special meeting, the House of Bishops, having discussed the matter in executive session, passed and released the following resolutions:

Whereas, The Bishop of Eau Claire has had the impression that the House of Bishops Meeting in Houston had left to him the designation of the official status of Dr. John William Torok:

Therefore Be It Resolved, That the House of Bishops declares its judgment as follows:

1. That no individual Bishop has power to give status as a Bishop in or of this Church to anyone claiming to be a Bishop;
2. That therefore the aforesaid John William Torok has no status whatever as a Bishop in or of the Protestant Episcopal Church in the United States of America, and may not perform any of the functions or duties of the Episcopal office, nor can he be listed or recorded as a Bishop in or of the Protestant Episcopal Church.

Resolved, That this action of the House of Bishops is in no way to be interpreted as casting any aspersions upon the character of Dr. John William Torok, nor has it passed upon the validity of his Orders, neither of which questions have been passed upon by this House.

Resolved, That the House of Bishops records its complete confidence in the integrity and sincerity of the Bishop of Eau Claire together with its admiration for his thorough study and patient continuance in dealing with a difficult problem of ecclesiastical relations committed to him.

Dr. Torok retired to private life, and in 1942 a number of the Uniat congregations he had represented organized themselves into the Orthodox Carpatho-Russian Church.

Not until several years later was any use made of the canon, and then only in respect of individual congregations. In 1951, for example, the Church of the Holy Family in McKinney, Texas, a Mexican congregation, was received into the Episcopal Church under the canon. One year later

it was granted a seat and vote in the diocesan convention, and it later became a regular parish of the diocese.

Recently, the canon was used as authority for an agreement signed by the Presiding Bishop of the Episcopal Church and the Metropolitan of the Mar Thoma Church in India, after the concurrence of the House of Bishops at the General Convention of 1979 and the Synod of Bishops of the Mar Thoma Church earlier that same year. The agreement places Mar Thoma congregations in the United States under the oversight of Episcopal bishops and provides for affiliation with Episcopal dioceses.

This canon is not a perfect vehicle for this purpose, and the experience of the new relationship, which is based ultimately on the agreement of full communion between the two Churches, could eventually lead to revision of the canon in the light of contemporary ecumenical needs.



CANON 16. Of Regulations Respecting the Laity

- Member defined.* Sec. 1. All persons who have received the Sacrament of Holy Baptism with water in the name of the Father, and of the Son, and of the Holy Ghost, and whose baptism has been duly recorded in this Church, are members thereof.
- Member in good standing.* Sec. 2. All baptized persons who shall for one year next preceding have fulfilled the requirements of the Canon, "Of the Due Celebration of Sundays," unless for good cause prevented, are members of this Church in good standing.
- Communicant in good standing.* Sec. 3. All such members in good standing who have been confirmed by a Bishop of this Church or a Bishop of a Church in communion with this Church or have been received into this Church by a Bishop of this Church, and who shall, unless for good cause prevented, have received Holy Communion at least thrice during the next preceding year, are communicants in good standing.
- Rights not to be denied on account of race, color, ethnic origin.* Sec. 4. Every communicant or baptized member of this Church shall be entitled to equal rights and status in any Parish or Mission thereof. He shall not be excluded from the worship or Sacraments of the Church, nor from parochial membership, because of race, color, or ethnic origin.
- Removal of communicant or baptized members.* Sec. 5. (a). A communicant or baptized member in good standing, removing from one Parish or Congregation to another, shall be entitled to receive and shall procure from the Rector or Minister of the Parish or Congregation of his or her last enrollment or, if there be no Rector or Minister, from one of the Wardens, a certificate addressed to the Rector or Minister of the Parish or Congregation to which
- Certificate to be given.*

- removal is desired, stating that he or she is duly registered or enrolled as a communicant or baptized member in the Parish or Congregation from which he or she desires to be transferred, and the Rector or Minister or Warden of the Parish or Congregation to which such communicant or baptized member may remove shall enroll him or her as a communicant or baptized member when such certificate is presented, or, on failure to produce such certificate through no fault of such communicant or baptized member, upon other evidence of his or her being such a communicant or baptized member, sufficient in the judgment of said Rector or Minister. Notice of such enrollment in such Parish or Congregation to which such communicant or baptized member shall have removed shall be sent by the Rector or Minister thereof to the Rector of the Parish from which the communicant or baptized member is removed.
- Enrollment of.*
- Note of enrollment to be sent Rector.*
- Communi- cant of Church in communion with this Church.*
- Duty of Rector or Minister.*
- Repulsion of communi- cants.*
- (b). Any communicant of any Church in communion with this Church shall be entitled to the benefit of this Section so far as the same can be made applicable.
- (c). It shall be the duty of the Rector or Minister of every Parish or Congregation, learning of the removal of any member of his Parish or Congregation to another Cure without having secured a letter of transfer, as herein provided, to transmit to the Minister of such Cure a letter of advice informing him thereof.
- Sec. 6. When a person to whom the Sacraments of the Church shall have been refused, or who has been repelled from the Holy Communion under the Rubrics, or who desires a judgment as to his status in the Church, shall lodge a complaint or application with the Bishop, or Ecclesiastical Authority, it shall be the duty of the Bishop, or Ecclesiastical Authority, unless he or it sees fit to require the person to be admitted or restored because of the insufficiency of the cause assigned by the Minister, to institute such an inquiry as may be directed by the Canons of the Diocese, and should no such Canon exist, the Bishop or Ecclesiastical Authority shall proceed according to such principles of law and equity as will insure an impartial decision; but no Minister of this Church shall be required to admit to the Sacraments a person so refused or repelled, without the written direction of the Bishop or Ecclesiastical Authority.



This canon was numbered Title II, Canon 12, in 1859. It became Canon 39 in 1904, Canon 15 in 1943, and Title I, Canon 16, in 1970.

Convention of 1789

The first canonical enactment concerning the discipline of the laity was Canon 12 of 1789, in the following words:

If any persons within this Church offend their brethren by any wickedness of life, such persons shall be repelled from the Holy Communion, agreeably to the rubric, and may be further proceeded against, to the depriving them of all privileges of church membership, according to such rules or process as may be provided, either by the General Convention or by the Conventions in the different States.

This canon is based on the rubric of the Prayer Book repelling unworthy members from the Holy Communion, and the whole burden of its support is thrown upon the rubric.

Convention of 1808

The Convention of 1808 amended this canon by adding the words “or dioceses,” at the end thereof.

Convention of 1817

This Convention amended the canon to read as follows:

There being the provision in the second rubric before the communion service, requiring that every minister repelling from the communion, shall give an account of the same to the Ordinary; it is hereby provided, that on the information to the effect stated being laid before the Ordinary, that is the bishop, it shall not be his duty to institute an inquiry unless there be complaint made to him in writing by the expelled party. But, on receiving complaint, it shall be the duty of the bishop to institute an inquiry, as may be directed by the canons of the diocese in which the event has taken place.

And the notice given as above by the minister, shall be sufficient presentation of the party expelled, for the purpose of trial.

It was evidently discovered that the Canon of 1808 was a dead letter and inoperative. The canon as amended by the Convention of 1817 cured the defect of the former canon, and enabled the discipline of the Church to take hold of the laity. If the person repelled from the Holy Communion made no complaint to the bishop, the act of repelling would be held to have been proper. If, however, he made complaint, then a trial of the case, as it were, was to take place, and the bishop was to decide whether the accused should be denied the privilege of receiving Communion or not.

Convention of 1832

In the revision of the canons by the Convention of 1832, this canon was amended by making the first lines of the Canon of 1808, ending with

the words, “agreeably to the rubric,” Section 1 of Canon 42. Canon 3 of 1817 was made Section 2 of the canon, but amended as follows: the word “expelled” was changed to read “repelled.” Also, after the words “it shall be the duty of the Bishop,” were added the words,

unless he think fit to restore him from the insufficiency of the cause assigned by the minister.

The words “for the purpose of trial” at the end of the former canon were stricken.

A new section was added, reading as follows:

Sec. 3. In the case of great heinousness of offence on the part of members of this Church, they may be proceeded against, to the depriving them of all privileges of Church membership, according to such rules or process as may be provided by the General Convention; and until such rules or process shall be provided, by such as may be provided by the different State Conventions.

This section was destined to remain a dead letter, since neither the General Convention nor the several diocesan conventions proceeded to provide any “rule or process” on the subject of “heinousness of offence.”

Convention of 1853

This Convention enacted a new canon, Canon 13, “Of Removal of Communicants from one Parish to another,” reading as follows:

A Communicant removing from one Parish to another shall procure from the Rector, (if any), of the Parish of his last residence, or if there be no Rector, from one of the Wardens, a Certificate stating that he or she is a Communicant in good standing, and the Rector of the Parish or Congregation to which he or she removes shall not be required to receive him or her as a Communicant until such letter be produced.

This is the first legislation of the General Convention regarding the removal of communicants from one parish to another.

Convention of 1859

In the revision of the canons by the Convention of 1859, Canon 13 of 1853 was made Title II, Canon 12, Section 1, and Canon 42 of 1832 was made Section 2 of the same canon. No amendment was made to either canon.

Convention of 1875

This Convention made two amendments to Section 2, clause (ii).

The first required a repelled communicant to lodge any complaint with the bishop within three months of repulsion.

The second amendment is more important. That canon, before this amendment was made, provided that the bishop, on receiving a complaint

from a repelled communicant, must institute an inquiry in the manner directed by the canons of the diocese, unless he should restore him without investigation. As most of the dioceses had not provided any canon, prescribing the mode by which the bishop was to proceed in the matter, the canon was practically inoperative. The amendment provided that where no such canon existed the bishop should proceed according to such principles of law and equity as would ensure an impartial decision.

Convention of 1904

In the revision of the canons by the Convention of 1904, the canon regarding Regulations Respecting the Laity was renumbered Canon 39, and materially amended to read as follows:

Sec. 1. A communicant in good standing removed from one Parish to another shall be entitled to and shall procure from the Rector or Minister of the Parish or Congregation of his or her last residence, or if there be no Rector or Minister, from one of the Wardens, a certificate stating that he or she is a communicant in good standing; and the Rector or Minister of the Parish or Congregation to which he or she removes shall record him or her as a communicant when such letter is presented, or on failure to produce such letter from no fault of the communicant, upon other evidence of his or her standing sufficient in the judgment of the said Rector or Minister. Notice of the above record shall be sent by said Rector or Minister to the Rector of the Parish from which the communicant has removed.

Sec. 2. When a person to whom the Sacraments of the Church have been refused, or who has been repelled from the Holy Communion under the Rubrics, shall lodge a complaint with the Bishop, it shall be the duty of the Bishop, unless he see fit to require the person to be admitted or restored because of the insufficiency of the cause assigned by the Minister, to institute such an inquiry as may be directed by the Canons of the Diocese or Missionary District, and should no such Canon exist, the Bishop shall proceed according to such principles of law and equity as will insure an impartial decision, but no Minister of this Church shall be required to admit to the Sacraments a person so refused or repelled, without the written direction of the Bishop.

The Sacraments shall not be refused in any case to a penitent person at the point to die.

The former canon made it the duty of a communicant, moving from one parish to another, to procure a certificate of transfer, but it did not make it the duty of the rector to give such certificate. The canon as amended made it the duty of the rector to give such certificate. The canon also permitted a rector to record as a communicant one who did not produce the certificate of transfer, provided that it was no fault of such communicant, upon evidence satisfactory to him that such person was a communicant of the Church. The canon further provided that when a rector recorded the name of a communicant, he should send notice thereof to the rector of the parish from whence the recorded communicant came.

Section 2 contained the substance of former Section 2, except that the provision, that the repelled communicant must lodge his complaint with the bishop within three months, was omitted. A provision was also added that no minister should be required to admit to the sacraments a person repelled without the written direction of the bishop. A further provision was also added that the sacraments should not be refused in any case to a penitent person at the point of death. These two sections are, in substance, the same as Sections 5 and 6 of the present canon.

Convention of 1910

The former Section 1 was made clause (i) of Section 1, and a few changes in phraseology introduced. The last sentence was amended to read as follows:

Notice of such enrollment in such Parish or congregation to which such communicant shall have removed, shall be sent by the Rector or Minister thereof to the Rector of the Parish from which the communicant is removed.

A new clause (ii), identical with the present clause (b) of Section 5, was added.

Convention of 1919

A new clause (iii) was added to Section 1. This same clause now appears as clause (c) of Section 5.

Convention of 1931

The canon was renumbered Canon 42 and Section 1 (i) was amended by concurrent resolution to insert the words "or baptized member" after the word "communicant" so as to regulate not only the moving of communicants from one parish to another but that of baptized members of the Church (*Journal*, p. 360). The committee to certify changes in the canons, however, omitted this change from its report with the result that the canon is printed in the journal unamended.

Convention of 1934

This omission was corrected in the printing of the *Journal* of 1934 without any formal action.

Section 1 (i) [now Section 5 (a)] was amended further to read as at present.

There was also an effort at this Convention to define the word "communicant" in which the following resolution was adopted in the House of Bishops on report of the committee on memorials and petitions:

Resolved, Your Committee is of opinion that the ruling of the General Convention of 1913 on this subject is still in effect and in their judgment no further definition is needed. We recommend that the House of Bishops instruct the Secretary of the House to have this ruling of 1913 reprinted, and copies be sent to all bishops and secretaries of each diocese and missionary district with the request that the same be made known to their next Diocesan Convention or Convocation.

The ruling of 1913 is not set forth in the Journal of that year.

Convention of 1943

In the rearrangement of the canons made by this Convention, this canon was renumbered Canon 15.

Section 7 (i) of former Canon 42, "Of the Solemnization of Holy Matrimony," was transferred to this canon as Section 3. Since this section was subsequently repealed, it will be discussed in its earlier context. See Title I, Canon 17, below.

Convention of 1946

Section 2 [now Section 6] of the canon, which became Canon 16 at this Convention, was amended to read (except for a reference to missionary districts) as at present (*Journal*, pp. 187, 447). No reference is made to this change in the index to the Journal, nor in the topical arrangement of the legislation on changes in the canons.

The former second paragraph of the section, prohibiting the refusal of the sacraments to a penitent person at the point of death, was omitted. No reason is given for this deletion, which was perhaps an oversight.

Convention of 1961

Resolutions calling for canonical definition of the terms "member," "communicant," and "in good standing," as they relate to members of the Church, were introduced at the Conventions of 1952, 1955, and 1958, but failed of adoption on each of these occasions.

At the Convention of 1961, the present Sections 1, 2, and 3 of this canon, providing such definitions, were adopted. These codified the traditional law of the Church, except for the provision, included in Section 3 as originally proposed, that Easter shall be one of the occasions for the reception of Holy Communion.

Convention of 1964

The present Section 4, providing for equal rights and status of members, was added.

Convention of 1973

The reference to missionary districts in Section 2 was deleted as no longer being necessary.

Section 3, transferred to this canon in 1943, was repealed, but clause (c) thereof now appears as Section 1 of Canon I.18.

EXPOSITION OF CANON I.16

At the Convention of 1961, after a decade of contention and debate, the Church finally gave meaning to the terms “member,” “member of the Church in good standing,” and “communicant in good standing.” The Church, by that legislation concerning three types of members, sought to end the confusion created by many dioceses giving their own canonical meaning to these terms without regard to the manner in which such terms were used elsewhere in the Church.

However, the Journal for the 1961 Convention had not even been distributed when criticism of the various definitions began. Many of the tests were thought by many to be unrealistic and impossible of ascertainment.

Is a person who has received the Sacrament of Holy Baptism, but whose baptism has not been recorded in this Church because a Church official has neglected his duty, any less a baptized member of the Church? A mere definition cannot take away that which was received forever by the administration of the sacrament.

In 1961 and increasingly since that date, there has been little awareness within the Church of the requirement of the canon entitled “Of The Due Celebration of Sundays” (Title II, Canon 1), and few parishes attempt to test the good standing of their members by ascertaining the extent to which such members have kept the Lord’s day by regular participation in the public worship of the Church and by hearing the Word of God read and taught.

The Convention of 1979 reviewed and debated the definitions adopted in 1961, and referred to the Standing Commission on Ecumenical Relations for study and report to the 1982 Convention resolutions involving changes in Title I, Canon 16. The definitions now in place do not appear to define and recognize present standards of Church support and are not now meaningful in measuring Church membership and participation.

The adoption by the Convention of 1964 of Section 4 of the canon reflected debates and struggles going on in the secular world at the time and the universal demand, with the Episcopal Church in the forefront, of equality for all without regard to race, color, or ethnic origin.

The Church first made provision for the transfer of persons from one parish or congregation to another in 1853. It was confined to communicants and was not extended to baptized persons until 1931.

Section 5(a) of the canon makes it the duty of the rector or minister to give, and of the person removing to secure, a certificate, and of the rector or minister receiving it to enroll on presentation of the certificate. If, through no fault of the new arrival, he or she is unable to produce a certificate, the rector or minister acts on evidence sufficient in his judgment of communicant or baptized status. Notice of enrollment in the new parish or congregation is sent to the rector or minister of that from which the person was removed.

A communicant, as distinguished from a baptized person, of any Church with which this Church is in communion is given the benefit of the canon.

In the vast majority of our parishes little attention is paid to those provisions, which are mandatory. Communicants are lost to the Church each year because of the neglect to obey the provisions of the canon. The fault is threefold, the communicant and the two rectors are all to blame. The rector of the parish often neglects to inform the communicant of the duty to procure the certificate of transfer, and when asked for it, too often advises the communicant not to take a letter from the "home Church." The communicant many times does not wish to have his or her name removed from the "home Church" for sentimental reasons. The result is, that the communicant removing, too often neglects to introduce himself or herself to the rector of the new parish. To correct this failure, clause (c) was added to the first section of this canon by the Convention of 1919, providing that the rector of a parish, learning of the removal of a member of his parish to another cure, without having secured a letter of transfer, must send to the minister of that cure a letter of advice, informing him of the removal of such communicant into his cure.

Section 6 of the canon provides a right of appeal by a communicant who has been refused or repelled from Holy Communion. It is founded upon rubrical provisions made in every edition of the Prayer Book since 1549. From 1662 until 1979, the rubric read as follows:

If among those who come to be partakers of the Holy Communion, the Minister shall know any to be an open and notorious evil liver, or to have done any wrong to his neighbours by word or deed, so that the Congregation be thereby offended; he shall advertise him, that he presume not to come to the Lord's Table, until he have openly declared himself to have truly repented and amended his former evil life, that the Congregation may thereby be satisfied; and that he hath recompensed the parties to whom he hath done wrong; or at least declare himself to be in full purpose so to do, as soon as he conveniently may.

The same order shall the Minister use with those, betwixt whom he perceiveth malice and hatred to reign; not suffering them to be partakers of the Lord's Table, until he know them to be reconciled. And if one of the parties, so at variance, be content to forgive from the bottom of his heart all that the other hath trespassed against him, and to make amends for that wherein he himself hath offended; and the other party will not be persuaded to a godly unity, but remain still in his frowardness and malice; the Minister in that case ought to admit the penitent person to the Holy Communion, and not him that is obstinate. Provided, That every Minister so repelling any, as is herein specified, shall be obliged to give an account of the same to the Ordinary, within fourteen days after, at the farthest.

(Substantially the same provisions, subdivided into four rubrics and rewritten to remove archaic and possibly misleading terminology, appear on page 409 of the present Prayer Book.)

The 26th, 27th, and 109th of the English Canons of 1603, moreover, provided that every minister repelling a communicant under the rubric should, upon complaint, or being required by the ordinary, signify the cause thereof to him, and therein obey his order and direction; and by the rubric the minister was directed to give the cause for such repulsion to the ordinary within fourteen days, who was then to proceed to punish according to the canon.

The understood construction of the rubric is that admonition must first be resorted to, and that the power of the minister is only suspensory. The minister must put the case before the bishop within fourteen days. If the repelled communicant does not submit thereto, he or she is entitled to a restoration if the grounds are proven insufficient.

The question has arisen whether a repulsion by a minister would be treated as sufficient to exclude the party from being admitted to Communion in other parishes or congregations in the diocese. As the act of the minister repelling is suspensory only, especially if appealed from, and the rectorial power being limited, there would not seem to be any legal ground for supposing that other clergy would be bound thereby. If, however, the repulsion was confirmed by the bishop, it would be binding on all the clergy of the diocese.

The appeal to the bishop, and his power to revise the action of the minister cannot admit of any question. He would possess that power by virtue of his inherent episcopal authority in matters of government, independent of any right to be inferred from the rubric or canon.

The authority of Hooker, Gibson, Stillingfleet, the abundant canons, and the decisions of the English courts, all recognize this.

The question has also arisen, whether the power of repulsion could be exercised by a minister in a case in which a slander was uttered

against himself, assuming the congregation to be offended. Dr. Hawks (*Constitution and Canons*, pp. 367-369) states a case of this kind occurring in New York in 1832. On the application of the repelled communicant to be restored, the bishop took the following grounds:

1. The Church, in her laws relative to repelling from the Communion, designs to guard against the endless mischiefs of allowing private quarrels or personal pique, to be a sufficient ground for the exercise of so solemn an act of discipline, as repelling from the Communion.
2. She especially does not design that her ministers shall wield at pleasure the spiritual powers committed to them, in cases of differences or disputes, in which *themselves or families are parties*.
3. The repelled must be “an *open and notorious* evil liver.” It is not sufficient that the minister charges him, upon his own knowledge, as he says, with calumny of himself and family, and with not meeting the minister’s just pecuniary demands upon him. *Common report and belief* must charge him with being a slanderer, a liar, and a dishonest man.
4. Whatever may have been his conduct toward the minister, and of which he complains, making it the basis of his charge, it must fairly appear that the congregation is thereby off- ended.
5. As all the grounds, on which the communicant had been repelled, were involved in matters concerning which a full ecclesiastical inquiry was pending or directed, at the very time the repulsion took place, it would be wrong to prejudice public opinion, and seemingly to prejudice the case, as against one interested, as a party, in the inquiry then pending.

The bishop, accordingly, restored the communicant. Judge Hoffman (*Law of the Church*, p. 454) in commenting on this decision of the bishop, says:

With the greatest deference for the experience and strong judgment of the Bishop, this opinion may be doubted. The rejection is warranted by the language of that clause of the rubric, “doing wrong to a neighbor by word or deed.” There is no other redress open to an assailed and calumniated minister within the discipline of the Church; and if he may not repel, the shocking scene may be exhibited, or the reviler receiving the emblems from one he has slandered, and the reviled administering them, while the feelings of resentment and dislike are struggling for sway in his bosom.

Under the English law, the ordinary must proceed to inquire into every case reported to him by the minister. Under the section of the canon we are considering, this would not seem to be the law of the American Church. The bishop is only required to institute an inquiry when a complaint is made. If there is no complaint from the repelled party, and no restoration because of the insufficiency of the cause assigned by the minister, the act of suspension remains in force, until remitted by the minister under the rubrics. Should the act of the minister be reversed, the bishop directs that the repelled communicant be restored. If it be confirmed, the bishop may declare that the act of repulsion was

warranted under the rubric and canon, and that the suspension should continue until remitted by the minister, or he may ratify the repulsion, and proceed to deprive the repelled communicant of the privileges of Church membership. In such a case, it would exclude him from the Holy Communion in every church, both in the diocese, and probably, in every other diocese, and would require the remission to be pronounced by the bishop, as all authority of the minister would have been concluded.

An interesting case occurred in the Diocese of Massachusetts in 1911. A parishioner brought suit against her minister and the bishop of the diocese for refusing to administer the Holy Communion to her and for exclusion from the church edifice.

The court decided against the plaintiff. On appeal, the court upheld the decision of the lower court that the plaintiff had no cause of action.

The court stated that a person's religious rights as a communicant are not enforceable in the civil courts. The act of passing her by in administering Holy Communion was within the discipline or ecclesiastical polity of the Church and does not constitute actionable defamation of character. By Canon 16 [now Title III, Canon 21], to which the plaintiff subjected herself, control of the worship and spiritual jurisdiction of the mission, including the use of the building used for religious services, was in Papineau as the minister in charge, "subject to the authority of the Bishop." ... The manner and time of admission having been within his control primarily; the acts of temporary exclusion are not reviewable at law or in equity. (*Carter v. Papineau*, 222 Mass. 464, 111 N.E. 358 [1916]).



CANON 17. Of the Solemnization of Holy Matrimony

*Legal and
canonical
requirements.*

Sec. 1. Every Minister of this Church shall conform to the laws of the State governing the creation of the civil status of marriage, and also to the laws of this Church governing the solemnization of Holy Matrimony.

Conditions.

Sec. 2. No Minister of this Church shall solemnize any marriage unless the following conditions are complied with:

*a) Laws of
State.*

(a). He shall have ascertained the right of the parties to contract a marriage according to the laws of the State.

*b) Under-
standing of
nature of
Holy
Matrimony.*

(b). He shall have ascertained that both parties understand that Holy Matrimony is a physical and spiritual union of a man and a woman, entered into within the community of faith, by mutual consent of heart, mind, and will, and with intent that it be lifelong.

*c) Free
consent.*

(c). He shall have ascertained that both parties freely and knowingly consent to such marriage, without fraud, coercion, mistake as to identity of a partner, or mental reservation.

*d) One party
at least
baptized.*

(d). He shall have ascertained that at least one of the parties has received Holy Baptism.

*e)
Instruction.*

(e). He shall have instructed both parties as to the nature, meaning, and purpose of Holy Matrimony, or have ascertained that they have both received such instruction from persons known by him to be competent and responsible.

Procedures.

Sec. 3. No minister of this Church shall solemnize any marriage unless the following procedures are complied with:

a) Thirty-days notice. (a). The intention of the parties to contract marriage shall have been signified to the Minister at least thirty days before the service of solemnization; *Provided*, that, for weighty cause, the Minister may dispense with this requirement, if one of the parties is a member of his Congregation, or can furnish satisfactory evidence of his responsibility. In case the thirty days' notice is waived, the Minister shall report his action in writing to the Bishop immediately.

b) Witnesses. (b). There shall be present at least two witnesses to the solemnization of the marriage.

c) Recorded in Register. (c). The Minister shall record in the proper register the date and place of the marriage, the names of the parties and their parents, the age of the parties, their residences, and their Church status, and the witnesses and the Minister shall sign the record.

Declaration of Intention. (d). The Minister shall have required that the parties sign the following declaration:

“We, A.B. and C.D., desiring to receive the blessing of Holy Matrimony in the Church, do solemnly declare that we hold marriage to be a lifelong union of husband and wife as it is set forth in the liturgical forms authorized by this Church. We believe it is for the purpose of mutual fellowship, encouragement, and understanding, for the procreation (if it may be) of children, and their physical and spiritual nurture, and for the safeguarding and benefit of society, and we do engage ourselves, so far as in us lies, to make our utmost effort to establish this relationship and to seek God’s help thereto.”

Minister may decline to officiate. Sec. 4. It shall be within the discretion of any Minister of this Church to decline to solemnize any marriage.



The canon on marriage was numbered Title II, Canon 13, in 1868. It became Canon 38 in 1904, Canons 16 and 17 in 1943, and Title I, Canons 17 and 18 in 1970.

Convention of 1808

The subject of marriage first engaged the attention of the General Convention in 1808, when the House of Deputies, consisting of fourteen clerical and thirteen lay deputies, on the request of the Convention of the Diocese of Maryland, regarding the expediency of adopting the English Canon concerning Marriages, and inserting the same in future editions of the Prayer Book, passed the following resolutions:

Resolved: That the communication from the Convention of the Diocese in Maryland, on the subject of the English Canon concerning Marriages be referred to the House of Bishops, with a request that they will consider the same, if they deem it expedient, during the present or at some future Convention, and will make any communication to this House which they may deem proper.

In reply to this request of the House of Deputies, the House of Bishops, consisting of only two bishops, Bishops White and Claggett, returned the following reply:

The House of Bishops having taken into consideration the message sent to them by the House of Clerical and Lay Deputies, relative to the subject of marriage, as connected with the table of degrees, within which, according to the Canons of the Church of England, marriage cannot be celebrated, observe as follows:

Agreeably to the sentiment entertained by them, in relation to the whole Ecclesiastical system, they consider that table as now obligatory on this Church, and as what will remain so, unless there should hereafter appear cause to alter it, without departing from the Word of God, or endangering the peace and good order of this Church. They are, however, aware, that reasons exist for making an express determination as to the light in which this subject is to be considered. They conceive so highly of the importance of it, and it is connected with so many questions, both sacred and civil, that they doubt the propriety of entering on it, without maturer consideration than any expected length of the present Session will permit; and this opinion derives additional weight, both from there being but few of their house present, and from there being several of the churches not represented in this Convention.

Accordingly, they content themselves with recommending the subject to be considered and acted on at a future Convention.

The same Convention also passed the following joint resolution:

Resolved, That it is the sense of this Church, that it is inconsistent with the law of God, and the Ministers of this Church, therefore, shall not unite in matrimony any person who is divorced, unless it be on account of the other party having been guilty of adultery.

This joint resolution was the only pronouncement of the General Convention on the subject of the solemnization of matrimony until 1868.

Convention of 1868

The first canonical enactment by the General Convention on the subject of the solemnizing of matrimony was enacted by the Convention of 1868 as Canon 13 of Title II, and which read as follows:

No minister of this Church shall solemnize Matrimony in any case where there is a divorced wife or husband of either party still living; but this Canon shall not be held to apply to the innocent party in a divorce for the cause of adultery, or to parties once divorced seeking to be united again.

Convention of 1877

The question of what force the joint resolution of 1808 had, so far as it affected the discipline of the Church, was considered by a special joint committee appointed by the Convention of 1874, which committee was ordered to report its findings to the next Convention.

In its report to the Convention of 1877, this committee declared, among other phases of the force of joint resolutions, as follows (*Journal*, pp. 142-143):

But there is a body of joint resolutions which on their face have the character of a positive act of legislation.

In 1808 it was jointly resolved that it is the sense of this Church, that it is inconsistent with the law of God, and therefore the Ministers of this Church *shall not unite in matrimony* any person who is divorced, unless such divorce have been granted on account of the adultery of the other party. And it was also resolved that the Ministers of this Church ought not to perform the funeral service in the case of any person who shall give or accept a challenge to a duel. In 1856, in the House of Deputies, a resolution was referred, to consider the propriety of preparing a Canon which should effectually accomplish the objects of the resolutions of 1808, above cited.

The Committee on Canons reported adversely on this resolution, and the House refused to accept the proposed Canon....

The resolution of 1808, as to marrying a divorced party, was as imperative in language as the Canon of 1868; yet the House of Bishops treat it as an opinion only, and there is no trace in our Church of its having been treated as a law....

Reviewing the action of this Convention since its organization, in regard to joint resolutions, we find, however,

1. That no penalty has ever been provided in any joint resolution passed by it.
2. That in Canon 2, Title II, which sets forth the offenses for which Ministers may be tried and punished, it is provided that every Minister may be tried and punished for the violation of the Constitution and Canons of the General Convention, but no provision is made for the violation of a joint resolution.
3. That at different times one of the constituent Houses of this Convention has, in direct words, declared a joint resolution to be the mere expression of the opinion of the Convention, and that both Houses appear to have always given that construction to a joint resolution.
4. That this Convention has refused to pass Canons submitted to it on certain subjects, and has passed, immediately thereafter, joint resolutions in almost the same words used in the proposed Canons.
5. That it has passed Canons for the express purpose of putting into the form of law that which had theretofore been merely in the form of joint resolutions.

In view of these precedents, and this long continued and unvarying construction given by the Convention to joint resolutions, this Committee recommend the adoption of the following resolutions:

First, That the joint resolutions heretofore passed by the General Convention have never been deemed to have, and ought not to be construed as having, the force of law, but as being merely the expression of opinion.

Second, That in view of the different doctrine prevailing in the civil courts of our country, and to remove all doubts for the future, an amendment should be made to the Constitution, which will require all future legislation to be by Canon.

Third, That a joint resolution professing to interpret a law is only an opinion, of great weight indeed, but not obligatory.

This report was placed upon the calendar, and not being reached until the last day of the session, its consideration was postponed to the next Convention.

This same Convention, earlier in its session, repealed the Canon of 1868, and enacted the following in its place as Title II, Canon 13.

Of Marriage and Divorce

Sec. 1. If any persons be joined together otherwise than as God's Word doth allow, their marriage is not lawful.

Sec. 2. No Minister, knowingly, after due inquiry, shall solemnize the marriage of any person who has a divorced husband or wife still living, if such husband or wife has been put away for any cause arising after marriage; but this Canon shall not be held to apply to the innocent party in a divorce for the cause of adultery, or to parties once divorced seeking to be united again.

Sec. 3. If any Minister of this Church shall have reasonable cause to doubt whether a person desiring of being admitted to Holy Baptism, or to Confirmation, or to the Holy Communion, has been married otherwise than as the Word of God and discipline of this Church allow, such Minister, before receiving such person to these ordinances, shall refer the case to the Bishop for his godly judgment thereupon; *provided, however*, that no Minister shall, in any case, refuse the Sacraments to a penitent person in imminent danger of death.

Sec. 4. Questions touching the facts of any case arising under Section 2 of this Canon shall be referred to the Bishop of the Diocese or Missionary Jurisdiction in which the same may occur; or if there be no Bishop of such Diocese or Missionary Jurisdiction, then to some Bishop to be designated by the Standing Committee; and the Bishop to whom such questions have been so referred shall thereupon make inquiry in such manner as he shall deem expedient, and then deliver his judgment in the premises.

Sec. 5. This Canon, so far as it affixes penalties, does not apply to cases occurring before it takes effect, according to Canon 4, Title IV.

This canon had been passed by the House of Bishops in the Convention of 1874, but was referred by the House of Deputies to the next Convention.

When the canon came up for consideration in the House of Deputies in the Convention of 1877, it was the subject of an extended debate.

Objections were made to the second section in that its provisions were too stringent. This objection was answered by showing that its provisions were almost identical with those of the Canon of 1868, the only difference being that its provisions were made a little clearer.

Enactment was strongly urged upon the ground that the Canon of 1868 was binding only upon the clergy, while the proposed canon provided for reaching the offending parties, and also provided penalties for the offenders. It was further declared that the Canon of 1868 was a snare to the clergy, and as an illustration thereof, the following case was stated by a deputy, during the debate, as coming under his own observation:

A communicant of the Church formed an adulterous connection and was divorced, and then having completed his villainy, he came to a Clergyman of this Church to be married. The Clergyman, the facts being notorious, absolutely refused to do it. He went to every other Clergyman, sectarian and otherwise, in that village, and they all refused. He then went to an esquire, a member of the law, such as these men are, and the man married him without hesitation. Then he came back to his Clergyman (he was a lawyer himself), with this Canon, (the former Canon), in his hand, and he said to him: "To be sure you could not marry me, but you cannot in any way touch me. I have been legally married by the law of the State, and there is no Canon of your Church by which, having been so married, I can be deposed from the Position of a Communicant of the Church."

Other cases of a similar character were cited, all of which showed the necessity of making some provision to meet such cases, and as a protection to the clergy.

Convention of 1880

The report to the previous Convention concerning joint resolutions was referred to the Committee on Amendments to the Constitution of the House of Deputies, which committee reported, in part, as follows (*Journal*, pp. 114-115):

With the third of these resolutions, namely, that which asserts the non-obligatory character of joint resolutions which profess to interpret law, your Committee find themselves unanimously in accord, but to the doctrine of the other two, they cannot so assent.

After calling attention to the fact that some dioceses had been admitted into union with the Convention by joint resolution, which would, therefore, seem to have the force of law, the committee concluded its report as follows:

Your Committee, therefore, recommend the passage of the following resolutions instead of those appended to the Report above quoted:

1. *Resolved*, That it is inexpedient so to amend the Constitution as to require that all future legislation shall be by Canon.

2. *Resolved*, the House of Bishops concurring, That the Secretaries of the two Houses be instructed to compile and print, for the use of the General Convention, a classified list of all joint resolutions heretofore passed, in order that the Convention may be able intelligently to determine which of them, if any, ought to be inserted in the Digest [as being part of the disciplinary code of the Church].

After the words in brackets at the end of the second resolution had been stricken out, the report was adopted by the House of Deputies.

It is evident from the reports of the two committees of the House of Deputies, that the joint resolution of the Convention of 1808, relative to the remarriage of a divorced person by a minister of this Church, never had the force of law, and as the Committee of 1877 states, "there is no trace in our Church annals of its having been treated as a law."

Therefore, the canon enacted by the Convention of 1868 may be considered as the first law of the American Church on the remarriage of a divorced person.

Convention of 1883

While the canon enacted by the Convention of 1877 remained without amendment until the revision of the canons by the Convention of 1904, several attempts were made to amend it in the intervening conventions.

The Convention of 1883 appointed a joint committee "to consider the duty of the Church in relation to the whole subject of Marriage, including the impediments to the contract thereof, the manner of its solemnization, and the conditions of its dissolution, and to report to the next General Convention."

Convention of 1886

The committee made a comprehensive and historically interesting report (*Journal*, p. 783) in which they contrasted the traditional view of the Church with respect to divorce with "the prevailing public sentiment" for "more easy separation."

A major cause of this, in the opinion of the committee, was the extreme ease with which first marriages could be contracted. In some states, it was pointed out, twelve and fourteen year olds could be married without the consent of a parent or guardian, and even without the presence of witnesses.

The committee proposed a more comprehensive canon, the principal features of which were as follows:

The prohibition of marriages within the degrees of consanguinity and affinity specified in Leviticus 18:6-18.

Ministers not to solemnize the marriage of any person under eighteen years of age, without the written consent of the parent or guardian.

No marriage to be solemnized except in the presence of at least two witnesses, each of whom to be personally acquainted with both parties.

Every minister to keep a register of marriages, in which he was to record certain facts, and this record to be signed by both parties to the marriage, by at least two witnesses, and by the minister.

The law of the Church concerning divorce is that contained in Matthew 5:32 and 19:9, Mark 10:1, and Luke 16:18.

Marriage when duly solemnized not to be dissolved except for adultery or fornication, and the guilty party prohibited from marrying again during the lifetime of the other party.

Any minister violating the provisions of the canon to be subject to trial, and liable to admonition for the first offense, and to suspension or deposition for a repetition of the same.

Persons marrying in violation of the canon, not to be permitted to receive the Holy Communion, except upon penitence and after avowed final separation.

That so stringent a canon did not reflect unanimity on the part of members of the committee may be seen in the following addendum signed by one of its members:

The undersigned finds himself unable to concur in so much of the foregoing report and Canon as forbids the Holy Communion to a truly pious and godly woman, who has been compelled by long years of suffering from a drunken and brutal husband to obtain a divorce, and has regularly married some suitable person according to the established laws of the land.

The proposed canon failed of adoption by nonconcurrence in the House of Deputies, and the matter was referred to the next Convention.

The Conventions of 1889, 1892, 1895, and 1901 all considered the matter, but failed to agree on a new canon.

Convention of 1904

After an exhaustive debate, continuing over four days, by the House of Deputies meeting as a committee of the whole, the house adopted, by a narrow majority, the following Canon 38 in which the House of Bishops concurred:

Of the Solemnization of Matrimony

Sec. 1. Ministers of this Church shall be careful to secure the observance of the law of the State governing the civil contract of marriage in the place where the service shall be performed.

Sec. 2. (i) No Minister shall solemnize a marriage except in the presence of at least two witnesses.

(ii) Every Minister shall without delay formally record in the proper register the name, age and residence of each party. Such record shall be signed by the Minister who solemnizes the marriage, and, if practicable, by the married parties, and by at least two witnesses of the marriage.

Sec. 3. No Minister, knowingly after due inquiry, shall solemnize the marriage of any person who has been or is the husband or the wife of any other person then living, from whom he or she has been divorced for any cause arising after marriage. But this Canon shall not be held to apply to the innocent party in a divorce for adultery; *Provided*, that before the application for such remarriage a period of not less than one year shall have elapsed, after the granting of such divorce; and that satisfactory evidence touching the facts in the case, including a copy of the Court's Decree, and Record, if practicable, with proof that the defendant was personally served or appeared in the action, be laid before the Ecclesiastical Authority, and such Ecclesiastical Authority, having taken legal advice thereon, shall have declared in writing that in his judgment the case of the applicant conforms to the requirements of this Canon; and *Provided, further*, that it shall be within the discretion of any Minister to decline to solemnize any marriage.

Sec. 4. If any Minister of this Church shall have reasonable cause to doubt whether a person desirous of being admitted to Holy Baptism, or to Confirmation, or to the Holy Communion, has been married otherwise than as the Word of God and discipline of this Church allow, such Minister, before receiving such person to these ordinances, shall refer the case to the Bishop for his godly judgment thereupon; *Provided, however*, that no Minister, shall in any case refuse these ordinances to a penitent person in imminent danger of death.

Section 3 of the canon, as originally proposed to the Convention, contained no provision whatever for the remarriage of divorced persons. It recognized as the only exception the marriage of a person whose former marriage had been annulled by a civil court for causes existing before the marriage.

The canon as adopted was avowedly a compromise between those who desired that no remarriage of divorced persons, having a husband or wife still living from whom they were divorced, should be permitted by the Church, and those who desired that an exception should be made in the case of the so-called innocent party in a divorce for adultery.

The exception remained, but a waiting period was now imposed, and it was required that satisfactory evidence of the legal divorce action be submitted to the bishop for his consideration.

Convention of 1916

A proposed amendment to drop the exception for cases of adultery was postponed in 1910, and in 1913 was referred to a joint commission on marriage which made an extended report to the Convention of 1916. The report included the following statements:

The refusal of the Church to bless and solemnize a marriage need not be followed by a permanent exclusion from the Sacraments. Consideration must be had of the good faith in which a marriage may have been entered on in ignorance of the Church's law,

and while not subject to the Church's discipline; and of the practical impossibility in many cases, without greater wrong, of the breaking up of a family. In some such cases there must be a power of discretion, very carefully exercised, to admit or readmit persons to the Sacraments. This power must rest with the Minister of the congregation and the Bishop of the Diocese, as the chief minister of discipline.

With this provision the Commission feels justified in recommending an entire refusal to solemnize with the Church's blessing the marriage of any person who has a divorced partner still living. The doubtfulness of the supposed exception in the Gospel according to St. Matthew, the extreme difficulty of determining the innocence of either party to a divorce, and of maintaining the disciplinary safeguards of our existing Canon, and the confusion which these introduce into the Church's law, make it clear in the judgment of the Commission, that the wise course is to refuse the Church's rites of benediction upon any marriage after divorce, during the lifetime of the other party to the original marriage.

(The "Matthean exception" alluded to in the previous paragraph is the phrase "except on the ground of unchastity" in Matthew 5:32, which does not appear in the parallel passages in Mark 10:11 and Luke 16:18, and is thought by many scholars to be an early insertion into the text. Neither Western canon law generally, nor the canons of the Church of England, permitted divorce on this ground.)

The commission proposed amendments to Sections 3 and 4 of the canon to bring them into conformity with its recommendations. In the House of Deputies the proposed amendments were defeated by nonconcurrence of orders, the clergy voting in favor by a considerable majority, the laity voting against it by a small majority.

In 1919 the commission proposed substantially the same amendments, which were again rejected.

Convention of 1922

Section 3 of the canon was amended by adding, at the end of the first sentence, the following words:

nor shall it be lawful for any member of this Church to enter upon a marriage when either of the contracting parties is the husband or the wife of any other person then living, from whom he or she has been divorced for any cause arising after marriage.

Before this amendment was enacted, the canon only forbade a clergyman of this Church from solemnizing the marriage of a divorced person when the husband or the wife of such divorced person was still living; it did not forbid a member of the Church from contracting such a marriage.

Convention of 1925

An amendment of Section 3 was proposed which would have restricted remarriage to cases where the bishop, acting with legal advice, found

on the record that the divorce had been granted for cause arising before marriage. The canon as amended would have provided that where this claim is established by the record, the bishop shall declare in writing that such a divorce, being in effect a decree of annulment is no bar to the marriage of either party. This proposal failed in the House of Deputies.

In the House of Bishops a proposal to amend the canon, so as to allow the marriage of the innocent party in any divorce, with the consent of the ecclesiastical authority, was defeated. Accordingly, at this Convention the Matthean exception prevailed against an attempt to abolish it and one to remove all specific grounds for dispensation.

Convention of 1931

The canon was renumbered Canon 41 and amended to read as follows:

Of the Solemnization of Holy Matrimony

Sec. 1. Ministers of this Church shall within their Cures give instruction both publicly and privately, on the nature of Holy Matrimony, its responsibilities and the mutual love and forbearance which it requires.

Sec. 2. Ministers of this Church shall conform to the laws of the State governing the civil contract of marriage, and also to the laws of this Church governing the solemnization of Holy Matrimony.

Sec. 3. (i) No Minister of this Church shall solemnize any marriage before the following conditions have been carefully complied with:

(a) He shall ascertain by due inquiry the right of the parties according to the laws of this Church to contract a marriage.

(b) He shall instruct the contracting parties as to the nature of Holy Matrimony, its responsibilities, and the means of grace which God has provided through His Church.

(ii) There shall be at least two witnesses present at the solemnization of the marriage.

(iii) Every Minister shall without delay formally record in the proper register the name, age and residence of each party. Such record shall be signed by the Minister who solemnizes the marriage, by the married parties, and by at least two witnesses of the marriage.

(iv) No marriage shall be solemnized by a minister of this Church unless the intention of the contracting parties shall have been signified to the Minister at least three days before the service of solemnization.

Sec. 4. If one party to a marriage so grievously offend the other that the security of permanence of the home is imperilled it shall be the duty of the offended party to lay the matter before a Minister of the Church; and it shall be the duty of such Minister to labor that the parties may be reconciled.

Sec. 5. No Minister, knowingly after due inquiry, shall solemnize the marriage of any person who has been or is the husband or the wife of any other person then living, from whom he or she has been divorced for any cause arising after marriage. Nor shall it be lawful for any member of this Church to enter upon a marriage when either of the

contracting parties is the husband or the wife of any other person then living from who he or she has been divorced for any cause arising after marriage. But this Canon shall not be held to apply to the innocent party in a divorce for adultery; *Provided*, that before the application for such remarriage a period of not less than one year shall have elapsed after the granting of such divorce; and that satisfactory evidence touching the facts in the case, including a copy of the Court's Decree, and Record, if practicable, with proof that the defendant was personally served or appeared in the action, be laid before the Ecclesiastical Authority, and such Ecclesiastical Authority, having taken legal advice thereon, shall have declared in writing that in his judgment the case of the applicant conforms to the requirements of this Canon; and *Provided, further*, that it shall be, within the discretion of any Minister to decline to solemnize any marriage.

Sec. 6. (i) Any person whose former marriage has been annulled or dissolved by a civil court may apply to the Bishop or to the Ecclesiastical Court constituted by Canon, of the Diocese or Missionary District of the said person's domicile to have the said marriage declared null and void by reason of any of the following impediments to marriage:

1 Consanguinity (whether of the whole or of the half blood) within the following degrees:

- (a) One may not marry one's ascendant or descendant.
 - (b) One may not marry one's sister.
 - (c) One may not marry the sister or brother of one's ascendant or the descendant of one's brother or sister.
- 2 Lack of free consent of either party.
 - 3 Mistake as to the identity of either party.
 - 4 Mental deficiency of either party sufficient to prevent the exercise of intelligent choice.
 - 5 Insanity of either party.
 - 6 Failure of either party to have reached the age of puberty.
 - 7 Impotence of either party undisclosed to the other.
 - 8 The existence of venereal disease in either party.
 - 9 Facts which would make the proposed marriage bigamous.

(ii) The Bishop in such case, after taking legal advice, or the Ecclesiastical Court proceeding in accordance with the canons and acting through the Bishop, shall render judgment in writing to the petitioner. All judgments rendered under this Canon by the Bishop or the Ecclesiastical Court shall be made matters of permanent record in the archives of the Diocese or Missionary District. No such judgment shall be construed as referring in any way to the legitimacy of children or the civil validity of the former relationship.

(iii) Any person whose former marriage has been annulled or dissolved by a civil court and pronounced null by the Bishop, may be married by a Minister of this Church as if he had never previously been married.

Sec. 7. (i) If any Minister of this Church shall have cause to think that a person desirous of Holy Baptism, or of Confirmation, or of receiving the Holy Communion, has been married otherwise than as the word of God and discipline of this Church allow, such Minister, before receiving such person to these ordinances, shall refer the case to the

Bishop for his godly judgment thereupon. The Bishop, after due inquiry into the circumstances, and taking into consideration the godly discipline both of justice and of mercy, shall give his judgment thereon in writing. *Provided, however,* that no Minister shall in any case refuse these ordinances to a penitent person in imminent danger of death.

(ii) Any persons who have been married by civil authority, or otherwise than as this Church provides may apply to the Bishop or to the Ecclesiastical Court of their domicile for the recognition of communicant status or for the right to apply for Holy Baptism or Confirmation. After due inquiry into all the facts relevant thereto, judgment shall be given in writing to the petitioners by the Bishop or by the Ecclesiastical Court acting through the Bishop. In case of a favorable decision, a Minister of this Church may, at his discretion, bless the parties to the union.

As originally proposed by the Joint Commission on Marriage and Divorce, the canon did not make provision for the Matthean exception. This was added by the Convention.

A new feature of the canon was the extended section on nullity (Section 6), which includes a list of impediments to a valid marriage. The right of determining nullity is here reserved to the bishop or ecclesiastical court, in contrast to the former canon which could have been construed (and apparently sometimes was construed) as leaving the matter to the individual clergyman.

Two alternatives had been proposed by the commission for Section 7. One would have allowed an ecclesiastical court to permit remarriage after a divorce granted for any cause, if it determined, after due inquiry and assessment of the circumstances, that the spiritual welfare of the applicant would be best served thereby. The other provided for the recognition by an ecclesiastical court of a civil marriage contracted by a person whose former marriage had been dissolved by civil authority, which could then be followed by a blessing of the parties to the new union.

Both alternatives were rejected, and Section 4 of the former canon, expanded to include a reference to “the godly discipline of justice and mercy,” was adopted as Section 7.

Convention of 1934

An amendment of Section 3 (iv) was adopted adding after the words “the service of solemnization” the following:

Provided, that for weighty cause a Minister, upon less than the requisite three days’ notice, may solemnize the marriage of persons one of whom is a member of his own congregation or is well known to the Minister, but in such a case the Minister shall immediately report his action to the Ecclesiastical Authority.

Convention of 1937

The joint commission presented a report which began by pointing out that the Church's views on divorce and remarriage were being increasingly ignored by the public. It then addressed the matter of amending the canon in the following words:

Almost everyone agrees that the present Canon is inadequate, but there is a wide difference of opinion as to the course that should be followed.

First, there are those who are always slow to make changes. They see difficulties and dangers and therefore vote to leave things as they are....

Second, there are those who would stiffen the present Canon by omitting the exception in favor of adultery and never allow re-marriage, or the blessing of the marriage of divorced persons by a clergyman of the Church. The objection to this method is that it has failed. Only fifty years ago it was practically the attitude of our whole western civilization. Even where divorce and re-marriage were recognized by law they were looked upon with horror. The English Church and some of its Branches have uncompromisingly held this position—the only so-called Catholic Church to do so....

Third, there are those who would extend the principle of annulment as is done in the Eastern Orthodox Churches and in the Church of Rome. Members of this Convention are generally familiar with the extent to which annulment is used. Marriage is first declared indissoluble and then in many cases pronounced null and void. Of course there are cases where the marriage has never been consummated personally, legally, or religiously; but in many others annulment is declared where

- (a) persons have married themselves
- (b) they have been married by the State
- (c) and they have been married by Priest or Minister with the clear religious intention of one or both parties.

To most Anglicans and Protestants this seems nothing but divorce under another name. In either case it "puts asunder" those whom, to all appearance and understanding "God hath joined together."

In connection with a pamphlet edited by the Rev. Howard Chandler Robbins, which, at the commission's request, had been sent to every member of the Convention, the report stated:

It is repeatedly said that neither an individual Bishop nor the Church itself has the power to take any action contrary to Christ's Teaching. Many leaders in the Church assert without hesitation that the teaching of Christ in this matter is perfectly clear: viz., that the re-marriage of any divorced person constitutes adultery and that such re-marriage sanctions and condones a definite sin.

- (1) The obvious reply is that we should not be discussing this matter at all if Christ had made his mind perfectly clear.
- (2) The pamphlet edited by Dr. Robbins shows that different Churches, the Eastern Orthodox Church, the Roman Church, our own Church and various Protestant Churches, have interpreted His mind in different ways.

(3) The opinion of the leading scholars is contrary to the above views. To quote from Dr. Robbins' pamphlet, "Professor Burton Scott Easton (of the General Theological Seminary) in his commentary on St. Luke takes the ground that Jesus is not laying down a principle of civil law for ordinary society, but stating how the righteous should act." Later Dr. Robbins says "...consequently the directions about divorce in Christ's teachings are as immediately personal as the directions about turning the other cheek. Christ was not discussing what is the best law for a state, or even a Church. He was telling conscientious individuals how to act."

The commission proposed an amendment of Section 5 which would have allowed a bishop to permit the remarriage of the innocent party in a situation where the other party had committed adultery, but where the civil divorce had been granted on other grounds. This was rejected.

It also proposed a new Section 8, granting the bishop authority to permit marriage after a divorce for any cause "if in equity and good conscience, he shall choose to do so," which was likewise rejected.

Two of the commission's proposals were adopted:

Clause (ii) of Section 6 was amended to read:

Lack of free and legal consent of either party.

Clause (vii) of the same section was amended to read:

Impotence or sexual perversion of either party undisclosed to the other.

Convention of 1940

In 1939 the joint commission prepared a report and a complete new canon, substantially the same as its proposal of 1931, which it presented to the House of Bishops and to the Church press, inviting criticism. The canon, amended in the light of criticisms received, was presented to the Convention of 1940.

Adopted with amendments by the House of Bishops, the proposal failed when the House of Deputies refused to concur.

Convention of 1943

Section 7 was transferred to Canon 15, "Of Regulations Respecting the Laity," as Section 3 (a) and (b). Sections 1-3 became Canon 16, "Of the Solemnization of Holy Matrimony." Sections 4-6 became Canon 17, "Of Regulations Respecting Holy Matrimony and the Impediments Thereto."

The joint commission presented an elaborate report, to which were appended two proposed canons, "A" and "B." "A" dealt with the relation between the Church and the family; "B" with the problems arising out of marital failure.

Canon B recognized abnormalities and defects of character which, while not discernible before marriage, are nevertheless as real and insurmountable obstacles to a true marriage as mental incapacity. The report stated:

In essence, Canon B proposes to put into the hands of the diocesan bishops the right to decide when this is the case. They are directed to associate with themselves the pastor, if possible of the petitioner, a lawyer, and a psychiatrist or physician and to investigate the case with a view to determining whether or not a Christian marriage has in fact been established (*Journal*, p. 437).

The Committee on Canons of the House of Deputies presented two substitutes for the joint commission's report.

Of the three proposals, the minority report of the committee on Canons was most favored by the house when it met as a committee of the whole, but in the final vote by orders all amendments were defeated. The minority report, however, was to serve as the basis of the canon recommended by the joint commission in 1946.

Convention of 1946

Canon 16 was renumbered Canon 17 and amended to read as follows:

Of the Solemnization of Holy Matrimony.

Sec. 1. Every Minister of this Church shall conform to the laws of the State governing the creation of the civil status of marriage, and also to the laws of this Church governing the solemnization of Holy Matrimony.

Sec. 2. No Minister of this Church shall solemnize any marriage unless the following conditions are complied with:

- (a) He shall have ascertained the right of the parties to contract a marriage according to the laws of the State.
- (b) He shall have ascertained the right of the parties to contract a marriage according to the laws of this Church, and not in violation of the following impediments:
 - (1) Consanguinity (whether of the whole or of the half blood) within the following degrees:
 - (a) One may not marry one's ascendant or descendant.
 - (b) One may not marry one's sister.
 - (c) One may not marry the sister or brother of one's ascendant or the descendant of one's brother or sister.
 - (2) Mistake as to the identity of either party.
 - (3) Mental deficiency of either party sufficient to prevent the exercise of intelligent choice.
 - (4) Insanity of either party.
 - (5) Failure of either party to have reached the age of puberty.

- (6) Impotence, sexual perversion, or the existence of venereal disease in either party undisclosed to the other.
- (7) Facts which would make the proposed marriage bigamous.
- (8) Concurrent contract inconsistent with the contract constituting canonical marriage.
- (9) Attendant conditions: error as to the identity of either party, fraud, coercion or duress, or such defects of personality as to make competent or free consent impossible.
- (c) He shall have ascertained that at least one of the parties has received Holy Baptism.
- (d) He shall have instructed the parties as to the nature of Holy Matrimony.
- (e) The intention of the parties to contract a marriage shall have been signified to the Minister at least three days before the service of solemnization; *Provided*, that, for weighty cause, the Minister may dispense with this requirement, if one of the parties is a member of his congregation, or can furnish satisfactory evidence of his responsibility. In case the three day's notice is waived, the Minister shall report his action in writing to the Ecclesiastical Authority immediately.
- (f) There shall be present at least two witnesses to the solemnization of the marriage.
- (g) The Minister shall record in the proper register the date and place of the marriage, the names of the parties and their parents, the age of the parties, their residence, and their Church status, and the witnesses and the Minister shall sign the record.

Sec. 3. It shall be within the discretion of any Minister of this Church to decline to solemnize any marriage.

Sec. 4. No minister of this Church shall solemnize any marriage except in accordance with these Canons.

The principal changes were the transfer of the list of impediments to a position where they clearly governed all marriages, and the extension of the right of the minister to decline to officiate to include first marriages as well.

Impediments (8) and (9) were new.

No mention was made of the Matthean exception.

The revision of former Canon 17 is discussed below under Title I, Canon 18.

Convention of 1949

A new Section 3 was inserted into Canon 17, requiring a signed declaration by the parties to the marriage. Except for the later substitution (in 1973) of the words "liturgical forms authorized by this Church" for the words "Form of Solemnization of Holy Matrimony in the Book of Common Prayer," the text of the declaration was the same as in Section 3 (d) of the present canon.

Former Sections 3 and 4 were renumbered 4 and 5.

A new Section 6 was added, reading as follows:

No Minister of this Church shall solemnize the marriage of any person who has been the husband or wife of any other person then living whose marriage has been annulled or dissolved by the civil court, except as hereinafter in these Canons provided; nor shall any member of this Church enter upon a marriage when either of the contracting parties has been the husband or the wife of any other person then living whose marriage has been annulled or dissolved by a civil court, except as hereinafter in these Canons provided.

Convention of 1973

Canon 17, in the form in which it had remained since 1949, was repealed, and the present canon enacted.

See also the discussion of Title I, Canon 18, below.

EXPOSITION OF CANON I.17

Adopted in its present form by the Convention of 1973, this canon prescribes the conditions to be met and the procedures to be followed when a minister of this Church is to solemnize any marriage.

Section 1 requires every minister to conform to the laws of the State governing the civil status of marriage, and also to the laws of this Church governing the solemnization of Holy Matrimony. The language of this section follows closely that adopted in 1931, though the explicit requirement of the observance of the laws of the State appeared earlier in Canon 38 of 1904. Section 1 distinguishes between the State's regulations concerning civil marriage and the Church's laws governing Holy Matrimony, but it should be noted that the canon does not allow a minister to act only in the capacity of a person authorized by the State or other civil jurisdiction to perform a marriage. The minister must also act in accordance with the laws of this Church. Because the language of the present canon makes this clear, Section 4 of 1946, which read "No minister of this Church shall solemnize any marriage except in accordance with these Canons," was omitted in the revision of 1973.

Sections 2 and 3 set forth the conditions and procedures to be met and followed by a minister of this Church in the solemnization of any marriage.

Section 2 (a), the meaning of which needs no comment, was adopted in 1946. Sections 2 (b) and (c) were adopted in 1973, replacing the injunction of earlier canons that the minister ascertain that the proposed marriage was not in violation of any of a list of impediments to the establishment of a Christian marriage. While there is an echo of some of these impediments in Section 2 (c), the chief emphasis in the

two sections has been placed upon a pastoral approach to Holy Matrimony and a clear grasp of its nature as a Christian union. The minister is required to ascertain that the parties proposing marriage understand it to be a physical and spiritual union, entered into within the community of faith by mutual consent of heart, mind, and will, and with intent that it be lifelong. The minister must be satisfied that both parties give free, full, and competent consent to such a union, without fraud, coercion, mistaken identity, or mental reservation.

Section 2 (d) requires that at least one of the parties has received Holy Baptism. When this requirement was enacted in 1946 there was objection to it, chiefly on the part of those who believed that it was implicit in the nature of Holy Matrimony that it be solemnized only for baptized Christians. To introduce legislation requiring only one of the parties to be baptized seemed to weaken this position. On the other hand, it was maintained that marriages were being solemnized where neither party had been baptized, and, furthermore, that the requirement had considerable justification in the ancient experience of the Church. Many clergy, however, acting in accord with the discretion granted them in Section 4, declined to solemnize marriages unless both parties were baptized persons. Thus it became not unusual for an unbaptized party to a proposed marriage to receive instruction and Holy Baptism before the wedding took place. The language of the present Section 2 (b), describing Holy Matrimony as a union “entered into within the community of faith” would appear to imply the desirability of both parties to be baptized members of the Christian community.

Section 2 (e) requires the minister to instruct the parties as to the nature, meaning, and purpose of Holy Matrimony, or ascertain that such instruction has been given them. In its present form this requirement derives from an enactment by the Convention of 1946. It should be noted, however, that fifteen years earlier Canon 41 of 1931 required ministers to “give instruction both publicly and privately, on the nature of Holy Matrimony...”

Section 3 of Canon 17 lists the procedures to be followed when a minister of this Church is to solemnize any marriage. Section 3 (a), requiring at least three days prior notice of the intention to marry be given to the minister, first appeared in Canon 41 of 1931. In 1973 the notice period was lengthened to thirty days. A proviso dispensing with the notice period in certain circumstances was enacted in 1934, and is still operative under the canon.

Section 3 (b) and (c) require the presence of two witnesses to the solemnization, and a registration of the marriage which includes personal

data concerning the parties, and the signatures of the witnesses and the minister. These two requirements derive from a canon enacted by the Convention of 1904, though both had appeared in an earlier form in a proposed canon that failed of adoption in 1886.

Section 3 (d), first inserted into Canon 17 in 1949, requires a declaration (fashioned in part out of portions of Section 2 (b) of Canon 18 of 1946, where a true Christian marriage is briefly defined) to be signed by the parties contracting marriage. The statement contains a simple exposition of Christian marriage as a lifelong union which the contracting parties minister to each other for the purposes described in the declaration, and a solemn engagement on their part to establish this relationship with the help of God. The substance of the declaration provides the minister with an admirable basis for the required instruction.

The concluding Section 4 places it within the discretion of any minister to decline to solemnize any marriage. It derives from Section 3 of Canon 17 as enacted by the Convention of 1946.



CANON 18. Of Regulations Respecting Holy Matrimony: Concerning Preservation of Marriage, Dissolution of Marriage, and Re-marriage

When marital unity is imperiled. Sec. 1. When marital unity is imperiled by dissension, it shall be the duty of either or both parties, before contemplating legal action, to lay the matter before a Minister of this Church; and it shall be the duty of such Minister to labor that the parties may be reconciled.

Application to Bishop for judgement re marital status. Sec. 2. (a). Any member of this Church whose marriage has been annulled or dissolved by a civil court may apply to the Bishop or Ecclesiastical Authority of the Diocese in which such person is legally or canonically resident for a judgment as to his or her marital status in the eyes of the Church. Such judgment may be a recognition of the nullity, or of the termination of the said marriage; *Provided*, that no such judgment shall be construed as affecting in any way the legitimacy of children or the civil validity of the former relationship.

Judgment in writing. (b). Every judgment rendered under this Section shall be in writing and shall be made a matter of permanent record in the Archives of the Diocese.

Re-marriage of persons whose former union is dissolved. Sec. 3. No Minister of this Church shall solemnize the marriage of any person who has been the husband or wife of any other person then living nor shall any member of this Church enter into a marriage when either of the contracting parties has been the husband or the wife of any other person then living, except as hereinafter provided:

- Conditions.* (a). The Minister shall have satisfied himself by appropriate evidence that the prior marriage has been annulled or dissolved by a final judgment or decree of a civil court of competent jurisdiction.
 - a) Final decree.*
 - b) Instruction on responsibility to former spouse and children.* (b). The Minister shall have instructed the parties that continuing concern must be shown for the well-being of the former spouse, and of any children of the prior marriage.
 - c) Consultation with and consent of Bishop; report to.* (c). The Minister shall consult with and obtain the consent of the Minister’s Bishop prior to, and shall report to that Bishop, the solemnization of any marriage under this Section.
 - d) Consent of Bishop of other jurisdiction required.* (d). If the proposed marriage is to be solemnized in a jurisdiction other than the one in which the consent has been given, the consent shall be affirmed by the Bishop of that jurisdiction.
- Sec. 4. All provisions of Canon I.17 shall, in all cases, apply.



This canon was formerly part of the canon immediately preceding.

Convention of 1943

As stated above under Title I, Canon 17, this Convention transferred parts of the canon “Of the Solemnization of Holy Matrimony,” as amended in 1931 and 1934, to other canons. Section 7 was made Section 3 of the canon “Of Regulations Respecting the Laity,” and Sections 4-6 were made Sections 1-3 of this canon, which was titled “Of Regulations Respecting Holy Matrimony and the Impediments Thereto.”

Convention of 1946

The following clause was added to Section 3 of Canon 16, “Of Regulations Respecting the Laity:”

(c) When marital unity is imperilled by dissension, it shall be the duty of either or both parties, before contemplating legal action, to lay the matter before a Minister of this Church; and it shall be the duty of such Minister to labor that the parties may be reconciled.

The title of Canon 18 was changed to read as at present, since the list of impediments had been transferred to Canon 17. The canon itself was amended to read as follows:

Of Regulations Respecting Holy Matrimony.

Sec. 1. The provisions of this Canon shall apply only to an active member of this Church in good standing.

Sec. 2. (a) Any person, being a member of this Church in good standing, whose marriage has been annulled or dissolved by a civil court of competent jurisdiction, and any person, being a member of this Church in good standing, who desires to marry a person whose marriage has been annulled or dissolved by a civil court of competent jurisdiction, may apply to the Bishop or Ecclesiastical Authority of the Diocese or Missionary District in which such person is canonically resident, for a judgment as to his or her marital status in the eyes of the Church, or for permission to be married by a Minister of this Church, provided one year shall have elapsed since the entry of the judgment of said civil court. Such application should be made at least thirty days before the contemplated marriage.

(b) If the Bishop or Ecclesiastical Authority is satisfied that the parties intend a true Christian marriage he may refer the application to his Council of Advisors, or to the Court if such has been established by diocesan action. The Bishop or Ecclesiastical Authority shall take care that his or its judgment is based upon and conforms to the doctrine of this Church, that marriage is a physical, spiritual, and mystical union of a man and woman created by their mutual consent of heart, mind and will thereto, and is a Holy Estate instituted of God and is in intention lifelong; but when any of the facts set forth in Canon 17, Section 2, Clause (b), are shown to exist or to have existed which manifestly establish that no marriage bond as the same is recognized by this Church exists, the same may be declared by proper authority. No such judgment shall be construed as reflecting in any way upon the legitimacy of children or the civil validity of the former relationship.

(c) Every judgment rendered under this Canon shall be in writing and shall be made a matter of permanent record in the Archives of the Diocese or Missionary District.

(d) Any person in whose favor a judgment has been granted under the provisions of this Canon may be married by a Minister of this Church.

It should be noted that no mention is made of the Matthean exception.

Convention of 1949

For the purpose of clarification, Section 2 (a) was amended to read as follows:

Any person, being a member of this Church in good standing, whose marriage has been annulled or dissolved by a civil court of competent jurisdiction may apply to the Bishop or Ecclesiastical Authority of the Diocese or Missionary District in which such person is canonically resident for a judgment as to his or her marital status in the eyes of the Church. And any person, being a member of this Church in good standing, who desires to marry a non-member of this Church whose previous marriage has been dissolved or annulled by a civil court of competent jurisdiction may apply to the Bishop or Ecclesiastical Authority of the Diocese or Missionary District in which he or she is canonically resident, for permission to be married by a Minister of this Church, provided in both cases that the judgment of the civil court has become final and that at least one year shall have elapsed from the date that the decree became final. Such application should be made at least thirty days before a contemplated marriage.

The following words were added to Section 2 (d):

provided, that if the marriage is proposed to be solemnized in another jurisdiction than the one in which said judgment has been granted, the said judgment shall have previously been submitted to and approved by the Ecclesiastical Authority of that jurisdiction.

A number of amendments to Section 2 (b) were offered but none adopted.

At issue was the fact that the words “to exist or to have existed” toward the end of the second sentence of Section 2 (b) were manifestly being interpreted in different ways in different jurisdictions.

Some desired an amendment which would have permitted only one of the interpretations (nullity *ab initio*); others an amendment which would have clearly and unambiguously legitimated both.

A special committee of the House of Bishops, however, saw a clear advantage in the canon as it stood, stating in a report:

Under our present canon no Bishop who holds that only nullity justifies a second marriage need do violence to his conscience; and, on the other hand, a Bishop who holds that causes arising after marriage can dissolve the bond is permitted to give judgment accordingly within the limits of the general causes listed in the previous Canon as impediments (*Journal*, p. 440).

And earlier in the same report:

But as a matter of fact there is no ambiguity here. The Canon recognizes two points of view as legitimate; one, that if one or more impediments existed before the marriage, no marital bond was created; the other, that if one of the impediments arises after marriage, the marital bond is broken (*Journal*, p. 439).

Amendments to the section were also offered at the Convention of 1955 but none were adopted.

Convention of 1958

A majority of the Committee on Canons of the House of Deputies, including Mr. Dykman, the distinguished author of the second edition of this work, offered an amendment of Section 2 (b) which would have recognized only the principle of nullity *ab initio*, stating in their report:

We believe there should be no Canon susceptible of different construction in the several Dioceses and Districts so that marital status may depend on domicile and the position toward permanency of the marriage bond of the Bishops at a particular time.

The minority report quoted the words of Bishop Stephen Bayne in the appendix to the report of the joint commission on Holy Matrimony:

It is, perhaps, unfair to generalize. Yet, it would be agreed by the great majority of the bishops who administer the discipline of the Church, that the present Canons, imperfect as they are, do permit a positive and redemptive approach to the heavy problems of

marriage and divorce in our society; that they do permit approximate justice to be done without corroding our witness to Christian standards; and that, perhaps most important of all, they permit the accumulation of a store of experience which will, in due course, enrich and purify our moral theology in this area. This last is, perhaps, the most important function of any canonical legislation.

The proposed amendment failed.

Convention of 1970

An amendment of Section 2 (a), permitting the shortening of the one year waiting period required before a judgment on marital status, was adopted by the House of Bishops but failed in the House of Deputies because of lack of time to consider it.

Convention of 1973

Before the General Convention began, between thirty and forty memorials calling for amendments to or repeal of the canons on Holy Matrimony were received. Special committees were therefore appointed in both houses. The committees met jointly during the first week of the Convention, came to agreement on the major issues, and drew up proposed amendments to the canons. Proposed Canon 18 admitted the principle that marriages could be declared to be terminated as well as be declared null.

The recommendations of the committees were adopted with no significant changes and by considerable majorities.

Section 7 of Title I, Canon 16, which prior to 1943 had been part of the marriage canon, was repealed. [Clause (c) thereof was identical with Section 1 of the proposed new Canon 18.]

Canon 18 as it had stood since 1949 was repealed, and a new canon adopted, reading as at present except for Section 3 (c) which was as follows:

The Minister shall consult with and obtain the consent of the Bishop prior to, and shall report to the Bishop, the solemnization of any marriage under this Section.

Convention of 1979

For the purpose of clarification Section 3 (c) was amended to read as at present.

EXPOSITION OF CANON I.18

This canon contains regulations concerning the preservation of a marriage threatened with failure; the determination of the marital status of a member of this Church whose marriage has been annulled

or dissolved by civil authority; and the provisions under which a minister of this Church may solemnize the marriage of a person whose former spouse is still living.

When a marriage is imperiled by dissension, Section 1 asserts it to be the duty of either or both parties, before taking any legal action, to seek the counsel of a minister of this Church, and it shall be the duty of such minister to seek to effect reconciliation. This section first entered our canonical jurisprudence among the regulations of Canon 16 of 1946 governing the duties of the laity. Implicit in this requirement is the assumption that ministers shall be adequately prepared to give such pastoral counsel, or to direct the parties to clergy skilled in marriage counselling.

Section 2 (a) in its first sentence allows any member of this Church whose marriage has been annulled or dissolved by a civil court to apply to the bishop or ecclesiastical authority of the diocese of residence for a judgment as to his or her marital status. Such application was provided for in the elaborate provisions of Section 2 (a) of Canon 18 of 1946 as amended by the Convention of 1949. The present Section 2 (a) constitutes a simplification of these earlier provisions by the Convention of 1973.

The second sentence of the present Section 2 (a) was substituted in 1973 for the lengthy Section 2 (b) of 1946. As has already been noted in the outline of the history of this canon, the principle asserted in the legislation of 1946 was that an ecclesiastical judgment of nullity was possible not only when any of the impediments then listed in Canon 17 could be shown “to have existed” at the time of the union, thus preventing the creation of a Christian marriage bond, but also “to exist”—that is, to have arisen after the marriage. The present single sentence substituted in the revision of 1973 not only deletes all reference to the time when the impediment existed or the breakdown of the marriage occurred, but also omits the requirement that a judgment of nullity or termination be given on the basis of the impediments or general causes of failure listed in the earlier canon.

Thus today our canon law permits a favorable judgment as to marital status to be rendered on one of two grounds: (1) *the recognition of the nullity* of an earlier union, the impediments being unspecified, save for the conditions included in Section 2 (c) of Canon I.17, and as well presumably of impediments traditional in the canon law of western Christendom (close degrees of consanguinity, facts that made a union bigamous, etc.); or (2) *the recognition of the termination* of a prior marriage by circumstances that justified divorce.

Any such judgment is an ecclesiastical sentence, and the canon expressly provides that it shall not be construed as affecting the civil validity of a former marriage or the legitimacy of children.

Section 2 (b) requires that a permanent record of every such judgment be placed in the archives of the diocese. It has been pointed out that while civil annulment and divorce records are often sealed to all except the parties and their attorneys, the requirement of Section 2 (b) affords no protection of confidentiality to the ecclesiastical judgments, or to applications and other documents on which such judgments are founded. This would appear the more serious because no evidentiary requirements govern such applications. Unlike a civil proceeding in which spouses are held accountable as litigants in an adversary forum, the ecclesiastical judgment may be based upon no more than a Church member's uncorroborated statement describing the failed marriage, a statement that should remain sealed.

Section 3, enacted in 1973, removed from the jurisprudence of this Church the canonical prohibition of the remarriage of anyone whose first marriage was valid from its inception and whose former spouse was still living. It contains the essential conditions permitting the solemnization of a new marriage by a minister of this Church.

Section 3 (a) requires that the minister be satisfied by appropriate evidence that the prior marriage has been annulled or dissolved by a final civil judgment; (b) provides that the minister shall add to the instruction required by Section 4, that of the responsibility of showing concern for the former spouse and any children of a prior marriage; (c) prescribes the necessity of obtaining the consent of the minister's bishop before the solemnization of a marriage under this section, as well as a report to him of such action afterward; and (d) requires that if the marriage is to be solemnized in a jurisdiction other than that in which episcopal consent has been given, the consent shall be affirmed by the bishop of that jurisdiction.

The final Section 4 orders that the provisions of Canon 1.17 relating to the conditions to be met and the procedures to be followed in the solemnization of Holy Matrimony by a minister of this Church shall, in all cases, apply to solemnization under the provisions of this canon.

Title II

WORSHIP



CANON 1. Of the Due Celebration of Sundays

The Lord's Day to be observed. All persons within this Church shall celebrate and keep the Lord's day, commonly called Sunday, by regular participation in the public worship of the Church, by hearing the Word of God read and taught, and by other acts of devotion and works of charity, using all godly and sober conversation.



This canon was numbered Title I, Canon 18, in 1859. It became Canon 43 in 1904, Canon 18 in 1943, and Title II, Canon 1, in 1970.

Convention of 1789

The first canon on this subject was the fourteenth Canon of 1789, which read as follows:

All manner of persons within this Church shall celebrate and keep the Lord's day, commonly called Sunday, in hearing the Word of God read and taught, in private and public prayer, in other exercises of devotion, and in acts of charity, using all godly and sober exercises.

Convention of 1808

This canon remained without amendment until 1808, when it was re-enacted with a slight change as follows:

Instead of the words "all manner of persons" at the beginning of the canon, were substituted the words "all persons."

In the revision of the canons by the Convention of 1832, this Canon of 1808 was re-enacted without amendment.

Convention of 1904

No change was made in this canon until the revision of 1904, when it was amended and re-enacted in its present form.

EXPOSITION OF CANON II.1

The observance of Sunday as the Lord's Day traces back to the earliest period of Christian history, and is referred to in the New Testament.

The day was celebrated as the weekly anniversary of the resurrection of Christ; of the gift of the Holy Spirit at Pentecost, which also occurred on a Sunday; and of the creation of the world on the first day of a week. To the early Church it was also the day that looked forward to the beginning of a new creation in the age to come. Following the Jewish manner of reckoning, the celebration lasted from sundown on Saturday to sundown on Sunday (a tradition still maintained in the liturgical observance of the day), and its high point was the weekly gathering of Christians for the eucharist.

The earliest canonical legislation on the subject was Canon 21 of the Spanish Council of Elvira (c. 306). In 321, under a law promulgated by the emperor Constantine, the day was also made a public holiday and a day of rest. Since then the observance of the day has been a constant part of canon law and, in some parts of the world, was for many centuries a part of civil law as well.

The present canon is a codification of the ancient law and is, in substance, identical with Canon 14 of the first General Convention of this Church in 1789. It imposes a moral obligation upon all persons within the Church to attend public worship regularly on Sunday, and to keep the Lord's Day by acts of devotion and charity.

See also the exposition of Canon I.16.



CANON 2. Of Translations of the Bible

Versions authorized to be read in Church. The Lessons prescribed in the Book of Common Prayer shall be read from the translation of the Holy Scriptures commonly known as the King James or Authorized Version (which is the historic Bible of this Church) together with the Marginal Readings authorized for use by the General Convention of 1901; or from one of the three translations known as Revised Versions, including the English Revision of 1881, the American Revision of 1901, and the Revised Standard Version of 1952; from the Jerusalem Bible of 1966; from the New English Bible with the Apocrypha of 1970; or from The 1976 Good News Bible (Today's English Version); or from The New American Bible (1970); or from The Revised Standard Version, an Ecumenical Edition, commonly known as the "R.S.V. Common Bible" (1973).



The canon on the Bible was numbered Title I, Canon 16, in 1859. It became Canon 40 in 1904, Canon 19 in 1943, and Title II, Canon 2, in 1970.

Convention of 1817

The first action taken by General Convention to provide for a Standard Bible was in 1817. On the last day of the session of that year, the House of Deputies adopted the following resolution and sent it to the House of Bishops:

Resolved, That the Right Rev. the House of Bishops be respectfully requested to designate and establish some specific edition of the Old and New Testaments, without note or comment, to be considered as the authentic version or standard by which the genuineness

of all copies of the Holy Scriptures used by the members of this Church, is to be ascertained; thereby, to secure them against perversions, and the people of our communion from error, either in discipline or doctrine.

In reply to this communication, the House of Bishops adopted the following resolution, and ordered it sent to the House of Deputies:

The House of Bishops, deeming the fulfillment of the request of the House of Clerical and Lay Deputies, on the subject of an authentic version of the Holy Bible, a matter requiring very serious attention and deliberation, have resolved that its members will give such attention and deliberation to the subject, previously to the next meeting of the General Convention, and report at the said meeting (*Perry's Reprint of Journals of Convention*, 483).

Bishop White, in his *Memoirs* (p. 310), relates that

The proposal for the adopting of a standard edition of the Bible, was in consequence of the discovery of a large edition, extending very widely a corruption of Acts 6, 3, by perverting it to a sanction of congregational ordination. Instead of 'whom *we* may appoint over this business,' which is the exact translation of the original, the edition has it 'whom *ye* may appoint over this business.' While the matter was before the house of clerical and lay deputies, a lay member standing in a pew, and observing a Bible, took it to turn to the place in question; when he perceived it to be a copy of the edition, in which the corruption had been detected.

Convention of 1820

The House of Bishops reported that, in England, the printing of the Bible is the privilege of persons specially confided in, and subject to heavy penalties in case of non-performance of their trust, and that therefore the English editions of the Bible might be considered as generally correct. Two editions by Eyre and Strahan were spoken of as the most perfect, and might be safely trusted as standards. The bishops, however, cautioned against other editions in England, issued by evasion of the law, and appending a few notes in the lower margin under the pretense of commentaries, which were said to be very corrupt. The bishops declared that their report was not as full as was desirable, and they, therefore, proposed the following resolution:

Resolved, That the House of Clerical and Lay Deputies appoint a Committee of their body, who, together with the presiding Bishop of the House of Bishops and the Bishops of this Church in New York, Maryland and New Jersey, shall in the recess of the Convention take such measures as they may find suitable for the establishment of a standard, according to which all copies of the Scriptures to be recommended to the use of the members of this Church shall be printed (*Perry's Reprint of Journals of Convention*, vol. I, pp. 559-560).

This resolution was concurred in by the House of Deputies.

Convention of 1823

The joint committee appointed by the previous Convention reported as follows:

The Joint Committee of the two Houses of Convention, appointed by the last triennial Convention for reporting a standard copy of the Bible, having taken under consideration certain testimonies borne to two editions of Eyre & Strahan, published in the years 1806 and 1812, report that the said editions are believed by them to be the most perfect of all, concerning which intelligence has been obtained by them. Accordingly they recommend the adoption of the latter of these editions as the standard. We believe it to be the same of which some copies have been imported by S. Potter, bookseller, and are now for sale by him, the title page of which bears the date of 1813 (*Perry's Reprint of Journals of Convention*, vol. II, p. 95).

This report was adopted by both houses of Convention, which then enacted the following canon, as Canon 2.

The Bishop of this Church, in any State or Diocese, or where there is no Bishop, the Standing Committee, is authorized to appoint, from time to time, some suitable person or persons, to compare and correct all new editions of the Bible by the standard edition agreed upon by the General Convention. And a certificate of their having been so compared and corrected shall be published with said book.

The Convention also ordered the following resolution to accompany this canon:

Resolved, by the two Houses of Convention, that it be recommended to every future Convention to appoint a joint committee, to whom there may be communicated all errors, if any, in editions of the Bible printed under the operation of the second Canon of this Convention; such errors to be notified on the Journal of the Convention to which they may at any time be presented by the joint committee.

Previous to this action of the Convention there had been no authorized standard of the Bible, although an edition printed by Baskett had been considered as a standard edition. Many of our churches had been presented with copies of this edition before the Revolution, some of which are carefully preserved to this day.

Convention of 1832

In the revision of the canons by the Convention of 1832, this canon was re-enacted without change as Canon 44, and accompanied by the same resolution as the canon of 1823.

Convention of 1859

In the revision of the canons by this Convention, this canon was made Title I, Canon 16, with no amendment, except that the word "State" in the first line was stricken out. The resolution of General Convention which accompanied the two former canons was omitted.

No amendment to this canon was made until the Convention of 1910, except that in 1874 the canon was renumbered as Canon 18, and in the revision of the canons by the Convention of 1904, it was made Canon 40.

Convention of 1892

A joint committee was appointed to

consider, and after communication with the Commission recently appointed by the Convocation of Canterbury, report to the next triennial session of the General Convention, which, if any, of the proposed amendments in the Revised Version of the translation of the Old and New Testaments, might properly be authorized by the General Convention as marginal readings.

Convention of 1895

This committee reported that the action of the General Convention had been based upon a misapprehension, and that no commission of the Convocation of Canterbury had been appointed for the purpose stated. The committee then asked to be discharged from further consideration of the subject.

This committee having been discharged, a joint commission was appointed to report to the next General Convention, what, if any, marginal readings, from the English Revised Version of the Old and New Testaments, the General Convention may authorize for the instruction of our people.

The commission was continued by the Convention of 1898 and directed to report to the next Convention.

Convention of 1901

This commission reported that they

had performed the duty assigned them, and offer herewith such marginal readings as in their judgment it would be well for the General Convention to authorize for permissive use in the public reading of the Scriptures, that the people may have larger and more accurate knowledge of the Word of God.

The commission also offered a resolution that the marginal readings reported by them be authorized for use by the General Convention.

The House of Deputies and the House of Bishops, having adopted different resolutions on the subject, a conference committee was appointed which agreed upon the following resolution, which was adopted by the House of Deputies and concurred in by the House of Bishops:

Resolved, the House of Bishops concurring, That the report of the Marginal Readings Commission be accepted, and the readings therein recommended be adopted which are taken from the margin of the King James' Version or from the English or American

Revised Versions with their margins; and that the Commission be allowed before printing the readings to substitute for those not taken from one or other of these sources others taken unchanged therefrom.

A similar resolution was adopted concerning the marginal readings for the English Revised Version of the Apocrypha.

The Convention also adopted the following resolutions:

Resolved, That the Joint Commission on Marginal Readings be continued.

Resolved, That the Commission have power to publish an edition or editions of the Bible containing the readings which have been or shall be allowed by this Convention, provided the same be done without expense to the Convention.

Resolved, That these readings be printed on the margin of the Bible.

Resolved, That if the Commission find it impracticable to publish such an edition of the Bible, they be directed to publish the readings which have been allowed by this Convention in a separate volume, copies of which shall be sent to every Clergyman of this Church, provided that the expense shall not exceed \$500.

By this action of the General Convention, the use of the marginal readings was allowed in the reading of the lessons in Morning and Evening Prayer.

In this same Convention, several questions regarding different versions of the Bible and their relation to the Book of Common Prayer, were referred to the Committee on the Prayer Book of the House of Deputies.

This committee reported thereon, in part, as follows:

Your Committee is of the opinion that the Readings from Holy Scripture appointed in the Table of Lessons to be used in public worship, are not a part of the Book of Common Prayer in the sense that a constitutional revision of the Prayer Book is necessary in order to change or amend the text of such readings.

A special committee appointed by the preceding Convention to prepare and propose an amendment to the Constitution touching a standard Bible, asked to be continued, to report at the next Convention. This request, made to the House of Deputies, was granted.

Convention of 1904

This special committee made an extended report, reviewing the actions of the Conventions of 1808 and 1823, in adopting the canon "Of Publishing of Authorized Editions of the Standard Bible of this Church," and proposing an amendment to the Constitution providing for a standard Bible of the Church. This proposed amendment was referred to the committee on amendments to the Constitution in the House of Deputies. This committee reported a proposed amendment to the Constitution in a different form from that recommended by the special committee, which amendment was referred back to the committee to report to the next General Convention.

Convention of 1907

Memorials from several dioceses for the permissive use of the Revised Version of Holy Scripture were referred to the Committee on Amendments to the Constitution of the House of Deputies, which were considered by the committee in connection with their report to the preceding Convention, and referred back to them to report at this Convention.

The committee made an exhaustive report, covering action on the subject by former conventions, and pointing out the mistake that had been made in adopting a particular edition of the Bible for a standard, rather than a version. The committee reported as its unanimous conclusion, that the standard Bible should be the translation of the sacred Scriptures known as the King James or Authorized Version. In regard to the King James Version, the committee stated:

Your Committee feels persuaded that any attempt to remove this Bible by canonical enactment from the lecterns of our Churches would be resented by the vast majority of our people who have learned to love its cadences and are far from being offended at its archaisms.

At the same time, your Committee cannot but acknowledge the prevalence and persistency of the demand for some recognition on the part of the General Convention of that great monument of modern Biblical scholarship, the Revised Version.

The committee recommended, first, that the King James Version be recognized as the permanent standard Bible of the Church, and second, that the marginal readings be extended to include all such readings of both the English (1881) and the American (1901) Revised Versions, as may from time to time be authorized by canon.

The committee also paid its respects to Canon 40 [Canon 2 of 1823], "Of the Standard Bible," as follows:

The language of it comes as near to being meaningless as it well can. It enjoins what is impossible, and takes for granted things which do not exist. Whatever else is done or left undone, this unintelligent and unintelligible Canon should be expunged, for it is a discredit to the legislation of the Church.

The committee recommended the adoption of an amendment to the Constitution, making the King James or Authorized Version of Holy Scriptures the standard Bible of the Church, and also the permissive use of the Revised Version, both in its English and American form, at the discretion of the minister, in the reading of the Lessons at Morning and Evening Prayer.

The committee also offered a resolution that Canon 40 be repealed.

The House of Deputies adopted the amendment to the Constitution, but the House of Bishops refused to concur.

The House of Deputies adopted a resolution repealing Canon 40, but no action was taken by the House of Bishops.

Convention of 1910

The House of Bishops adopted a new canon as a substitute for Canon 40, "Of the Translation of the Bible," reading as follows:

The Lessons at Morning and Evening Prayer shall be read from the translation of the Holy Scriptures, commonly known as the King James or Authorized Version, including the Marginal Readings authorized for use by the General Convention of 1901, or from the translation commonly known as the Revised Version, either in its English or its American form.

The House of Deputies concurred in the adoption of this canon with the following amendment: "Insert after the words 'Authorized Version,' the words, 'which is the Standard Bible of this Church.'"

The House of Bishops concurred in this amendment.

Thus ended the attempts, made in convention after convention, to secure the consent of the General Convention to the permissive use of the Revised Version of the Holy Scriptures in the reading of the lessons in Morning and Evening Prayer.

A similar canon would probably have been adopted in a previous Convention, but for a question asked during the debate on the subject in the House of Deputies. A deputy, in making an earnest plea for the permissive use of the Revised Version, stated that its use was only permissive, that no minister would be obliged to use the Revised Version. Immediately, another deputy asked how about the laity? Will their hearing of it be permissive if the minister chooses to read from the Revised Version? The first deputy was unable to satisfactorily answer that question, and sat down in confusion, and the laity voted against the adoption of the canon.

Convention of 1946

The Standing Liturgical Commission recommended adding the words "including the Revised Standard Version of the New Testament of 1946."

The canon was amended by the inclusion of the additional words and renumbered Canon 20.

Convention of 1952

The canon was corrected and brought up to date by substituting the words "of 1952" for the words "of the New Testament of 1946," the Revised Standard Version of the Bible having been completed.

Convention of 1964

A reference to the New Testament of the New English Bible (which had been published in 1961) was added, and the canon was slightly rewritten so as to read as follows:

The Lessons at Morning and Evening Prayer shall be read from the translation of the Holy Scriptures, commonly known as the King James or Authorized Version (which is the Standard Bible of this Church), together with the Marginal Readings authorized for use by the General Convention of 1901; or from one of the three translations known as Revised Versions, including the English Revision of 1881, the American Revision of 1901, and the Revised Standard Version of 1952; or from the New English Bible, New Testament, of 1961.

Convention of 1967

On recommendation of the Standing Liturgical Commission, the canon was amended to authorize the use of the Jerusalem Bible of 1966.

Convention of 1970

The translation of the Old Testament and Apocrypha of the New English Bible having been completed, a reference to the complete Bible in that version was substituted for the reference to the New Testament.

The American Bible Society's "Good News" translation of the New Testament was also authorized for use under the canon.

Convention of 1973

Two additional versions of the Bible were authorized for use under this canon: the New American Bible (1970) and the ecumenical edition of the Revised Standard Version (1973).

On the recommendation of the Standing Liturgical Commission, this Convention, by resolution, authorized for trial use for a period of three years (under Article X of the Constitution), in place of the Epistles and Gospels printed in the Book of Common Prayer, the corresponding passages from the translations authorized under this canon for use at Morning and Evening Prayer.

Convention of 1976

Announcement having been made that the American Bible Society's "Good News" version of the Old Testament would be available before the end of the year, the canon was amended to authorize its use.

In a related action, the Convention, by resolution, requested the Society, upon completion of the Old Testament, to proceed with a translation of the Apocrypha.

The trial use at Holy Communion of the corresponding passages in the versions listed in the canon, in place of the Epistles and Gospels as printed in the Prayer Book, was authorized for another triennium.

Convention of 1979

This Convention amended the opening phrase of the canon by striking out the words “at Morning and Evening Prayer” and substituting the words “prescribed in the Book of Common Prayer.”

The reason for this amendment was the fact that the revised Prayer Book adopted by this Convention did not, as previous Prayer Books had, print out in full the readings to be used at the Holy Eucharist and the Pastoral Offices. The provisions of the canon as amended apply to all readings appointed in the 1979 Prayer Book.

The Convention also revised the canon by replacing the words “which is the Standard Bible of this Church” with the words “which is the historic Bible of this Church.” The reason for this amendment is discussed in the exposition below.

EXPOSITION OF CANON II.2

This canon specifies the versions of the Scriptures authorized for use in this Church. Its purpose is solely to prescribe what may be used in public worship in the English tongue, and the canon does not apply to individuals in their private devotions or study or to congregations which worship in another language.

The King James Version of 1611, as the “authorized version” of the Church of England, was the version in use in American parishes during the Colonial period (except for the Psalms and certain other passages of Scripture printed in the Prayer Book which were taken from the Great Bible of 1539, as were the Epistles and Gospels in Prayer Books before 1662). This usage continued through the period of the American Revolution and the century that followed and, finally, was given canonical recognition by the Convention of 1910, which designated it the “Standard Bible of this Church.”

By the middle of the nineteenth century, however, manuscripts much older and more reliable than those on which the King James Version was based had come to light, and in many instances these either clarified difficult passages or called into question the accuracy of the King James text. It was as a result of these discoveries and the advance of biblical studies generally that the Revised Versions of 1881 and 1901, mentioned in the canon, were prepared and published.

Some of the fruits of this same scholarship found expression in the “Marginal Readings” authorized by the Convention of 1901, and mentioned in the canon since 1910. These variant, and preferable, readings were printed in the margin of both a small and large (lectern) edition of the King James Bible for use at Morning and Evening Prayer. A number of them (derived from the Revised Version of 1901) were incorporated into the printed text of the Prayer Book Epistles and Gospels at the revision of 1928. It was, however, not until the appearance of the Revised Standard Version, which took account of even older manuscripts, that widespread use was made of other than the King James Version.

Since that time the number of responsible translations into English has greatly increased, and the Church has authorized the use of these virtually upon their appearance.

The greater textual accuracy and increasing use of these newer translations made questionable the designation of the King James Version as the Church’s “Standard Bible,” whether in the sense of its being the Bible normally expected to be used or as the standard for ascertaining the correct meaning of the text. For these reasons the Convention of 1979 removed the phrase designating it as such but, in tribute to its Anglican roots, long continuance of use, and literary excellence, described it as “the historic Bible of this Church.”

It should be noted that the versions listed in the canon are, in every case, translations, rather than paraphrases, of the original Hebrew and Greek Scriptures (which are the Church’s ultimate “Standard Bible”). The Standing Liturgical Commission has consistently declined to recommend, and the General Convention has steadfastly refused to authorize, versions that paraphrase or “amplify” the originals.



CANON 3. Of the Standard Book of Common Prayer

What the Standard is. Sec. 1. The copy of the Book of Common Prayer and Administration of the Sacraments and other Rites and Ceremonies of the Church, according to the Use of the Episcopal Church, together with the Psalter or Psalms of David, the form of making, ordaining, and consecrating Bishops, Priests, and Deacons, the form of Consecration of a Church or Chapel, and an office of institution of ministers, and Historical Documents of the Church, including the Articles of Religion, accepted by the General Convention of this Church, in the year of our Lord 1979, and authenticated by the signatures of the Presiding Officers and Secretaries of the two Houses of the General Convention, is hereby declared to be the Standard Book of Common Prayer of this Church.

All copies to conform to it. Sec. 2. All copies of the Book of Common Prayer to be hereafter made and published shall conform to this Standard, and shall agree therewith in paging, and, as far as it is possible, in all other matters of typographical arrangement, except that the Rubrics may be printed either in red or black, and that page numbers shall be set against the several headings in the Table of Contents. The requirement of uniformity in paging shall apply to the entire book but shall not extend to editions smaller than those known as 32mo, or to editions noted for music.

How inaccuracies may be corrected. Sec. 3. In case any typographical inaccuracy shall be found in the Standard Book of Common Prayer, its correction may be ordered by a joint Resolution of any General Convention, and notice of such corrections shall be

Copies of Standard to be sent to Dioceses. communicated by the Custodian to the Ecclesiastical Authority of each Diocese of this Church, and to actual publishers of the Book of Common Prayer.

Sec. 4. Folio copies of the Standard Book of Common Prayer, duly authenticated, as in the case of the Standard Book, shall be sent to the Ecclesiastical Authority of each Diocese in trust for the use thereof, and for reference and appeal in questions as to the authorized formularies of this Church.

All editions must be authorized. Sec. 5. No copy, translation, or edition of the Book of Common Prayer, or a part or parts thereof, shall be made, printed, published, or used as of authority in this Church, unless it contains the authorization of the Custodian of the Standard Book of Common Prayer, certifying that he or some person appointed by him has compared the said copy, translation, or edition with the said Standard, or a certified copy thereof, and that it conforms thereto. And no copy, translation, or edition of the Book of Common Prayer, or a part or parts thereof, shall be made, printed, published, or used as of authority in this Church, or certified as aforesaid, which contains or is bound up with any alterations or additions thereto, or with any other matter, except the Holy Scriptures or the authorized Hymnal of this Church.

Trial use. Sec. 6 (a). Whenever the General Convention, pursuant to Article X. of the Constitution, shall authorize for trial use a proposed revision of the Book of Common Prayer, or of a portion or portions thereof, the enabling Resolution shall specify the period of such trial use, the precise text thereof, and any special terms or conditions under which such trial use shall be carried out.

Duties of Custodian relative to trial use. (b). it shall be the duty of the Custodian of the Standard Book of Common Prayer

(1). To arrange for the publication of such proposed revisions;

(2). To protect, by copyright, the authorized text of such revision, on behalf of the General Convention; which copyright shall be relinquished when such proposed revision or revisions shall have been adopted by the General Convention as an alteration of, or addition to, the Book of Common Prayer;

(3) To certify that printed copies of such revision or revisions have been duly authorized by the General Convention, and that the printed text conforms to that approved by the General Convention.

Variations etc., in trial use texts —how authorized. (c). During the said period of trial use and under the modifying conditions specified, only the material so authorized, and in the exact form in which it has been so authorized, shall be available as an alternative for the said Book of Common Prayer or the said portion or portions thereof; *Provided, however,* that it shall be competent for the Presiding Bishop and the President of the House of Deputies, jointly, on recommendation by a resolution duly adopted at a meeting of the Standing Liturgical Commission, and communicated to the said presiding officers in writing, to authorize variations and adjustments to, or substitutions for, or alterations in, any portion of the texts under trial, which seem desirable as a result of such trial use, and which do not change the substance of a rite.

(d). In the event of the authorization of such variations, adjustments, substitutions, or alternatives, as aforesaid, it shall be the duty of the Custodian of the Standard Book of Common Prayer to notify the Ecclesiastical Authority of every Diocese and the Convocation of the American Churches in Europe, of such action, and to give notice thereof through the media of public information.

Appointment of Custodian. Sec. 7. The appointment of the Custodian of the Standard Book of Common Prayer shall be made by a nomination of the House of Bishops confirmed by the House of Deputies. He shall hold office until his successor is appointed, and any vacancy occurring during the recess of the General Convention may be provisionally filled by appointment by the Presiding Bishop.

Action on unauthorized editions. Sec. 8. It shall be the duty of the Ecclesiastical Authority of any Diocese in which any unauthorized edition of the Book of Common Prayer, or any part or parts thereof, shall be published or circulated, to give public notice that the said edition is not of authority in this Church.



This canon was numbered Title I, Canon 17, in 1859. It became Canon 41 in 1904, Canon 20 in 1943, and Title II, Canon 3, in 1970.

Convention of 1789

The first canon of the General Convention relating to the Book of Common Prayer was the tenth canon of 1789, "Of the Use of the Book of Common Prayer," which read as follows:

Every minister shall, before all sermons and lectures, use the Book of Common Prayer, as the same shall be set forth and established by the authority of this or some future General Convention; and until such establishment of a uniform Book of Common Prayer in this Church, every minister shall read the Book of Common Prayer directed to be used by the Convention of the Church in the State in which he resides; and no other prayer shall be used besides those contained in the said book.

While this canon remained as the law on the subject until 1808, that portion of the canon prescribing the use of the Book of Common Prayer as directed by the convention of a state, until the establishment of a uniform Book of Common Prayer by the General Convention, was inoperative after the establishment of the 1789 Book of Common Prayer, the use of which was required from and after the first day of October, 1790.

Convention of 1801

The Convention of this year enacted Canon 3, establishing a standard Book of Common Prayer, and "Prescribing the mode of publishing authorized editions of the Common Prayer Book, etc." as follows:

The Bishop of this Church, in any State, or where there is no Bishop, the standing committee are authorized to appoint, from time to time, some suitable person or persons to compare and correct all new editions of the Common Prayer Book, Book of Offices, etc., by some standard book, and a certificate of their having been so compared and corrected shall be published with said books. And in case any edition shall be published without such correction, it shall be the duty of the Bishop, or where there is no Bishop, of the standing committee, to give public notice that such edition is not authorized by the Church. The Bishop of this Church in Pennsylvania is hereby authorized to set forth an edition of the Articles of religion, which, when published, shall be the standard copy. The octavo edition of the Common Prayer Book, published in New York in 1793, by Hugh Gainé, and the quarto edition of the Book of Offices, etc., of the same year, published in the same place, are hereby established as standard books, with the exception of errors evidently typographical—the correction of which errors is confided to such persons as the Bishop or standing committee may appoint for superintending any publication.

This canon was the ancestor of our present canon, "Of the Standard Book of Common Prayer." While there is no present canon answering to the Canon 10 of 1789, "Of the Use of the Book of Common Prayer," it seemed advisable to consider the two canons together as they relate to the same subject.

The “Book of Offices” referred to contained the Ordination rites and the form for the consecration of churches and chapels. This book was later bound up with the Prayer Book as a supplement to it.

Convention of 1808

In the revision of the canons by the Convention of 1808, Canon 10 of 1789 was made Canon 34, and amended to read as follows:

Every minister shall, before all sermons and lectures, and on all other occasions of public worship, use the Book of Common Prayer, as the same is or may be established by the authority of the General Convention of this Church. And in performing said service, no other prayer shall be used than those prescribed by the said book.

In the same Convention, Canon 3 of 1801, prescribing a standard Book of Common Prayer, and the mode of publishing authorized editions thereof, was amended by adding after the word “State,” the words “or diocese.” Also, the third sentence, beginning with the words, “The Bishop of this Church in Pennsylvania” was amended to read, “The edition of the Articles of Religion, set forth by the Bishop of Pennsylvania, agreeably to the order of the Convention of 1804, shall be the standard copy.”

This canon was made Canon 43 of that year.

Convention of 1821

The only canon passed on this subject was as follows:

The edition of the Book of Common Prayer to be chosen by the committee appointed by this Convention, and authenticated by their certificate, shall, after the publication thereof, be taken and received as the standards with which all new editions are thereafter to be compared, for the purpose of correction, agreeably to the forty-third Canon; and so much of the said canon as establishes another standard of the Book of Common Prayer, shall thereafter be, and remain repealed.

Convention of 1832

In the revision of the canons by this Convention, the canon of 1821 was repealed. Canon 43 of 1808 was made Canon 46, and amended as follows:

The first two sentences of the former canon remained the same, except that the words “State or” were stricken, and in place of the words, “Book of Offices, etc.,” were inserted the words, “The Articles, Offices, and Metre Psalms and Hymns.”

The last two sentences of the canon were stricken and a new section, numbered 2, was added, reading as follows:

The duodecimo edition of the Common Prayer Book, Articles, Offices, Metre Psalms and Hymns, published by the New York Protestant Episcopal Press in 1832, is hereby

established as the standard, with the exception of errors evidently typographical; the correction of which errors is confided to such person or persons, as the Bishop or Standing Committee may appoint for superintending any publication.

The following resolution was ordered by the General Convention to accompany this canon.

Resolved, That the French translation of the Book of Common Prayer, and the Articles of Religion, printed in New York, by T. & J. Swords, in the year 1831, be, and the same hereby is declared to be the Liturgy, which may be used by any minister of this Church, who may officiate in a congregation to whom the French language is familiar; and that the edition of the Book of Common Prayer, in the French language, printed in 1831, by the Messrs. T. & J. Swords, of New York, be, and the same hereby is, established as the standard book, whereby all future editions of the Book of Common Prayer and Articles, in the French language, shall be compared and corrected.

Resolved, That the provisions of the forty-sixth of the Canons, passed by this Convention, except as far as the said Canon establishes standard books, shall be applied to the publication of all future editions of the Book of Common Prayer and Articles in the French language.

These resolutions were occasioned by the fact that there was a church composed of French Protestants who had been admitted into union with the Church, and which used the liturgy of the Church translated into French. To insure that the French liturgy should always conform to the liturgy of the Church, these resolutions were adopted.

Canon 34, "Of the use of the Book of Common Prayer," was made Canon 45.

This canon remained without amendment until the Convention of 1874.

Convention of 1835

Canon 46, "Of the Mode of Publishing Authorized Editions of the Book of Common Prayer, etc.," was amended as follows:

The first sentence of Section 1 was changed to read:

The Bishop of this Church in any Diocese, or where there is no Bishop, the Standing Committee thereof, shall appoint one or more Presbyters of the Diocese, who shall compare and correct all new editions of the Common Prayer Book, the Articles, Offices, and Metre Psalms and Hymns, by some standard book; and a certificate of said editions, having been so compared and corrected, shall be published with the same. And in case any edition shall be published without such correction, it shall be the duty of the Bishop, or, where there is no Bishop, of the Standing Committee, to give public notice that such edition is not authorized by the Church.

Convention of 1838

This Convention amended Section 2 of the canon to read as follows:

Editions from the Stereotype Plates of the Prayer Book of the Female Episcopal Prayer Book Society, of Philadelphia, comprising the Common Prayer Book, the Articles, Offices, Psalms in Metre, selected from the Psalms of David, and Hymns, are hereby established as the standard; together with the whole Book of Psalms in metre, in the duodecimo edition, published by the New York Episcopal Press of 1832: with the exception of errors evidently typographical: the correction of which errors is confided to such person or persons as the Bishop or Standing Committee may appoint for superintending any publication.

Convention of 1844

A joint committee of the two houses appointed by the previous Convention, to whom was referred the standard edition of the Prayer Book, for the correction of typographical errors, etc., and instructed to report to the Convention the result of their labors, and recommend some edition for adoption as the standard Prayer Book of the Church, reported a series of joint resolutions establishing a certain edition as the standard. The fifth of these resolutions as amended by the Convention was as follows:

Resolved, That with the above amendments the Book reported by the Joint Committee of the last Convention on the subject of a Standard Prayer Book, be and the same hereby is adopted as the Standard Prayer Book of this Church; and that the said Joint Committee be continued, with the addition thereto of the Rev. Jonathan M. Wainwright, D.D., for the purpose of amending the said Book accordingly, and with power to set it forth, when thus amended, under their hands, as the Standard Prayer Book of this Church.

Convention of 1847

This Convention repealed Section 2 of the canon, and enacted the following in its place:

The octavo edition of the Book of Common Prayer, the Articles, Offices, Metre Psalms and Hymns, set forth by the General Convention of 1844, and published by the New York Bible and Common Prayer Book Society, and by Harper & Brothers in 1845, is hereby declared to be the Standard edition.

Convention of 1859

In the revision of the canons by this Convention, the canon was renumbered as Title I, Canon 17, without amendment.

Convention of 1871

The joint committee of the two houses of Convention appointed by the previous Convention to examine the stereotyped plates of the standard Prayer Book and correct manifest typographical errors therein, reported a proposed amendment to Section 2 of Title I, Canon 17, as follows:

(i) The octavo edition of the Book of Common Prayer, Administration of the Sacraments, and other Rites and Ceremonies of the Church, Articles of Religion, and the Form and Manner of Making, Ordaining, and Consecrating Bishops, Priests, and Deacons, set

forth by the General Convention, in the year of our Lord 1871, and published by the New York Bible and Common Prayer Book Society, is hereby declared to be the standard edition.

(ii) The stereotyped plates of the said edition shall be in the custody of a Presbyter appointed by the General Convention, and no alteration, correction, or emendation of any sort in the said plates shall be made except under the direction of the said custodian, acting with the advice and consent of a Joint Committee, appointed by the General Convention, consisting of two Bishops and two Presbyters; and all alterations, corrections, and emendations thus made shall be reported by the said custodian, in writing, to the next General Convention, and entered upon the Journal of the House of Deputies.

A large part of the session of this Convention was consumed in the discussion of matters of ritual.

The subject was first brought to the attention of the Convention of 1868, by sundry memorials calling attention to “deviations from the prescribed ritual of the Church” and praying the Convention to enact canons “to establish and enforce uniformity in Divine Worship in all our Churches.”

A proposed canon to accomplish the desire of the memorialists was introduced in the House of Deputies and referred to the committee on canons. This committee presented a majority report that “the enactment of any Canon on the subject of Ritual would be unwise and inexpedient at the present time. A minority of the committee offered a series of resolutions for adoption by the Convention, expressing disapproval of certain practices in the conduct of the public worship of the Church.

The House of Deputies adopted a series of resolutions, requesting the bishops “to set forth for consideration and adoption by the next General Convention such additional rubrics on the Book of Common Prayer as in their judgment may be deemed necessary.”

The House of Bishops replied:

This House deems it inadvisable to enter upon any alteration of the rubrics of our Book of Common Prayer by the insertion of additional matter, but it will appoint a Committee whose duty it shall be to consider whether any additional provision for uniformity by canon or otherwise, is practicable and expedient, and to report to the next Convention.

The House of Bishops appointed a committee of five bishops on Ritual Uniformity.

This committee made an extended report to the Convention of 1871 recommending that certain acts in the administration of the Holy Communion, and other occasions of public worship, be prohibited by canon. The acts which the committee recommended to be prohibited were as follows:

1. The use of incense.
2. Placing or retaining a crucifix in any part of the church.
3. Carrying a cross in procession in the church.
4. The use of lights on or about the holy table, except when necessary.
5. The elevation of the elements in the Holy Communion in such manner as to expose them to the view of the people as objects toward which adoration is to be made, in or after the prayer of consecration, or in the act of administering them, or in conveying them to or from the communicants.
6. The mixing of water with the wine as part of the service, or in the presence of the congregation.
7. The washing of the priest's hands, or the ablution of the vessels, in the presence of the congregation.
8. Bowings, crossings, genuflections, prostrations, reverences, bowing down upon or kissing the holy table, and kneeling except as allowed, provided for, or directed, by rubric or canon; it being provided that reverence at the mention of the name of the Lord Jesus is not intended to be disallowed; and it being further provided that private personal devotion, before or after official ministrations, is not to be understood to include or justify any of the acts prohibited.
9. The celebrating or receiving of the Holy Communion by any bishop or priest when no person receives with him.
10. Employing or permitting any person or persons not in Holy Orders to assist the minister in any part of the order for the administration of the Holy Communion.
11. Using, at any administration of the Holy Communion, any prayers, collects, gospels, or epistles, other than those provided in the Book of Common Prayer, or under Sec. 14 of Canon 13 of Title I of the Digest [which authorized the diocesan to set forth forms for use on "extraordinary occasions"].

They also recommended:

1. That no rector of a parish or other minister shall be allowed to introduce the choral service without the consenting vote of the vestry, or contrary to the prohibition of the bishop.
2. That no surpliced choir shall be employed except under the same limitations; and when such choirs are employed, the only addition to their ordinary attire shall be a surplice reaching to the ankles.
3. That no chancel shall be allowed to be so arranged as to prevent the minister from officiating at the right end of the holy table. It is to be noted that a credence table is lawful.

The committee further recommended that canonical provision be made touching the dress appropriate to clergymen ministering in the congregation; and that the only vestments declared to be appropriate to clergymen so ministering be:

1. For bishops: the present episcopal robes

2. For all ministers: a white surplice; a black or white stole; a black cassock not reaching below the ankles; a black gown; and bands.

They also recommended that provision be made:

1. That on occasions of services, where expediency or necessity of health may require it, the university cap may be used.
2. That candidates for orders, who are licensed to act as lay readers, may use the academical black gown.

The committee concluded its report by recommending

That a Joint Committee consisting of three Bishops, three Presbyters, and three Laymen be appointed, to whom the subject matter of this Report shall be referred, with directions to report to this Convention, at as early a day as practical, such canons as they may deem necessary in the premises.

The House of Bishops adopted a resolution informing the House of Deputies that owing to the “gravity of the subject and its bearings,” that house was not prepared to act upon the report of the committee on ritual, without previous consideration of the same by a joint committee of the two houses, and proposed to the House of Deputies that a joint committee be appointed to consider the report, and report what, if any, action be taken in the matter.

After long debate and the defeat of many other proposals in the matter, the House of Deputies finally voted to concur in the message of the House of Bishops, and appoint members of such joint committee.

This joint committee offered a proposed canon on ritual, the principal points of which were as follows:

This Church recognizes no other law of Ritual than such as it shall have itself accepted or provided.

Then follows the provisions for ritual in the Church.

1. The Book of Common Prayer, with the offices and Ordinal thereto appended, as adopted to the use of this Church by additions, omissions, or other alterations from time to time constitutionally made.
2. The Canons of the Church of England in use in the American Provinces before the year 1789, and not subsequently superseded, altered or repealed by legislation, general, or Diocesan, of this Church.
3. The Canonical or other regular legislative or judicial action or decisions of this Church, in its Conventions, General or Diocesan, or by its duly constituted authorities.

The third section provided that all questions arising concerning ritual observance and the administration of the law of ritual appertained to the office and duty of the Ordinary, whose written official determination was to be held as the settlement of all questions in the matter with the proviso, that cases of contradictory determinations by different bishops should be subject to revision by the House of Bishops.

The joint committee also adopted the following resolutions:

Resolved, That a Joint Committee of three of each Order be appointed to examine the Canons of the Church of England, of 1603, and report to the next General Convention what portions were in use in the American Provinces in the year 1789, and how far the same have been modified by repeal, or alteration, or other mode by action of this Church, in its Conventions, General or Diocesan, and whether any portion requires modification or repeal.

The House of Bishops adopted the proposed canon with the accompanying resolution, by a small majority.

In the House of Deputies, debate on the proposed canon occupied the attention of the house for the greater part of the session. Amendments and substitutes were offered in great numbers, but all of them were defeated. Finally, on the nineteenth day of the session, the main question of concurrence with the House of Bishops in the adoption of the proposed canon came to a vote. The laity voted in favor of concurrence by a majority of two. In the clerical order, 20 dioceses voted in favor of concurrence, 13 voted in the negative, and 7 were divided. Thus, a concurrence with the House of Bishops in the adoption of the proposed canon failed in the House of Deputies by a nonconcurrence of orders.

On the following day, the House of Bishops adopted another canon on the subject of ritual, in which certain acts were forbidden, namely Elevation of the elements in the Holy Communion for purposes of adoration, any gesture, posture, or act implying such adoration; and the celebration or reception of the Holy Communion by any bishop or priest, when no person receives with him, likewise the use, at the administration of the Holy Communion, of any hymns, prayers, collects, epistles, or gospels, other than those appointed in the authorized formularies of the Church, or under the canons.

The House of Deputies refused to concur in the adoption of this canon, but adopted the following resolutions which were concurred in by the House of Bishops:

Resolved, The House of Bishops concurring, That this Convention hereby expresses its decided condemnation of all ceremonies, observances, and practices which are fitted to express a doctrine foreign to that set forth in the authorized standards of this Church.

Resolved, That in the judgment of this House the paternal counsel and advice of the Right Reverend Fathers, the Bishops of the Church, is deemed sufficient at this time to secure the suppression of all that is irregular and unseemly, and to promote greater uniformity in conducting the public worship of this Church, and in the administration of the Sacraments.

In response to the suggestion contained in the second of these resolutions, the House of Bishops drew up a pastoral letter strongly condemning what was known as "Eucharistic Adoration," which was read to both houses at the closing service of the Convention.

Convention of 1874

The resolution passed by the Convention of 1871, and the pastoral letter of the House of Bishops having failed, in the opinion of many, to check and suppress the ritual practices complained of, several memorials were presented to the Convention, praying for some canonical action in the matter. These memorials, together with certain proposed canons on the subject were referred to the Committee on Canons of the House of Deputies, which committee later recommended to the house for adoption, an amendment to Title I, Canon 20, "Of the Use of the Book of Common Prayer," governing certain so-called ritual practices. This amendment to the canon, after an extended debate, was passed by the House of Deputies by a large majority, and concurred in by the House of Bishops, but with certain amendments. The House of Deputies refused to concur in these amendments, and the proposed amendment to Canon 20, with the amendments thereto adopted by the House of Bishops, were referred to a committee of conference, which committee reported the following amended section to the said canon:

Sec. 2. (i) If any Bishop has reason to believe, or if complaint be made to him in writing by two or more of his Presbyters, that within his jurisdiction ceremonies or practices not ordained or authorized in the Book of Common Prayer, and setting forth or symbolizing erroneous or doubtful doctrines, have been introduced by any Minister during the celebration of the Holy Communion (such as,

- a. The elevation of the Elements in the Holy Communion in such manner as to expose them to the view of the people as objects toward which adoration is to be made.
- b. Any act of adoration of or toward the elements in the Holy Communion, such as bowings, prostrations, or genuflections; and
- c. All other like acts not authorized by the Rubrics of the Book of Common Prayer):

It shall be the duty of such Bishop to summon the Standing Committee as his Council of Advice, and with them to investigate the matter.

(ii) If, after investigation, it shall appear to the Bishop and Standing Committee that ceremonies or practices not ordained or authorized as aforesaid, and setting forth or symbolizing erroneous or doubtful doctrines, have in fact been introduced as aforesaid, it shall be the duty of the Bishop, by instrument of writing under his hand, to admonish the Minister so offending to discontinue such practices or ceremonies; and if the Minister shall disregard such admonition, it shall be the duty of the Standing Committee to cause him to be tried for a breach of his ordination vow.

Provided, that nothing herein contained shall prevent the presentment, trial, and punishment of any Minister under the provisions of Sec. 1, Canon 2, Title II, of the Digest [which set forth other grounds for trial and punishment].

(iii) In all investigations under the provisions of this Canon, the Minister whose acts or practices are the subject matter of the investigation, shall be notified, and have opportunity to be heard in his defense. The charges preferred, and the findings of the Bishop and Standing Committee, shall be in writing, and a record shall be kept of the proceedings in the case.

This amendment to Canon 20 was adopted by the House of Deputies, and its action was concurred in by the House of Bishops.

Convention of 1886

Canon 19, "Of Publishing Editions of the Book of Common Prayer," was amended by adding two new sections, as follows:

Sec. 3. Promptly after the adjournment of the General Convention, the Secretaries of the two Houses shall deliver to the Custodian of the Standard Prayer Book true and exact copies of all alterations and additions in the Book of Common Prayer, already adopted by the General Convention under Article VIII of the Constitution; and such copies shall be duly certified by said Secretaries, and be attested by the Presiding Officers of the respective Houses, and shall be preserved by the Custodian of the Standard Prayer Book; and the Secretary of the House of Deputies shall take out a copyright of said alterations and additions according to law.

Sec. 4. Until a Standard Book of Common Prayer shall hereafter be duly set forth and established by the General Convention, all issues or editions of the Book of Common Prayer shall contain, as an appendix to each volume published, a certificate to be prepared and signed by the Custodian of the Standard Prayer Book aforesaid, and approved by the Presiding Bishop and two other Bishops, showing what alterations and additions in the Book of Common Prayer the General Convention of 1886 adopted, and their effect upon the structure of the Book of Common Prayer as it was before such alterations and additions were adopted. And it shall not be lawful for any Bishop, or other officer in any Diocese, to attest any issue or edition of the Book of Common Prayer to be hereafter published, unless the same shall contain the certificate of the Custodian, approved by the Bishops as aforesaid.

Convention of 1889

This Convention amended Sections 3 and 4 of this canon. Section 3 was amended to read as follows:

Upon the adjournment of any General Convention, the Secretaries of the two Houses shall deliver to the Custodian of the Standard Prayer Book true and exact copies of all alterations and additions in the Book of Common Prayer, which have been adopted by the said General Convention in accordance with Article VIII of the Constitution; and such copies duly certified by said Secretaries, and attested by the Presiding Officers of the respective Houses, shall be preserved by the Custodian of the Standard Prayer Book; and the Secretary of the House of Deputies shall take out a copyright of said alterations and additions according to law; and he shall also send a copy of the same to the Ecclesiastical Authority of every Diocese, and to every Clergyman of this Church.

Section 4 was amended by the insertion of the words "and of 1889," after the words "of 1886." Also after the first sentence, a new sentence was inserted reading as follows: "And copies of this certificate shall be sent by the Custodian to every Bishop of the Church."

These amendments were made because of a partial revision of the Book of Common Prayer by the Convention of 1889.

Convention of 1892

The Convention of 1892 completed the revision of the Prayer Book, which revision had occupied the attention of several preceding Conventions. This revision made necessary an amendment of Canon 22 [formerly Canon 19]. The title was changed to "Of the Standard Book of Common Prayer," and the canon was amended to read as follows:

Sec. 1. The copy of the Book of Common Prayer and Administration of the Sacraments and other Rites and Ceremonies of the Church, according to the use of the Protestant Episcopal Church in the United States of America, together with the Psalter or Psalms of David; the Form of Making, Ordaining, and Consecrating Bishops, Priests, and Deacons, the Form of Consecration of a Church or Chapel, and an Office of Institution of Ministers, and Articles of Religion, set forth by the General Convention of this Church, in the year of our Lord 1892, and authenticated by the signatures of the presiding officers and secretaries of the two Houses of General Convention, and by the signatures of the members of the Joint Committee charged with the duty of preparing and submitting to the Convention a Standard Prayer Book, is hereby declared to be the Standard Book of Common Prayer of this Church.

Sec. 2. All copies of the Book of Common Prayer to be hereafter made and published shall conform to this Standard, and shall agree therewith in paging, and, so far as it is possible, in all other matters of typographical arrangement, except that the rubrics may be printed either in red or in black. The requirement of uniformity in paging shall apply only to that portion of the book which begins with the Order for the Daily Morning Prayer, and ends with the Psalter, and shall not extend to editions smaller than those known as 24mo, or to editions noted for music.

Sec. 3. In case any typographical inaccuracy shall be found in the Standard Book of Common Prayer, its correction may be ordered by a joint resolution of any General Convention, and notice of such correction shall be communicated by the Custodian to the Ecclesiastical Authority of each Diocese of this Church, and to actual publishers of the Book of Common Prayer.

Sec. 4. Copies of this folio Standard Book of Common Prayer, duly authenticated as in the case of the Standard Book, shall be sent, when issued, to the Ecclesiastical Authority of each Diocese or Jurisdiction in trust for the use thereof, and for reference and appeal in questions as to the authorized formularies of this Church.

Sec. 5. No copy or edition of the Book of Common Prayer shall be made, printed, published, or used as of authority in this Church unless it contain the authorization of the Custodian of the Standard Book of Common Prayer, certifying that he or some person appointed by him has compared the said copy or edition with the said Standard or a certified copy thereof, and that it conforms thereto.

Sec. 6. The House of Bishops shall nominate a person who, after confirmation by the House of Deputies, shall be appointed the Custodian of the Standard Book of Common Prayer and shall have charge of the same. He shall hold office until his successor is appointed, and any vacancy occurring during the recess of General Convention may be provisionally filled by appointment of the Presiding Bishop. It shall be the duty of the Ecclesiastical Authority of any Diocese or Jurisdiction in which any unauthorized edition of the Book of Common Prayer or any part or parts thereof shall be published or circulated, to give public notice that the said edition is not of authority in this Church.

It seems strange that it should require more than a hundred years for the Church to establish and set forth a standard Book of Common Prayer.

Convention of 1904

In the revision of the canons by this Convention, Title I, Canon 22, was renumbered as Canon 41, and amended as follows:

In Section 1, the words "set forth by the General Convention" were changed to read "accepted by the General Convention,"

Section 4 was amended to read as follows:

Folio copies of the Standard Book of Common Prayer, duly authenticated, as in the case of the Standard Book, shall be sent to the Ecclesiastical Authority of each Diocese and Missionary District in trust for the use thereof, and for reference and appeal in questions as to the authorized formularies of this Church.

Title I, Canon 24, "Of the Use of the Book of Common Prayer," with the ritual section, so called, forbidding certain ceremonies and practices in the administration of the Holy Communion, the consideration of which, in the General Conventions of 1871 and 1874, had threatened almost the very existence of the Church, was repealed by this Convention, and without a single voice being raised in its defense.

Convention of 1907

This Convention amended Section 2 of Canon 41 by changing the word "24mo" in the last line to "32mo."

Convention of 1910

This Convention renumbered Canon 41 as Canon 42, and amended Section 2, by adding the following at the end of the first sentence thereof: "and that page numbers shall be set against the several headings in the Table of Contents."

Convention of 1928

At this Convention the date in Section 1 was changed to 1928 by reason of the adoption in that year of a Standard Book of Common Prayer as revised by action of General Convention from 1913 to 1928.

Convention of 1931

The canon was renumbered Canon 44, and a sentence was added to Section 5 as follows:

And no copy or edition of the Book of Common Prayer or a part or parts thereof shall be made, printed, published or used as of authority in this Church, or certified as aforesaid, which contains or is bound up with any alterations thereof or additions

thereto or with any other matter, except the Holy Scriptures or the authorized Hymnal of the Church.

The addition of this sentence was occasioned by the appearance of the first edition of *The American Missal* earlier in the year. Published by the respected Morehouse Publishing Company, and intended to establish a uniformity of usage among “advanced” Anglo-Catholics, the book contained, in addition to the eucharistic liturgy of the 1928 Prayer Book, generous borrowings from the contemporary Roman Missal. The Prayer Book material was presented in a distinctive type face, and a certificate, dated December 1 of the previous year, issued by the Custodian of the Standard Book of Common Prayer was included, attesting the accuracy of the Prayer Book material.

Dr. Robinson, the custodian, in granting the certificate, had done so as a matter of courtesy, and following the precedence of his predecessor, Dean Hart, when requested by Publishers of portions of the Prayer Book, having assured himself of the accuracy of the text ...” (*Journal*, p. 418).

Nevertheless, loud outcries followed, bitter and acrimonious debate filled the columns of the Church press, and memorials and petitions against the use of the Missal were addressed to the General Convention. The Convention’s response was the addition to Section 5, printed above.

While it effectively limited the custodian’s discretion in issuing certificates, the legislation did not succeed in preventing the use of *The American Missal*. A revised version of it (without a certificate) appeared in 1951, and a similar book, *The Anglican Missal*, appeared in 1959.

At this same Convention, an attempt was made to define the term of office of the custodian as “three years or until his successor is selected.” Adopted by the House of Bishops, it was apparently first concurred in by the House of Deputies (*Journal*, p. 109) and then, on the recommendation of its committee on canons, defeated.

Convention of 1934

At this Convention the last sentence of Section 2 was amended to read, effective in 1936:

The requirements of uniformity in paging shall apply to the entire book, but shall not extend to editions smaller than those known as 32mo. or to editions used for music.

Convention of 1946

In the printing of the canons after this Convention, the final sentence of Section 6 was made a separate Section 7. The canon, which had been renumbered Canon 20 in the rearrangement of 1943, was made Canon 21.

Convention of 1949

The canon was amended by inserting the word “translation” after the word “copy” in three places.

Convention of 1964

The last sentence of Section 6 [now Section 7] was amended by deleting the words “by the appointment of the Presiding Bishop” and replacing them with the words “by appointment by the Presiding Bishop.”

As Mr. Dykman had pointed out in 1954, the former wording could have been construed as requiring that the Presiding Bishop himself be appointed custodian *pro tempore*.

Convention of 1967

A new Section 6 was added, specifying the responsibility of the custodian with regard to liturgical materials authorized for trial use, and reading as follows:

Whenever the General Convention, pursuant to Article X of the Constitution, shall authorize for trial use a proposed revision of the Book of Common Prayer, or of a portion or portions thereof, it shall be the duty of the Custodian of the Standard Book of Common Prayer

- (a) To arrange for the publication of such proposed revisions;
- (b) To protect, by copyright, the authorized text of such revision, on behalf of the General Convention; which copyright shall be relinquished when such proposed revision or revisions shall have been adopted by the General Convention as an alteration of or addition to the Book of Common Prayer;
- (c) To certify that printed copies of such revision have been duly authorized by the General Convention, and that the printed text conforms to that approved by the General Convention.

Former Sections 6 and 7 were renumbered 7 and 8.

Convention of 1970

On the recommendation of the Standing Liturgical Commission, Section 6 was amended to read as at present. The effect was to specify more fully the procedures to be followed with respect to trial use.

Convention of 1979

Section 1 was amended to read as at present, in order to bring it into conformity with the title and contents of the Book of Common Prayer adopted by this Convention.

EXPOSITION OF CANON II.3

This canon declares that a single copy of the Book of Common Prayer, as accepted by the General Convention of 1979, and authenticated by the signatures of the presiding officers and secretaries, is the Standard Book of Common Prayer of this Church.

Additionally, the canon mandates, in detail, the printing and typographical arrangements for published copies of the book, provides a methodology for correcting manifest inaccuracies which may be found, and requires that folio copies of the Standard Book be provided, in trust, to the ecclesiastical authority in each diocese for reference, and for use in adjudicating questions as to the authorized formularies of the Church. It states that the only copies which may lawfully be circulated and used in the Church (the book itself not being under copyright) are those which contain the required certification of the custodian of the Standard Book of Common Prayer.

Further, the canon sets forth the manner by which proposed revisions of the Book of Common Prayer, having been approved for trial use by the General Convention pursuant to Article X of the Constitution, are to be set forth, and the duties of the custodian in that regard. The canon also authorizes the Presiding Bishop and the President of the House of Deputies, jointly, upon recommendation of the Standing Liturgical Commission, to allow variations, substitutions, adjustments, or alternatives during such periods of trial use. In such event, the Custodian is required to give notice of the changes to all jurisdictions and through the public information media.

With respect to the custodian, the canon provides for appointment by nomination by the House of Bishops and confirmation by the House of Deputies, and makes provision for the appointment of an interim custodian by the Presiding Bishop if a vacancy occurs between Conventions.

Finally, the canon dictates that the ecclesiastical authority of any diocese in which all or parts of any unauthorized version of the book is in use give public notice that such edition is not of authority in this Church.

It is noteworthy that the Convention of 1789, in enacting the first canons, provided that the Book of Common Prayer to be used in worship be “as the same shall be set forth and established by this or some future Convention.” The members of the first Convention were obviously determined to provide a book that contained within its covers the only permissible forms for administering the sacraments and celebrating the

rites and ceremonies of the Church. That first Convention decreed that “no other prayer shall be used besides those contained in the said Book,” and reserved to itself and future Conventions the exclusive right to ordain and promulgate “a uniform Book of Common Prayer.” The canon in its present form reflects the same unwavering determination to prohibit deviations from the standard. Indeed, Title IV, Canon 1, provides that a bishop, presbyter, or deacon is liable for presentment and trial for any violation of the rubrics of the Book of Common Prayer.

The historical antecedents of this canon, and of many other canons, are found in the Canons of the Church of England adopted in the year 1603. Those canons provided for a “Book of Common Prayer with the Offices and Ordinals appended thereto” and required the use of that book without deviation in worship, in rites and celebrations, and administration of the sacraments. Obviously, the Church in Colonial America, prior to the Revolution, was governed by the canon law of the Church of England, and the adoption by the Convention of 1789 of a canon looking toward the publication of a Book of Common Prayer for America was simply an extension of the motivations and purpose which the English Church evidenced in 1603.

The Convention of 1801 enacted a canon that provided a means of comparing all new editions of the Book of Common Prayer with a “standard edition” and for a certification by “some suitable person” that such new edition was in conformity with the standard.

Between 1801 and the meeting of the Convention of 1892, storms of controversy swept the Church, bred by philosophical and theological differences regarding ritual and practice. The “high” church, “low” church dichotomy reached its zenith during the latter part of the nineteenth century, fanned by what some perceived to be “deviations from the prescribed rituals of the Church.” Understandably, a great part of the debate swirled around this canon, and the Convention of 1871 was almost entirely devoted to a discussion of matters of ritual and the question of what, if any, “additional rubrics on the Book of Common Prayer” were deemed necessary.

Similarly, the Convention of 1874, after protracted and heated argument, adopted amendments to another canon, entitled “Of the Use of the Book of Common Prayer,” which proscribed certain acts during the celebration of Holy Communion and prohibited all other like acts not authorized by the rubrics of the Book of Common Prayer. This canon, as amended, further provided that if any priest made use of ceremonies or practices not authorized by the rubrics, he was to be

admonished by the bishop having jurisdiction and, if the admonition was disregarded, it became the duty of the standing committee of the diocese “to cause him to be tried for breach of his ordination vows.”

It was not until the Convention of 1892 completed and adopted the revisions of the Prayer Book that had so preoccupied previous conventions that the Convention accepted a single authenticated copy as the “Standard” Book of Common Prayer. It had required more than one hundred years to accomplish that result.

The Convention of 1904 was, in contrast to those of 1871 and 1874, harmonious and pervaded by a spirit of reconciliation. This canon was amended to require that folio copies of the Standard Book of Common Prayer be furnished in trust to the dioceses and missionary districts, and, of utmost significance, the canon entitled “Of the Use of the Book of Common Prayer” was repealed in its entirety.

During the period between the General Conventions of 1913 and 1928, the Convention had authorized certain revisions of the Prayer Book and, in 1928, the Convention accepted the book, as revised, as the Book of Common Prayer.

The ensuing General Convention, in 1931, added a new section which prohibited the use of any unauthorized edition of the book, the forerunner of Section 8 of the canon as it now reads, and thereafter, until 1967, the canon, although frequently renumbered, remained unchanged in substance.

The Conventions of 1967 and 1970 enacted those provisions of the canon that specify the duties of the custodian of the Standard Book of Common Prayer with respect to liturgical materials authorized for trial use.

The Convention of 1979 amended the canon to use the name of the Church as it appears on the title page of the Book of Common Prayer accepted by that Convention, and substituted the year “1979” for the year “1928” (the year of the previous revision of the Prayer Book). The 1979 Convention also inserted, in Section 1, the words “Historical Documents of the Church” immediately preceding the reference to the Articles of Religion.

Particular attention should be called to the last sentence of Section 5, added in 1931. Intended to prevent Prayer Book texts from being bound up with unauthorized material, its terms were drawn so narrowly that in 1980 the custodian of the Standard Book of Common Prayer was unable to authorize the inclusion of the Collects from *Lesser Feasts*

and Fasts and seasonal material from *The Book of Occasional Services* in the bound altar edition of the *Holy Eucharist*.

An amendment of the sentence is being proposed to the Convention of 1982.



CANON 4. Of a Standing Liturgical Commission

Duties. Sec. 1. There shall be a Standing Liturgical Commission, consisting of 9 members (at least 2 Bishops, 2 Presbyters or Deacons and 2 Lay Persons). The Custodian of the Book of Common Prayer shall be a member *ex officio* of this Commission. It shall be the duty of this Commission to collect and collate material bearing upon future revisions of the Book of Common Prayer, to prepare and present to the General Convention from time to time recommendations concerning the Lectionary and the use of the Psalter, to prepare Offices for Special Occasions as authorized or directed by the General Convention or the House of Bishops, and upon request to advise concerning liturgical uses.



This canon was Canon 46 when it was enacted in 1940. It became Canon 21 in 1943, and Title II, Canon 4, in 1970.

Convention of 1928

Concurrent resolutions were adopted which originated in the House of Bishops as follows:

Resolved, the House of Deputies concurring, That when the Standard Prayer Book of 1928 shall have been published, this Joint Commission on the Revision and Enrichment of the Book of Common Prayer be discharged.

Resolved, the House of Deputies concurring, That there be appointed a Standing Liturgical Commission, consisting of eight Bishops, eight Presbyters and eight Laymen, to be appointed by the Chairmen of the two Houses, to which Commission may be referred *for preservation and study*, all matters relating to the Book of Common Prayer, with the idea of *developing and conserving for some possible further use the liturgical experience and scholarship of the Church*.

The italicized words are significant because they show the very limited function given the Standing Liturgical Commission when it was first created.

Convention of 1931

A variety of proposed changes in the Prayer Book were referred to this commission, others to the committee on the Prayer Book.

Convention of 1934

The commission reported that it was keeping "careful file of all suggestions offered, with its annotations upon them, for the benefit of the revisers of the future." It also reported the gracious offer of the Dean of the General Seminary in making the library of the school available as a place of deposit for the material.

Dissatisfaction having been registered in many quarters about the quality of the daily office lectionary of the 1928 Prayer Book, the commission (after pointing out that under the Constitution the table of lessons could be amended by a single Convention) recommended, and the Convention authorized, for use during the ensuing triennium (a) a complete lectionary prepared by the commission and (b) the table of Sunday lessons from the English "Deposited Book" of 1928. (The "Deposited Book" was a revision of the Prayer Book prepared by the Church of England; it was rejected by Parliament.)

Convention of 1937

The commission reported the publication of the trial lectionary, the progress being made on the publication of the Prayer Book in foreign languages, and its progress in the preparation of a Book of Offices for special occasions, such as the laying of a corner stone, dedication of communion vessels, etc.

Permissive use of the trial lectionary until December 31, 1941, with power in the commission to make necessary revisions, was authorized by resolution of the House of Bishops in which the House of Deputies concurred.

The House of Bishops adopted the following without calling for concurrence by the House of Deputies:

Resolved, The House of Bishops approve of the publication for authorization by Bishops for use in their Dioceses the Book of Offices in process of preparation by the Liturgical Commission.

The House of Deputies informed the House of Bishops that it had concurred in the resolution.

Convention of 1940

In its report to this Convention, the Commission stated:

It is quite clear that the work which has been committed to the Commission by Convention and that which comes to it from individuals is all of a kind for which a permanent need exists. If the Church is to handle the questions which constantly come up in regard to worship and the Prayer Book adequately, it must have some body which is responsible to gather material, to weigh it, and to give counsel. When the time comes for a future revision of the Prayer Book, the continued familiarity of such a body with the problems and suggestions will be invaluable. That this work is regarded by the Church as of a permanent character is perhaps suggested by the fact that this Commission is known as the Standing Liturgical Commission. It seems to the present members of the Commission a rather anomalous position that this Standing Commission which has this permanent work in hand is expected at each General Convention to present a resolution asking that it be continued. We conceive that this body should have a relative permanency which would be given it by its inclusion in the canons of General Convention (*Journal*, p. 473).

The Convention adopted a new Canon 46, reading as follows:

Of the Standing Liturgical Commission.

Sec. 1. There shall be a Standing Liturgical Commission. It shall be the duty of this Commission to collect and collate material bearing upon future revisions of the Book of Common Prayer, to prepare and present to the General Convention from time to time recommendations concerning the Lectionary and the use of the Psalter, to prepare Offices for Special Occasions as authorized or directed by the General Convention or the House of Bishops, and upon request to advise concerning Liturgical uses.

Sec. 2. (i) The Commission shall consist of nine members, three Bishops, three Presbyters, and three Laymen.

(ii) The members shall be appointed by the Chairmen of the two Houses of the General Convention, the Bishops by the Presiding Bishop and the Presbyters and Laymen by the President of the House of Deputies, for a term of six years. Vacancies occurring during the interval between sessions of the General Convention may be filled by the Chairman of the two Houses, those so appointed to serve until the close of the next session of the General Convention.

(iii) The Commission shall elect its own Chairman and Secretary and have power to constitute committees necessary for the carrying on of its work.

Sec. 3. The expenses of the Commission shall be met by appropriations by General Convention.

The commission reported publication of the Book of Offices and upon the trial lectionary for which it asked a further extension of three years.

It also called attention to “increasing lawlessness in the conduct of worship” saying, *inter alia*:

Under our law, the Bishop has certain definite Liturgical rights. He may authorize prayers, services for special occasions and the like, but he has no authority whatsoever to permit any deviation from the directions of the Prayer Book. Indeed it is one of his special functions to represent the mind of the whole Church in these matters. He is as definitely bound by law as is the Priest.

This lawlessness is apparent everywhere in the conduct of the Choir Offices. It is unfortunately apparent in many places in the conduct of the order for Holy Communion. It appears upon investigation that not only do Priests alter, omit or interpolate to suit their own wishes, but that in some cases Bishops have definitely authorized such variations.

We are a Church governed by law and our Bishops and other clergy having at their ordination accepted the discipline and worship of the Church it is their responsibility that the law is kept or that minor infractions of it be definitely limited to special times and places (*Journal*, pp. 472-73).

No action was taken on liturgical lawlessness.

A resolution of the House of Bishops, based on a recommendation of the commission, which would have authorized a shortened form of the order for Holy Communion when expressly permitted by the Ordinary, failed in the House of Deputies.

Convention of 1943

The canon was renumbered Canon 21 in the general rearrangement and its title amended by substituting "a" for "the."

The trial lectionary, as finally amended by the commission, was adopted as the official lectionary of the Church to be included in future printings of the 1928 Prayer Book.

Convention of 1946

The canon was renumbered Canon 22, and Section 2 (a) was amended to read:

The Commission shall consist of nine members, of whom at least two shall be Bishops, two Presbyters and two Laymen.

The resolution of the House of Bishops stated:

The purpose is to open the way for the appointment of two more Presbyters. It is on its Presbyters that the Commission depends chiefly for its work. The Bishops are likely to be heavy burdened, and very few laymen have any technical knowledge. It should be noted that the Liturgical Commission is not a Revision Commission in which checks and balances of the three orders are desirable. It is intended to be a group of (more or less) experts.

Perhaps as a result of this description, the group of "more or less experts" reported in part as follows:

In its report for 1943, the Liturgical Commission proposed to make its contribution to the Fourth Centennial [of the Book of Common Prayer] in the form of a "Draft Revision" of the Prayer Book.... This "Draft Revision" will be offered for study, not for immediate legislation....

This report contains the following important statement:

The Commission has been requested to state an opinion on the matter of intinction. At its meeting held in June, 1945, the Commission unanimously adopted the following statement:

After a careful study of the rubrics in the service of Holy Communion, the Commission reports that in its judgment intinction performed by the communicant is in no way contrary to the order of the service. No changes in the rubrics as they stand are necessary to make this practice permissible (*Journal*, p. 440).

Convention of 1949

At this Convention, Section 2 (a) was amended by adding the sentence: "The Custodian of the Book of Common Prayer shall be a member *ex officio* of the Commission."

In its report to the Convention, the commission stated that it had received such a large body of material for the enrichment and revision of the Prayer Book from individuals, groups, and dioceses that it was forced to believe a movement for a general revision of the Prayer Book was not far away. Rather than have study, debate, and evaluation (with an infinity of details) on the floors of the Convention, it proposed a series of Prayer Book Studies to appear from time to time.

The parenthetical reference to "an infinity of details" will be better understood if it is recalled that the revision adopted in 1928 occupied a substantial part of the discussion and debate at the five previous General Conventions, each proposed change being subject to a call for a vote by dioceses and orders as well as requiring the concurrence of the two houses.

Convention of 1961

The series of Prayer Book Studies authorized by the Convention of 1949, each dealing with one or more of the Prayer Book services and containing drafts of revised services, was published at irregular intervals beginning in 1950.

The Convention of 1958 authorized the publication of a *Book of Propers for the Minor Holy Days* (taken from Prayer Book Studies XII), and proposed it to the Convention of 1961 as an alteration of the Book of Common Prayer to be printed separately as a supplement to the same.

The Convention of 1961, at the request of the commission, did not adopt that proposal but, on the commission's recommendation, proposed to the Convention of 1964 an alteration of Article X of the Constitution to provide for the trial use of materials proposed for inclusion in a revised Prayer Book.

Convention of 1964

This Convention, having adopted the proposed amendment of Article X, authorized for trial use Prayer Book Studies XVI, *The Calendar and the Collects, Epistles, and Gospels for the Lesser Feasts and Fasts and for Special Occasions*.

Thus was born the method that was to govern the process of revising the Book of Common Prayer.

Convention of 1967

This Convention designated the Standing Liturgical Commission itself as its instrument for the revision of the Prayer Book, instead of appointing a special commission for the purpose as had been done in the past.

By resolution, the membership of the commission was temporarily raised to sixteen.

Prayer Book Studies XVII, *The Liturgy of the Lord's Supper*, prepared by the commission, was approved for trial use.

Conventions of 1970 & 1973

On recommendation of the commission, drafts of the various services and formularies proposed for inclusion in a revised Prayer Book were authorized for trial use and assessment throughout the Church.

In 1970 the canon was renumbered Title II, Canon 4.

Beginning in 1971, in order that the commission might be representative of the views of the Church as a whole, and not just those of its liturgical experts, the presiding officers of the two houses of the Convention appointed a number of "consultant members" to the commission who, by the commission's own action, were accorded the right to vote. At its largest, the commission numbered twenty-four members.

Convention of 1976

The canon was amended so as to permit deacons to serve on the commission, and the terms "presiding officer(s)" and "chair person" were substituted for "chairmen" and "chairman."

The report of the expanded commission was adopted, with amendments, as the Proposed Book of Common Prayer.

By resolution of the Convention, the membership of the commission was again (temporarily) set at sixteen. This provision allowed the commission the benefit of the judgment of a more representative group during the publication of the altar edition and other publications ancillary to the Prayer Book.

Convention of 1979

Sections 2 and 3 of the canon were repealed, since much of their subject matter was covered in the general canon on standing commissions (Canon I.1.2) adopted by this Convention. The description of the composition of the commission was incorporated into former Section 1 to produce the canon as it now stands.

The Convention authorized the optional use of two liturgical books prepared by the commission: a third edition of the *Lesser Feasts and Fasts* and *The Book of Occasional Services*, a successor to the Book of Offices of 1937. It should be noted that, under the rubric of the 1979 Prayer Book (page 13, rubric 2), unlike the corresponding rubric of the 1928 Prayer Book, the permission of the bishop is not required for the use of forms and services from books such as these, which are set forth by authority of the General Convention.

The membership of the commission reverted to its canonical number.

EXPOSITION OF CANON II.4

After the publication of the revised Prayer Book of 1928, the Joint Commission on the Revision and Enrichment of the Book of Common Prayer was, by resolution of the 1928 Convention, discharged. The same resolution provided for the appointment of a Standing Liturgical Commission, consisting of bishops, presbyters, and laypersons, and charged the new commission with the limited functions of preserving and studying “all matters relating to the Book of Common Prayer with the idea of developing and conserving for some possible further use the liturgical experience and scholarship of the Church.”

From this modest beginning the commission, at subsequent Conventions, recommended against immediate changes in the Prayer Book and, at the direction of the Convention, prepared and issued for use, on an experimental basis, two tables of lessons, culminating, in 1937, in the issuance of a trial lectionary. Beginning in 1943, this lectionary, slightly amended, was included in all printings of the 1928 Prayer Book.

It was not until the Convention of 1940 that a new canon, then numbered Canon 46, codified the purpose and structure of the Standing Liturgical Commission and thus gave it a permanent place in the life and work of the Church. Until then, the members of the commission served primarily as archivists. Action taken at subsequent conventions endowed the commission with responsibilities that far transcended the initial purposes which led to its formation.

Inevitably, a commission to which the Convention referred such fundamental questions as proposed revisions in the Prayer Book and the validity of intinction performed by the communicant at Holy Communion, became a body which exerts a positive influence in the Church, instrumental in the unification of conflicting opinions and philosophies.

In 1946, the canon was amended with respect to the membership of the commission to provide that, of the nine members, “at least two shall be Bishops, two Presbyters, and two Laymen.” The purpose of the amendment was to permit the appointment of additional presbyters, upon whom the commission depended chiefly for its work.

During the Convention of 1949, the canon was amended to include “The Custodian of the Book of Common Prayer” (sic) as a member *ex officio* of the Commission. Parenthetically, there is no “Custodian of the Book of Common Prayer” unless it be the General Convention itself, and the office is properly denominated as “The Custodian of the *Standard* Book of Common Prayer.”

In 1976, the General Convention again amended the canon to permit the appointment of deacons as members of the commission so as to reflect more effectively the composition of the Church as a whole. In 1979, in light of the fact that Canon I.1.2 provided for the method of appointment and terms of office of members of all standing commissions of the Church, and prescribes the internal organization of such commissions, the Convention deleted redundant provisions from this canon and formulated it as it now reads.

The importance of the commission is manifest in light of its duties to collect and collate material bearing upon future revisions of the Book of Common Prayer and to make recommendations to the General Convention concerning the lectionary and the Psalter. Additionally, but only when authorized and directed, it prepares services for special occasions and, upon request, advises concerning liturgical uses.



CANON 5. Of the Authorization of Special Forms of Service

When special forms may be authorized for Congregation worshipping in a foreign language.

In any Congregation, worshipping in other than the English language, which shall have placed itself under the oversight of a Bishop of this Church, it shall be lawful to use a form of service in such language; *Provided*, that such form of service shall have previously been approved by the Bishop of the Diocese, until such time as an authorized edition of the Book of Common Prayer in such language shall be set forth by the authority of the General Convention; and *Provided, further*, that no Bishop shall license any such form of service until he shall first have been satisfied that the same is in accordance with the Doctrine and Worship of this Church; nor in any case shall such form of service be used for the ordination or consecration of Bishops, Priests, or Deacons.



The canon was Canon 42 when it was enacted in 1904. It became Canon 22 in 1943, and Title II, Canon 5, in 1970.

Convention of 1904

First adopted by this Convention, this canon read as at present, except that the words “or Missionary District” occurred after the word “Diocese.”

Convention of 1973

The reference to missionary districts was dropped as being no longer needed.

EXPOSITION OF CANON II.5

This canon sets forth the procedures to be followed in authorizing a special form of service for congregations worshipping in a language other than English.

Such a congregation must, by its own action, request and agree to be subject to oversight by the bishop of the diocese in which it is situated. The form of service in a language other than English may be used only upon prior approval of the bishop exercising oversight. In granting approval, the bishop must be satisfied that the service is in accordance with the doctrine and worship of this Church.

The form of service so approved may be utilized until such time as an authorized edition of the Book of Common Prayer, in the language spoken during services, is published under the authority of the General Convention.

It should be noted that while such form of service, after approval by the bishop having jurisdiction, may be used in worship, the canon prohibits its use for the ordination or consecration of bishops, priests, or deacons.



CANON 6. Of the Music of the Church

Minister responsible for music used in his Congregation. Sec. 1. It shall be the duty of every Minister to see that music is used as an offering for the glory of God and as a help to the people in their worship in accordance with the Book of Common Prayer and as authorized by the Rubric or by the General Convention of this Church. To this end the Minister shall have final authority in the administration of matters pertaining to music. In fulfilling this responsibility the Minister shall seek assistance from persons skilled in music. Together they shall see that music is appropriate to the context in which it is used.

Standing Commission on Church Music. Sec. 2. There shall be a Standing Commission on Church Music, consisting of 12 members (2 Bishops, 4 Presbyters or Deacons and 6 Lay Persons, of whom at least 4 are professional Church musicians). It shall be the duty of this Commission to collaborate with the Standing Liturgical Commission as regards the musical setting of liturgical texts and rubrics; encourage the writing of new music for liturgical use, and at times to produce such compositions in its own name; recommend norms both as to liturgical music and as to the manner of its rendition; serve as a link between associations of professional Church musicians and diocesan music commissions; assist in the setting up of diocesan and regional courses and conferences on Church music; collect and collate material bearing upon future revisions of the Church Hymnal; and, in general, serve the Church in matters pertaining to music.



This canon was Title I, Canon 23, when it was enacted in 1874. It became Canon 44 in 1904, Canon 25 in 1943, and Title II, Canon 6, in 1970.

The first legislation by the General Convention regarding the music of the Church was the passage of a joint resolution by the Convention of 1832, which read in part as follows:

And it shall be the duty of every minister of any Church, either by standing directions, or from time to time, to appoint the portion of [metrical] Psalms which are to be sung.

And further, it shall be the duty of every minister, with such assistance as he can obtain from persons skilled in music, to give order concerning the tunes to be sung at any time in his church; and especially it shall be his duty to suppress all light and unseemly music, and all indecency and irreverence in the performance; by which vain and ungodly persons profane the service of the Sanctuary.

We are told that this legislation was brought about by the unseemly and almost scandalous performances of church choirs which, as early as 1832, had become so “irreverential” that the Convention of that year passed the above resolution and ordered it prefixed to the “Collection of Psalms and Hymns” published at that time in the Book of Common Prayer.

Convention of 1874

The Resolution of 1832 having failed to prevent “the scandalous performances of Church choirs,” the General Convention of 1874 changed the resolution into a canon, making it mandatory upon the clergy to exercise their prerogative, and “give order” for the regulation of the music of the Church.

The canon, Title I, Canon 23, read as follows:

Sec. 1. The Selection of the Psalms in metre, and Hymns which are set forth by authority, and Anthems in the words of Holy Scripture, are allowed to be sung in all Congregations of this Church before and after Morning and Evening Prayer, and also before and after sermons, at the discretion of the Minister, whose duty it shall be, by standing directions, or from time to time, to appoint such authorized Psalms, Hymns, or Anthems as are to be sung.

Sec. 2. It shall be the duty of every Minister of this Church, with such assistance as he may see fit to employ from persons skilled in music, to give order concerning the tunes to be sung at any time in his church, and especially it shall be his duty to suppress all light and unseemly music, and all indecency and irreverence in the performance by which vain and ungodly persons profane the service of the sanctuary.

Note the careful distinction between text and tune. For the purposes of the canons, a “hymn” is a text only, and because texts can teach error as well as true Christian doctrine, hymn texts are subject to the Church’s official approval.

Convention of 1892

This Convention amended Section 1 by striking the words “Selection of the Psalms in metre, and” in the first phrase, and the word “Psalms” in the last phrase.

These amendments reflect a major change in the musical tradition of the Church—from a stance that favored metrical paraphrases of the psalms and was suspicious of hymns to a position that favored hymns and regarded metrical psalms with disfavor.

The Prayer Book of 1789 contained, as an integral part of it, the complete Tate and Brady metrical psalter and twenty-seven hymns. In the course of the nineteenth century the number of hymns was periodically increased, and in 1832 the metrical psalmody in the “Prayer Book Collection” was reduced to 124 “selections,” some of them not from Tate and Brady.

The first separately printed *Hymnal* was authorized in 1871, and contained no separate section of metrical psalms.

The Prayer Book of 1892, adopted by this Convention, contained neither metrical psalms nor hymns, leaving the separate *Hymnal* (which this Convention also revised) as the Church’s official collection of hymnody.

Convention of 1904

In the revision of the Digest of Canons by this Convention, the canon on the music of the Church was made Canon 44, and amended to read as follows:

It shall be the duty of every Minister to appoint for use in his congregation hymns or anthems from those authorized by the Rubric, and, with such assistance as he may see fit to employ from persons skilled in music, to give order concerning the times to be sung in his Church. It shall be his especial duty to suppress all light and unseemly music, and all irreverence in the performance.

The rubric referred to read as follows:

Hymns set forth and allowed by the authority of this Church, and Anthems in the words of Holy Scripture or of the Book of Common Prayer, may be sung before and after any Office in this Book, and also before and after sermons.

First introduced in the 1892 Prayer Book, it was taken over, unchanged, into the 1928 Book.

Convention of 1925

An amendment was proposed at this Convention with the apparent intent of establishing a commission on church music on a canonical

basis. Instead, the Joint Commission on Church Music (which had been established in 1919) was continued by resolution.

Convention of 1934

An amendment was proposed in the House of Deputies, inserting the words “or by the General Convention of this Church” after the word “Rubric.”

The committee on canons reported in favor of the purpose of the amendment but recommended reference to the Joint Commission on Church Music to report to the next Convention.

This was adopted as a resolution in which the House of Bishops concurred.

Convention of 1937

The commission presented an amendment of the rubric (quoted above) and also an amendment of the canon.

The canon was amended by adding the words proposed in 1934.

The purpose of the amendment was to pave the way for the use of anthems whose texts were not derived directly from Scripture or the Prayer Book or Hymnal, but, as congruent with the Church’s teaching, might be authorized by the General Convention.

Action on the rubric in the House of Deputies got no further than being placed on the calendar; from which, if not taken, a matter might as well be laid on the table.

Convention of 1940

The commission presented a list of about 150 anthem and motet texts which, under the provision of the amended canon, were authorized for use by the Convention.

Succeeding Conventions authorized supplementary and additional lists of this kind.

The canon was renumbered Canon 25 in the general rearrangement of 1943.

Convention of 1955

The canon was amended to read as follows:

It shall be the duty of every Minister to see that music is used in his congregation as an offering for the glory of God and as a help to the people in their worship in accordance with the Book of Common Prayer and as authorized by the Rubric or by the General Convention of this Church. To this end he shall be the final authority in

the administration of matters pertaining to music with such assistance as he may see fit to employ from persons skilled in music. It shall be his duty to suppress all light and unseemly music and all irreverence in the rendition thereof.

Prior to this Convention, the duty of selecting anthem and hymn texts was an immediate responsibility of the minister of the parish and could not be delegated. Only in the matter of “tunes” were “persons skilled in music” to be consulted, though even this was not required. Under the canon as amended, more responsibility could be delegated but, in keeping with his parochial responsibilities (see Title III, Canon 21, Section 1) the minister remained the “final authority” in musical matters.

In 1970 the canon was renumbered as Title II, Canon 6.

Convention of 1973

The House of Bishops adopted an amendment of the last two sentences of the canon as follows:

In fulfilling this responsibility, he shall take care to avail himself of the knowledge of persons skilled in music. It shall be the duty of those engaged to assist him in the discharge of this responsibility to see that music is appropriate to the context in which it is used.

The House of Deputies did not concur.

The following amendments were concurred in by both houses:

The former text, unamended, was made Section 1.

A new Section 2, establishing the commission as a standing commission, was added. It read as follows:

(a). There shall be a Standing Commission on Church Music. It shall be the duty of this Commission to collaborate with the Standing Liturgical Commission as regards the musical setting of liturgical texts and rubrics; encourage the writing of new music for liturgical use, and at times to produce such compositions in its own name; recommend norms both as to liturgical music and as to the manner of its rendition; serve as a link between associations of professional Church musicians and diocesan music commissions; assist in the setting up of diocesan and regional courses and conferences on Church music; collect and collate material bearing upon future revisions of the Church Hymnal; and, in general, serve the Church in matters pertaining to music.

(b). The Commission shall consist of 12 members, of whom 2 shall be Bishops, 4 Presbyters, and 6 Lay Persons, of whom at least 4 are professional Church musicians.

(c). The members shall be appointed by the presiding officers of the two Houses of the General Convention, the Bishops by the Presiding Bishop, and the Presbyters and Lay Persons by the President of the House of Deputies, for a term of two Convention periods; except that in constituting the original Commission following the enactment of this Section, one (1) Bishop, two (2) Presbyters, and three (3) Lay Persons shall be appointed for a term of one Convention period, and the remaining six (6) members for a term of two Convention periods. Vacancies occurring during the intervals between meetings of the General Convention may be filled by the respective presiding officers of the two Houses.

(d). The Commission shall elect its own Chairman and Secretary and shall have power to constitute committees and engage consultants and coordinators necessary for the carrying on of its work.

(e). The expenses of the Commission shall be met by appropriations of the General Convention.

Convention of 1976

Section 1 was amended to read as at present.

Under its provisions, ministers are required to seek the assistance of musicians in matters pertaining to music, and the duty to see that the music selected is appropriate to its context is made a joint responsibility.

In Section 2, the three references to “Presbyters” were changed to refer to “Presbyters or Deacons.”

By resolution, the Convention directed the Standing Commission on Church Music to develop materials and plans for a future revision of the Hymnal, instead of, as had been customary in the past, appointing a special commission for the purpose. This decision was similar to the Convention’s action in designating the Standing Liturgical Commission its instrument for the revision of the Prayer Book (see Title II, Canon 4, above).

In the course of the ensuing triennium, the commission published materials for study and use in the Church which would bear upon a revised Hymnal. It also began the publication of musical settings for the major services in the (then) Proposed Book of Common Prayer.

Convention of 1979

Clauses (b) through (e) of Section 2 of the canon were repealed, since their subject matter had been incorporated into the general canon on standing commissions (Canon I.1.2) adopted by this Convention. The description of the composition of the commission was incorporated into the remaining clause of Section 2.

Properly, Section 1 should also have been amended by changing the word “Rubric” to “rubrics” since the 1979 Prayer Book, unlike its predecessor, contains a large number of rubrics pertaining to music. One of these (rubric 2, page 14) incorporates the criterion formerly used by the General Convention in setting forth lists of approved anthem texts. The Convention having abandoned the practice of issuing such lists, the rubric makes it the duty of local clergy and musicians to see that the texts of anthems used in services are congruent with the teaching of Scripture.

EXPOSITION OF CANON II.6

During much of its history, this canon was concerned with two matters: texts allowed to be sung in churches and the duties and prerogatives of the Minister of the parish with respect to music and musicians.

The provisions regarding texts are now included in the Book of Common Prayer (p. 14), and specify that hymns are to be selected from those set forth under the authority of this Church. The words of anthems must be from the Scriptures, the Prayer Book, or from texts congruent with them. Under the canon, it is the responsibility of clergy and musicians together to see that music selected from the authorized material is appropriate to its context.

It should be noted that while standards are set forth with respect to permitted texts, the Church has no legislation regarding tunes or melodies. A hymn, for example, may be sung to the tune provided in the official *Hymnal*, or to some other tune in the same metre, or to a tune written by a local musician. A similar freedom obtains with respect to settings of canticles and other service music.

As the history of the canon indicates, the Church has been very hesitant in according status or responsibility to its musicians. Only since 1976 have ministers been *required* to seek assistance from musicians, and only since 1979 have music directors been required to assume partial responsibility for the theological orthodoxy of texts sung by their choirs. Carefully preserved, however, is the traditional responsibility of the rector as the “final authority” in musical matters.

An important case arose under the Canon of 1874, from a difference between the rector and the vestry of St. John’s Church, Mobile, Alabama, growing out of the management and control of the organ of the church. “The Vestry, in their corporate capacity, claimed that they had the right to elect the Organist and the members of the Choir; to control the Organ, except when used for public services; to prohibit its use in the Sunday School, if a small Organ be provided; to put the key of the Organ in the possession of the Organist, with instructions that no one is to use or play upon the Organ without her permission, or an order from the Vestry; and that the Organist is to be responsible to the Vestry alone, for the condition and proper treatment of it.

“The Rector claimed that he was the sole custodian of the Organ; that he had the sole right to appoint the Organist and Choir; to decide whether it shall be used in the Sunday School, as well as at public services, and to determine when and by whom it shall be used; in addition to his right to control the music and the singing.”

The rector and the vestry, being unable to reach a harmonious settlement of the question, agreed to submit the whole matter to the bishop for his judgment, and to abide by that judgment.

The bishop first summoned the standing committee as a council of advice in the matter. The standing committee, consisting of an equal number of clergymen and laymen, were equally divided on the questions submitted to them; the clergy upholding the rector in his contention, and the lay members the contention of the vestry.

Several members of the standing committee, both clerical and lay, submitted briefs to the bishop upholding their several contentions.

The bishop delivered his judgment in the matter, covering all the points in the case, and upholding the contention of the rector on every point.

In speaking of the relation that the musical part of the service bears to the worship of the sanctuary, the bishop stated, "It is, beyond question, with its Anthems and Hymns of Praise and Adoration, together with the accompaniment of Instruments and Choristers, brought in to enliven and stimulate devotion, an integral part of Divine Worship—as essentially so as the offering of Collects and Litanies. In right views of the musical part of Divine Service, as only a varied part of Worship, will be found the solution of the main question embraced in this present contention. The bringing in of Organ and Choir alters not a whit the relation of the Clergy to the musical parts of Worship. All of these accessories and accompaniments are brought in to aid and enliven devotion, but the Minister officiating is virtually the Celebrant, and is the one leading and responsible person worshipping—in accordance with the recognized Principle, '*Qui facit per alium facit per se.*'"

In interpreting the meaning of the Canon on Music, the bishop said:

"In order to get at the intent and full force of this Canon, it must be borne in mind that it was not framed for the purpose of *imparting authority* to the Clergy. That authority was not in question. Never within my knowledge, until this present contention, had the question been raised. No, the Minister is called upon, not to *take*, but to '*give order*, to put in exercise a power and authority, possessed by him in virtue of his office. I see not how language could be made more clear. If an inexpert in music, as many are, he is called upon, 'with such assistance as he may see fit to employ—from persons skilled in music, to give order, etc.'

"The parties designated as 'skilled in music' cannot be reasonably supposed to be an unknown and haphazard set of people—legislation

takes note of known and recognized parties—but are most assuredly the Choir, and the Organist the chief member thereof. There is no other collection of people in a congregation known as ‘skilled in music’ but the Choir, and no other collection was in the minds of the Legislators who framed the Canon. This is without doubt the only reasonable interpretation of the language of the Canon.

“The Minister then, is to employ the assistance needed, and it must be such assistance *‘as he may see fit.’* In a word, he must select the Organist and the Choir. Any other interpretation, by which the Vestry or any other party should have the selection of ‘the persons skilled in music’ would introduce an element of conflicting authority, likely to thwart or be subversive of the authority of the Minister, and tending inevitably to endless discord and confusion. No interpretation of a law can stand, which would neutralize and subvert the very purpose for which the law was enacted.”

The bishop quotes the decision of the Bishop of Maryland in the same matter, as follows:

“As to the appointment of the Choristers or Organist, the Canon of the General Convention seems to settle that, for in Section 2 it says, ‘it shall be the duty of every Minister of this Church, with such assistance as he may see fit to employ from persons skilled in music, etc.’

“This places the choice of the persons entirely under his control and judgment; and the latter part of the same clause seems to give him power even to dismiss. I have always felt that this was absolutely clear.”

Bishop Stevens of Pennsylvania, in 1869, decided similar questions for his diocese, as follows:

“The Rector has the right to control such arrangements, both in Church and Sunday School, as in his judgment shall be for the best interests of each. The building, and all the appurtenances of the building, being designated for promoting the spiritual good of the Parish, the Rector has the undoubted right to use it, and to control the arrangement of it in such ways as shall best observe the religious welfare of the people committed to his charge.... The Rector has the full right to select the Choir, to choose the tunes, to suppress what he deems light and unseemly music, and, consequently, to introduce such as he shall hold to be suitable for Divine Service. Where there is a paid Organist or Choir, it is the duty of the Vestry to pay them, not to direct them; it is the duty of the Rector to direct them, not to pay them.”

The Bishop of Alabama further cited the institution office in support of his judgment, which, he says, “is the solemn setting forth of the mind

of the Church as to the relation the Rector sustains to the Vestry." During the Ceremonial of Institution [as it stood in the Prayer Book in use at the time], the senior warden presents the keys of the church to the minister that is being instituted in these words:

"In the name and behalf of _____ Parish (or Church), I do receive and acknowledge you the Rev. _____ as Priest and Rector (or Assistant Minister) of the same; and in token thereof, given into your hands the keys of this church."

The bishop, in commenting on this act, says:

"It is difficult to conceive of an act of deeper significance than this formal presentation of the keys. They are given without any reservation, expressed, implied, or anywhere existing. The Rector receives the keys, not only as the token and symbol of power, but as the *power itself*—the power of entrance, occupancy and control, of opening and shutting. Where is there any power to take them back, or to impose any limitation upon their use? If there is any existing limitation to this grant of power, if there are any parts of the building which he cannot enter and control at will, the whole solemnity is travestied in this act of delivering the keys.

"For example—suppose the Senior Warden, at the time of handing over the keys, should add—'but you, our Rector, must take notice that the key of the Organ is not under your control, except for certain specified purposes; and at other times, it must be in possession of the Organist to be elected by the Vestry.'

"How would such a limitation strike any one who understood what is meant by the giving and receiving of keys? Does it seem less incongruous and contradictory when uttered afterwards, in the Vestry, and put in the form of a resolution by them? I am sure that no man of independent spirit, who understood his privileges and responsibilities, would receive the keys under such limitation, for there would be implied distrust in the very act of reposing confidence.

"My determination, therefore, in this contention is this—that there is no reason to be found in Canon Law, in the alleged absence of Canon Law, in precedent, in usage or in the general propriety and fitness of things, for limiting the control of the Rector over the Organ, the Organist, or the Choir and any of its accompaniments and accessories—all of which enter into the worship of which he is virtually, constructively, and for the most part actually, and, by virtue of his office, *'The Celebrant.'*"

The bishop's interpretation of the canon is the only interpretation that is consonant with the well settled principles of ecclesiastical law, and which recognizes the inherent right of the rector to appoint the organist and the members of the choir. If the organist and the members of the choir are paid for their services, it only belongs to the vestry to determine the amount of the salary to be paid to each, and the term of their employment; the vestry has no right to determine the personnel in either case. It is difficult to see how the right of the rector to appoint the organist and members of the choir, that is, to decide as to the personnel of his assistants in rendering the divine service of the Church, can well be questioned. It is the law of the English Church; it is general ecclesiastical law; it is also the law of the American Church, as clearly deducible from our canons and offices. (See Hoffman's *Ecclesiastical Law*, pp. 88-89; Humphrey's *Law of the Church*, p. 35.)

It would seem to be equally clear that to the rector belongs the right to determine the character of the choir; whether it shall be a quartette, or a chorus, or vested choir.

The right of the rector, to control the organ at all times and for all purposes, is well stated in the decision of the Bishop of Alabama, and follows, of necessity, from the right of the rector to the possession and control of the temporalities of the church.

The English ecclesiastical law is clear on this point. (*Wyndam v. Cole L. R. 1 P. D.*, 130; *Eyre v. Jones, Ecc. Gaz. Jan.* 1870; *Blunt's Book of Church Law*, p. 331.)

The ultimate authority of the rector was reaffirmed as recently as the General Convention of 1973, when it rejected an amendment that would have given to musicians the sole right to determine the appropriateness of pieces of music. The 1976 amendment does, however, place a restraint on the clergy by requiring them to seek the assistance of musicians and to work with them to determine that the music selected is appropriate to its context.

Section 2 of the canon, added in 1973, provides for a Standing Commission on Church Music, with ongoing responsibilities for the music of the Church.



CANON 7. Of Dedicated and Consecrated Churches

- No Church to be consecrated without assurances. Vestry not to encumber or alienate without consent of Bishop and Standing Committee.* Sec. 1. No Church or Chapel shall be consecrated until the Bishop shall have been sufficiently satisfied that the building and the ground on which it is erected are secured for ownership and use by a Parish, Mission, Congregation, or Institution affiliated with this Church and subject to its Constitution and Canons.
- No church to be taken down or applied to any common uses without same consent.* Sec. 2. It shall not be lawful for any Vestry, Trustees, or other body authorized by laws of any State or Territory to hold property for any Diocese, Parish or Congregation, to encumber or alienate any dedicated and consecrated Church or Chapel, or any Church or Chapel which has been used solely for Divine Service, belonging to the Parish or Congregation which they represent, without the previous consent of the Bishop, acting with the advice and consent of the Standing Committee of the Diocese.
- All Churches to be held in trust.* Sec. 3. No dedicated and consecrated Church or Chapel shall be removed, taken down, or otherwise disposed of for any worldly or common use, without the previous consent of the Standing Committee of the Diocese.
- Sec. 4. Any dedicated and consecrated Church or Chapel shall be subject to the trust declared with respect to real and personal property held by any Parish, Mission, or Congregation as set forth in Section 4 of Title I, Canon 6.



This canon was Title I, Canon 21, when it was enacted in 1868. It became Canon 45 in 1904, Canon 24 in 1943, and Title II, Canon 7, in 1970.

Convention of 1868

The first legislation on the subject of the consecration of churches was by the Convention of 1868, which enacted Title I, Canon 21, "Of the Consecration of Churches," as follows:

Sec. 1. No Church or Chapel shall be consecrated until the Bishop shall have been sufficiently certified that the building and ground on which it is erected have been fully paid for, and are free from lien or other incumbrance.

Sec. 2. It shall not be lawful for any Vestry, Trustees, or other body authorized by law of any State or Territory, to hold property for any Diocese, Parish, or Congregation, to incumber or alienate any consecrated Church or Chapel without the previous consent of the Bishop, acting with the advice and consent of the Standing Committee of the Diocese in which such Church or Chapel be situated, *Provided*, that this section shall not be operative in any State with the laws of which, relating to the title and holding of property by religious corporations, the same may conflict.

Sec. 3. No consecrated Church or Chapel shall be removed, taken down, or otherwise disposed of for any "unhallowed, worldly, or common use," without the previous consent of the Bishop, acting with the advice and consent of the Standing Committee of the Diocese in which said Church or Chapel may be situated.

Convention of 1871

This Convention amended Section 1 of this canon as follows:

No Church or Chapel shall be consecrated until the Bishop shall have been sufficiently certified that the building and ground on which it is erected have been fully paid for and are free from lien or other incumbrance; and also that such building and ground are secured by the terms of the devise, or deed, or subscription by which they are given, from the danger of alienation from those who profess and practice the doctrine, discipline, and worship of the Protestant Episcopal Church in the United States of America, except in the cases provided for in Sections 2 and 3 of this Canon: *Provided*, that this shall not preclude the alienation of lots for burial in vaults or otherwise, nor apply to land owned by the Church corporation and not necessary for religious uses.

The addition to the section was occasioned by the secession of Christ Church, Chicago, who, taking the parish property with them, affiliated themselves with the Reformed Episcopal Church.

Convention of 1898

In Section 2, immediately after the words "any consecrated Church or Chapel" were added the words "or any Church or Chapel which has been used solely for Divine Services."

No reason is specified in the Journal, but it is known that a large number of church buildings had never been formally consecrated. Churches erected during the Colonial period could not be consecrated for lack of bishops to do so. When bishops finally were consecrated for America, they proceeded to consecrate new church buildings, but appear to have regarded older ones as having been consecrated by use, a point

of view which has very ancient precedent. Churches built after 1868, on the other hand, were subject to the provisions of Section 1 of the canon, with the result that bishops were prohibited from consecrating them until all mortgage indebtedness had been fully paid.

Convention of 1904

The canon was renumbered Canon 45. The proviso about burial lots and land not used for religious purposes was dropped as being unnecessary, and the language of the canon simplified so as to read as follows:

Sec. 1. No Church or Chapel shall be consecrated until the Bishop shall have been sufficiently certified that the building and the ground on which it is erected have been fully paid for, and are free from lien or other encumbrance; and also that such building and ground are secured from the danger of alienation, either in whole or in part, from those who profess and practice the Doctrine, Discipline and Worship of this Church, except in the cases provided for in Sections 2 and 3 of this Canon.

Sec. 2. It shall not be lawful for any Vestry, Trustees, or other body authorized by law of any State or Territory to hold property for any Diocese, Parish or Congregation, to encumber or alienate any consecrated Church or Chapel, or any Church or Chapel which has been used solely for Divine Service, belonging to the Parish or Congregation which they represent, without the previous consent of the Bishop, acting with the advice and consent of the Standing Committee of the Diocese.

Sec. 3. No consecrated Church or Chapel shall be removed, taken down, or otherwise disposed of for any worldly or common use, without the previous consent of the Bishop, acting with the advice and consent of the Standing Committee of the Diocese.

Convention of 1943

The canon, which became Canon 50 in 1940, was made Canon 24, and amended to include missionary districts as well as dioceses (*Journal*, p. 124). This change is not noted in the index to the *Journal*.

Convention of 1970

The canon was made Title II, Canon 7.

Convention of 1973

At this Convention, the Standing Liturgical Commission presented a proposed revision of the service for the consecration of churches and chapels, for trial use and future inclusion in a revised Prayer Book. A specific feature of the proposal was rubrics stating that the service was for use whenever the building was ready for use and did not require that the premises be debt-free or owned.

In a related resolution, the commission proposed the repeal of Section 1 of the canon, which resolution was adopted by the Convention.

Former Sections 2 and 3 became Sections 1 and 2 and, in keeping with a change made in several canons, the references to missionary districts were dropped as no longer needed.

The title of the canon was changed to read as at present, in order to make it clear that a “dedicated” church and a “consecrated” church are the same thing.

Convention of 1979

At this Convention it was pointed out that the repeal of former Section 1 for the purpose indicated above had inadvertently resulted in removing the requirement that the property be secured from alienation to those not affiliated with this Church.

A new Section 1, making such provision, was adopted and the remaining sections renumbered.

The present Section 4, making the provisions of Title I, Canon 6, Section 4, apply to consecrated churches, was added (*Journal*, pp. B-61, D-154). The record of this action does not appear in the *Journal* under concurrent actions.

EXPOSITION OF CANON II.7

Frequently when Church property is being conveyed, a certificate of consent is prepared to be executed by the bishop and the standing committee of the diocese where the real estate is located. This document, if used, should be acknowledged and proved the same as a deed. For ease of future reference, many times the executed consent is filed with the deed of conveyance.

The General Convention in 1871 amended Title I, Canon 21, to provide that no church be consecrated until the consecrating bishop was satisfied that the property was secure from the danger of alienation from those who profess and practice the doctrine, discipline, and worship of the Episcopal Church. This amendment was adopted because of the outcome of the celebrated *Cheney* case which occurred in the Diocese of Illinois in 1871. The Rev. Dr. Cheney was deposed in June of 1871, but continued to serve Christ Church in Chicago. It was feared that Dr. Cheney, who had indicated his intention to become a member of the Reformed Episcopal Church, would attempt to take the property of Christ Church with him. This he did and the courts upheld his action.

The Convention also, having concluded that further steps to strengthen the claim of the Church to property owned by parishes and other organizations were advisable, adopted the following resolution:

That it be recommended to the several Diocesan Conventions to take such measures as may be necessary, by State legislation or by recommending such forms of demise or deed or subscription as may secure the Church buildings, grounds, and other property, real and personal, belonging to the Protestant Episcopal Church in the United States of America, to those only who profess and practice the doctrine, discipline, and worship of the said Church; and to protect such buildings, lots, and other property, from the claims of those who abandon the doctrine, discipline, and worship of the said Church.

At the 1973 General Convention, the Standing Liturgical Commission presented a new rite entitled "Dedication and Consecration of the Church," which it had prepared and which had been published in a Prayer Book Study by the Church Hymnal Corporation.

In presenting this new rite, the commission noted that it was anomalous to erect a building for divine worship and use it as such for many years, but not to consecrate the building as a church until a mortgage had been satisfied. In addition, it is clear from the commission's report (Prayer Book Studies 28) that the commission wanted to free the dedication service from the necessity of ownership and full control by the Episcopal Church.

The commission noted as it presented the proposed rite that it was inconsistent with the provisions of Canon II.7.1, and therefore included in its report to the Convention a proposal to amend the canon by repealing Section 1 thereof. That section not only forbid the consecration of a building as a church before it had been fully paid for, but also provided that no church or chapel should be consecrated unless the building and grounds were secured from the danger of alienation from those who profess and practice the doctrine, discipline, and worship of this Church. In 1973 the possibility of alienation was not a prime concern of the Liturgical Commission or of the Convention.

The Convention accepted the recommendation of the commission, authorized use of the new rite for a trial period, and repealed Canon II.7.1. In so doing, without adverting to the result, the Convention repealed a canonical provision which provided a cornerstone for the contention that property held by any parish, mission, or other body of the Church was to be held and protected for the whole Church and could not be alienated from such use by dissident parishes.

In the period from 1973 to 1979 several parishes of the Church, not willing to be bound by the actions of General Convention, elected to withdraw from the Church and, in numerous instances, attempted to take their places of worship with them. These actions led to numerous lawsuits, brought at the diocesan level, seeking to prevent property of the Church from being used by those who had given public notice that they did not intend to practice the doctrine, discipline, and worship of this Church.

Theories developed over the years as the basis for asserting that dissident groups were entitled to secure for their use consecrated property of the Church were re-examined by the courts, and some judges indicated that they required assurance that property held by the Church had in fact been placed in trust for use by those who practiced the doctrine, discipline, and worship of the Church. See the exposition of Canon I.6.

At the Convention of 1979, the Committee on Canons reported favorably a canon stating the position of the Church that real and personal property held for the benefit of any parish, mission, or congregation of the Church is in fact held in trust for it.

In preparing that canon the committee noted the repeal in 1973 of the second half of Canon II.7.1.

While it was and is the view of canonists that the amendment of Canon I.6 clearly established the trust position of the Church with reference to property held by a parish, mission, or any other body, those moving for the amendment of Canon I.6 also proposed that the Convention readopt the latter portion of Canon II.7.1 which was repealed in 1973. This action was taken.

However, the Prayer Book Study indicates that the Standing Liturgical Commission, in proposing the repeal of Canon II.7.1, desired to make it possible to consecrate chapels, or to share with other denominations the consecration of chapels, at airports, national parks, office buildings, and other locations where land is leased, rented, or owned by others, or where the chapel itself may be privately owned and made accessible to the public.

The 1979 Amendment to Canon 7 is now inconsistent with the authority granted by the rubrics of the rite for the Dedication and Consecration of a Church which is part of the 1979 Prayer Book.

The authority granted in the Prayer Book would take precedence over the provisions added to Canon II.7 at the 1979 General Convention.

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for the Government of the
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Adopted in General Conventions
1789-1979

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FOREWORD



The detailed review of the changes in the Constitution and Canons of the Episcopal Church undertaken by the Rev. Canon Charles M. Guilbert and his daughter, Mrs. Elizabeth G. Jennings, was completed in 1981. This was followed by the work of the many persons who were asked to prepare summaries and expositions of the changes which had taken place since 1954, and particularly by the careful and detailed exposition of the Constitution of the Church written by Dr. Dawley.

All of the material necessary for the publication of the first Volume of the 1981 edition of White and Dykman was completed in early 1982, and the Committee decided to go forward with the printing, binding, and publication of that Volume.

In September of that year, at the 67th General Convention of the Episcopal Church, copies of Volume I were presented to the Presiding Bishop and to the President and Secretary of the House of Deputies.

It was expected that publication of the second volume of the revision would be completed early in 1983. However, due to unexpected obstacles, publication was delayed. The second volume required substantial expository revision and new contributions. Since all those who contributed were volunteers, whose work was as prized as their time was valuable, the editorial time frame and process under Howard E. Galley had to be expanded to accommodate these contributors.

Delays were also occasioned by reorganizations which took place within the Seabury Press and by its ultimate liquidation. Fortunately, through the support of the Presiding Bishop and the President and Secretary of the House of Deputies, publication of the second volume was undertaken by the Church's Executive Council.

The subcommittee charged with the publication of this revision of White and Dykman regrets the delays which occurred in the publication of this second volume. The committee is, however, gratified by the careful research and able draftsmanship which appears in these pages, and believes that the product is well worth the wait.

When the Chairman of the subcommittee became ill, the other

members of the committee, all veteran members of the House of Deputies, John D. Cochran, Mary Lou Crowley, and Robert C. Royce, provided the leadership and dedication essential to the continuance of the work. Support was always provided to the subcommittee by Chairman of the Standing Commission on Constitution and Canons, the Rt. Rev. Walter D. Dennis.

This 1981 edition of *White and Dykman* is due in large part to the enthusiastic interest in this work and the talents of the Rev. Canon Charles M. Guilbert and his daughter, Mrs. Elizabeth G. Jennings, of Howard E. Galley, Jr., an outstanding historian of the Church, and of the Rev. Canon Powel M. Dawley, Ph.D., D.D., Emeritus Professor of Ecclesiastical History of the General Theological Seminary. The details of their contributions are set forth in the Foreword to Volume I and need not be repeated here.

From the beginning of its work, the committee charged with this revision has had the encouragement of the Presiding Bishop and his staff, of Dr. Charles R. Lawrence, President of the House of Deputies, and of the Rev. Canon James R. Gundrum, Secretary of the House of Deputies and Executive Officer of the General Convention.

It is further acknowledged that if it had not been for the generous contributions of time and knowledge by the members of the Standing Commission on Constitution and Canons of the General Convention under the leadership of the Rt. Rev. Duncan M. Gray, Jr., through 1979, and of the Rt. Rev. Walter D. Dennis, Jr., during the past three years, the publication of these volumes could not have been completed.

As stated in Volume I, the production of this edition has been a team effort by the members of the Commission and other individuals—bishops, priests, deacons, and lay people—who provided the comments, written summaries, and expositions which appear in the revision. In the Foreword to Volume I, it was stated that the contributions of individuals who had participated in the work would be acknowledged in the second volume.

We here list with gratitude and appreciation the names of those who generously responded to our request for their assistance in the completion of this revision and whose names have not been previously listed. Every attempt has been made, through the careful searching of the minds and records of members of the committee, and of the files of the Seabury Press, to secure the names of all those who contributed to the publication of these volumes.

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White & Dykman Committee



CANONS
of the
Episcopal Church



NOTE

The early Conventions of the Church set forth canons numbered according to the particular Convention. Thus, there were Canons 1 through 17 of 1789, Canons 1 through 6 of 1792, and Canons 1 through 9 of 1795. The Convention of 1832 reduced the accumulation of canons (some of which simply repealed canons of earlier Conventions) to fifty-five serially numbered ones, and declared—in a fifty-sixth canon—that “all former Canons of this Convention, not included in these Canons, are hereby repealed” (*Journal*, 1832, p. 81).

The canons of subsequent Conventions, however, were again numbered by the year of their adoption, and printed as appendixes to the basic corpus of 1832.

The Convention of 1856 appointed a committee to prepare a “Digest of the Canons of the Church under appropriate Titles, Canons, and Sections,” which was adopted in 1859. Other major rearrangements in the order and numbering of the canons were made in 1904, 1943, and 1970.

The changes in the numbering of particular canons made at the time of these four rearrangements are listed immediately after the text of each canon. In the case of Title IV, the renumbering made in 1931 is also indicated. Lesser changes, made at other times, and occasioned by the adding or dropping of one or more canons, are noted in the history of the canon when needed for clarity.

Title III

MINISTRY



CANON 1. Of Diocesan Commissions on Ministry

To be set up in every Diocese. Sec. 1. In every Diocese there shall be a Commission on Ministry consisting of Clergy and Lay Persons. The number of members, terms of office, and manner of selection to the Commission on Ministry shall be determined by Diocesan Canons.

To adopt rules for its work. Sec. 2. The Commission on Ministry may adopt rules for its work, subject to the approval of the Bishop; *Provided*, the same are not inconsistent with the Canons of the General Convention and the Diocese. These rules may include the appointment of committees of the Commission (such as Selection, Examination, Interviewing, and Continuing Education) to act on its behalf; with ultimate responsibility remaining with the Commission as a whole to recommend the applicant for admission as a Postulant or Candidate and for ordination to the Diaconate and to the Priesthood.

May appoint Committees.

Duties. Sec. 3. The Commission on Ministry shall assist the Bishop in determining present and future needs for Ministry in the Diocese, and in matters pertaining to the enlistment and selection of persons for Ministry, and in the guidance of all Postulants and Candidates for Holy Orders.

If assigned examining role, to make report thereon. Sec. 4. In those cases where the conduct and evaluation of the examination of persons for Holy Orders is assigned to the Diocesan Commission on Ministry, the said Commission shall make the Report called for under Title III, Canon 7, Section 4.

To interview Candidates before ordination. Sec. 5. In the presence of the Bishop, and under his guidance and oversight, the Commission on Ministry shall interview each Candidate before his ordination to the Diaconate, and, at their discretion, before his ordination to the Priesthood, to ascertain his personal readiness for such ordination; and shall report in writing and without delay the findings of this interview to the Bishop and the Standing Committee.

Guidance, pastoral care, Deacons, etc. Sec. 6. The Commission on Ministry shall assist the Bishop in the guidance and pastoral care of Deacons, of Deaconesses, if there be such, and of Professional Church Workers.

Continuing education. Sec. 7. The Commission on Ministry shall assist the Bishop in matters pertaining to the continuing education of the Ministry.



This canon was Title III, Canon 1, when it was adopted in 1970.

Convention of 1970

The first provisions for diocesan commissions on ministry were enacted by this Convention as Title III, Canon 1, and reading as follows:

Sec. 1. In every Diocese or Missionary District there shall be a Commission on Ministry consisting of Clergymen and Lay Persons. The number of members, terms of office, and manner of selection to the Commission on Ministry shall be determined by Diocesan Canons.

Sec. 2. The Commission on Ministry may adopt rules for its work, subject to the approval of the Bishop *Provided*, the same are not inconsistent with the Canons of the General Convention and the Diocese. These rules may include the appointment of committees of the Commission to act on its behalf.

Sec. 3. The Commission on Ministry shall assist the Bishop in matters pertaining to the enlistment and selection of persons for Ministry and in the guidance and pastoral care of all Postulants and Candidates for Holy Orders.

Sec. 4. The Commission on Ministry shall assist the Bishop in the guidance and pastoral care of Deacons, Deaconesses, if there be such, and Professional Church Workers.

Sec. 5. The Commission on Ministry shall assist the Bishop in matters pertaining to the continuing education of the Ministry.

Sec. 6. In the presence of the Bishop, and under his guidance and oversight, the Commission on Ministry shall interview each Candidate before his ordination, alike to the Diaconate and the Priesthood, to ascertain his personal readiness for such ordination.

Sec. 7. The Commission on Ministry shall report in writing and without delay the findings of this interview to the Bishop and the Standing Committee or Council of Advice.

Sec. 8. In those cases where the conduct and evaluation of the examination of persons for Holy Orders is assigned to the Diocesan Commission on Ministry, the said Commission shall make the Report called for under Title III, Canon 7, and shall transmit a copy of said Report to the General Board of Examining Chaplains.

Convention of 1973

The canon was amended as follows:

In Section 1, the reference to missionary districts was deleted as no longer needed.

Section 2 was expanded to read as follows:

The Commission on Ministry may adopt rules for its work, subject to the approval of the Bishop; *Provided*, the same are not inconsistent with the Canons of the General Convention and the Diocese. These rules may include the appointment of committees of the Commission (such as Selection, Examination, Interviewing, and Continuing Education) to act on its behalf; with ultimate responsibility remaining with the Commission as a whole to certify the applicant for admission as a Candidate and for ordination to the Diaconate and to the Priesthood.

Section 3 was amended to read as at present, except that it contained no reference to postulants.

Section 4 was made Section 6 and amended to read as at present.

Section 5 was made Section 7 and was not amended.

Sections 6 and 7 were made Section 5 and amended to the present reading.

Section 8 was made Section 4 and amended to read as at present.

Convention of 1976

Sections 2 and 3 were amended by including a reference to postulants.

Convention of 1979

In Section 1, the word "Clergymen" was replaced by the word "Clergy."

Section 2 was amended by substituting the word "recommend" for the word "certify."

EXPOSITION OF CANON III.1

In 1970, the General Convention adopted Proposal II of the report of the Board for Theological Education, creating diocesan commissions on ministry. In explanation of its proposals, the board had stated:

What is at stake in the following pages is not the question of a few changes in a book most people refer to only rarely. What seems to us at stake are such things as the creation of diocesan structures fashioned to help the Bishop express ever more adequately his pastoral concern for all engaged in professional ministry; ... [and] the establishment of academic and pastoral examinations before ordination by especially gifted and sensitive examiners (*Journal*, p. 738).

In an accompanying "Comment" on the canon as proposed, the board noted:

Sec. 1 and 2: Arrangements are based upon local needs and are to be made by each Diocese according to its own rules.

Sec. 3: The Commission is to assist the Bishop in matters pertaining to pastoral guidance during enlistment and selection, and until ordination.

Sec. 4: Assistance in the guidance of Deacons, et al.

Sec. 5: Assistance in the guidance of all clergymen.

Sec. 6: With the Bishop, conduct final personal interviews before ordination.

Sec. 7: Recognition that legal authority to recommend for ordination rests with the Standing Committee.

In 1973, the Ministry Council, in its report to the Convention, affirmed that the duty of recommending candidates for Holy Orders remained a primary function of the standing committees. Among its recommendations were the following:

That the selection of Candidates be a joint operation involving the Bishop and Commission on Ministry.

That formal admission to Candidacy be the joint responsibility of the Standing Committee and the Bishop ... (*Journal*, p. 655).

In the Church of England, prior to the American Revolution, certain restrictions had evolved with regard to the bishop's right to ordain: e.g., age, physical or mental infirmity, availability of a cure, testimonials and learning (e.g., Richard Grey, D.D., *A System of Ecclesiastical Law*, McCabes, 1735, pp. 42-51). This heritage continues today in the Episcopal Church's similar canonical requirements, with the notable inclusion of recommendations required from the standing committee.

The creation of diocesan commissions on ministry in 1970 was not intended to create bodies empowered by Canon to exercise legal authority giving rise to a veto power over ordinations, but, rather, to create working bodies which would assist diocesans in the fulfillment of their office. To the extent that the recommendations of the commission on ministry to the bishop are persuasive, that body may have a *de facto* controlling effect on the progress of any aspirant to ordination. However, the General Convention has never granted to diocesan commissions

on ministry any legal authority to prohibit a candidate or deacon from seeking canonical recommendations from the standing committee, or to preclude a standing committee from issuing an affirmative recommendation to the bishop, or the bishop's proceeding to take order for ordination.

In 1979, the General Convention enacted a series of amendments intended to harmonize the language of the ordination canons. It deleted references to "certify" and "endorsement" and replaced those terms with "recommendation." These amendments were intended to signify clearly that the commission on ministry's role was advisory only, and that its recommendations, both positive and negative, were to be a part of the information available to the bishop as persons pass through the ordination process.

The ordination canons are applicable throughout this Church, and are to be uniformly applied. Requirements as to age, health, education, testimonials, learning, and minimum time frames are the same throughout. So, too, are the rights and duties of postulants, candidates, deacons, standing committees, boards of examining chaplains, and bishops under the same ordination canons. As ordination is to the Orders of the whole Church, with Orders intended to be recognized throughout the Anglican Communion, the regularity of deacons' and priests' Orders is of vital concern.

It is interesting to note that all of the ordination canons apply uniformly throughout this Church to all parties in interest, except for diocesan commissions on ministry. Canon III.1.1 leaves the establishment of such commissions to the several dioceses, while Canon III.1.2 permits each such commission to establish its own administrative and ministerial rules and patterns.

The General Convention intends that matters of recruitment, training, and authentication are to be considered on a local diocesan level. Compliance with the canons of ordination, however, and the regularity of its Orders is a fundamental concern of the whole Church, where adherence to general norms is mandatory. Clearly, the Convention sees the several diocesan commissions on ministry as local bodies assisting the bishop, and not as bodies corporate whose recommendations are fundamental canonical requirements for ordination.

Like most new developments, commissions on ministry have had their successes and failures, and reservations were expressed about them when they were first proposed in 1970. Many bishops find the assistance of commissions on ministry and the involvement of lay persons in the

process of recruitment, training, and authentication to be a helpful way of sharing responsibility, especially during a time when there are many applicants. The time and concern which many lay and ordained persons have spent in service on such commissions are impressive. On the other hand, critics have noted that the system often has an excessive number of judgmental points which applicants have to pass, where arbitrary and occasionally premature standards are set, and that the system often seems to reward conformity and persistence from applicants, rather than growth and authentication. A striking number of candidates have found their experience with commissions on ministry to be arbitrary and negative.

Since 1970, tensions have arisen from time to time between diocesan commissions on ministry and standing committees as they see their respective roles in the ordination process and each one's canonical authority. Regrettably, these tensions commonly arise out of a misunderstanding of the roles and relationships of these two bodies as intended by canon and The General Convention.

With respect to the ordination process, the work of the diocesan commission on ministry should be seen as the recruitment, authentication, training, evaluation, and recommendation to the Ordinary of those seeking ordination in the Episcopal Church. On the other hand, the role of the standing committee is that of the body corporate which passes on the fulfillment of the canonical requirements of this Church establishing the *bona fides* of the person's credentials, with the accompanying testimonial as to fitness by general reputation. The work of the two bodies is not at all identical, nor was it intended to be. Each has a separate role and function unto itself established by canon.

The participation of these bodies in the ordination process can be envisioned as a time line, starting with the diocesan commission on ministry, which essentially completes its work when the candidate is sustained in the examinations for theological learning. The standing committee participates briefly at the time of admission to candidacy, a role of canonical standing recognized throughout the Church. This function is, again, primarily the recognition of the fulfillment of certain canonical requirements, which is the role of the corporate body charged with canonical orthodoxy, but is not an expression of opinion on final qualifications for the ordained ministry.

After the candidate is sustained in theological learning, and only after all other canonical requirements have been met, does the standing committee again participate in the process (Canon III.10.3 and III.11.7), thus becoming more involved as credentials are presented, questions of

general reputation considered, and final recommendations to the Ordinary issued.

The recommendations of the diocesan commission on ministry prior to ordination (Canon III.1.5) are advisory recommendations to the bishop (as are all recommendations of diocesan commissions on ministry), and are not required in order for a standing committee to issue its recommendations under Canons III.10 and III.11.

As it is not the role of standing committees to recruit, train, and authenticate those aspiring to the ordained ministry, it is not the role of commissions on ministry to participate in the process of affirming compliance with the ordination canons and the general reputation of those to be ordained in the Church.



CANON 2. Of Postulants for Holy Orders

Gender of words. Sec. 1. This Canon shall be interpreted in its plain and literal sense, except that words of male gender shall also imply the female gender.

To consult with Pastor. Sec. 2(a). Every person desiring to be admitted a Postulant for Holy Orders is, in the first instance, to consult his immediate Pastor, or, if he have none, some Presbyter to whom he is personally known, setting before him the grounds of his desire for admission to the Ministry, together with such circumstances as may bear on his qualifications, or tend to affect his course of preparation.

To make desire known to Bishop. (b)(1). If, as the result of a careful inquiry into the physical, intellectual, moral, emotional, and spiritual qualifications of the applicant, he is counseled by the aforesaid Presbyter to persevere in his intentions, he shall make his desire known personally, if possible, or in writing to the Bishop in whose jurisdiction he has been canonically resident for the three months preceding.

May apply to other Bishop. (2). But, with the written consent of the said Bishop, and on the recommendation of at least one Presbyter of the said jurisdiction who is acquainted with the applicant, the latter may at once apply to some other bishop. He shall give to that Bishop the name of his Pastor, or, if he have none, of some other Presbyter in good standing, to whom he is personally known, from whom the Bishop shall ascertain, either by personal conference, or by direct report in

writing, his qualifications, as stated above, for the work of the Ministry.

Information to be given by applicant. (c). The applicant shall state to the Bishop in writing

- (1). His full name, date of birth, and marital status.
- (2). The length of time he has been resident in the Diocese.
- (3). When, and by whom, he was baptized.
- (4). When, and by whom, he was confirmed.
- (5). When, and where, he was admitted to the Holy Communion.
- (6). Whether he has ever before applied for admission as a Postulant for Holy Orders.
- (7). On what grounds he is moved to seek the Sacred Ministry.
- (8). The level of education which he has attained, with degrees earned, if any, and areas of specialization.

Conference with Bishop desirable. Examination required. (d). Before the admission of a Postulant, the Bishop shall whenever possible confer in person with the applicant, and shall require the applicant to submit to a thorough examination, covering both mental and physical condition, by professionals appointed by the Bishop. The forms for medical and psychiatric reports prepared by The Church Pension Fund shall be used for this purpose.

Reports to be kept on file. These reports shall be kept on file by the Bishop and shall be made available to the Commission on Ministry.

If satisfied, Bishop to send application to Commission. Applicant to meet with Commission or Committee. Sec. 3(a). If, on the basis of the application, and of a personal interview (if such was had), the Bishop is moved to proceed in the matter, he shall so notify the applicant and the Chairman of the Commission on Ministry. The said Commission, either as a whole, or by means of a Committee charged with the responsibility, shall meet with the applicant to review the application and to prepare a recommendation in respect of the applicant's qualifications to pursue a course of preparation for Holy Orders. This meeting may take place at an interdiocesan conference in the conduct of which the Diocesan Commission is represented.

Commission to make recommendation to Bishop. (b). The Commission on Ministry shall lay before the Bishop, with regard to each applicant, the aforesaid recommendation, together with reasons therefor.

Papers required. Sec. 4. The following papers shall be laid before the Bishop and Commission on Ministry, to wit:

The formal application specified in Section 2 of this Canon.

The recommendation of the Commission on Ministry, as provided in Section 3 above.

If the applicant is or has been a student in a theological school, a transcript of his academic record together with the school's evaluation of his personal qualifications for the Ministry of this Church.

Certificate from Minister and Vestry. A certificate from the Minister and Vestry of the Parish of _____ from which the applicant is a communicant, setting forth the grounds upon which they judge him to possess such qualifications as would fit him to be admitted a Postulant for Holy Orders, and whether their judgment is based on personal knowledge or on evidence satisfactory to them.

This certificate must be signed by both the Minister of the Parish to which the applicant belongs and by a majority of the whole Vestry, and must be attested by the Minister, or by the Clerk or Secretary of the Vestry, as follows, viz.:

I hereby certify that the foregoing certificate was signed at a meeting of the Vestry of _____ Parish, _____, duly convened at _____ on the _____ day of _____, _____ and that the names attached are those of all (or a majority of all) the members of the Vestry.

**(Signed) _____,
Clerk or Secretary of Vestry.**

If Parish has no Minister. But should the Parish be without a Minister, it shall suffice that in his place the certificate from the Vestry be signed by some Presbyter of the Diocese in good standing to whom the applicant is personally known, the reason for the substitution being stated in the attesting clause.

If no Parish at place of residence. Should there be no organized Parish at the place of residence of the applicant, or should it be impracticable, through circumstances not affecting his moral or religious character, to obtain the signatures of the Minister and Vestry, or of the Vestry, it may suffice if the certificate be signed by at least—

(1). One Presbyter of the Diocese in good standing to whom the applicant is personally known; and,

(2). Four Lay Persons, communicants of this Church in good standing, to whom the applicant is personally known.

Reasons to be stated for alternate procedure. In such case, the reasons for departing from the regular form must be given in the attesting clause, which shall be signed by the same, or some other, Presbyter of this Church in good standing, and shall be in the following words, viz.:

I hereby certify that the Lay Persons whose names are attached to the foregoing certificate are communicants of this Church in good standing, and that this form of certificate was used for no reasons affecting the moral or religious character of the applicant but because (here give the reasons for departing from the regular form).

(Signed) _____,
Presbyter of the Diocese of _____.

Bishop may admit as a Postulant. Sec. 5. When the aforesaid requirements have been complied with, the Bishop may admit the applicant as a Postulant for Holy Orders. He shall thereupon record his name, with the date of his admission, in a book to be kept for that purpose, and shall inform the Postulant, the Commission on Ministry, and the Dean of the Seminary he may be attending, or proposes to attend, of the fact and date of such admission.

Evidence of previous education. Sec. 6(a). The Postulant, before entering upon, or pursuing further, his course of theological studies, must lay before the Bishop and the Commission on Ministry satisfactory evidence that he is the holder of an accredited baccalaureate degree, or its equivalent, together with a full transcript of the academic work he has completed. If this work includes sufficient instruction in the subjects specified in clause (b) of this Section, and is otherwise deemed adequate and satisfactory, no examination shall be required.

Non-graduate under age 32 to be examined. (b). If the Postulant is not a graduate as aforesaid, and has not attained the age of 32 years, he may be required to obtain an accredited baccalaureate degree; if not, he shall be required to pass an examination, to be administered by the Commission on Ministry, or otherwise satisfy them that his knowledge is sufficient in the following subjects:

- (1). English or the language (including grammar and composition) and
- (2). Literature of the country in which he expects to exercise his Ministry;
- (3). History;
- (4). One of the following subjects:
 - (a). Mathematics,
 - (b). A Natural Science,
 - (c). Philosophy,
 - (d). A Social Science.

Dispensation for non-graduate above age 32. (c). If the Postulant is not a graduate as aforesaid, and has attained the age of 32 years, and has shown such proficiency in his occupation or profession as gives promise of usefulness in the Ministry, he shall be examined in the subjects listed in Sec. 6(b) above, or otherwise satisfy the Commission on Ministry that his knowledge in these fields is generally satisfactory.

Dispensation for non-graduates of other language or distinctive culture. (d). If the native language of the Postulant is other than English, and he is to exercise his Ministry among peoples of his own language, or if he is of a distinctive or foreign culture, the Bishop may, on the recommendation of the Commission on Ministry, dispense him from the academic requirements of Sec. 6(b) above, precedent to his being admitted to Postulancy.

Certificate from applicants changing Diocese. (e). Should a Postulant who has been examined in any of the subjects prescribed in Sec. 6(b) above afterwards apply for admission as Postulant in any other Diocese, he shall lay before the Bishop of such Diocese a certificate from the Bishop who admitted him as a Postulant stating what examinations he has taken and the result of each.

Evidence in lieu of examination. The Commission on Ministry may accept, in lieu of examination, satisfactory evidence that the Postulant has fulfilled the requirements in any one or more of the subjects specified.

Intellectual ability must be satisfactory. (f). In every case the applicant must satisfy the Bishop and the Commission on Ministry that he possesses the intellectual ability and competence to enable him to pursue a course of study preparatory to the work of the Ministry.

Commission reports to Bishop. Sec. 7. The Commission on Ministry shall report to the Bishop in writing whether the above requirements have been met.



The canon “Of Postulants” was Title I, Canon 2, when it was adopted in 1892. It became Canon 1 in 1904, Canon 25 in 1943, and Title III, Canon 2, in 1970.

The early canons of the General Convention made no provision for the status of postulant. Candidacy was the first canonical stage.

Prior to admission as a candidate, the “applicant” was to notify the bishop of his intention. His relationship was to be a personal one with his bishop, who would guide him in his preparatory studies. In due time, the applicant would lay his application before the standing committee and ask to be recommended for candidacy, after which he would embark on his theological studies.

Since the Church had no seminaries, these studies were undertaken individually, usually under the tutelage of a parish priest of the diocese, the material to be covered being a “Course of Ecclesiastical Studies” set forth by the House of Bishops in 1804. By 1832, however, seminaries had been established, and most candidates were being prepared in them.

The stage of postulancy was first introduced in a canon adopted in 1892. In the years that followed, many of the former provisions relating to candidates were transferred to, or duplicated in, the canon on postulants. It is this fact that accounts for the references to candidates in many of the sections that follow.

SECTION 1

This section provides that the canon shall be so construed as to make its provisions equally applicable to both men and women.

Convention of 1970

This Convention enacted a new Canon III.26, “Of Women in the Diaconate,” the first two sections of which read as follows:

Sec. 1. A woman of devout character and proved fitness may be ordered Deacon by any Bishop of the Church, subject to the provisions of this Canon.

Sec. 2. She shall fulfill all that is required of Postulants and Candidates for Holy Orders in these Canons.

Sections 3 through 6 of the canon required compliance with other canonical norms. Section 7 referred to pensions.

Convention of 1973

The present Section 1 was adopted by this Convention to bring the canon into conformity with the said Canon III.26.

Convention of 1979

Consequent upon the adoption of Section 1 of Canon III.9 in 1976, and of Section 2 of Canon V.2 in 1979, Canon III.26 was repealed as no longer needed, except for Section 7, which was made part of Canon I.7.

Section 1 of the canon under consideration, though also no longer needed, was allowed to stand.

SECTION 2

Convention of 1795

The first legislation of General Convention on the subject of candidates for ordination was Canon 6 of this year, which read as follows:

Every candidate for the ministry shall give notice of his intention to the bishop, or to such body as the Church in the State in which the candidate resides, may have appointed to superintend the instruction of candidates for Holy Orders, at least one year before his ordination. And if there be a bishop within the State or district where the candidate resides, he shall apply to no other bishop for ordination, without the permission of the former. And the said candidate shall pass through the preparatory exercises which the bishop, or such body aforesaid, may appoint: such as composing of theses, homilies or sermons, one or more, to be delivered either publicly or privately, in his or their presence, at such time or times as may be appointed by the authority aforesaid.—And this Canon shall be in force from and after the first day of January next.

This canon was enacted because of a case which occurred but a short time before the Convention met.

At a very early period, a church had been established in what was known as the Narragansett country in Rhode Island. Soon after the consecration of Bishop Seabury, the clergy and lay deputies from the churches in Providence, Newport, and Bristol met in Newport, and adopted a resolution declaring Bishop Seabury to be the bishop of the church in Rhode Island. The church in the Narragansett country, for some reason, decided to unite with the church in Massachusetts and, in 1793, Bishop Provoost of New York, at the request of the church in Massachusetts, ordained a clergyman for the Narragansett church.

This produced great dissatisfaction in Rhode Island, and at the next diocesan convention of the church in that state, the action of Massachusetts, and of Bishop Provoost, was severely condemned. Bishop White

tells us that for a time there was danger of alienation between Bishop Seabury and Bishop Provoost (*Memoirs*, 2nd ed., p. 171).

This danger was avoided, however, and the Narragansett church came into union with the church in Rhode Island. This canon was enacted to prevent future occurrences of a similar nature, at the suggestion of Bishop Provoost.

Convention of 1804

An addition to this canon was enacted by the Convention of 1804, as follows:

Every candidate for Holy Orders, who may be recommended by a standing committee of any Church destitute of a bishop, if he have resided for the greater part of the three years last past within the diocese of any bishop, shall apply to such bishop for ordination. And such candidate shall produce the usual testimonials, as well from the committee of the diocese in which he has resided, as from the committee of the Church in the state for which he is to be ordained.

The purpose of this addition to the canon would seem to have been to produce uniformity of procedure for the candidates of every diocese, irrespective of whether they had bishops or not.

Convention of 1808

In the revision of the canons by this Convention, this canon was made Canon 7, and amended to read as follows:

Every person who wishes to become a candidate for orders in this Church, shall give notice of his intention to the bishop, or to such body as the Church in the diocese or State in which he intends to apply for orders may appoint, at least one year before his ordination.

Convention of 1823

This first paragraph of Canon 7 of the Canons of 1808 was amended to read as follows:

Every person who desires to become a candidate for orders in this Church, shall obtain admission from the bishop, or such body as the Church in the diocese or State in which he intends to apply may appoint, at least one year before his ordination.

The former canon required one year's previous notice of intention to become a candidate before ordination. This amended paragraph required one year's previous admission as a candidate by the bishop before ordination.

Bishop White in his *Memoirs* (p. 44, 2nd ed.) gives the reason for its enactment. He says: "This Canon was intended for any case of insufficiency of a candidate, in classical and scientific literature; and

with the view of arresting him at an early period of his intended devotion to the ministry; and to prevent disappointment, after considerable time spent in theological study.”

Convention of 1826

The Canon of 1823 on this subject, and the first paragraph of Canon 7, of the Canons of 1808, were repealed by this Convention and a new canon enacted in place thereof, reading, in part, as follows:

Every person who desires to become a candidate for orders in this Church, shall, in the first instance, give notice of his intention to the bishop, or, if there be no bishop, to such body as the Church in the diocese or State in which he intends to apply, may appoint.

Convention of 1832

In the revision of the Digest of Canons by this Convention, the substance of the former canons, which we have been considering, was embodied in the Canon 9 of 1832, the first section of which read as follows:

Every person who desires to become a candidate for orders in this Church, shall, in the first instance, give notice of his intention to the Bishop, or if there be no Bishop, to such body as the Church in the Diocese in which he intends to apply may appoint or where no appointment is made, to the President of the Standing Committee.

The only change made in the canon was the provision, that where there was no bishop, and nobody appointed by the church in the diocese to which he may apply, then he might make his application to the president of the standing committee.

The Convention of 1838 repealed Canon 9 of the Canons of 1832, and enacted Canon 4 of that year in its place, but no change was made in the first section.

Convention of 1841

This Convention repealed Canon 4 of the Canons of 1838, and enacted a new canon, Canon 9, in its place, the first section being the only section relating to candidates, and which read, in part, as follows:

Every person who desires to become a Candidate for Orders in this Church, shall, in the first instance, give notice of his intention to the Bishop of the Diocese in which he intends to apply, or, if there be no Bishop, to the Standing Committee; in which notice he shall declare whether he has ever applied for admission as a Candidate in any other Diocese.

While this canon was repealed by the Convention of 1847, and a new canon, Canon 6 of that year, enacted in its place, no change was made in the first section thereof. This canon was repealed by the Convention

of 1853 and a new canon, Canon 7, enacted in its place, but again no change was made in the first section.

Convention of 1856

The General Convention seems to have had much difficulty in framing a canon relating to candidates for orders that was satisfactory. The Convention of 1856 repealed the Canon of 1853 and enacted a new canon, Canon 3 of that year, in its place. The first section thereof was as follows:

All persons seeking admission to the Ministry of this Church, are to be regarded as Candidates for Holy Orders.

The second section remained the same as Section 1 of the former canon.

In the revision of the canons by the Convention of 1859, this canon was made Title I, Canon 2. The first two sections of this canon remained without change.

Convention of 1871

This Convention made a complete revision of the canons of ordination. Canon 2, "Of the Admission of Persons as Candidates for Holy Orders," was amended to read, in part, as follows:

Sec. 1. All persons seeking admission to the Ministry of this Church are to be regarded as Candidates for Holy Orders, or as Postulants for admission to Candidateship.

Sec. 2. (i) Every person desiring to be admitted Candidate for Holy Orders is, in the first instance, to consult his immediate Spiritual Pastor or Rector, setting before him, freely and fully, the grounds of his desire for admission to the Ministry, together with such circumstances in his personal constitution, relations, and position, as may bear on his qualifications, or tend to affect his course of preparation.

(ii) If counselled to persevere in his intention, such person shall then, with letter of approval and introduction from the Pastor or Rector, personally, if possible, or by letter, give notice of his intention to the Bishop of the Diocese, stating whether he has ever applied for admission as a Candidate in any other Diocese; (2) whether he is prepared at once to apply for recommendation to be admitted Candidate; (3) or, if not so prepared, where he proposes to prosecute preparatory studies, and whether he expects or desires aid in such studies while a Postulant; and, (4) the time and place of his Baptism, Confirmation, and first Communion: *Provided*, however, that nothing herein contained shall prevent the Bishop, for reasons satisfactory to himself, from receiving such application and notice, without such letter of approval and introduction, if the same, when applied for, be not given by such Pastor or Rector.

(iii) Such notice must be given to the Bishop of the Diocese in which the person is actually resident, and can be received by none other.

(iv) A Bishop may, at his discretion, permit the transfer of such application to the Bishop of another Diocese, for reasons seeming to him to justify such transfer.

Clause (v) forbade a bishop to accept a person who had been refused admission in another diocese, and will be considered under another canon.

(vi) A Standing Committee, acting under canonical provision as the Ecclesiastical Authority of a Diocese, in vacancy, or for other causes, shall be competent to receive and do all assigned to the Bishop in the foregoing clauses.

The remaining sections of this canon referred to the application of the postulant to be admitted as a candidate for Holy Orders.

The term postulant is here used for the first time to describe a person seeking admission to the ministry before being admitted as a candidate.

The former canons provided that the postulant should make known his intention first to the bishop of the diocese. This canon provided, most properly, that his intention should first be made known to his rector, and then to the bishop. Certain requirements were prescribed in making known his intention to his rector, and also in his notice to his bishop.

A standing committee, acting as the ecclesiastical authority of a diocese was, for the first time, authorized to receive and do all assigned to a bishop in the matter of receiving postulants.

Convention of 1892

This Convention made a complete revision of the canons of ordination, and amended Canon 2 by making it refer to postulants only, with the title "Of Postulants," and reading, in part, as follows.

Sec. 1. (i) Every person desiring to be admitted a Candidate for Holy Orders is, in the first instance, to consult his immediate Pastor, or if he have none, some Presbyter to whom he is personally known, setting before him the grounds of his desire for admission to the Ministry, together with such circumstances as may bear upon his qualifications, or tend to affect his course of preparation.

(ii) If counselled to persevere in his intention, such person shall then, with letter of approval and introduction from such Presbyter, which letter shall furnish to the Bishop precise and specific information as to his antecedents, training, physical, moral and intellectual fitness to be received as a Postulant for the Holy Ministry, give notice of such intention to the Bishop of the Diocese or Missionary Jurisdiction to which he belongs.

(iii) The Bishop may, in a case where it is impossible to obtain such testimony, dispense with the provisions of this Section, and receive the application directly.

Sec. 2. In his written application to the Bishop, the applicant shall state:

(a) The dates of his birth, baptism, confirmation, and first communion.

(b) Whether he has ever before applied for admission as a Postulant or Candidate for Holy Orders.

(c) Whether he is prepared forthwith to make application to be received as a Candidate.

Sec. 5. A Standing Committee, acting as the Ecclesiastical Authority of a Diocese or Missionary Jurisdiction, shall be competent to receive and act upon applications under this Canon from persons desiring to be received as Postulants.

The changes made by the amended canon were as follows:

If the postulant had no immediate pastor, he was to consult some presbyter to whom he was personally known.

In his written application to the bishop, the postulant must state certain specified things.

Convention of 1904

In the revision of the Digest of Canons by the Convention of 1904, the canon "Of Postulants" was made Canon 1.

Section 1 (i) remained without amendment.

Clauses (ii) and (iii) of the section were amended to read as follows:

(ii) If counselled to persevere in his intention, he shall make his desire known personally, if possible, or in writing, to the Bishop in whose jurisdiction he has been resident for the three months preceding. He shall give to the Bishop the name of his Pastor, or, if he have none, of some other Presbyter in good standing from whom the Bishop may ascertain his qualifications, physical, mental, moral and spiritual, for the work of the ministry.

(iii) He shall state to the Bishop, in writing:

- (a) His full name and age.
- (b) The length of time he has been resident in the Diocese or Missionary District.
- (c) When, and by whom, he was baptized.
- (d) When, and by whom, he was confirmed.
- (e) When, and where, he was admitted to the Holy Communion.
- (f) Whether he has ever before applied for admission as a Postulant or as a Candidate for Holy Orders.
- (g) On what grounds he is moved to seek the Sacred Ministry.

Former clause (iii), providing for a dispensation from the provisions of the canon under certain circumstances, was repealed.

Former Section 5 was made Section 4, and amended by striking out the words "or Missionary Jurisdiction."

Convention of 1916

Canon 1, Section 1 (ii) was amended by this Convention by inserting, after the first sentence thereof, the following:

But with the written consent of the said Bishop, and on the recommendation of at least one Presbyter of the said jurisdiction who is acquainted with the applicant, the latter may at once apply to some other Bishop.

This was a restoration of a provision formerly contained in the canons, allowing an applicant seeking to be admitted as a postulant, to apply, with the consent of his bishop, to some other bishop to be so admitted.

Convention of 1919

Clause (ii) was expanded to read as follows:

If, as the result of a thorough inquiry into the physical, mental, moral and spiritual qualifications of the applicant, he is counselled by the aforesaid Presbyter to persevere in his intentions, he shall make his desire known personally, if possible, or in writing, to the Bishop in whose jurisdiction he has been canonically resident for the three months preceding. But with the written consent of the said Bishop, and on the recommendation of at least one Presbyter of the said jurisdiction who is acquainted with the applicant, the latter may at once apply to some other Bishop. He shall give to the Bishop the name of his Pastor, or, if he have none, of some other Presbyter in good standing, to whom he is personally known, from whom the Bishop may ascertain, either by personal conference, or by direct report in writing, his qualifications, as stated above, for the work of the ministry.

Before the admission of a Postulant the Bishop shall require the applicant to submit to a thorough examination by a physician appointed by the Bishop and the Standing Committee or Council of Advice. This examination shall cover the man's mental and nervous as well as his physical condition; and a record of the report thereon shall be kept on file by the Bishop, and shall be open to the inspection of the Standing Committee, or Council of Advice, when application is made for its recommendation of the man to be received as a Candidate.

The second paragraph, requiring a physician's report, was new.

Convention of 1922

This Convention amended Section 1 (ii) by striking out the words "and the Standing Committee or Council of Advice."

It was found that the requirement that the examining physician be appointed by the joint action of the bishop and the standing committee often worked a hardship upon applicants who lived at a distance from the see city, and, as there did not seem to be any good reason why the appointment of the examining physician should not be left entirely in the hands of the bishop, the canon was amended by striking out the words requiring the consent of the standing committee to such appointment.

Convention of 1937

The second paragraph of clause (ii) of the section was amended to read as follows:

Before the admission of a Postulant the Bishop shall, whenever possible, confer in person with the applicant, and shall require the applicant to submit to a thorough examination by a physician appointed by the Bishop. This examination shall cover the man's mental and nervous as well as his physical condition. The form of medical report prepared by the Church Pension Fund shall be used for this purpose.

A record of the report thereon shall be kept on file by the Bishop and shall be submitted to the Standing Committee, or Council of Advice, when application is made by the Postulant to become a Candidate.

Convention of 1940

Section 1 (ii) was amended by substituting "Church Life Insurance Corporation" for "Church Pension Fund" in the second paragraph, and substituting "to be recommended for admission as a Candidate" for "to become a Candidate" in the third paragraph.

Section 1 (iii) was amended by substituting the words "the applicant" for the word "he" in the first line.

Convention of 1943

In the rearrangement of canons, this one became Canon 25 and, in Section 1 (b), "Church Life Insurance Corporation" was changed back to "Church Pension Fund."

Convention of 1952

Section 1 (b) of the canon, now Canon 26, was amended by adding the following words at the end of the second paragraph:

The Bishop may require from the Postulant's Rector and Vestry a certificate in the following words, viz.:

To the Right Reverend _____, Bishop of _____.

We, whose names are hereunder written, testify to our belief (based on personal knowledge or on evidence satisfactory to us) that A. B. is sober, honest and godly, and that he is a communicant of this Church in good standing. We do furthermore declare that, in our opinion, he possesses such qualifications as fit him to be admitted a Postulant for Holy Orders.

(Signed)

Whenever such a recommendation is required a copy shall be filed with the Standing Committee of the Diocese or Council of Advice of the Missionary District.

The third paragraph was amended to begin: "A record of the medical report shall be kept on file."

Convention of 1964

Section 1 (b) was amended by substituting the word “applicant” for “postulant.”

Convention of 1970

The canon was renumbered as Canon III.2.

Section 1(a) was amended to read as the present 2(a).

The first paragraph of clause (b) was amended to read as at present, except that it continued to refer to a “thorough” inquiry.

The second paragraph of the clause was amended by removing the words added in 1952 and making them a separate clause (c).

The said clause (c) was amended by changing the words “Postulant’s Rector” to “applicant’s Rector,” by omitting the words in parentheses in the form of the certificate, and by requiring that a copy of the recommendation also be filed with the commission on ministry.

Former clause (c) was made clause (d), and item (1) thereof was amended to read as the present (c) (1).

Convention of 1973

Acting on a recommendation that the status of postulant be abolished, this Convention repealed the canon in its entirety. The substance of the section under consideration was reenacted as part of a new Canon III.2, “Of Candidates for Holy Orders.”

Convention of 1976

Canon III.2 was again made a canon “Of Postulants.” Former Section 1 was made Section 2 and was amended to read as at present. The reference to a certificate, it will be noted, is no longer included in this section. The former second paragraph of clause (b) now appears as clause (d).

Section 4 of 1904, which allowed a standing committee to receive and act upon applications, which had also been repealed in 1973, was not restored.

SECTION 3

Convention of 1976

The provisions of this section, requiring a recommendation from the commission on ministry, were adopted in 1973 as Section 4 of a new canon “Of Candidates.” In 1976 they were slightly amended and made applicable to postulants.

SECTION 4

This section is concerned with the papers to be laid before the bishop and commission on ministry.

Convention of 1871

The first provision for testimonials distinct from those required prior to ordination was in Title I, Canon 2, of this Convention, Section 3 of which read, in part, as follows:

(i) The postulant for admission to Candidateship may at any time, after application to the Bishop duly made, apply to the Standing Committee of the Diocese for recommendation to the Bishop for admission as a Candidate.

(ii) In order thereto he shall, with his application, lay before the Committee *testimonials*, in the following words:

We, whose names are hereunder written, testify, from our personal knowledge and belief, that A.B. is pious, sober, and honest; that he is attached to the doctrine, discipline, and worship of the Protestant Episcopal Church, and that he is a Communicant of the said Church in good standing; and do furthermore declare that, in our opinion, he possesses such qualifications as fit him for entrance on a course of preparation for the Holy Ministry.

(iii) Such testimonials shall be signed either by the Rector and a majority of the Vestry of the Parish or Congregation to which the Postulant may belong, said Vestry being duly convened, and this fact being explicitly stated on the face of the testimonials, or in circumstances, justifying such alternative, by at least one Presbyter and four respectable Laymen, Communicants of the Protestant Episcopal Church.

(iv) The Standing Committee shall be the sole judge of the propriety of receiving testimonials signed by others than a Rector and Vestry.

Convention of 1892

Title I, Canon 2, Section 3, of 1871 was made Title I, Canon 3, Sections 3, 4, and 5, and was amended to read as follows:

Sec. 3. A Postulant, having been duly received, may thereafter apply to the Standing Committee for a recommendation to the Bishop for admission as a Candidate for Holy Orders; and he shall then lay before the Standing Committee the following papers, viz.:

- (a) An application signed by himself.
- (b) The Bishop's approval, in writing, of his desire to become a Candidate.
- (c) A certificate in the following words:
(This certificate is practically the same as in the former Canon.)

This certificate must be signed by the Minister of the Parish to which the applicant belongs, and by a majority of the whole Vestry, and be attested by the Minister, or by the Secretary of the Vestry, as follows:

I hereby certify that the foregoing certificate was signed at a meeting of the Vestry of _____ Parish, duly convened at _____ on the _____ day of _____ and that the names attached are those of all (or a majority of all) the members of the Vestry.

(Signed)

Minister or Secretary.

Sec. 4. But should the Parish be without a Minister, it shall suffice that in his place the certificate be signed by some Presbyter of the Diocese or Missionary Jurisdiction in good standing, the reason for the substitution being stated in the attesting clause.

Sec. 5. (i) Should there be no organized Parish at the place of residence of the applicant, or should it be impracticable, through circumstances not affecting his moral or religious character, to obtain the signatures of the Minister and Vestry, it may suffice if the certificate be signed by at least

- (a) One Presbyter of the Diocese or Missionary Jurisdiction, in good standing; and
- (b) Four Laymen, communicants of this Church, in good standing.

(ii) In such case, the reasons for departing from the regular form must be given in the attesting clause, which shall be signed by the same, or some other Presbyter of this Church, in good standing, and shall be in the following words, viz.:

I hereby certify that the Laymen whose names are attached to the foregoing certificate are communicants of this Church in good standing, and that the reasons for departing from the regular form are (here give the reasons).

(Signed).

Presbyter of the Diocese or
Missionary Jurisdiction of

Convention of 1904

The canon was again made Canon 2. Section 3 was made Section 1 and amended to read as follows:

A Postulant, having been duly received, may apply to the Standing Committee of the Diocese or the Council of Advice of the Missionary District, in which he is a Postulant, for recommendation to the Bishop to be admitted as a Candidate for Holy Orders, and shall submit the following papers, viz.:

- (a) An application signed by himself.
- (b) The Bishop's certificate of his admission as a Postulant.
- (c) A certificate in the following words:

To the Standing Committee of _____.

Place _____.

Date _____.

We, whose names are hereunder written, testify to our belief (based on personal knowledge or on evidence satisfactory to us) that A.B. is sober, honest, and godly; and that he is a communicant of this Church in good standing. We do furthermore declare that, in our opinion, he possesses such qualifications as fit him to be admitted a Candidate for Holy Orders.

(Signed)

This certificate must be signed by the Minister of the Parish to which the Postulant belongs and by a majority of the whole vestry, and must be attested by the Minister, or by the Clerk or Secretary of the Vestry, as follows, viz.:

I hereby certify that the foregoing certificate was signed at a meeting of the Vestry of _____ Parish, duly convened at _____ on the _____ day of _____ and that the names attached are those of all (or a majority of all) the members of the Vestry. (Signed)

The Minister of _____ or Clerk or Secretary of Vestry.

Former Section 4 was made Section 2, and was amended by substituting the word "District" for "Jurisdiction."

Former Section 5 was made Section 3. The form of the certificate was amended to read as follows:

I hereby certify, that the laymen whose names are attached to the foregoing certificate are communicants of this Church in good standing, and that this form of certificate was used for no reasons affecting the moral or religious character of the candidate, but because (here give the reasons for departing from the regular form).

Convention of 1919

The canon was amended by adding the words "to whom the Postulant is personally known" after the words "in good standing" in Section 2 and at the end of (a) and (b) in Section 3.

Convention of 1934

A new Section 1 (c) was added, reading as follows:

A certificate from the Theological Seminary where he is studying, or from the clergyman under whose direction he is pursuing his studies, showing that he has completed one year's work satisfactorily and is otherwise qualified to serve in the ministry of this Church.

Former item (c) was relettered as (d).

Convention of 1940

Section 1 (c) was amended to read as follows:

A certificate from the Theological Seminary where he is studying, or from the clergyman under whose direction he is pursuing his studies, showing his scholastic record and personal qualifications for the Ministry as revealed by one year's work.

The canon was renumbered Canon 26 in 1943 and Canon 27 in 1946.

Convention of 1970

The canon was renumbered Title III, Canon 3.

In order to make it possible for women to sign the required testimonial, the two occurrences of the word "Laymen" in Section 3 were changed to "Lay person."

Convention of 1973

Canon III.2, which had been the canon “Of Postulants,” was made a canon “Of Candidates,” and a number of the provisions of former Canon III.3 were transferred to it.

The three sections under consideration were combined into new Section 5 (a), which read as at present with the following exceptions:

The opening words of the section were as follows:

The following papers shall be laid before the Standing Committee, to wit:

The certificate, as previously, was intended for a person to be admitted as a “Candidate for Holy Orders.”

Clause (b) of the section was new and read as follows:

The Standing Committee may require that the applicant appear before it, in order that the members thereof may have a personal acquaintance with him.

Convention of 1976

Canon III.2 was again made a canon “Of Postulants,” and this section, amended to read as at present, became Section 4 thereof.

Clause (b), added in 1973, was stricken.

SECTION 5

This section provides what the action of the bishop shall be after the preliminary requirements have been satisfied. The early legislation is concerned with the acceptance of candidates.

Convention of 1808

The first canonical legislation on this subject was contained in the seventh canon of 1808, which simply provided, after referring to the certificate of the standing committee, “The Bishop may then admit the person as a candidate for orders.”

Convention of 1832

In the revision of the canons by the Convention of 1832, Canon 9, Section 6, refers to the matter in the following words:

The requisition of this Canon being fulfilled, the Bishop may admit the person as a candidate for orders, and shall record the same in a book to be kept for that purpose, and notify the candidate of such record. And in any Diocese where there is no Bishop, the Standing Committee may, on the same conditions admit the person as a candidate, and shall make record and notification in the same manner.

Convention of 1871

No change was made in this provision until the revision of the canons of ordination by the Convention of 1871, when Canon 9, Section 6, became Canon 2, Section 4 (i), (iv), and (v), as follows:

(i) Upon receipt of a certificate from the Standing Committee, recommending a Postulant for admission to Candidateship, the Bishop shall require such Postulant to make signification of his intention, whether it be to become a Candidate for the office and ministration of a *Deacon only*, or to be a Candidate for *the Priesthood also*.

(iv) On satisfactory evidence of a degree in arts, or report of satisfaction by examiners, the Bishop may, after personal conference with the Postulant, admit him to be a *Candidate for Priest's Orders*, and shall thereupon record his name, with the date of admission, and such other particulars as may be deemed expedient, in a book to be kept for that purpose, and forthwith give the Candidate written notice of such record.

(v) Such admission and notification of a Candidate for Priesthood is his sufficient admission as *Candidate for the Diaconate*, from the date of such admission and record.

Section 5 (ii), (iii), and (iv) of the same canon read as follows:

(ii) The Bishop, on receipt of such certificates, may admit a Postulant recommended by the Standing Committee as a *Candidate for Deacon's Orders*, and shall thereupon record his name, with the date of admission, and the names of the Presbyters signing such Certificate, in a book to be kept for that purpose, and notify the Candidate of such record.

(iii) A Candidate for Deacon's Orders may become a *Candidate for Priest's Orders* by signifying to the Bishop his desire to be admitted such *Candidate*, complying with the provisions of Section 4 of this Canon, and obtaining from the Bishop admission and entry in the proper record. His Candidateship shall then date from the time of such admission and entry, as notified by the Bishop.

(iv) A Deacon may be admitted Candidate for Priest's Orders in the same manner.

It would seem, from the language of this canon, that it was desired at the time to revive the permanent diaconate, and hence provision was made for different examinations and different testimonials for those seeking to study for the priesthood, and those for the diaconate only.

Strenuous objection was made in the Convention of 1871 to this proposal. In the debate on the question, it was asserted that it was a Congregational idea, and that it was incongruous with the Church's idea of a deacon. While the proposal carried in the Convention, it evidently did not commend itself to the mind of the Church, after experience, as it was abandoned in the revision of the canons in 1904.

Convention of 1892

This Convention amended Sections 4 and 5 of Canon 2 by combining the provision thereof into one, section, making it Section 9 (i) of Canon 3, and reading as follows:

The Bishop, on the receipt of the testimonial of the Standing Committee, in either case may proceed to admit the applicant as a Candidate for Holy Orders; he shall thereupon record his name, with the date of his admission, in a book to be kept by the Bishop for that purpose, and shall notify the Candidate and the Secretary of the Standing Committee that he has been admitted as a Candidate for Deacon's Orders only or for the Priesthood, and the date of his admission.

This Convention also adopted the first canon "Of Postulants" as Canon 2. Section 3 read as follows:

Should the Bishop approve of the application he shall enter the name of the applicant upon the list of Postulants, in a book to be kept for that purpose, and shall inform him of the fact and date of such entry.

Convention of 1904

Canon 2, Section 3 was made Canon 1, Section 2 and was amended to read as follows:

The Bishop, in a book to be kept for that purpose, shall enter the name of each applicant, with the fact of his approval or disapproval of the application, and the date of such entry. If he approves of the application, he shall inform the applicant of the fact, and of the date of his admission as Postulant.

Canon 3, Section 9 (i) was made Canon 3, Section 7, and amended to read as follows:

When the aforesaid requirements have been complied with, the Bishop may admit the Postulant as a Candidate for Holy Orders. He shall thereupon record his name, with the date of his admission, in a book to be kept for that purpose, and shall inform the Candidate and the Secretary of the Standing Committee of the fact and date of such admission.

Convention of 1910

This Convention amended Canon 1, Section 2, by the addition of the following clause:

(ii) Similar records shall be made and information given of the removal of a name from the list of Postulants. Without further reason, the Bishop may remove the name of a Postulant who fails to be admitted as a Candidate for Holy Orders within four years from the date of his reception as a Postulant.

Convention of 1964

Clause (b) [formerly clause (ii)] of Section 2 of Canon 1, now Canon 26, was amended to read as follows:

The Bishop may at any time remove a name from the list of Postulants, if he is convinced, after investigation, that there exists a valid reason why the Postulant should not, within a reasonable time, be admitted as a Candidate for Holy Orders. Without further reason, the Bishop may remove the name of a Postulant who fails to be admitted as a Candidate within four years from the date of his reception as a Postulant. Whenever

er a name is removed from the list of Postulants, notice of such action and its date shall be given promptly to the former Postulant.

Convention of 1970

Canon 26 was renumbered as Title III, Canon 2.

Clause (a) of Section 2 was amended to read as follows:

The Bishop, in a book to be kept for that purpose, shall enter the name of each applicant, with the fact of his approval or disapproval of the application and the date of such entry. If he approve of the application, he shall inform the applicant of the fact, and of the date of his admission as a Postulant. The Bishop shall inform the Standing Committee and the Commission on Ministry of the Diocese or Missionary District (see Canon III.1) of the admission of all Postulants.

The last sentence of clause (b) of the same section was amended to read:

Whenever a name is removed from the list of Postulants, explanation and notice of such action and its date shall be given promptly to the former Postulant and to the Commission on Ministry.

Section 7 of Canon 2 of 1904, now Canon III.3, was amended to read as follows:

Sec. 5. When the aforesaid requirements have been complied with, the Bishop may admit the Postulant as a Candidate for Holy Orders. He shall thereupon record his name, with the date of his admission, in a book to be kept for that purpose, and shall inform the Candidate, the Secretary of the Standing Committee, the Commission on Ministry, and the Dean of the Seminary he is attending, of the fact and date of such admission.

Convention of 1973

This Convention, as has been stated, repealed Canons 2 and 3 of Title III, and enacted a new Canon III.2, "Of Candidates."

Section 5 of former Canon III. 3 was reenacted as Section 7 of the new canon, and amended by changing the word "Postulant" to "applicant" and the words "Seminary he is attending" to the words "Seminary he may be attending."

Convention of 1976

This Convention made Canon III.2 a canon "Of Postulants" and amended the section, now Section 5, to read as at present.

SECTION 6

This section relates to the academic qualifications of postulants.

Convention of 1820

The first legislation on this subject was enacted by the Convention of 1820, as Canon 8, which read as follows:

In addition to the testimonials produced by a person wishing to become a candidate for Holy Orders as prescribed by the seventh canon, he must lay before the Standing Committee a satisfactory diploma, or certificate from the instructors of some approved literary institution, or a certificate from two Presbyters appointed by the ecclesiastical authority of the diocese to examine him, of his possessing such academical learning as may enable him to enter advantageously on a course of theology.

When a person applying to be admitted as a candidate, wishes the knowledge of the Latin and Greek languages and other branches of learning not strictly ecclesiastical to be dispensed with, the Standing Committee shall not recommend him as a candidate until he has laid before them a testimonial signed by at least two Presbyters of the Church, stating that in their opinion he possesses extraordinary strength of natural understanding, a peculiar aptitude to teach and a large share of prudence.

We are told by Bishop White in his *Memoirs* (p. 44) that this canon was enacted for the purpose of requiring from a postulant evidence of the extent of his attainments in those subjects which were required in his first examination for Deacon's Orders, before he was received as a candidate. It was felt that after a person became a candidate he should be able to devote his whole time to theological studies, which would be impossible if he was obliged to devote a part of that time to the study of the languages and other non-theological subjects.

While this was the object of the canon, it does not seem to have been observed, as these same topics were still made the subjects of the first examination for deacon's orders.

Convention of 1832

In the general revision of the canons made by the Convention of 1832, all former canons on the subject of ordination were combined in one canon, Canon 9 of that year. Canon 8 of 1820 was made Sections 3 and 4 thereof, and amended to read as follows:

Sec. 3. In addition to the above testimonials, the person wishing to become a candidate must lay before the Standing Committee a satisfactory diploma; or a certificate from the instructor or instructors of some approved literary institution, which certificate must state what have been his studies, and the extent of his improvement in them; or a certificate from two Presbyters appointed by the ecclesiastical authority of the Diocese to examine him, of his possessing such academical learning as may enable him to enter advantageously on a course of theology.

Sec. 4. When a person, applying to be admitted a candidate, wishes the knowledge of the Latin, Greek, and Hebrew languages, and other branches of learning not strictly ecclesiastical, to be dispensed with, the Standing Committee shall not recommend him as a candidate until he has laid before them a testimonial, signed by at least two Presbyters of this Church, stating that in their opinion he possesses extraordinary

strength of natural understanding, a peculiar aptitude to teach, and a large share of prudence; and the Bishop with the consent of a majority of the Clerical Members of the Standing Committee, shall have granted said dispensation. This dispensation shall not be granted to any person under twenty-seven years of age, nor shall any person be ordained under such a dispensation until he shall have attained thirty years of age. And in regard to the knowledge of the Hebrew language in all cases in these Canons, the Bishop shall have the sole discretion of dispensation, without reference to the age of the candidate as mentioned in this section.

Convention of 1838

This Convention made a slight change, but an important one, in Section 4, by striking out the words “a majority of the Clerical members of” in the second clause of the first sentence.

Under the former canon, the bishop’s exercise of the dispensing power depended upon the consent of a majority of the clerical members of the standing committee. The canon as amended required the consent of the whole committee, lay as well as clerical.

We are told by Dr. Hawks (*Constitution and Canons*, p. 143) that

The reasons assigned in the discussion before the General Convention, for making this change, were chiefly two. First, it was said (and we believe with some truth) that the clerical members of a committee were sometimes more easily induced than they should be, to assent to a dispensation, when they knew the bishop wished it. The laity, it was supposed, would be more firm in a refusal where it was proper to refuse. Secondly, it was urged that in the particulars enumerated in Section 4, as furnishing grounds for a dispensation, the laity were, to say the least, as likely to be competent judges of their existence as clergymen; and in the opinion of many, their more extensive acquaintance with the affairs of the world made them better judges than the clergy generally were.

Convention of 1841

This Convention amended Section 3 of Canon 9, to read as follows:

In addition to the above testimonials, the person wishing to become a Candidate must lay before the Standing Committee a satisfactory diploma, or other satisfactory evidence that he is a graduate of some University or College, or a certificate from two Presbyters appointed by the Bishop, or where there is no Bishop, the Clerical Members of the Standing Committee, to examine him, of his having satisfactorily sustained an examination in Natural Philosophy, Moral Philosophy, and Rhetoric, and in the Greek Testament, and the Latin tongue.

This is the first mention in the canons of the requirement that the postulant must be a college graduate, or, in lieu of that, that he must have sustained an examination in certain studies. As will be noted, there is a constant advance in the literary requirements for postulants.

Convention of 1853

This Convention made Canon 9, of the Canons of 1841, Canon 7, and amended Section 4 by striking the words “without reference to the age of the Candidate, as mentioned in this Section,” at the end of said section. The words stricken referred to the power of the bishop to dispense with a knowledge of the Hebrew language.

Convention of 1856

This Convention repealed Canon 7 of 1841 and made Sections 3 and 4 of said canon Sections 3 and 4 of Canon 5, “Of the Ordination of Priests.” It also amended the third section by striking the words “in addition to the above testimonials, the person wishing to become,” at the beginning of said section, and substituting therefor the words “Every person wishing to become.”

Section 4 was amended by striking out the first three words of said section, “When a person,” and substituting in place thereof the words “When a Deacon.”

Convention of 1859

In the revision of the canons by this Convention, Canon 5 of the Canons of 1856 was made Canon 7 of Title I, but no amendment was made to Sections 3 and 4.

Convention of 1871

In the revision of the canons of ordination by this Convention, Section 3 of Canon 7, Title I, was made Section 4 (ii), (iii) of Canon 2, Title I; and Section 2, Canon 4, Title I, as follows:

Sec. 4. (ii) If the Postulant desires to be *Candidate for Priesthood*, as well as for the Diaconate, he must lay before the Bishop a satisfactory diploma, or other satisfactory evidence, that he is a graduate in arts of some university or college in which the learned languages are duly studied; and if the Bishop be not fully satisfied of the sufficiency of such diploma, he may remit the same, for consideration and advice, to the Standing Committee of the Diocese.

(iii) But if the Postulant desiring to be Candidate for the Priesthood be not a graduate as aforesaid, he shall be remitted by the Bishop to the Examiners of Candidates for Priesthood, for examination as prescribed in the Canon of Examinations. In a case of emergency, the Bishop may appoint any two learned presbyters to hold such examination.

Sec. 2. (i) An *examination of the literary qualifications* of a Postulant or Candidate shall extend to his knowledge of the English language and literature, and at least the first principles and general outlines of logic, rhetoric, mental and moral philosophy, physics and history, and the Latin and Greek languages.

- (ii) A distinct report of the subjects of examination, and the satisfaction given in each, shall be made by the Examining Chaplains.
- (iii) The examination may be adjourned, or repeated after an assigned period, at the discretion of the Examining Chaplains.
- (iv) Such examinations shall be made as prescribed in Canon 2, Section 4 (iii).

Section 4 of Canon 7, Title I, was made Section 6 of Canon 2, Title I, and amended to read as follows:

- (i) When a Postulant for admission as a Candidate for Priest's Orders wishes a knowledge of the Latin, Greek, and Hebrew languages, and other branches of learning not strictly ecclesiastical, to be dispensed with, he shall communicate his wish to the Bishop.
- (ii) If the Bishop, on consideration of the circumstances of his case, encourage him to proceed, he shall procure and lay before the Standing Committee a testimonial, signed by at least two Presbyters of this Church, certifying that in their opinion the Postulant possesses extraordinary strength of natural understanding, a peculiar aptitude to teach, and a large share of prudence, and adding any other reason for dispensation which they may believe to exist.
- (iii) On the receipt of such testimonial, the Standing Committee, by a vote of two-thirds of all the members thereof, may proceed to recommend the applicant to the Bishop for the dispensation asked.
- (iv) The Bishop may thereupon grant to the applicant a certificate of the dispensation required, for exhibition to his examiners.
- (v) The Bishop shall have the sole discretion of dispensation with a knowledge of the Hebrew language in the case of any Candidate satisfactorily showing that its attainment by him is impracticable, and the Bishop's certificate of such dispensations shall exempt the bearer from examination on that subject only.

Convention of 1892

In the revision of the canons of ordination by this Convention, the provisions of Section 4 (ii) and (iii), and of Section 6 of Canon 2, Title I; also of Section 2, Canon 4, Title I, of the Canons of 1871, were incorporated in Section 7 of Canon 3, Title I, and amended to read as follows:

- (i) If a Postulant desires to be admitted a candidate for Priest's Orders, he must also, in addition to the certificates hereinbefore mentioned, lay before the Bishop a satisfactory diploma, or other satisfactory evidence, that he is a graduate in Arts of some university or college in which the Latin and Greek languages are duly studied, and that he has had a thorough collegiate training in the same.
- (ii) But if the Postulant desiring to become a Candidate for the Priesthood be not a graduate as aforesaid, he shall be remitted to the Examining Chaplains, to be examined as to his knowledge of the English language and literature, and at least the first principles and general outlines of logic, rhetoric, mental and moral philosophy, physics and history, and the Latin and Greek languages. In a case of emergency, the Bishop may appoint any two or more learned Presbyters to hold such examination.

(iii) Should a Postulant wish a knowledge of the Latin and Greek Languages, and other branches of learning not strictly ecclesiastical, to be dispensed with, he may make written application to the Bishop to that effect, specifying the studies with regard to which he wishes a dispensation, and the reasons for the application.

(iv) Together with the application, he shall lay before the Bishop a certificate signed by at least two Examining Chaplains of the Diocese, in the following words, viz.:

To the Right Reverend _____ Bishop of _____.

Place _____.

Date _____.

The undersigned, Examining Chaplains of the Diocese of _____, sensible of the serious responsibility assumed in doing anything to lower the standard of learning to be required by one who is to be admitted to the Priesthood, and set as a Teacher in the Church, yet (here specifying the reasons) do submit that in the case of A.B. the dispensation asked for may wisely be granted.

(Signed)

(v) The Bishop shall remit the application, accompanied by the aforesaid certificate to the Standing Committee, with such comments as he may think fit to be indorsed thereon.

(vi) Should the Standing Committee approve the said application, they may, by a vote of not less than two-thirds of their whole body, recommend that the request of the Candidate be granted.

Convention of 1904

In the revision of the Digest of Canons by this Convention, Canon 3, Section 7, of the Canons of 1892, became Canon 2, Section 5, and was amended to read as follows:

(i) The Postulant, before his admission as a Candidate for Holy Orders, must lay before the Bishop satisfactory evidence that he is a graduate in Arts of some university or college in which he has duly studied the Latin and Greek languages.

(ii) If the Postulant be not a graduate as aforesaid, he shall be remitted by the Bishop to the Examining Chaplains, to be examined in the Latin and Greek languages; and, if he be not a graduate in Science or Letters or Philosophy, he shall be examined also as to his knowledge of the English language and literature, Mathematics, Geography, History, Logic, Rhetoric, and the elements of Philosophy and Natural Science; and the examiners shall report to the Bishop in writing whether the said examinations have been satisfactorily sustained.

(iii) Should the Postulant be unable to sustain the examination in the Latin and Greek languages, or either of them, or in other branches of learning not strictly Ecclesiastical, he may make a written application to the Bishop for a dispensation, until he shall have been ordered Deacon, specifying the studies with regard to which he desires such dispensation, and the reasons for the application. With this application, he shall lay before the Bishop a certificate, signed by at least two Examining Chaplains of the Diocese, in the following words, viz.:

To the Right Reverend _____ Bishop of _____.

Place_____.

Date_____.

We, Examining Chaplains of the Diocese of _____, sensible of the serious responsibility assumed in doing anything to lower the standard of learning to be required of one who is to be admitted to Holy Orders and made a teacher in the Church, yet submit that in the case of A.B. the dispensation asked for may wisely be granted, for the following reasons:

(Signed)

The Bishop shall send the application and the aforesaid certificate to the Standing Committee; and the Standing Committee, at a meeting duly convened, may, by a vote of not less than three-fourths of all the members, recommend that the request of the Postulant be granted.

The principal changes made in this section by the amendments were as follows: In the former canons the postulant was not required to produce a college diploma unless he was a candidate for priest's orders, while under this section he was obliged to lay before the bishop satisfactory evidence that he was a college graduate if he desired to become a candidate for Holy Orders. The distinction between a postulant for deacon's orders and one for priest's orders, so long recognized in the canons, seems to have been eliminated. The subjects for examination required of a postulant who was not a graduate as aforesaid were materially increased. The postulant might now apply for a dispensation from Latin or Greek, "until he shall have been ordered Deacon." Formerly, the standing committee might recommend that a dispensation be granted by a two-thirds vote; now a three-fourths vote was required.

Convention of 1919

This Convention made a thorough revision of the canons of ordination, and amended this section very materially to read as follows:

Sec. 5. (i) The Postulant, before his admission as a Candidate for Holy Orders, must lay before the Bishop and the Board of Examining Chaplains satisfactory evidence that he is a graduate of some college or university, together with a full statement of the work done by him in such college or university. If this work include sufficient instruction in the subjects specified in clause (ii) of this section and is otherwise deemed adequate and satisfactory, no further examination shall be required; but if not, the Postulant shall be remitted by the Bishop to the Board of Examining Chaplains for such examination as may be found necessary.

(ii) If the Postulant be not a graduate as aforesaid, he shall be required to pass an examination in the following subjects:

1. An elementary knowledge of the Bible in English;
2. The Latin and Greek languages;
3. English:
 - (a) Language (including composition),
 - (b) Literature;

4. General History (with Historical Geography) and American History;
5. Mathematics;
6. The elements of one of the Natural Sciences, or a reading knowledge of a modern language other than English; and
7. One of the following:
 - (a) The History of Philosophy,
 - (b) Psychology,
 - (c) Logic.

The Postulant must also satisfy the Board of Examining Chaplains that he possesses the intellectual ability to enter with advantage upon a course of study preparatory to Holy Orders.

(iii) Should the Postulant be unable to meet the requirements in the Latin and Greek languages, or in either of them, he may make written application to the Bishop for a dispensation therefrom. The Bishop, on recommendation of the Board of Examining Chaplains, may, at his discretion, grant the same.

(iv) If the Postulant have attained the age of thirty-two years, and have shown such proficiency in business or professional life as gives promise of usefulness in the Ministry, the Bishop, on recommendation of the Board of Examining Chaplains, may, at his discretion, dispense him from examination in all but the following subjects:

1. An elementary knowledge of the Bible in English;
2. English:
 - (a) Language (including composition),
 - (b) Literature;
3. History, General and American; and
4. One of the following subjects:
 - (a) Mathematics,
 - (b) Logic,
 - (c) Psychology,
 - (d) One of the Natural Sciences.

(v) If the Postulant be of other race and speech, and is to exercise his Ministry among people of his race in the United States, the Bishop, on recommendation of the Board of Examining Chaplains, may, at his discretion, dispense him from all examinations except those specified in the clause immediately preceding this clause. But if the Postulant is to exercise his Ministry among people of his race in a foreign Missionary District, the Bishop may, at his discretion, dispense him from all such examinations; *Provided*, only, that he shall satisfy the Bishop and the Board of Examining Chaplains that he possesses good mental ability and sufficient education to enable him to pursue a course of study preparatory to the work of the Ministry.

Clause (vi) pertained to persons who had previously been ministers of another denomination and will be considered later.

(vii) Should a Postulant who has been examined in any of the above subjects afterwards apply for admission as Postulant in any other Diocese or Missionary District, he shall lay before the Bishop of such Diocese or District a certificate from the Bishop who admitted him as Postulant, stating what examinations for Candidateship he has taken and the result of each. And if he has failed to pass in any subject, he shall not be admitted to examination in that subject until at least six months after such failure.

(viii) The Board of Examining Chaplains may, at their discretion, accept, in lieu of examination, satisfactory evidence that the Postulant has fulfilled the requirements in any one or more of the subjects specified in this Canon.

Clauses (i) through (iii) were amendments of the previous canon. It will be noted that the degree required need no longer be in arts. The dispensation from Greek and Latin was made applicable to priests also.

The provisions of the remaining clauses were new.

The canon was made Canon 26 in 1943 and Canon 27 in 1946.

Convention of 1946

This section was removed from the canon "Of Candidates" and made Section 5 of Canon 26, "Of Postulants."

Clause (iii) was repealed, and clauses (i), (ii), and (iv) were made clauses (a), (b), and (c) and amended to read as follows:

(a). The Postulant, before entering upon his course of theological studies, must lay before the Bishop and the Board of Examining Chaplains satisfactory evidence that he is a graduate of some college or university, together with a full statement of the work done by him in such college or university. If this work include sufficient instruction in the subjects specified in Clause (b) of this Section and is otherwise deemed adequate and satisfactory, no further examination shall be required; but if not, the Postulant must satisfy the Board of Examining Chaplains that he possesses the intellectual ability to enter with advantage upon a course of study preparatory to Holy Orders.

(b). If the Postulant be not a graduate of aforesaid, he shall be required to pass an examination in the following subjects:

- (1). English:
 - (a) Language (including grammar and composition),
 - (b) Literature (English and American);
- (2). Latin, or a reading knowledge of an ancient or modern language other than English;
- (3). History, ancient and modern;
- (4). Mathematics, or one of the Natural Sciences;
- (5). Philosophy;
- (6). Psychology, or one of the Social Sciences.

(c). If the Postulant have attained the age of thirty-two years, and have shown such proficiency in business or professional life as gives promise of usefulness in the Ministry, the Bishop, on recommendation of the Board of Examining Chaplains, may, at his discretion, dispense him from examination in all but the following subjects:

- (1). English:
 - (a) Language (including grammar and composition),
 - (b) Literature (English and American);
- (2). History, ancient and modern;
- (3). One of the following subjects:

- (a) Mathematics,
- (b) A Natural or Social Science,
- (c) Philosophy,
- (d) Psychology.

Former clauses (v) through (viii) became clauses (d) through (g).

Latin and Greek, it will be noted, are no longer required, and the provisions for dispensation have been deleted.

The changes made by this Convention were recommended by a joint commission on theological education. Commenting on the transfer of this section to the canon "Of Postulants," the commission reported:

Hitherto a review of a seminarian's collegiate record ... has been asked for only when the candidate made application to become a Candidate. Since most Postulants take the step from Postulancy to Candidacy when already in the seminary, corrections in pre-seminary training were well-nigh impossible. The revised Canon ... asks that approval of a prospective ordinand's pre-seminary record be secured ... before his entrance upon theological study.

Convention of 1964

To take into account the needs of seminarians from other countries, the section was amended as follows:

The list of subjects in clause (b) was amended to begin:

- (1). English or the language (including grammar and composition) and
- (2). Literature of the country in which he expects to exercise his ministry;
- (3). Latin, or a reading knowledge of an ancient or modern language other than his own;

The list in clause (c) was amended to begin:

- (1). English or the language (including grammar and composition) and
- (2). Literature of the country in which he expects to exercise his ministry;

Clause (d) as far as the proviso was amended to read:

If the native language of the Postulant be other than English, and he is to exercise his Ministry among people of his own language in the United States, the Bishop, on recommendation of the Board of Examining Chaplains, may, at his discretion, dispense him from all examinations except those specified in the Clause immediately preceding this Clause. But if the Postulant is to exercise his Ministry among people of his language in an overseas jurisdiction, the Bishop may, at his discretion, dispense him from all such examinations.

Convention of 1967

This Convention modified the requirements of educational prerequisites for persons of foreign or ethnic cultures in the United States by amending clause (d) to read as follows:

If the native language of the Postulant be other than English, and he is to exercise his Ministry among peoples of his own language, or if he be of a distinctive or foreign culture, the Bishop may, at his discretion, dispense him from all such examinations; *Provided only*, that he shall satisfy the Bishop and the Board of Examining Chaplains that he possesses good mental ability and sufficient competence to enable him to pursue a course of study preparatory to the work of the Ministry.

Special Convention of 1969

This Convention also amended clause (d) by adding at the end thereof the following sentence:

The Postulant so received may be admitted as a Candidate, with the consent of the Standing Committee or Council of Advice, upon his submitting the documents prescribed in Section 1 of Canon 27, "Of Candidates for Holy Orders," and the consent of the Standing Committee or Council of Advice shall be given in the form prescribed in Section 4 of the said Canon 27.

Convention of 1970

The following amendments to the section were adopted by this Convention:

The words "Commission on Ministry" were substituted for the words "Board of Examining Chaplains" wherever they occurred.

The list of subjects in clause (b) was amended to read:

- (1). English or the language (including grammar and composition) and
- (2). Literature of the country in which he expects to exercise his ministry;
- (3). History;
- (4). Mathematics, or one of the natural Sciences;
- (5). Philosophy;
- (6). One of the Social Sciences.

The list in clause (c) was amended to read:

- (1). English or the language (including grammar and composition) and
- (2). Literature of the country in which he expects to exercise his ministry;
- (3). History;
- (4). One of the following subjects:
 - (a). Mathematics,
 - (b). A Natural Science,
 - (c). Philosophy,
 - (d). A Social Science.

In the proviso of clause (d), the words "the intellectual ability and competence" were substituted for the words "good mental ability and sufficient competence."

Convention of 1973

This Convention abolished the status of postulant. The section under consideration was made Section 9 of new Canon III.2, "Of Candidates," and was amended to read as at present, except that it referred to candidates throughout.

Convention of 1976

The various references to candidates were made to refer to postulants and the section was made Section 6 of the present canon.

SECTION 7

Convention of 1871

The first provision of any canon that the examining chaplains were to make a report to the bishop on the result of the literary examinations of a postulant was contained in Title I, Canon 2, Section 4 (iv), of the Canons of 1871, which read, in part, as follows:

On satisfactory evidence of a degree in arts, or report of satisfaction by examiners, the Bishop may, after personal conference with Postulant, admit him to be a *Candidate for Priest's Orders*.

In the revision of the canons of ordination by the Convention of 1892, this provision seems to have been omitted.

Convention of 1904

In the revision of the Digest of Canons by the Convention of 1904, the provision of the Canons of 1871, that the examining chaplains were to make a report to the bishop on the result of the literary examinations of the postulant, was incorporated in Canon 2, Section 5 (ii), the closing sentence of which read as follows:

and the examiners shall report to the Bishop in writing whether the said examinations have been satisfactorily sustained.

Convention of 1919

The provision was made Section 6 of Canon 2, and was amended to read as follows:

The Board of Examining Chaplains shall report to the Bishop in writing whether these examinations have been satisfactorily sustained, and the Bishop shall transmit this report to the Standing Committee or Council of Advice, with a statement of any dispensations granted.

Convention of 1946

The section was transferred from the canon "Of Candidates" to the canon "Of Postulants" and amended by deleting the final phrase relating to dispensations.

Convention of 1970

The reference to the board of examining chaplains was replaced with a reference to the commission on ministry.

Convention of 1973

The reference to a council of advice was deleted as no longer necessary.

EXPOSITION OF CANON III.2

This canon specifies the procedures to be followed in admitting persons as postulants for Holy Orders, and sets forth the Church's requirements with respect to those to be so admitted.

The first section of the canon prescribes that its provisions be equally applicable to both men and women. Its adoption in 1973 followed a decision, made in 1970, to admit women to the diaconate. The Convention of 1976 provided for the ordination of women to the priesthood and episcopate as well (see the exposition of Canon III.9).

Persons who desire to become postulants must first consult their immediate pastor or, if they have none, some priest to whom they are personally known.

If, after inquiry into the person's physical, intellectual, moral, emotional, and spiritual qualifications, the priest counsels perseverance, the applicant makes his desire known to the bishop, personally if possible, or in writing.

The diocesan may consent in writing, on the recommendation of a priest of the diocese personally acquainted with the applicant, that he or she may apply to some other bishop, if desired.

Section 2 (c) specifies the information to be supplied to the bishop by the person applying.

Should the bishop decide to entertain the application, an examination is required, covering the applicant's physical and mental condition, the record of which is filed and made available to the commission on ministry.

Section 3 provides for the participation of the commission on ministry in the process of selection. On the basis of a meeting with the applicant, and other evidence before them, the commission makes its recommendations to the bishop.

Section 4 lists the papers which must be laid before the bishop and commission on ministry before the bishop can take the action of admitting the person as a postulant.

Section 5 provides for the actual admission of the applicant as a postulant. This action, it should be noted, is taken by the bishop alone, the recommendations of the commission on ministry being purely advisory (see the exposition of Canon III.1).

Sections 6 and 7 are concerned with educational requirements, and are self-explanatory. The normal expectation is that applicants for postulancy be holders of a baccalaureate degree or its equivalent. Exceptions are admitted, however, and are described in Section 6 of the canon.



CANON 3. Of Candidates for Holy Orders

Literal interpretation except for gender.

Sec. 1. This Canon shall be interpreted in its plain and literal sense, except that words of male gender shall also imply the female gender.

Postulant applies to be a Candidate.

Sec. 2. A Postulant for Holy Orders, having been duly received in accordance with Canon 2 above, may apply for admission as a Candidate for Holy Orders by the Bishop under the following conditions:

Six month Postulancy.

(a). A space of six months shall have elapsed since his admission as a Postulant for Holy Orders.

Nine months of satisfactory study.

(b). He shall have been enrolled in a theological school or seminary or in some other program of preparation for the ordained ministry approved by the Bishop and the Commission on Ministry for at least nine months, and received the evaluation and recommendation of the school or director of the program of his personal qualifications for the ordained Ministry of this Church.

Minister and Vestry reaffirm certification.

(c). He shall have received from the Minister and Vestry of the Parish to which he belongs a reaffirmation in writing of the certificate required in III. Canon 2. Sec. 4.

Recommendation by Standing Committee and Commission.

(d). He shall have received the recommendation in writing of the Standing Committee and the Commission on Ministry as to his readiness to be received as a Candidate for Holy Orders.

Sec. 3 (a). No Bishop shall consider accepting as a Candidate any person who has been refused admission as a Candidate for Holy Orders in any other Diocese, or who,

- Certificate from previous Bishop.* having been admitted, has afterwards ceased to be a Candidate, until he shall have produced a letter from the Ecclesiastical Authority of the Diocese in which he has been refused admission, or in which he has been a Candidate, declaring the cause of refusal or of cessation.
- (b). Should the Bishop then decide to proceed in the matter, he shall send the said letter or a copy thereof to the Commission on Ministry.
- Canonical residence of Candidate.* Sec. 4 (a). A Candidate must remain in canonical connection with the Diocese in which he has been admitted, until his ordination to the Diaconate except as hereinafter otherwise provided.
- May be granted Letters Dimissory.* (b). For reasons satisfactory to the Ecclesiastical Authority, Letters Dimissory may be granted to a Candidate on his own request to any other Diocese; *Provided*, that the same is acceptable to the Ecclesiastical Authority thereof, with the consent of the Commission on Ministry and the Standing Committee of that Diocese.
- Annual reports on Candidates from Seminary or those assigned to supervise study.* Sec. 5 (a). During the course of the Candidate's academic preparation for Holy Orders, an annual report shall be rendered to the Bishop and to the Candidate by the theological school he is attending, or by the Presbyter or Presbyters under whom he is assigned to pursue his studies; which report shall contain an evaluation both of his academic performance and of his personal qualifications to exercise the ordained Ministry of this Church.
- Reports to be filed and made available.* (b). These reports shall be kept on file in the Bishop's office, and copies thereof shall be made available to the Commission on Ministry and the Standing Committee.
- Candidate to report in Ember Weeks.* Sec. 6 (a). Every Candidate for Holy Orders shall communicate with the Ecclesiastical Authority, personally or by letter, four times a year, in the Ember Weeks, reflecting on his academic experience and his personal and spiritual development.
- To present self for examination within three years.* (b). If a Candidate for Holy Orders shall fail to present himself for canonical examinations (see Canon III.7) within three years from the date of his admission as a Candidate, his name may, after due notice, be removed from the list of Candidates by the Bishop, after consultation with the Standing Committee.

Candidacy may be terminated for cause. (c). If a Candidate for Holy Orders shall have passed his canonical examinations, but on other grounds is refused recommendation for ordination, the Bishop, with the consent of the Standing Committee, may remove his name from the list of Candidates after due notice and indication of the grounds for removal have been given the Candidate.

Rejected Candidate to renew Candidacy before ordination. Sec. 7. A Candidate for Holy Orders, in any Diocese of this Church, or of any Church in communion with this Church, whose name shall have been removed from the list of Candidates, except by Letters Dimissory, or whose application for ordination shall have been rejected, shall not be ordained without re-admission to Candidacy, said Candidacy to continue for not less than one whole year.



The canon of Candidates for Holy Orders was Title I, Canon 2, in 1859. It became Canon 2 in 1904, Canon 26 in 1943, and Title III, Canon 3, in 1970.

As noted above in the consideration of the previous canon, the early legislation of the Church made no provision for a stage called postulancy. Qualified persons seeking ordination were accepted by the bishop as candidates.

Following the adoption of the first canon on postulants in 1892, many of the provisions which formerly applied to candidacy were, in the process of time, transferred to the canon on postulancy. In 1973, however, the stage of postulancy was abolished, and a new canon III.2, "Of Candidates," was adopted. This canon included many of the provisions that had formerly been made to apply to postulants.

In 1976 this action was reversed, and the canon of 1973 was made a canon "Of Postulants." As a result, all but two of the historic provisions regarding candidacy are now applied to postulants. The history of these provisions has, therefore, been given above under Canon III.2.

The present Canon III.3 was adopted in 1976.

SECTION 1

This section was adopted in 1973.

SECTION 2

This section was adopted in 1976.

Clause (a) was a new provision. Former canons had not specified the space of time that should have elapsed before admission as a candidate.

Clauses (b) and (c) are amended forms of earlier provisions. Their history is given above under Section 4 of Canon III.2.

The requirement in clause (d) of a recommendation from the commission on ministry was new. A recommendation from the standing committee, however, has been a requirement since 1808.

Convention of 1808

The first canonical provision on this requirement was in Canon 7 of this Convention which read, in part, as follows:

No person shall be considered as a candidate for orders in this Church, unless he shall have produced to the Bishop of the Diocese or State to whom he intends to apply for orders, a certificate from the Standing Committee of said Diocese or State, that they believe, from personal knowledge, or from testimonials laid before them, that he hath lived piously, soberly, and honestly; that he is attached to the doctrines, discipline, and worship of the Protestant Episcopal Church; and further, that in their opinion he possesses such qualifications as may render him apt and meet to exercise the ministry to the glory of God and the edifying of the Church.

With this enumeration of qualifications, it ought to be made known to the candidate, that the Church expects of him, what can never be brought to the test of any outward standard—an inward fear and worship of Almighty God; a love of religion, and sensibility to its holy influence; an habit of devout affection; and, in short, a cultivation of all those graces which are called in Scripture the fruits of the Spirit, and by which alone his sacred influence can be manifested.

The Bishop may then admit the person as a candidate for orders.

In any State or Diocese where there is no Bishop, the Standing Committee may, on the evidence aforesaid, admit the person as a candidate; unless the person should be desirous of being considered as a candidate for orders in some State or Diocese where there is a Bishop.

Convention of 1832

In the revision of the canons by this Convention, the first paragraph of the canon quoted above was made Canon 9, Section 2, and amended by the addition of these words at the end thereof:

And when the Standing Committee do not certify as above from personal knowledge, the testimonials laid before them shall be of the same purport, and as full as the certificate above required, and shall be signed by at least one Presbyter and four respectable Laymen of the Protestant Episcopal Church.

A further amendment was made by this Convention in inserting after

the words "Protestant Episcopal Church" the words "and a communicant of the same."

The words "further, that" were stricken.

Convention of 1859

In the revision of the canons by this Convention, Section 2 of Canon 9, of the Canons of 1832, was made Section 4 of Canon 2, Title I, but without amendment.

Convention of 1871

In the revision of the canons of ordination by this Convention, Section 4 of Canon 2, Title I, of the Canons of 1859, was made Section 3 (vi), Canon 2, Title I, and amended to read as follows:

The Standing Committee, on the receipt of such testimonials, or, in its discretion, on the personal knowledge of its members, being duly satisfied that there is not sufficient objection on grounds either physical, intellectual, moral, or religious, may proceed to recommend a Postulant for admission to Candidateship, by a certificate bearing the signatures of a majority of all the members of the Committee, and addressed to the Bishop of the Diocese, in the following words:

We, whose names are hereunder written, do certify that (from personal knowledge, or from testimonials laid before us, as the case may be) we believe that A. B. is pious, sober, and honest; that he is attached to the doctrine, discipline, and worship of the Protestant Episcopal Church, and that he is a Communicant of the said Church in good standing; and do furthermore declare that, in our opinion, he possesses such qualifications as fit him for entrance on a course of preparation for the Holy Ministry.

This is the first provision for the form of the canonical certificate of the standing committee.

Convention of 1892

This Convention made a thorough revision of the canons of ordination and amended Title I, Canon 2, Section 3 (vi) by making it Section 8 of Canon 3, Title I, and to read as follows:

The Standing Committee, on the receipt of the certificates prescribed in either case, as above, by this Canon, and having no reason to suppose the existence of any sufficient objection on grounds either physical, intellectual, moral or religious, to the admission of the applicant, may proceed to recommend a Postulant for admission to Candidateship, by a testimonial bearing the signatures of a majority of the whole Committee, and addressed to the Bishop in the following words, viz.:

To the Right Reverend _____, Bishop of _____.
Place _____.
Date _____.

We whose names are hereunderwritten, being a majority of the whole Standing Committee of _____, and having been duly convened at _____, do testify, from

personal knowledge or from certificates laid before us, that we believe that A.B. is pious, sober and honest; that he is attached to the doctrine, discipline and worship of the Protestant Episcopal Church, and that he is a Communicant of the said Church in good standing; and do furthermore declare that, in our opinion, he possesses such qualifications as fit him for entrance on a course of preparation for the Holy Ministry.

In witness whereof, we have hereunto set our hands, this _____ day of _____, in the year of our Lord _____.

(Signed)

Standing Committee of _____.

The principal changes made by this amendment were, first, the provision that the testimonial should be signed by a majority of the whole standing committee, and secondly, that this fact should be stated in the testimonial, and that the said committee had been duly convened.

Convention of 1904

In the revision of the canons by this Convention, Title I, Canon 3, Section 8, of the Canons of 1892, was made Canon 2, Section 6, and amended to read as follows:

The Standing Committee, on the receipt of the certificate or certificates as above prescribed, and having no reason to suppose the existence of any sufficient objection on grounds either physical, mental, moral, or spiritual, to the admission of the applicant, may at a meeting duly convened, (a majority of all the members consenting), recommend the Postulant for admission to Candidateship, by a testimonial bearing the signatures of a majority of all the members of the Committee, and addressed to the Bishop, in the following words, viz.:

To the Right Reverend _____, Bishop of _____.

Place _____.

Date _____.

We, being a majority of all the members of the Standing Committee of _____, and having been duly convened at _____, do testify, that from personal knowledge or from certificates laid before us, we are well assured that A.B. is sober, honest, and godly; and that he is a communicant of this Church in good standing; and we do furthermore declare that, in our opinion, he possesses qualifications which fit him to be admitted a Candidate for Holy Orders.

In witness whereof, we have hereunto set our hands, this _____ day of _____, in the year of our Lord _____.

(Signed)

This testimonial shall be presented to the Bishop without delay.

Convention of 1919

In the revision of the canons of ordination by this Convention, Section 6 of Canon 2 was made Section 7 of Canon 2, but without amendment.

Convention of 1946

The section was made Section 5 of Canon 27, and the opening words thereof were amended to read as follows:

The Standing Committee, on receipt of the report of the Board of Examining Chaplains required in Canon 26, Sec. 6, and of the certificate or certificates as above prescribed, and after investigation, having no reason ...

Convention of 1970

The section, now Section 4 of Canon III.3, was amended as follows:

The words "Board of Examining Chaplains" were replaced with the words "Commission on Ministry."

In the list of possible grounds of objection, "mental" was replaced with "intellectual," and the word "emotional" was inserted before "or spiritual."

The word "Candidateship" was replaced by the word "Candidacy."

Convention of 1973

The section was made Section 6 of Canon III.2, and was amended by inserting after the word "investigation" the words "having found the applicant to possess qualifications which fit him to be admitted a Candidate for Holy Orders, and."

Convention of 1976

The section under consideration was repealed, and was replaced by the enactment of a required recommendation in writing.

No specific form of testimonial is required.

SECTION 3

Convention of 1841

The first legislation on the subject of this section was enacted in Canon 9 of this Convention, the first section of which read, in part, as follows:

No person who has previously applied for admission as a Candidate in any Diocese, and has been refused admission, or, having been admitted, has afterwards ceased to be a Candidate, shall be admitted as a Candidate in any other Diocese, until he shall have produced from the Bishop, or, if there be no Bishop, from the Standing Committee of the former Diocese, a certificate, declaring the cause for which he was refused admission, or for which he ceased to be a Candidate.

This section became part of Canon 6 in 1847, Canon 7 in 1853, Canon 3 in 1856, and Title I, Canon 2, in 1859.

Convention of 1871

The part of the section quoted above was made Section 1 (v) of Canon 2, and was amended to read as follows:

A Bishop may not receive such application from a person who has been refused admission as a Candidate in any other Diocese, or who, having been admitted, has afterwards ceased to be a Candidate, until he shall have caused such person to produce a certificate from the Bishop in whose Diocese he has been refused admission, or has been a Candidate, declaring the cause of the refusal, or of cessation of Candidateship; and such certificate shall be laid before the Standing Committee of the Diocese in which such second application shall be made.

Convention of 1892

Canon 2 was made a canon "Of Postulants." The section being considered was made Section 4, and was amended to read as follows:

(i) No Bishop shall accept as a Postulant any person who has been refused admission as a Postulant or Candidate for Holy Orders, in any other Diocese or Missionary Jurisdiction than his own, or, who having been admitted, has afterwards ceased to be a Candidate, until such person shall have produced a certificate from the Ecclesiastical Authority of the Diocese or Missionary Jurisdiction in which he has been refused admission, or has been a Postulant or Candidate, declaring the cause of such refusal or cessation.

(ii) Should the Bishop, after the receipt of such certificate, see fit to accept the applicant as a Postulant, he shall remit said certificate, or a copy thereof, to the Standing Committee, for their consideration, in the event of the said Postulant applying to them to be recommended as a Candidate for Holy Orders.

Convention of 1904

The section was made Section 3 of Canon 1, and was amended to read:

(i) No Bishop shall accept as a Postulant any person who has been refused admission as a Postulant or as a Candidate for Holy Orders in any other Diocese or Missionary District, or who, having been admitted, has afterwards ceased to be a Postulant or a Candidate, until he shall have produced a certificate from the Ecclesiastical Authority of the Diocese or Missionary District in which he has been refused admission, or in which he has been a Postulant or a Candidate, declaring the cause of refusal or of cessation.

(ii) Should the Bishop accept such applicant as a Postulant, he shall send the said certificate, or a copy thereof, to the Standing Committee of the Diocese, to be considered by them if the said Postulant should apply to be recommended for admission as a Candidate.

The canon "Of Postulants" containing this section was made Canon 25 in 1943, Canon 26 in 1946, and Title III, Canon 2, in 1970.

Convention of 1970

Clause (b) of the section was amended to read as follows:

Should the Bishop accept such applicant as a Postulant, he shall send the said certificate or a copy thereof, to the Standing Committee of the Diocese and to the Commission on Ministry, to be considered by them if the said Postulant should apply to be recommended for admission as a Candidate.

Convention of 1973

Canon III.2 was made a canon "Of Candidates," and the section under consideration was amended to read as at present.

Convention of 1976

The section was made Section 3 of Canon III.3.

SECTIONS 4 THROUGH 7

These sections were formerly Sections 3 through 6 of the canon of "General Provisions Concerning Candidates for Holy Orders." The first canon having this title was Title I, Canon 4, of 1892. It became Canon 3 in 1904, Canon 27 in 1943, and Title III, Canon 4, in 1970.

In 1973 the canon became Canon 3 of the same title. A new Section 1, identical with the present Section 1, was added. Former Section 1, which dealt with the bishop's supervision of candidates, was amended and made Section 2. The remaining sections were renumbered.

In 1976, after the adoption of new Canon III.3, "Of Candidates," Sections 3 through 6 of former Canon III.3 were added to it as Sections 4 through 7. Former Sections 1 and 2 were omitted, though the journal makes no mention of their having been repealed.

SECTION 4

This section provides that a candidate must remain in canonical connection with his own diocese unless dimitted by the ecclesiastical authority thereof.

Convention of 1795

The first canonical legislation on the subject of this section is found in Canon 6 of the Canons of 1795, in which canon occurs the following sentence:

And if there be a bishop within the State or district, where the candidate resides, he shall apply to no other bishop for ordination without the permission of the former.

As before stated, this canon was due to a case which occurred but a short time before the Convention of 1795 met, the particulars of which will be found noted under the remarks on Canon III.2.2.

Convention of 1808

The next reference to the subject is found in Canon 7 of 1808, the last sentence of which read as follows:

A candidate for orders may, on letters dismissory from the bishop by whom he was admitted as a candidate, be ordained by any other bishop of this Church.

Convention of 1832

Canon 9 of that year embraced most of the canonical provisions relating to candidates for orders previously enacted. Section 8 of that canon read as follows:

A candidate for orders may, on letters of dismissal from the Bishop or Standing Committee of the Diocese in which he was admitted a candidate, be ordained by any Bishop of this Church. And if there be a Bishop within the Diocese where the candidate resides, he shall apply to no other Bishop for ordination without the permission of the former.

Convention of 1847

This Convention made Canon 9, of the Canons of 1832, Canon 6, and amended Section 8 by striking the words "be ordained by any Bishop of this Church" and inserting in place thereof the following words: "be transferred to the jurisdiction of any Bishop of this Church."

Convention of 1853

This Convention added a new sentence at the end of Section 10, Canon 6, now made Canon 7, which read as follows:

Candidates shall not change their Canonical residence but for *bona fide* causes requiring the same, to be judged by the Bishop, or, if there be no Bishop, the Standing Committee, and they shall not be dismissed from the Diocese in which they were admitted, or to which they have been duly transferred for the convenience of attending any theological or other seminary.

Convention of 1856

In the revision of the canons of ordination by this Convention, the new provision added to Section 10, Canon 7, was made Section 15 of Canon 3, but without amendment thereto.

Section 8 of Canon 6, of the Canons of 1847, was made Section 14 of Canon 3, also without amendment.

Convention of 1859

This Convention, in its revision of the canons, made Sections 14 and 15 of Canon 3, of the Canons of 1856, Sections 4 and 5 of Canon 3, respectively, but without amendment.

Convention of 1871

This Convention amended Canon 3, Sections 4 and 5 of the Canons of 1859, by combining them into one section, Section 2 of Canon 3, to read as follows:

- (i) A Candidate once admitted must remain in connection with the Diocese in which he has been admitted until his ordination, except as hereinafter provided.
- (ii) Letters of dismissal to the jurisdiction of any other Bishop of this Church may be given him by the Bishop, upon actual change of residence, or for other good and sufficient reasons, established as such to the satisfaction of the Bishop.
- (iii) The convenience of attending any theological or other seminary shall not be held to be such sufficient reason or ground of change of residence.

Convention of 1892

This Convention amended Section 2, Canon 3, of the Canons of 1871, making it Section 3 of Canon 4, and reading as follows:

- (i) A Candidate once admitted must remain in canonical connection with the Diocese or Missionary Jurisdiction in which he has been admitted until his ordination, except as hereinafter otherwise provided.
- (ii) The Bishop, or the clerical members of the Standing Committee when acting as the Ecclesiastical Authority, may permit a Candidate to prosecute his studies outside of the Diocese or Missionary Jurisdiction, without disturbing his canonical residence.
- (iii) For reasons satisfactory to the Ecclesiastical Authority, letters dismissory may be given him on his own request to any other Diocese or Missionary Jurisdiction.
- (iv) The convenience of attending any Theological or other Seminary shall not be held to be in itself a sufficient reason for change of canonical residence.

The Convention of 1901 changed the words “Missionary Jurisdiction” in the section to “Missionary District.”

Convention of 1904

The section was made Section 2 of Canon 3 and amended to read as follows:

- (i) A Candidate must remain in canonical connection with the Diocese or Missionary District in which he has been admitted, until his ordination, except as hereinafter otherwise provided.
- (ii) For reasons satisfactory to the Ecclesiastical Authority, Letters Dimissory may be granted to a Candidate on his own request to any other Diocese or Missionary District.
- (iii) Convenience of attending any Theological or other Seminary shall not be a sufficient reason for change of canonical residence.

Convention of 1973

The section was amended to read as at present by adding the words “to the Diaconate” in clause (a), by adding the proviso to clause (b), and by striking clause (c).

SECTION 5

Convention of 1973

This section, which provides for an annual report from the theological school the candidate is attending, was added by this Convention.

SECTION 6

This section provides for quarterly communication between the candidate and the ecclesiastical authority, and for the removal, under certain circumstances, of the candidate’s name from the list of candidates.

Convention of 1832

The first canonical provision on this subject was contained in Canon 9, Section 9, of the Canons of 1832, and read as follows:

If any candidate for orders shall not, within three years after his admission, apply to have his first and second examinations held, as hereafter prescribed or if he shall not, within five years from his admission, apply to have his third and fourth examinations held (unless the Bishop, for satisfactory reasons assigned, shall allow him further time) the said person shall, in either case, cease to be a candidate.

Convention of 1856

In the revision of the canons of ordination by this Convention, Section 9 of Canon 9, of the Canons of 1832, was made Section 14 of Canon 5, “Of the Ordination of Priests,” and amended by inserting the word “Priest’s” before the word “Orders” in the first line, and by striking out the words “as hereafter prescribed.” Also, by striking out the words “and fourth” before the word “examination” and changing the word “examinations” to “examination.”

Convention of 1871

In the revision of the canons of ordination by this Convention, Section 14 of Canon 5, Title I, of the Canons of 1856, was made Title I, Canon 4, Section 10, and amended to read as follows:

(i) A Candidate for Priest’s Orders must apply for at least his *first* and *second* examinations within three years, and his *third* within five years from his admission, or else assign, to the Bishop, causes which he shall deem satisfactory for failure so to do.

(ii) For contravention of this rule the name of the offender shall be stricken from the list of Candidates after due warning by the Bishop.

The Convention also enacted a new provision, providing for the report of a candidate to his bishop of his manner of life and progress in his theological studies. This provision was enacted as Title I, Canon 3, Section 5, and read as follows:

(i) Every Candidate for Holy Orders shall report himself to the Bishop, personally or by letter, once at least in every three months, giving account of his manner of life and progress in theological studies.

(ii) Failure to make such report, not satisfactorily accounted for to the Bishop, shall be ground of refusal of admission to Holy Orders.

The provision of this section, that the candidate must report to his bishop once every three months, was opposed in the Convention of 1871, on the ground that such a requirement was too much like the principle of auricular confession.

Convention of 1892

In the next revision of the canons of ordination, made by the Convention of 1892, Section 5 was made Title I, Canon 4, Section 4, and amended to read as follows:

(i) Every Candidate for Holy Orders, unless expressly released by the Ecclesiastical Authority over him, shall report himself personally or by letter at least once in every three months, giving account of his manner of life and progress in his studies.

(ii) Failure to make such report, not accounted for to the satisfaction of the Ecclesiastical Authority, shall be ground for striking his name from the list of Candidates.

The principal changes made in this section by the amendments thereto were, first, the substitution of "Ecclesiastical Authority" for "Bishop," and secondly, while under the former section he was obliged to report to the bishop, no person was now named, except by implication, to whom he was to make such report. In this respect the section would seem to have been somewhat faulty.

Title I, Canon 4, Section 10, of the Canons of 1871, requiring a candidate for priest's orders to report for his examinations within a certain time, was made Title I, Canon 6, Section 1, and amended to read as follows:

A Candidate for Priest's Orders, not being a Deacon, who shall fail to present himself for examination for Deacon's Orders within three years from the date of his admission as such Candidate, shall be liable, after due notice, to be dropped from the list of Candidates, at the discretion of the Bishop.

Instead of the former provision that the candidate for priest's orders must present himself for examination in his three examinations within a certain period, it was now provided that unless he be a deacon, he must

present himself for examination for deacon's orders within three years from the date of his admission as a candidate. Also, it was formerly provided that "he shall be dropped from the list of Candidates," while the amended section provided that he "shall be liable, after due notice," to be so dropped.

Convention of 1904

In the revision of the Digest of Canons by this Convention, Title I, Canon 4, Section 4, and Title I, Canon 6, Section 1, were combined into one section, as Canon 3, Section 3, and amended to read as follows:

(i) Every Candidate for Holy Orders shall report himself to the Ecclesiastical Authority, personally or by letter, four times a year, in the Ember Weeks giving account of his manner of life and progress in his studies; and if he fail to make such report to the satisfaction of the Ecclesiastical Authority, his name may be stricken from the list of Candidates.

(ii) If a Candidate for Orders shall fail to present himself for examination within three years from the date of his admission as a Candidate, his name may after due notice, be stricken from the list of Candidates at the discretion of the Bishop.

This section remedied the defect of the former provision in not declaring to whom the candidate should report, by providing that he shall report to the ecclesiastical authority.

Convention of 1946

This Convention added a new clause (c) reading as follows:

If a Candidate for Holy Orders shall have passed his canonical examinations, but is refused, on other grounds, recommendation for ordination, the Bishop, with the consent of the Standing Committee or Council of Advice, may remove his name from the list of Candidates.

Convention of 1970

A cross-reference to Canon III.7 was added to clause (b).

Clause (c) was amended to read as follows:

If a Candidate for Holy Orders shall have passed his canonical examinations, but on other grounds is refused recommendation for ordination, the Bishop, with the consent of the Standing Committee or Council of Advice and the Commission on Ministry, may remove his name from the list of Candidates after due notice and indication of the grounds for removal has been given the Candidate.

Convention of 1973

The section was amended to read as at present, significant changes being made in each of the three clauses.

SECTION 7

This section provides that a candidate for Holy Orders, who has been rejected as such candidate, must renew his candidateship before he can be ordained.

Convention of 1804

The first legislation on this subject was by the Convention of 1804, which enacted Canon 9 of that year, reading as follows:

No Bishop shall ordain any candidate until he has inquired of him whether he has ever, directly or indirectly, applied for orders in any other Diocese; and if the Bishop has reason to believe that the candidate has been refused Orders in any other Diocese, he shall write to the Bishop of the Diocese, or, if there be no Bishop, to the Standing Committee, to know whether any just cause exists why the candidate should not be ordained. When any Bishop rejects the application of any candidate for Orders, he shall immediately give notice to the Bishop of every Diocese, or, where there is no Bishop, to the Standing Committee.

The one-time celebrated case of the Rev. Ammi Rogers occasioned the enactment of this canon. The facts of the case as related by Bishop White in his *Memoirs* (pp. 242-246) are as follows:

Rogers was a native of Connecticut and educated at Yale College. Some of the Clergy of that State interested themselves in trying to procure his Ordination, but Bishop Seabury, entertaining an unfavorable opinion of him, declared that he would never ordain him. Rogers afterwards removed to the western part of New York State, and there, by apparent prospects of usefulness, laid the foundation of an application to Bishop Provost, the Bishop of that Diocese, for Holy Orders. While the case was under consideration, the Rev. Dr. Beach, one of the Clergy of New York, having heard that Rogers had been rejected in Connecticut, objected to his ordination. Rogers then went to Connecticut for the purpose of obtaining from the Secretary of the Convention of that Diocese a certificate that there was nothing on the Minutes of the Convention showing his rejection. Such a certificate could have been granted, as Rogers had never made a formal application to be ordained, and therefore, of course, had never been rejected. The Secretary, however, was absent from home, and Rogers fabricated a certificate in his name which not only stated that he had never been refused Ordination in Connecticut, but also testified as to his correct life. The New York Clergyman, on being shown this forged certificate, which he supposed to be genuine, withdrew his opposition, and Rogers was ordained by Bishop Provost. A few years after his Ordination, he returned to Connecticut, but the Bishop and Clergy of that State refused to recognize him as belonging to that Diocese. The question then arose as to what Diocese he really belonged to, which question was referred to the General Convention of 1804.

This case showed the necessity of the canon which this Convention then enacted.

Convention of 1832

This Convention made Canon 9, of the Canons of 1804, Canon 12, and amended it by omitting the word "state" wherever it occurred therein.

Under this canon a question of considerable importance at that time arose. The question was how far the refusal of one bishop to ordain a candidate was to be held conclusive by the bishop of another diocese. Briefly, the facts as stated by Dr. Hawks (*Constitution and Canons*, pp. 167-171) were as follows:

The then Bishop of New York for certain reasons which did not in any way affect the character of the candidate, declined to ordain a certain candidate. He then applied to the Standing Committee of the Diocese of Rhode Island to be received as a candidate. Bishop Griswold of Massachusetts, who at that time had jurisdiction in Rhode Island, wrote to the Bishop of New York for information regarding the matter, and received "a long, particular, and very friendly answer." All this correspondence was laid before the Standing Committee of the Diocese of Rhode Island, and after very careful consideration of the matter, the committee recommended the candidate for ordination, and he was ordained by Bishop Griswold. As the case involved a question of much importance, and the General Convention met soon afterwards, the opinion of the House of Bishops was informally requested in the matter.

Dr. Hawks' remarks:

It would seem that there was a preponderance of opinion in the Church, in favor of the course pursued by Bishop Griswold, for though, as we have stated, the subject came informally before the House of Bishops, for their opinion, yet no legislation took place which was thereafter to prevent the bishops from pursuing such a course as Bishop Griswold had taken. It is not hard to suppose that each Bishop felt that his personal and official independence of action might be compromised by any legislation on the subject, and it was, therefore, thought best to leave it as it stood, trusting to the mutual good understanding of the bishops, and to their having a common interest in the exclusion of the unworthy, to prevent all probable evils.

Convention of 1841

That the General Convention did not continue to hold the views regarding the right of a bishop to ordain a candidate who had been refused ordination by another bishop, which Dr. Hawks credits to the House of Bishops, is evident from the action of this Convention, which enacted the legislation considered above under Section 3 of the present canon.

Canon 12 of 1832 was made Canon 16 in 1856, and became Title I, Canon 4, Section 1, in 1859.

Convention of 1871

Canon 4 was made Canon 5, and Section 1 was amended to read as follows:

(i) No Candidate who may be refused Holy Orders, in any Diocese, shall be ordained in any other Diocese, except by renewal of Candidateship, under the provisions of Canon 2.

(ii) A Bishop who shall finally reject the application of a Candidate for Holy Orders, shall immediately notify such rejection to every Bishop and other Diocesan Ecclesiastical authority in this Church.

The Canon 2 referred to has been considered above under Section 3 of the present canon.

Convention of 1883

Section 1 was amended to read as follows:

(i) No Candidate who may be refused Holy Orders, in any Diocese, shall be ordained in any other Diocese, except by renewal of Candidateship, under the provisions of Canon 2; but he may be allowed part or all the time of his previous candidateship at the discretion of the Bishop, and with the approval of the Standing Committee of the Diocese; *provided*, that before ordination he shall be a Candidate in such Diocese for not less than six months.

(ii) A Bishop who shall finally reject the application of a Candidate for Holy Orders, shall immediately notify such rejection to every Bishop or other Diocesan Ecclesiastical Authority in this Church.

Convention of 1892

The section was made Section 7 of Title I, Canon 4, and amended to read as follows:

(i) Should the application for Holy Orders of a Candidate for the same be finally rejected by the Bishop, or should his application to the Standing Committee for recommendation for ordination be rejected, or should his name be stricken from the list of Candidates, it shall be the duty of the Ecclesiastical Authority of the Diocese or Missionary Jurisdiction to give immediate notice thereof to every other Ecclesiastical Authority of this Church.

(ii) A Candidate for Holy Orders in any Diocese or Missionary Jurisdiction of this Church, whose application for ordination shall have been formally rejected as above, or whose name shall have been stricken from the list, shall not be ordained in any other Diocese or Missionary Jurisdiction, except upon renewal of candidateship, said candidateship to continue for not less than one whole year. In any case where the application of a Candidate for Holy Orders shall have been rejected by any Bishop of this Church, it shall be competent to any other Bishop to decline an application made to himself, if having duly informed himself of the facts of the case, he deem it expedient so to do.

Convention of 1904

This Convention made Title I, Canon 4, Section 7, of the Canons of 1892, Canon 3, Section 4, and amended it to read as follows:

A Candidate for Holy Orders in any Diocese or Missionary District of this Church, whose name shall have been stricken from the list of Candidates, or whose application

for ordination shall have been rejected, shall not be ordained without re-admission to candidateship, said candidateship to continue for not less than one whole year; *provided*, that in no such case shall the whole term of candidateship be less than three years.

Convention of 1919

In its revision of the canons of ordination, this Convention amended Section 4 of Canon 3 by inserting, after the words “of this Church,” these words: “or of any Church in communion with this Church.”

This amendment was made in order to meet the cases of candidates for Holy Orders in the English or Canadian Church who, having been refused by their own bishops, might seek ordination in this country.

Convention of 1946

The concluding words of the section were amended to read “less than two years.”

Convention of 1970

The word “candidateship” was replaced with the word “candidacy.”

Convention of 1973

The section was amended to read as at present.

EXPOSITION OF CANON III.3

This canon specifies the procedures to be followed in admitting a postulant to candidacy, and includes a number of general provisions relating to candidates.

The second section, which relates to procedures, is largely self-explanatory. It should be noted, however, that it is at this point that the standing committee of the diocese becomes involved in the process. Only after all the specified requirements have been fulfilled does the bishop determine whether or not the person is to be admitted a candidate.

In the event that the person has been a candidate in another diocese, or has been refused candidacy in another diocese, the bishop must first have received a letter from the ecclesiastical authority thereof, setting forth the facts of the case.

While a candidate is obliged to remain in canonical connection with the diocese in which he has been admitted, provision is made that the ecclesiastical authority may, for sufficient reason, grant letters dimissory to another diocese.

Section 5 of the canon specifies the content of the annual report which must be made to the bishop by the theological school or the persons under whose direction the candidate is pursuing his academic preparation. These reports are to be made available to the commission on ministry and the standing committee.

Section 6 is concerned with the quarterly reports that must be made by the candidate and provides, under certain circumstances, for the removal of the person's name from the list of candidates. Except when the cause of removal is failure to pass the canonical examinations, the candidate must be informed of the reasons for removal.

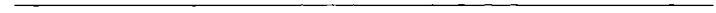
A candidate rejected for any reason cannot be ordained without readmission as a candidate, and the new candidacy must continue for at least one year.

Prior to the Convention of 1970, the guidance and pastoral care of candidates for Holy Orders was a direct responsibility of the bishop of the diocese. Under the present canons, the guidance is shared with the commission on ministry (see Canon III.1 above).

Beginning in 1838, the canons provided that a candidate for orders could not serve as a deputy to General Convention. This provision was repealed in 1969.



CANON 4. (Reserved)



In 1970, when the present arrangement of the canons under Titles was adopted, Canon III.4 was the canon “Of General Provisions Concerning Candidates for Holy Orders.” As a result of amendments made in 1973, those provisions became Canon III.3. Rather than renumber the subsequent canons, this space was reserved for future legislation.



CANON 5. Of the Normal Standard of Learning and Examination of Candidates for Holy Orders

Subject matter of examination. Sec. 1 (a). Before ordination to the Diaconate, the Candidate must pass examinations in the following subject matter:

- (1). The Holy Scriptures;
- (2). Church History;
- (3). Christian Theology;
- (4). Christian Ethics, and Moral Theology;
- (5). Studies in Contemporary Society, including Racial and Minority Groups;
- (6). Liturgics and Church Music: Christian Worship and Music according to the contents and use of the Standard Book of Common Prayer and the Hymnal, respectively;
- (7). Theory and Practice of Ministry.

Examination of Candidates from other Christian Bodies. (b). If the Candidate has been a Minister or Licentiate in some other body of Christians, he shall also be examined in writing on those points of Doctrine, Discipline, Polity, and Worship, in which the Communion from which he has come agrees with and differs from this Church.

Limited examination for Deacon's Orders in special cases. Sec. 2. (a). In special cases, under urgent circumstances, with the approval of the Standing Committee and the Commission on Ministry, a Candidate may be admitted to the Diaconate after passing examinations, conducted by the Commission on Ministry, covering the following subject matter:

- (1). Holy Scripture: The Bible in English, its contents, and historical background;

- (2). Church History: a general outline;
- (3). Christian Theology: The Church's teaching as set forth in the Creeds and the Offices of Instruction;
- (4). Studies in Contemporary Society, including Racial and other Minority Groups;
- (5). Liturgics: The Contents and Use of the Book of Common Prayer;
 - (a). The Office and Work of a Deacon;
 - (b). The Conduct of Public Worship.

Bishop and Presenter may attend. (b). It shall be the privilege of the Bishop and of the Priest who is to present the Candidate for ordination to be present at such examinations.

(c). Before his ordination to the Priesthood, the Commission on Ministry shall satisfy themselves, and shall certify to the Bishop, that such Candidate is qualified in the subject matter set forth in Section 1(a) of this Canon.

Seminary examination not to supersede canonical examinations. Sec. 3 (a). Examinations at any theological institution shall not supersede any canonical examination, nor shall any certificate of graduation or diploma be sufficient ground for dispensing with any part of the canonical examination, except as provided in this Canon.



The canon "Of Examinations" was Title I, Canon 4, when it was enacted in 1871. It became Canons 4 and 6 in 1904, Canon 4 in 1919, Canon 28 in 1943, and Title III, Canon 5, in 1970.

This canon is concerned with what is called the "normal" standard of learning. Exceptions to this norm are provided for in Canon III.8.

SECTION 1

The early canons of the Church, like the present canon, assumed that canonical examinations would take place prior to ordination to the diaconate.

Convention of 1789

This Convention enacted Canon 7, which read as follows:

No person shall be ordained in this Church until he shall have satisfied the Bishop and the two Presbyters, by whom he shall be examined, that he is sufficiently acquainted with the New Testament in the original Greek, and can give an account of his faith in the Latin tongue, either in writing or otherwise, as may be required. Unless it shall be

recommended to the Bishop by two-thirds of the State Convention to which he belongs, to dispense with the aforesaid requisition in whole or in part: which recommendation shall only be good for good causes moving thereunto, and shall be in the following words, with the signature of the names of a majority of such Convention:

We, whose names are underwritten, are of opinion, that the dispensing with the knowledge of the Latin and Greek languages (or either of them, as the case may be) in the examination of A.B. for Holy Orders, will be of use to the Church of which we are the Convention, in consideration of other qualifications of the said A.B. for the Gospel ministry.

It will be noted that, under this canon, the bishop could only grant a dispensation from Latin or Greek with the consent of two-thirds of the state convention. It may be that the reason why this power was not given to the several standing committees was that their existence in all dioceses had been mandated only a few months before this canon was enacted, and they had not yet been appointed in all the dioceses. The more probable reason, however, is given by, Dr. Hawks (*Constitution and Canons*, p. 172), "It may have been thought that the judicious exercise of the dispensing power, was so important to the Church, that the general legislature did not deem it prudent to confide it to any other hands, than those of a majority of the State Convention."

Convention of 1792

This Convention amended the seventh canon of the preceding Convention by the insertion, at the end of the first sentence, of the following words:

and that he hath a competent knowledge of moral philosophy, church history, and the belles lettres, and hath paid attention to rhetoric and pulpit eloquence, as the means of giving additional efficacy to his labors.

Dr. Hawks further remarks on this canon, as follows:

It will here be remarked, that the recommendation to dispense must still come from the Convention; and as Standing Committees were now appointed in all the dioceses, it strengthens the opinion already expressed, that the General Convention looked upon the power as of too much importance to be exercised by any authority less than that of the State Convention. Whether, as State Conventions usually met but once in a year, inconveniences were found to result in the unnecessary delay of candidates, or whether some other cause led to the measure, so it was, that in three years more the law was again altered, by granting *to the Bishop alone* the entire power of dispensation without reference to Convention or Standing Committee (*Constitution and Canons*, p. 174).

Convention of 1795

This Convention amended the seventh canon of 1792, making it Canon 4, and striking out the words "either in writing or otherwise, as may be required" after the words "in the Latin tongue." Also, by changing the wording of the canon, immediately before the form prescribed for the recommendation of the state convention, to read as follows:

unless the bishop shall judge it proper to dispense with the above requisites in part, in consideration of certain other qualifications in the candidate, peculiarly fitting him for the Gospel ministry.

The Convention also struck out the form prescribed by the former canon for the recommendation of the state convention.

It is evident that in those early days there was uncertainty as to where the power of dispensation should be lodged. It was first given to the state conventions, which evidently had not provided to be wholly satisfactory. Now it was given to the bishops. That this was also unsatisfactory would appear from the action of the next Convention.

Convention of 1799

This Convention enacted Canon 4, reading as follows:

Whereas, by the Canons of 1795, entitled, "of the learning of those who are to be ordained," a power is vested in the Bishops, of dispensing with certain enumerated requisites in part, which power is not only too indefinitely expressed, but may be abused: so much, therefore, of the said canon as authorizes Bishops to dispense with any of the qualifications required in candidates for Holy Orders, is hereby repealed.

While this canon remained as the law of the Church, no dispensations for any cause could be granted. That this law was felt to be too strict is evidenced by the action of the next Convention.

Convention of 1801

This Convention enacted Canon 2 of that year, the title of which was "Limiting the Operation of the 4th Canon of 1795" and which read as follows:

The Bishop of this Church, in any State, with the advice and consent of all the Clerical members of the Standing Committee of his diocese, may dispense with the knowledge of the Latin and Greek languages, and other branches of learning not strictly ecclesiastical, which are required by the 4th Canon of 1795.

This is the first time in which the standing committee, or a portion thereof, is mentioned as a council of advice.

Convention of 1808

In the general revision of the canons by this Convention, the several canons heretofore noted, relating to the subject of requirements for ordination, and dispensations from such requirements, were combined into one canon, Canon 9 of that year, as follows:

No person shall be ordained in this Church until he shall have satisfied the Bishop and presbyters by whom he shall be examined, that he is well acquainted with the Holy Scriptures, can read the New Testament in the original Greek, and give an account of his faith in the Latin tongue, and that he hath a competent knowledge of natural and

moral philosophy and Church history, and hath paid attention to composition and pulpit eloquence, as means of giving additional efficacy to his labors. It is also declared to be desirable that every candidate for orders should be acquainted with the Hebrew language. But the Bishop, with the advice and consent of all clerical members of the Standing Committee of his diocese, may dispense with the knowledge of the Latin and Greek languages, and other branches of learning not strictly ecclesiastical, in consideration of certain other qualifications in the candidate, peculiarly fitting him for the gospel ministry.

Convention of 1832

In the revision of the Digest of Canons by this Convention, Canon 9, of the Canons of 1808, was made Canon 13, and amended as follows:

The second sentence of the former canon, reading

It is also declared to be desirable that every candidate for orders should be acquainted with the Hebrew language.

was stricken out, and after the words "Holy Scriptures," in the first sentence, were inserted the words,

can read the Old Testament in the Hebrew language.

The last sentence thereof, beginning with the words "But the bishop," was amended to read as follows:

unless the Bishop, with the consent of a majority of the Clerical Members of the Standing Committee of his Diocese, has dispensed with the knowledge of the Latin and Greek languages, and other branches of learning not strictly ecclesiastical, in consideration of such other qualifications for the Gospel ministry as are set forth in the fourth section of Canon 9. The dispensation with a knowledge of the Hebrew language, to be regarded as in Canon 9.

The Canon 9 referred to provided the steps to be taken by a candidate who desired a dispensation.

The canons no longer required the consent of all the clerical members of the standing committee to the granting of dispensations, but only a majority thereof. Also, it was no longer their advice that the bishop is to seek in the matter, but only their consent.

Convention of 1838

This Convention amended Canon 13 by making it Canon 5, and by striking out the words

unless the Bishop, with the consent of the majority of the Clerical Members of the Standing Committee,

and inserting in place thereof the following:

unless the Bishop, with the consent of the Standing Committee.

The former canon required the consent of a majority of the clerical members of the standing committee to the granting of a dispensation; the canon as thus amended required the consent of a majority of all the members of the committee, lay as well as clerical.

No further amendment was made to this canon until the Convention of 1853.

The canon we have been considering applied to all ordinands. The Convention of 1808, however, had introduced a distinction between examinations for the diaconate and those for the priesthood.

Convention of 1808

Canon 11 of this Convention read as follows:

A candidate for Priest's Orders shall, before his ordination, be required to undergo an examination in presence of the Bishop, and as many Presbyters as can conveniently be convened, on those leading books in the course of study prescribed by the House of Bishops, which he may have omitted in his preparation for deacon's orders.

The course of study here referred to was the "Course of Ecclesiastical Studies," established by the House of Bishops in the Convention of 1804 (*Perry's Reprint of Journals of Convention*, vol. I, p. 315).

The minimum requirement of this course is thus stated:

To set down what books shall be essential, no student to be ordained without being fully prepared to answer on them is more difficult. The lowest requisition is as follows: Paley's Evidences; Mosheim, with a reference to Mr. Hooker, and Mr. Reeves on the Common Prayer; Stackhouse's Body of Divinity; the Constitution and Canons of the Church; allowing, in the study of the Scriptures, a latitude of choice among approved commentators; it being understood, that if the student cannot, on the grounds contained in some good Commentary, give an account of the different books, and explain such passages as may be proposed to him, this is of itself a disqualification.

Convention of 1832

This Convention amended the above cited canon, making it Canon 18, to read as follows:

A candidate for Priest's orders shall, before his ordination, be required to undergo an examination in presence of the Bishop, and two or more Presbyters, to be named by him, on any leading studies prescribed by the House of Bishops.

The Convention of 1832 also enacted Canon 21, "Of those who have officiated as Ministers among other Denominations of Christians, and apply for Orders in this Church," the second section of which read, in part, as follows:

... his examinations, besides having the usual object of ascertaining his proficiency in theology, and the other required studies, shall also be especially directed to the points in which the denomination to which he before belonged differs from this Church, with the view of testing his soundness and sufficient information in the same.

Convention of 1838

This Convention amended Section 2 of Canon 21, of the Canons of 1832, now become a part of Canon 7, Section 4, making the provision regarding their examination to read as follows:

and in the examinations, special regard shall be had to those points in which the denomination whence they come differs from this Church, with a view of testing their information and soundness in the same; and also to the ascertaining that they are adequately acquainted with the liturgy and offices of this Church.

Convention of 1853

This Convention made Canon 5 of the Canons of 1838, relating to the learning of those to be ordained, Canon 6, and amending it as follows:

The title was amended to read “Of the Learning of those who are to be Ordained Priests.”

After the word “ordained” in the first line, was inserted the word “Priest.”

Also, the words “as in Canon 6” were amended to read “as in that canon.”

This Convention also enacted Canon 8 of that year, “Of the Preparatory Exercises of a Candidate for Priest’s Orders,” the first section of which read as follows:

There shall be assigned to every Candidate for Priest’s Orders three different examinations, at such times and places as the Bishop to whom he applies for orders shall appoint. The examination shall take place in the presence of the Bishop and two or more Presbyters, on the following studies prescribed by the Canons, and by the course of study established by the House of Bishops. At the *first* examination, on the books of Scripture, the Candidate being required to give an account of the different books, and to translate from the original Greek and Hebrew, and to explain such passages as may be proposed to him. At the *second* examination, on the Evidences of Christianity and Systematic Divinity. And at the last examination, on Church History, Ecclesiastical Polity, the Book of Common Prayer, and the Constitution and Canons of the Church, and of the Diocese for which he is to be ordained. In the choice of books on the above subjects the Candidate is to be guided by the course of study established by the House of Bishops. At each of the aforementioned examinations he shall produce and read a sermon or discourse composed by himself, on some passage of Scripture previously assigned him, which, together with two other sermons, or discourses, on some passage of Scripture selected by himself, shall be submitted to the criticisms of the Bishops and Clergy present. And before his ordination, he shall be required to perform such exercises in reading in the presence of the Bishop and Clergy, as may enable them to give

him such advice and instruction as may aid him in performing the service of the Church, and delivering his sermons with propriety and devotion. But such examinations may take place either before or after the admission of the Candidate to Deacon's Orders; provided that nothing in this Canon shall be construed to extend to any person now in Deacon's Orders.

Convention of 1856

Section 1 of Canon 8, of the Canons of 1853, was made Section 11 of Canon 5, and was amended by striking out these words at the end thereof,

provided that nothing in this Canon shall be construed to extend to any person now in Deacon's Orders,

and inserting in place thereof the following:

Nothing in this Canon shall be construed to require any person who has already passed any examination to repeat the same.

This same Convention also amended Canon 18, of the Canons of 1832, making it Section 2 of Canon 5, and reading as follows:

No person shall be ordained Priest in this Church until he shall have satisfied the Bishop and Presbyters by whom he shall be examined, that he is well acquainted with the Holy Scriptures; can read the Old Testament in the Hebrew language, and the New Testament in the original Greek; is adequately acquainted with the Latin tongue; and that he hath a competent knowledge of Natural and Moral Philosophy, and Church History, and hath paid attention to Composition and Pulpit Eloquence, as a means of giving additional efficiency to his labors, unless the Bishop, with the consent of the Standing Committee of his Diocese, has dispensed with the knowledge of the Latin and Greek languages, and other branches of knowledge not strictly ecclesiastical, in consideration of such other qualifications for the Gospel Ministry as are set forth in Section 4 of this Canon. The dispensation with the knowledge of the Hebrew language to be regarded as in that Section.

Convention of 1859

In the revision of the Digest of Canons by this Convention, Section 2 of Canon 5, of the Canons of 1856, was made Title I, Canon 7, Section 11, but with no amendment made thereto.

Section 11 of Canon 5 was made Section 7 of the same canon, also without amendment.

The provision in Section 4 of Canon 7, of the Canons of 1838, regarding the examination of a person who has been a minister in some other religious body, was made a part of Title I, Canon 5, Section 6, without amendment.

Convention of 1871

This Convention made a thorough revision of the canons of ordination, and combined all the provisions of former canons relating to the examinations of candidates for orders into one canon: Title I, Canon 4.

The examinations for priest's orders were set forth in Sections 4, 5, 6, and 7, which read as follows:

Sec. 4. (i) There shall be assigned to every *Candidate for Priest's Orders* three different examinations, at such times and places as the Examining Chaplains shall appoint.

(ii) Except for extraordinary reasons of great urgency, these examinations shall not be accumulated into one, but shall each be assigned as the business of a separate day.

(iii) Each examination shall be conducted in part orally, and in part by questions or themes propounded in writing, to which written answers shall be made, in presence of one or more of the Examining Chaplains.

(iv) At the discretion of the Examining Chaplains, such written questions or themes may, or may not, be previously communicated to the Candidate.

(v) At each examination the Candidate shall produce, and read, a Sermon or Discourse, composed by himself, on some passage of Scripture assigned to him for that purpose by the Bishop, and shall also hand in two other Sermons or Discourses on some passage or passages of Scripture elected by himself; all which Sermons or Discourses shall be submitted to the criticisms of the Examining Chaplains.

(vi) At either or all of the examinations, the Examining Chaplains may, and at some of them, at least, shall, subject the Candidate to such proof of his ability to conduct the Service of the Church in an edifying manner, and to deliver his Sermons with propriety and effectiveness, as shall fully satisfy them of his competence for the public duties of the Holy Ministry.

(vii) If the Candidate be one who, not having had Episcopal Ordination, has been acknowledged as an ordained or licensed Minister in any other denomination of Christians, and be not yet admitted to Deacon's Orders, he shall, at the first examination, be also examined on those points in which the denomination whence he comes differs from this Church, with a view of testing his information and soundness in the same.

(viii) [This clause refers to seminary examinations and will be noted later.]

Sec. 5. *The three examinations shall be:—*

(i) *The first examination*, on the Books of Scripture, the Candidate being required to give an account of the different Books, to translate from the original Greek and Hebrew, and to explain such passages as may be proposed to him.

(ii) In cases of Candidates having dispensations from Latin, Greek, or Hebrew, and other branches of learning not strictly Ecclesiastical, the *first examination* shall extend only to the knowledge of the text and interpretation of the English Bible, with such other matters as are comprised in what are commonly known as Introductions to the Holy Scriptures.

(iii) *The second examination* shall be on the Evidences of Christianity, Christian Ethics, and Systematic Divinity.

(iv) *The third examination* shall be on Church History, Ecclesiastical Polity, the Book of Common Prayer—its history and contents, and the Constitution and Canons of this Church, and those of the Diocese to which the Candidate belongs.

(v) In all these examinations reference shall be had, as closely as possible, to the course of study established by the House of Bishops, and to the books therein recommended, or equivalent works of more recent date.

Sec. 6. (i) The Bishop, at his discretion, may take part and preside in either or all of the examinations of a Candidate for Priest's Orders.

(ii) The Bishop may also invite the presence and assistance, at any such examination, of any Presbyter to whom he may desire to assign the duty of presenting one or more of the Candidates for ordination.

(iii) If any Candidate for Priest's Orders be not examined by the Bishop in at least one of the examinations by the Examining Chaplains, he shall, before his ordination, be examined by the Bishop and two or more Presbyters, on the subjects above prescribed.

(iv) [This clause made provision for a diocese without a bishop.]

Sec. 7. (i) The examinations of a Candidate for Priest's Orders may take place either before or after ordination of the Diaconate.

(ii) [This clause refers to Deacon's Orders and will be noted later.]

(iii) The satisfactory passage of the *first* examination for Priest's Orders alone shall suffice for the admission of the Candidate to Deacon's Orders: *Provided* as above, and *further provided* that, in any case, before ordination, he be examined by the Bishop and at least two Presbyters on his familiarity with the Book of Common Prayer, in all its parts and adjuncts, and with the text of the Book of Articles; and that such examination on the Prayer Book be not held to have satisfied in his case the requisitions of the *third* examination for Priest's Orders.

Convention of 1892

This Convention made another complete revision of the canon of ordination. Most of the provisions of the former canon relating to candidates for the priesthood were transferred to Title I, Canon 6, as follows:

Clause (i) of former Section 4 was made Section 2 and was amended to read as follows:

There shall be assigned to every Candidate for Priest's Orders three separate examinations, to be held at such times and places, and with such adjournments from time to time, as the Examiners may appoint.

Clause (ii) was made Section 7 and amended to read:

Except for urgent or special reasons, these examinations shall not be accumulated into one.

Clauses (iii) and (iv) were stricken.

Clause (v) was made Section 8 and amended to read:

In the course of these examinations, the Candidate shall read or present three sermons composed by himself on some texts of Scripture, chosen by the Bishop or by himself, as the Bishop shall have determined.

Clause (vi) was made Section 9 and amended to read:

At any or at all of the above examinations, the Examiners may, and at some of them shall, subject the Candidate to such proof of his ability to conduct the services of the Church in an edifying manner, and to deliver his sermons with propriety and effectiveness, as shall fully satisfy them of his competence for the public duties of the Holy Ministry.

Clause (vii) was made Section 5 and amended to read:

(i) Should the Candidate have come from another religious body, especial reference shall be had in all his examinations to the points upon which the denomination from which he has come differs from this Church.

(ii) So far as may be practicable, and to some extent at least, this portion of the several examinations shall be conducted by written questions and answers, the replies to which shall be placed on file.

Clause (viii) was made Section 3, but as it will be considered later, it need not be noted at present.

Former Section 5 was made Section 6.

Clauses (i) and (ii) thereof were unamended.

In clause (iii) the words "Dogmatic Theology" were substituted for "Systematic Divinity."

Clauses (iv) and (v) were not amended.

Former Section 6 (i) and (ii) was made Section 4 (i) and amended to read as follows:

The Bishop may invite the presence and assistance of any Presbyter to whom he may propose to assign the duty of presenting the Candidate. And it shall be the privilege of such Presbyter to be present, should he desire it. But without such reason no person, save the Bishop, shall be permitted to be present, without the consent of the appointed Examiners.

Clause (iii) thereof was made Section 4 (ii) and was amended to read:

But no Bishop shall take order for the ordination of any person to the Priesthood without having first himself examined him in the presence of two or more Presbyters.

Clause (iv) was repealed.

Former Section 7 (i) was made Section 11 (i) and amended to read as follows:

All the examinations of a Candidate for Priest's Orders may take place, if desired by the Candidate, before his ordination to the Diaconate.

Clauses (ii) and (iii) thereof will be considered later.

Convention of 1904

In the revision of the whole Digest of Canons by this Convention, several changes were made in the Provisions for the examination of a candidate for Holy Orders.

Title I, Canon 6, Section 2, of the Canons of 1892, was made Section 1 (ii) of Canon 6 and amended to read as follows:

There shall be assigned to every Deacon desiring to be ordered Priest two separate examinations, to be held at such times, and with such adjournments from time to time, as the Examiners may appoint.

Section 4 (i) of the same canon was made Section 1 (iv) and amended to read as follows:

The Bishop may invite the presence and assistance of the Priest who is to present the Deacon, and it shall be the privilege of such Priest to be present; but no other person save the Bishop shall be permitted to be present, without the consent of the Examiners.

Section 7 was made Section 2 (v), and amended to read:

The accumulation of these examinations, or any parts of them, may be permitted by the Bishop for urgent reasons.

Section 8 was made clause (vi) of Section 2 and amended to read:

In the course of these examinations, the Deacon shall present three sermons, composed by himself, on texts of Holy Scripture appointed by the Bishop.

Section 9 was made clause (vii) of Section 2 and amended to read:

At one of his examinations, the Examiners shall subject the Deacon to such proof of his ability to conduct the services of the Church in an edifying manner and to deliver sermons with propriety and effectiveness, as shall satisfy them of his competency for the public duties of the Sacred Ministry. He shall also be subjected to a strict examination on the rubrics for ministering the Holy Sacraments.

Section 5 was transferred to Canon 4 "Of the Examination of a Candidate desiring to be Ordered Deacon," and will be considered later.

Section 6 became Section 2 of new Canon 6, and was amended to read as follows:

(i) The first examination shall be in: The New Testament in Greek; the Evidences of Natural and Revealed Religion; Dogmatic Theology.

(ii) The second examination shall be in: The Old Testament in Hebrew; Christian Ethics; Ecclesiastical History from the Third Century; Ecclesiastical Polity; the History and Contents of the Book of Common Prayer; the Constitution and Canons of this Church and those of the Diocese to which the Deacon belongs.

(iii) In cases of dispensation from Greek and Hebrew, or either of them, the examinations in the Holy Scriptures shall not extend to the knowledge of the Bible in the languages from which the Deacon has been dispensed.

(iv) These examinations shall be conducted, at least in part, by written questions and answers.

Clauses (v), (vi), and (vii) have already been noted. Clauses (viii) and (ix) do not belong to the subject we are at present considering.

Section 11 (i) was made Canon 6, Section 3, and amended to read as follows:

These examinations may be held, if desired by a Candidate, before he is ordered Deacon.

Section 4 (ii) was made Canon 6, Section 4, and was amended to read:

If the Bishop shall not have taken part in any of the above examinations, then the Deacon shall be examined by him in the presence of two Presbyters.

Convention of 1907

This Convention amended Canon 6, Section 2 (ii), by adding at the end thereof the following words:

and the principles and methods of Religious Education, especially as applied to the Sunday School.

Convention of 1919

This Convention made a complete revision of all the canons concerning ordination, and amended former Canon 6, combining the provisions of that canon so far as they related to the examinations before ordination to the priesthood, into Section 1 of Canon 4.

As amended, Section 1 of Canon 4 read as follows:

(i) Before ordination to the Priesthood, the Candidate must pass examinations before the Examining Chaplains in the following subjects:

1. Holy Scripture: The Bible in English; the New Testament in Greek, together with a special knowledge of at least two Gospels and two Epistles; History of the Canon of Scripture; Introduction to, and Contents of, the various Books; Biblical History; Exegesis;

2. Church History: From the beginning to the present time; together with special knowledge of a period elected by the Candidate;

3. Christian Missions: Their history, extent and methods;
4. Doctrine: Dogmatic Theology and the Evidences of the Christian Faith;
5. Christian Ethics, and Moral Theology;
6. Liturgics: The Principles and History of Christian Worship; the Contents and use of the Book of Common Prayer;
7. Ecclesiastical Polity and Canon Law, including the Constitution and Canons of the General Convention, and of the Diocese to which the Candidate belongs;
8. Ministration:
 - (a) The Administration of the Sacraments; and Conduct of Public Worship, with the proper use of the voice therein;
 - (b) Homiletics: Principles of Sermon Composition and Delivery. In connection with the examination in this subject the Candidate shall present three sermons, composed by himself, on texts of Holy Scripture appointed by the Bishop;
 - (c) Pastoral Care;
 - (d) Parish Organization and Administration, including the keeping of accounts;
 - (e) Principles and Methods of Religious Education in the Parish;
9. He must also offer at least one of the following Elective subjects:
 - (a) Old Testament in Hebrew,
 - (b) Biblical Theology,
 - (c) History of Religions,
 - (d) Sociology,
 - (e) Psychology,
 - (f) A modern language other than English, with the ability to minister therein,
 - (g) Christian Archaeology,
 - (h) Christian Biography,
 - (i) Church Music,
 - (j) Advanced Exegesis of the Greek New Testament,
 - (k) Work of a specialized and advanced character in any recognized field of study.

The Board of Examining Chaplains may, in lieu of examination, accept satisfactory evidence of the fulfillment of the requirements in any of the above mentioned elective subjects.

(ii) If a Candidate desires a dispensation from examination in the Greek of the New Testament, he shall make application to the Bishop in writing, stating his reasons for the request. The Bishop may, upon recommendation of the Board of Examining Chaplains, at his discretion, grant the same. A Candidate so dispensed shall be examined in the special knowledge of at least two Gospels and two Epistles in English, and shall also offer at least three elective subjects.

(iii) If the candidate have been a Minister or Licentiate in some other body of Christians, he shall also be examined, in writing, on those points of Doctrine, Discipline and Worship, in which the communion from which he has come differs from this Church. This portion of the examination shall be conducted, in part at least, by written questions and answers; the replies shall be kept on file for at least three years.

Two of the former provisions, which had long been applicable to deacons as well as priests, were placed in Section 3 of the canon, and amended to read as follows:

(ii) It shall be the privilege of the Priest who is to present a Candidate for ordination to be present at his examinations; but no other person save the Bishop shall be permitted to be present without the consent of the Board of Examining Chaplains.

(iii) The Candidate shall be examined by the Bishop in the presence of two Priests both before his ordination to the Diaconate and before his ordination to the Priesthood. The Bishop may conduct one or both of these examinations by taking some part in the regular examinations held by the Examining Chaplains.

Convention of 1946

This Convention amended the canon, now Canon 29, to require that all examinations by the examining chaplains should normally take place before ordination to the diaconate.

Section 1 of the canon was amended to read as follows:

(a). Before ordination to the Diaconate, the Candidate must pass examinations before the Board of Examining Chaplains in the following subjects required for Deacons' and Priests' Orders:

(1) Holy Scripture: The Old and New Testaments in English, their contents and historical background; a reading knowledge of the New Testament in Greek, together with special knowledge of one Synoptic Gospel and the Gospel according to Saint John, and of three Epistles, one of which shall be Romans or First Corinthians;

(2) Church History: From the beginning to the present time; together with:

(a) Special knowledge of a period or topic elected by the Candidate with the approval of the Examining Chaplains;

(b) The history, extent, and methods of Christian Missions;

(c) Ecclesiastical Polity;

(3) Theology: Historical, philosophical, and systematic;

(4) Christian Ethics, and Moral Theology;

(5) Liturgics: The Principles and History of Christian Worship; the Contents of the Book of Common Prayer;

(6) Practical Theology:

(a) The use of the Book of Common Prayer, the Administration of the Sacraments, and the Conduct of Public Worship;

(b) Homiletics: Principles of Sermon Composition and Delivery. In connection with the examination in this subject the Candidate shall present three sermons, composed by himself, on texts of Holy Scripture appointed by the Bishop;

(c) Pastoral Care;

(d) Parish Organization and Administration, including the keeping of records;

(e) Principles and methods of Christian Education in the Parish;

(f) Canon Law, including the Constitution and Canons of the General Convention, and of the Diocese or District to which the Candidate belongs;

(g) The use of the voice in reading and speaking.

(7) He must also offer one of the following elective subjects:

(a) Hebrew,

(b) The History of Religions,

(c) The Philosophy of Religion,

(d) Advanced Sociology,

(e) Advanced Psychology,

- (f) Church Music,
- (g) Advanced Exegesis of the Greek New Testament.

The Board of Examining Chaplains may, in lieu of examination, accept satisfactory evidence of the fulfillment of the requirements in any of the above mentioned elective subjects.

(b). If a Candidate desires a dispensation from examination in the Greek of the New Testament, he shall make application to the Bishop in writing, stating his reasons for the request. The Bishop may, upon recommendation of the Board of Examining Chaplains, at his discretion, grant the same. A Candidate so dispensed shall be examined in the special exegetical knowledge in English of one Synoptic Gospel and the Gospel according to Saint John, and of three Epistles, one of which shall be Romans or First Corinthians.

(c). If the Candidate has been a Minister or Licentiate in some other body of Christians, he shall also be examined, in writing, on those points of Doctrine, Discipline, Polity, and Worship, in which the communion from which he has come differs from this Church. This portion of the examination shall be conducted, in part at least, by written questions and answers; the replies shall be kept on file for at least three years.

Section 3 of the canon remained unamended, however, and under its provisions the bishop was still required to examine the person before ordination to the priesthood as well as before ordination to the diaconate.

Convention of 1955

Item 7 of Section 1 (a) was amended by the addition of a new entry, as follows:

- (h) Advanced Theology.

Convention of 1964

Item 7 of Section 1 (a), requiring that a candidate submit to an examination in an elective subject, was repealed in its entirety.

Convention of 1970

On the recommendation of the Board for Theological Education, Section 1 of the canon, now Title III, Canon 5, was amended to read as at present, except for item (6), which read as follows:

Liturgics: Christian Worship and the contents and use of the Book of Common Prayer.

Clause (b) of Section 3 was amended and made part of Section 2 of the canon. It will be considered later.

Clause (c) of the same section, requiring the examination of candidates by the bishop personally, was repealed, though it still appears as a requirement in Article VIII of the Constitution.

Convention of 1979

Item (6) of Section 1 (a) was amended to include a reference to the Hymnal.

SECTION 2

This section contains the provisions for the examination of a candidate before ordination to the diaconate if, in special cases, under the conditions specified, the candidate is to be ordained without having passed the examinations listed in Section 1 (a) as normally required for both orders.

In the earlier canons, the subjects for examination for the diaconate and for the priesthood were combined, and many of them we have, therefore, already considered in the discussion of the first section of this canon.

Convention of 1808

The first reference to examinations of candidates for deacon's orders, as distinguished from examinations for priest's orders, is found in Canon 10 of the Canons of 1808, which read as follows:

There shall be assigned to every candidate for deacon's orders, four different examinations, at such times and places as the Bishop to whom he applies shall appoint, and if there be a Bishop within the State or diocese where the candidate resides, he shall apply to no other Bishop for ordination without the permission of the former. The examinations shall take place in the presence of the Bishop or as many Presbyters as can conveniently be convened, on the following studies prescribed by the canons, and by the course of study established by the House of Bishops.

At the first examination—on some approved treatises on natural philosophy, moral philosophy and rhetoric, and the Greek Testament; and he shall be required to give an account of his faith in the Latin tongue. At the second examination—on the books of Scripture; the candidate being required to give an account of the different books, and to explain such passages as may be proposed to him. At the third examination—on the Evidences of Christianity, and systematic divinity. And at the last examination—on Church history, Ecclesiastical Polity, the Book of Common Prayer, and the Constitution and Canons of the Church, and of the diocese or State for which he is to be ordained. In the choice of books on the above subject, the candidate is to be guided by the course of study established by the House of Bishops. At each of the forementioned examinations he shall produce and read a sermon or discourse, composed by himself on some passage of Scripture previously assigned him; which sermon or discourse shall be submitted to the criticism of the Bishop and clergy present. And before his ordination, he shall be required to perform such exercises in reading, in the presence of the Bishop and clergy, as may enable them to give him such advice and instructions as may aid him in performing the service of the Church, and in delivering his sermons with propriety and devotion.

If the candidate should not reside convenient to the residence of the Bishop, the Bishop may appoint some of his Presbyters to conduct the above examinations; and a certificate

from these Presbyters, that the prescribed examinations have been held accordingly, and satisfaction given, shall be required of the candidate. Provided that, in this case, the candidate shall, before his ordination, be examined by the Bishop and some of his Presbyters on all the above named studies.

In a diocese where there is no Bishop, the Standing Committee shall act in his place for the purpose of carrying into effect this canon; and in this case the candidate shall be examined by the Bishop to whom he applies for orders and his Presbyters, on the studies prescribed by the canons.

A clergyman who presents a person to the Bishop for orders as specified in the office of ordination, without having good grounds to believe that the requisitions of the canons have been complied with, shall be liable to ecclesiastical censure.

Convention of 1832

Canon 10, of the Canons of 1808, was made Canon 14, and amended as follows:

The first two paragraphs of the former canon were made Section 1 of the new canon, and these words in the first sentence of the second paragraph were stricken:

and the Greek Testament; and he shall be required to give an account of his faith in the Latin tongue,

and these words inserted in place thereof:

and in the Hebrew Bible, the Greek Testament, and the Latin tongue.

Also, the words “which sermon or discourse” in the second to the last sentence of the said second paragraph were stricken, and in place thereof these words were inserted:

which, together with one other sermon or discourse on some passage of Scripture selected by himself.

The third paragraph of the former canon was made Section 2, and the words at the beginning thereof, reading

If the candidate should not reside convenient to the residence of the Bishop

were stricken.

Also, in the said paragraph, the words “and some of his Presbyters on all the above named studies,” at the end thereof, were stricken, and these words inserted in place thereof: “and two or more Presbyters, on the above named studies.”

The fourth paragraph of the former canon was made Section 3, and the words “for the purpose of carrying into effect this canon” were stricken, and these words inserted in their place: “in appointing the examining presbyters required by this canon.”

Also, the word “again” was inserted before the word “examined.” The words “and his Presbyters” were stricken, and these words inserted in place thereof: “and two or more Presbyters.”

The last paragraph of the former canon was made Section 4 of the new canon, but remained without amendment.

It will be noticed that under the provisions of this canon, although a candidate might have been thoroughly examined by the presbyters appointed by the bishop for that purpose, in all the studies prescribed by the canons, he must also be examined by the bishop himself, personally.

Convention of 1841

This Convention amended Canon 14, of the Canons of 1832, making it Canon 5 of that year, and amending it to read, in part, as follows:

Sec. 1. There shall be assigned to every Candidate for Deacon's Orders, three different examinations, at such times and places as the Bishop to whom he applies shall appoint. The examination shall take place in the presence of the Bishop and two or more Presbyters, on the following studies prescribed by the Canons, and by the course of study established by the House of Bishops. At the first examination on the books of Scripture: the Candidate being required to give an account of the different books, and to translate from the original Hebrew and Greek, and to explain such passages as may be proposed to him. At the second examination—on the Evidence of Christianity, and Systematic Divinity. And at the last examination—on Church History, Ecclesiastical Polity, the Book of Common Prayer, and the Constitution and Canons of the Church, and of the Diocese for which he is to be ordained. in the choice of books on the above subjects, the Candidate is to be guided by the course of study established by the House of Bishops. At each of the aforementioned examinations, he shall produce and read a Sermon or Discourse composed by himself, on some passage of Scripture previously assigned to him which, together with two other Sermons or Discourses, on some passage of Scripture selected by himself, shall be submitted to the criticisms of the Bishop and Clergy present. And before his ordination, he shall be required to perform such exercises in reading, in the presence of the Bishop and Clergy, as may enable them to give him such advice and instructions as may aid him in performing the service of the Church, and in delivering his Sermons with propriety and devotion.

The remaining sections of the said canon were enacted without amendment.

Convention of 1853

This Convention made Canon 5, of the Canons of 1841, Canon 8, and amended it by making the title thereof “Of the Preparatory Exercises of a Candidate for Priest's Orders.”

Section 1 was amended by substituting the word “Priest's” for the word “Deacon's” and by adding at the end of said section the following:

But such examinations may take place either before or after the admission of the Candidate to Deacon's Orders; provided that nothing in this Canon shall be construed to extend to any person now in Deacon's Orders.

The remaining sections were not amended.

This canon has already been considered under Section 1 of the present canon.

Convention of 1856

As the Convention of 1853 had so amended the former canon, relating to the examinations for deacon's orders, as to make it apply to the examinations for priest's orders, there was no provision made for the course of study which a deacon must pursue. The Convention of 1856, therefore, in its revision of the canons of ordination, enacted Canon 4, "Of Deacons," the first section of which read as follows:

Every person hereafter to be Ordained Deacon in this Church shall be examined by the Bishop and two Presbyters, whose duty it shall be to ascertain that he is well acquainted with the Holy Scriptures, and the Book of Common Prayer, and who shall inquire into his fitness for the ministrations declared in the Ordinal to appertain to the office of a Deacon, and be satisfied thereof.

Section 3 of the same canon read as follows:

Candidates who, not having Episcopal Ordination, have been acknowledged as Ordained or Licensed Ministers among any other denomination of Christians, may, at the expiration of not less than six months from their admission as Candidates, be Ordained Deacons on their passing the same examinations as other Candidates for Deacon's Orders; and in the examinations, special regard shall be had for those points in which the denomination whence they come differs from the church, with a view of testing their information and soundness in the same, and also to the ascertaining that they are adequately acquainted with the Liturgy and Offices of this Church; *provided*, that in their case the testimonials shall be required to cover only the time since their admission as Candidates for Orders.

Convention of 1859

In the revision of the Digest of Canons by this Convention, Canon 4 of the Canons of 1856 became Title I, Canon 5.

Section 1 of the said Canon 4 was enacted without amendment, as was also Section 3, except that it was made Section 6.

Section 11 of former Canon 5 was made Section 7 of Canon 7, but with no material amendment thereto.

Convention of 1871

This Convention, in its revision of the canons of ordination, enacted a special provision for the examination of the deacon. Title I, Canon 4, Section 3, of the canons of that Convention, read as follows:

(i) *The examination of a Candidate for the office and administration of a Deacon* only, shall be so conducted as may most thoroughly ascertain the extent of his acquaintance with the Holy Scriptures of the Old and New Testaments—in every part of which he shall be required to be well versed—and also his familiarity with the Book of Common Prayer, in all its parts and adjuncts, and with the Book of Articles.

(ii) The Candidate shall also be examined as to his sufficiency for the edifying performance of the Service of the Church, and for the ministration of the Office of a Deacon, in all its parts and functions.

(iii) If the Candidate be one who, not having had Episcopal Ordination, has been acknowledged as an ordained or licensed Minister in any other denomination of Christians, he shall also be examined on those points in which the denomination whence he comes differs from this Church, with a view of testing his information and soundness in the same.

(iv) This examination shall always be conducted by the Examining Chaplains, the Bishop being present at his discretion.

This section contains the former provisions relating to the examination of candidates for deacon's orders.

Section 7, of this same Canon 4, read as follows:

(i) The examinations of a Candidate for Priest's Orders may take place either before or after ordination of the Diaconate.

(ii) Their satisfactory passage by the Candidate shall be his sufficient examination for Deacon's Orders:

Provided, that if the Bishop shall not have taken part in one or more of such examinations, then the Candidate shall be examined by the Bishop and two Presbyters in the mode prescribed in Sec. 3 of this Canon.

(iii) The satisfactory passage of the first examination for Priest's Orders alone shall suffice for the admission of the Candidate to Deacon's Orders.

The remainder of this clause pertains more particularly to the examinations for priest's orders.

Clause (iii) clearly implied that the first examination for priest's orders should suffice for admission to the diaconate. The provisions of Section 5 (i) and (ii) have already been noted under the discussion of Section 1, as above, but as its provisions also related to the examination for deacon's orders, it may be well to note the said clauses at this time.

Sec. 5. (i) *The first examination*, on the Books of Scripture, the Candidate being required to give an account of the different Books, to translate from the original Greek and Hebrew, and to explain such passages as may be proposed to him.

(ii) In cases of Candidates having dispensations from Latin, Greek, or Hebrew, and other branches of learning not strictly Ecclesiastical, the *first examination* shall extend only to the knowledge of the text and interpretation of the English Bible, with such other matters as are comprised in what are commonly known as Introductions to the Holy Scriptures.

The difference between the requirements of Section 3, prescribing the examinations for deacon's orders only, and the first examination for priest's orders as prescribed by Section 5, would seem to have been that the candidate for priest's orders, before his ordination to the diaconate, must be able to give an account of the different books of Holy Scripture, to translate from the original Greek and Hebrew, unless he have a dispensation therefrom, and to explain such passages of Scripture as may be proposed to him; while the candidate for deacon's orders only, must show an acquaintance with every part of the Old and New Testaments, without being required to translate from the original Greek or Hebrew, and also show a familiarity with the Book of Common Prayer and the Articles of Religion.

Convention of 1892

In the revision of the canons of ordination, the whole structure of Canon 4 was changed. In place of said Canon 4, "Of Examinations," the Convention enacted two canons, Canon 5, "Of the Learning and Examinations of Candidates for Deacon's Orders only" and Canon 6, "Of the Learning and Examinations of a Candidate for Priest's Orders."

Canon 5 read as follows:

Sec. 1. A Candidate for Deacon's Orders only, who shall fail to present himself for examination within three years from the date of his admission as such Candidate, shall be liable, after due notice, to be dropped from the list of Candidates, at the discretion of the Bishop.

Sec. 2. (i) The Bishop, or, if the Diocese be vacant, the clerical members of the Standing Committee, shall assign to the Candidate his Examiners, who shall be two or more Presbyters of good learning, and (if possible) Examining Chaplains of the Diocese or Jurisdiction, and who, upon due notification of the duty laid upon them, shall proceed as speedily as may be to its performance, in accordance with the provisions of this section.

(ii) The examination of a Candidate for the Order of Deacons only shall be so conducted as may most thoroughly ascertain:

(a) His proficiency in the English language.

(b) The extent of his acquaintances with the Holy Scriptures of the Old and New Testament, in every part of which he must be well versed.

(c) His familiarity with the Book of Common Prayer, in all its parts and adjuncts, especially with the Order of Daily Prayer, with the text of the Articles of Religion, with the form and manner of making Deacons, and with the instructions therein given as to the duties of the office.

(d) His sufficiency for conducting the services of the Church, and ministering in the office of a Deacon in all its parts and functions.

(iii) If the Candidate has come from another religious body, he shall be also examined on those points in which the denomination from which he has come differs from this Church, with a view to test his information and soundness of doctrine with respect to the same.

This portion of the examination shall be conducted, in part at least, by written questions and answers, and the replies shall be placed on file.

The remainder of the canon relates to matters which will be considered later, except for Section 6, which read as follows:

No Bishop shall ordain any person under the provisions of this canon, without having first at some time examined him in the presence of two Presbyters.

Section 7 (i) and the first sentence of clause (iii) of the same section of Canon 4, Title I, of the Canons of 1871, became Section 11, of Canon 6, and amended to read as follows:

(i) All the examinations of a Candidate for Priest's Orders may take place, if desired by the Candidate, before his ordination to the Diaconate.

(ii) The successful passage for the *first* examination shall suffice for his admission to Deacon's Orders.

Convention of 1898

This Convention amended Title I, Canon 6, Section 11 (ii), making it to read as follows:

It shall suffice for his admission to Deacon's Orders, if he shall have passed an examination in the Book of Common Prayer, its history and contents, and the first examination for Priest's Orders.

Convention of 1904

This Convention in its revision of the Digest of Canons eliminated all provisions for examinations for deacon's orders only. It enacted Canon 4, "Of the Examination of a Candidate desiring to be Ordered Deacon."

Clause (iii) of Section 1 read as follows:

The Bishop may invite the presence and assistance of the Priest who is to present the Candidate, and it shall be the privilege of such Priest to be present; but no other person save the Bishop shall be permitted to be present without the consent of the Examiners.

Section 2 read as follows:

(i) The Candidate shall be examined in:

(a) The Books of the Holy Scripture, the Candidate being required to give an account of the different Books, and to explain such passages as may be proposed to him.

- (b) Passages from the Old Testament in the Hebrew, previously assigned, and one Book of the New Testament in the Greek, previously assigned, unless he has a dispensation from those languages.
- (c) The Book of Common Prayer.
- (d) The doctrine of the Church, as set forth in the Apostles' and Nicene Creeds.
- (e) Ecclesiastical History of the first three centuries.
- (f) The English language, unless he is to be licensed to officiate in a foreign language.
- (g) The office and ministrations of a Deacon.
- (h) The Constitution and Canons of this Church, and those of the Diocese to which the Candidate belongs.
- (ii) This examination shall be conducted, at least in part by written questions and answers.

The remainder of the section does not relate to the examination of a candidate for the diaconate, except one who has been a minister in some other religious body, which provision has been considered under Section 1 of the present canon.

Section 3 read as follows:

If the Bishop shall not have taken part in any of the examinations, then the Candidate shall be examined by him in the presence of two Presbyters.

Convention of 1907

A slight amendment was made to Section 2 of Canon 4, of the Canons of 1904, providing for an examination in the principles and methods of religious instruction, as follows:

- (i) The principles and methods of Religious Education, especially as applied to the Sunday School.

Convention of 1919

Section 2 of Canon 4 was amended to read as follows:

Before admission to the Diaconate, it shall suffice that the Candidate pass examinations in the following portions of the requirements set forth in Sec. 1 of this Canon. And before his advancement to the Priesthood he shall not be required to be reexamined in these subjects, or portions of subjects, unless the Examining Chaplains have warned him beforehand of this requirement in specified subjects, except that in any event the candidate must be reexamined in the Conduct of Public Worship with the proper use of the voice therein;

1. Holy Scripture: The Bible in English; Contents and Interpretation of the various Books; Biblical History;
2. Church History: A general outline, together with the history of this Church in the United States of America;

3. Christian Missions: Their history, extent and methods;
4. Doctrine: The Church's teaching as set forth in the Creeds and Catechism;
5. Liturgics: The Contents and Use of the Book of Common Prayer;
6. Constitution and Canons of the General Convention, and of the Diocese to which the Candidate belongs;
7. Ministration:
 - (a) The Office and work of a Deacon,
 - (b) Conduct of Public Worship, with the proper use of the voice therein,
 - (c) Principles of Sermon Composition and Delivery,
 - (d) Principles and Methods of Religious Education in the Parish.

As already noted in our consideration of Section 1, the following provisions of the former canon were included in Section 2:

(ii) It shall be the privilege of the Priest who is to present a Candidate for ordination to be present at his examinations; but no other person save the Bishop shall be permitted to be present without the consent of the Board of Examining Chaplains.

(iii) The Candidate shall be examined by the Bishop in the presence of two Priests both before his ordination to the Diaconate and before his ordination to the Priesthood. The Bishop may conduct one or both of these examinations by taking some part in their regular examinations held by the Examining Chaplains.

Convention of 1946

The canon, now Canon 29, was amended to provide that the canonical examination of candidates for the priesthood would normally take place before ordination to the diaconate. The provisions of Section 2 were, therefore, rewritten so as to apply only in exceptional circumstances.

The section, as amended, read as follows:

Sec. 2 (a). In special cases, under urgent circumstances, with the approval of the Standing Committee and the Board of Examining Chaplains, a Candidate may be admitted to the Diaconate after passing examinations in the following subjects:

- (1). Holy Scripture: The Bible in English, its contents and historical background;
- (2). Church History: a general outline;
- (3). Doctrine: The Church's teaching as set forth in the Creeds and the Offices of Instruction;
- (4). Liturgics: The Contents and Use of the Book of Common Prayer;
- (5). Practical Theology:
 - (a) The Office and Work of a Deacon,
 - (b) The Conduct of Public Worship,
 - (c) Principles of Sermon Composition and Delivery,
 - (d) Principles and Methods of Christian Education in the Parish,
 - (e) The Missionary Work of the Church,
 - (f) Constitution and Canons of the General Convention, and of the Diocese or District to which the Candidate belongs,
 - (g) The use of the voice in reading and speaking.

(b). Before his advancement to the Priesthood such a Candidate shall be examined in all the subjects prescribed in Section 1 (a) of this Canon.

Section 3 of the canon was not amended, except that the Roman numerals were replaced with letters.

Convention of 1970

Section 2 of the canon was amended to read as at present, with the following exceptions:

The first sentence of clause (a) concluded with the words “conducted by the Commission on Ministry, in the following subjects.”

Clause (c) read as follows:

Before his advancement to the Priesthood, such a Candidate shall be examined by the Commission on Ministry in all the subjects prescribed in Section 1 (a) of this Canon.

Clause (b) of the section, it will be noted, was an amended form of former Section 3 (b).

Section 3 (c), requiring an examination by the bishop personally, was repealed.

Convention of 1973

The canon was amended to read as at present.

The principal change was that ordination to the priesthood was no longer spoken of as an “advancement.”

SECTION 3

Convention of 1871

This Convention enacted Canon 4, Section 4 (viii) of Title I, which was the first legislation of General Convention providing that seminary examinations were not to be held equivalent to the canonical examinations. This clause read as follows:

No examination at any theological or other literary institution shall be held to be equivalent to any one or more Canonical examinations, or allowed to supersede the same; nor shall any certificate of graduation or diploma from any theological or other literary institution be held to be sufficient ground for dispensing with any part of the Diocesan examinations of a Candidate.

The clause was made Title I, Canon 6, Section 3, in 1892.

Convention of 1904

The section was made Canon 4, Section 1 (ii), and was amended to read as follows:

Examinations in any theological or other literary institution shall not supersede any canonical examination; nor shall any certificate of graduation or diploma be sufficient ground for dispensing with any part of the canonical examination.

Convention of 1919

The clause was made clause (i) of Section 3, and was amended to read as follows:

Examinations at any theological or other literary institution shall not supersede any canonical examination, nor shall any certificate of graduation or diploma be sufficient ground for dispensing with any part of the canonical examination, except as provided in this Canon.

Convention of 1970

The clause became Section 3 of Title III, Canon 5, and was amended to read as at present.

EXPOSITION OF CANON III.5

This canon prescribes the subjects of examination in normal cases, and makes provision for exceptions thereto under certain circumstances. (See also Title III, Canons 8, 10, and 11.)

It is interesting to note the gradual development of the standard of learning required for ordination. In 1789 the candidate was only required to be "sufficiently acquainted with the New Testament in Greek, and can give an account of his faith in the Latin tongue," and even from these requirements it was possible for a dispensation. In 1804, the House of Bishops set forth a "Course of Ecclesiastical Studies," and the candidate was required to undergo an examination in the leading books included in that course. This course continued to be the guide on the studies to be pursued by the candidate until the revision of the Digest of Canons by the Convention of 1904.

In 1853, three examinations were assigned to candidates for the priesthood, and the subjects required in each of these examinations were set forth. In the same year, the candidate was required to produce and read three sermons composed by himself, one on a text previously assigned to him, and the other on texts chosen by himself.

While the Convention of 1871 thoroughly revised the canons of ordination, little change was made in the subjects required of candidates for examination, except that an examination in the Articles of Religion was also required.

In the next revision of the canons of ordination by the Convention of 1892, the subjects for examination before ordination to the diaconate were enlarged and made more definite. Little change, however, was made in the requirements for ordination to the priesthood.

The Convention of 1904 again increased the requirements for ordination. The examination in the Articles of Religion prescribed by the Convention of 1871, was, however, stricken out of the requirements of this Convention.

The Convention of 1871 evidently had in mind the establishment of a permanent diaconate by providing for “the examination of a Candidate for the office and ministrations of a Deacon only.” Such a candidate was only required to be well versed in the Holy Scriptures, the Book of Common Prayer, and the Articles of Religion.

The Convention of 1904 eliminated all provisions relating to deacon’s orders only, but continued to require a separate examination before ordination to the priesthood. Not until 1946 were the canons amended to provide that all canonical examinations would normally take place prior to ordination to the diaconate.

From 1919 to 1970, the first section of the canon took the form of an elaborate list, setting forth, under headings, specific subjects for examination. In 1970, however, the canon was radically simplified, and only the general headings, covering the main subject areas, were retained.

Commenting on this change, the Committee on Theological Education wrote (*Journal*, 1970, p. 747):

The facilities of our seminaries, faced with the task of teaching the time-honored classical disciplines and also of assisting students in their interpretation of the complexities of modern culture, favor the condensation of the lengthy list of present requirements without the loss of emphasis on Scriptures, History, Theology, Ethics, Liturgics and what has often gone under the heading “Pastoral and/or Practical Theology.” Increased responsibility with flexibility would follow the canonical changes, so the argument runs. Bishops, Deans, Faculty Advisors and Tutors would all doubtless assist the Candidate in his selection of courses; it is much to be doubted that he would graduate and be ordained without solid grounding in the necessary disciplines. Seminary facilities would still be subject to the “check” of Canonical Examiners.

Under ordinary circumstances, the examination in the seven specified subject areas takes the form of the General Ordination Examination provided for in Canon III.7.

The second section of the canon provides for an exception to the norm when it is found desirable to delay the examinations prescribed in Section 1 until after ordination to the diaconate. In such cases, the

person must be examined in the subject matter listed under Section 2 prior to ordination as a deacon.

Under the provisions of Canon III.10.10, study (but not necessarily examination) in these same subjects is also required of those to be admitted to the permanent diaconate. Such candidates for the diaconate are also required, however, to undertake other training appropriate to their distinctive ministry.

Commenting on Section 2 of the canon (then Canon 29) in the 1954 edition of this annotation, Dr. Dykman wrote:

The 1946 revision of Canon 29 and the 1952 provisions for the perpetual diaconate would seem, when construed together, to sharpen the distinction which has been developing through the years, between the diaconate as a steppingstone to the priesthood and the diaconate as an end in itself.

Under the provision of Section 3, no seminary examination, or certificate or diploma, can be admitted as a substitute for a canonical examination.



CANON 6. Of a Board for Theological Education

*Board for
Theological
Education.*

Sec. 1 (a). There shall be a Board for Theological Education of the General Convention, consisting of sixteen members with commitment to theological education: four of whom shall be Bishops; four of whom shall be Presbyters or Deacons; two of whom, at the times of their appointments, shall be Postulants or Candidates for Holy Orders duly enrolled in accredited seminaries; and six of whom shall be Lay Persons.

Terms.

(b). Except for members who are Seminarians and as provided in (d) hereafter, all members of the Board shall serve terms beginning with the close of the meeting of General Convention at which their appointments are confirmed and ending with the close of the second regular meeting thereafter. Such members shall not serve successive terms. Members who are Seminarians shall be eligible to serve only single terms equal in duration to the period between two successive regular meetings of General Convention.

(c). Bishops shall be appointed by the Presiding Bishop, and other clerical and all lay members, including Seminarians, shall be appointed by the President of the House of Deputies, all subject to the confirmation of General Convention.

(d). Members, except for Seminarians, shall serve rotating terms with one-half of the total membership being appointed and confirmed at each regular meeting of General Convention. To achieve such terms, in the first instance following the adoption of these provisions, one-half of the appointees in each category indicated shall have terms

equal only to the period between two successive regular meetings of General Convention.

(e). Positions of members of the Board which become vacant prior to the normal expiration of such members' terms shall be filled by appointment by the Presiding Bishop or by the President of the House of Deputies, as appropriate. Such appointments shall be for the remaining unexpired portion of such members' terms and if a regular meeting of the General Convention intervenes, appointments for terms extending beyond such meetings shall be subject to confirmation of the General Convention. Members appointed to fill such vacancies shall not thereby be disqualified from appointment to full terms thereafter.

Duties. Sec. 2. The duties of the Board for Theological Education shall be

(a). To study the needs and trends of education for Holy Orders in the Church, within the jurisdiction of this Church, and to make recommendations to the Boards of Trustees of the several seminaries, the Executive Council, the House of Bishops, and the General Convention, with regard thereto.

(b). To advise and assist the Seminaries, and other institutions of the Church for the training of persons for Holy Orders, within the jurisdiction of this Church.

(c). To promote continuing co-operation between and among the Theological Seminaries of the Church.

(d). To compile and present to each regular meeting of the General Convention a complete statistical report of the work of the several Theological Seminaries of the Church, and, as far as possible, of other institutions for the training of persons for Holy Orders.

(e). To assist in the enlistment and selection of candidates for Holy Orders.

(f). To promote the continuing education of the clergy.

(g). To assist in programs of lay theological education.

(h). To aid the General Board of Examining Chaplains in the discharge of its responsibilities.

(i). To seek appropriate financial support for theological education.

*Seminaries,
etc., to
provide
information.*

Sec. 3. it shall be the duty of each Theological Seminary of this Church, and of each other institution for the train-

ing of persons for Holy Orders, to present annually to the Board for Theological Education statistical reports, on forms prepared and provided by the Board.



This canon was Canon 12 when it was adopted in 1940. It became Canon 29 in 1943, and Title III, Canon 6, in 1970.

Convention of 1940

The first canon on this subject was Canon 12 of this Convention, “Of Theological Education.” The canon read as follows:

Sec. 1. No institution of learning shall be recognized as a Theological Seminary of this Church which does not conform in its course of study to the standards of theological learning laid down in the Canons of the General Convention.

Sec. 2. (a). There shall be a Standing Joint Commission of the General Convention on Theological Education, appointed by the Chairman of the two Houses at each triennial session, consisting of three Bishops, the Deans of the Theological Seminaries, or their representatives, one Examining Chaplain from each Province, and three Laymen.

(b). The Presiding Bishop shall be, *ex officio*, a member of this Commission.

(c). There shall be an Executive Committee thereof consisting of the Chairman, the Dean of the General Theological Seminary, the Dean of one other Seminary, one Examining Chaplain, and two Laymen, to be appointed by the Chairman of the House of Bishops, and the President of the House of Deputies.

(d). The duties of the Commission shall be to study the needs and trends of Theological Education in the Church, to advise with the Boards of Trustees of the several Seminaries, to consider such other matters as shall come before them, and to present to each triennial session of the General Convention a complete statistical report of the work of the several Seminaries and to make recommendations to the General Convention.

Sec. 3. It shall be the duty of each Seminary of the Church to present to the Joint Commission yearly reports of its operations and activities, such reports to be made on forms prepared and provided by the Commission.

Convention of 1961

On the recommendation of the standing joint commission created by this canon, the text of the canon, now Canon 30, was amended as follows:

The title of the canon was made to read: “Of Education for Holy Orders.”

Section 2 (a), (b), and (c) was made Section 1 and amended to read as follows:

(a). There shall be a Standing Joint Commission of the General Convention on Education for Holy Orders appointed at each triennial session, consisting of three Bishops, the Dean of the General Theological Seminary, and the Deans of three other Theological Seminaries of the Church appointed by the Presiding Bishop, and three Examining Chaplains, three other Presbyters and three Laymen appointed by the President of the House of Deputies. The Presiding Bishop shall designate one of the three Bishops so appointed as Chairman of the Joint Commission.

(b). There shall be an Executive Committee of the Joint Commission to consist of the Chairman and not less than five other members of the Joint Commission including both Presbyters and Laymen, appointed by the Presiding Bishop in consultation with the Chairman and the President of the House of Deputies.

Former Section 2 (d) was made Section 2 and amended to read as follows:

The duties of the joint Commission shall be, viz.:

(a). To study the needs and trends of education for Holy Orders in the Church, within the Jurisdiction of this Church, and to make recommendations to the National Council and the General Convention with respect thereto.

(b). To determine whether any institution of learning, within the jurisdiction of this Church, shall be recognized as a Theological Seminary of this Church in accordance with standards approved by the General Convention.

(c). To advise and assist the Seminaries and other institutions of the Church for the training of men for Holy Orders within the jurisdiction of this Church.

(d). To promote continuing cooperation between and among the Theological Seminaries of this Church.

(e). To compile and present to each triennial session of the General Convention a complete statistical report of the work of the several Theological Seminaries of the Church and, as far as possible, of other institutions for the training of men for Holy Orders.

Former Section 1 was made Section 3 and amended to read as follows:

To be recognized as a Theological Seminary of this Church an institution of learning shall comply with the following standards, viz.:

(a). Its primary purpose shall be the education of men for Holy Orders.

(b). It shall throughout each normal academic year offer courses of study in the subjects prescribed in these Canons for the learning and examination of Candidates for Holy Orders.

(c). Its faculty shall include at least four full-time professors duly qualified, according to generally accepted academic standards, to teach such courses.

(d). Its student body shall number not less than twenty men pursuing a three-year course normally leading to a baccalaureate degree in theology, of whom at least eighty percent shall hold an A.B. degree or its equivalent; except that, for seminaries outside the continental United States, the Joint Commission shall have the authority to establish such other standards as may be appropriate.

(e). Its organization, financial resources, equipment and facilities shall be such as reasonably to assure its stability and permanence and its separate identity as an institution for Theological Education.

Former Section 3 was made Section 4, and was amended to read as follows:

It shall be the duty of each Theological Seminary of this Church and of each other institution for the training of men for Holy Orders to present annually to the Joint Commission statistical reports on forms prepared and provided by the Commission.

Special Convention of 1969

The Convention of 1967 had, by resolution, appointed a Board of Theological Education, one result of which was to make the joint commission redundant.

The board, in its report to the 1969 Convention, proposed a complete revision of the canon, one of the purposes of which was to repeal the provisions of Section 3. It was the unanimous opinion of the deans of the seminaries that this section had become obsolete.

The canon was retitled to read as at present and was amended to read as follows:

Sec. 1. There shall be a Board for Theological Education of the General Convention, consisting of nine members, appointed jointly, at each regular meeting of the General Convention, by the Presiding Bishop and the President of the House of Deputies, with the confirmation of the General Convention.

Sec. 2. The duties of the Board for Theological education shall be

- (a) To study the needs and trends of education for Holy Orders in the Church, within the jurisdiction of this Church, and to make recommendations to the Executive Council, the House of Bishops, and the General Convention, with regard thereto.
- (b) To advise and assist the Seminaries, and other institutions of the Church for the training of men for Holy Orders, within the jurisdiction of this Church.
- (c) To promote continuing co-operation between and among the Theological Seminaries of the Church.
- (d) To compile and present to each regular meeting of the General Convention a complete statistical report of the work of the several Theological Seminaries of the Church and, as far as possible, of other institutions for the training of men for Holy Orders.
- (e) To assist in the enlistment and selection of candidates for Holy Orders.
- (f) To promote the continuing education of clergymen.
- (g) To assist in programs of lay theological education.
- (h) To aid Boards of Examining Chaplains in their responsibilities.

(i) To seek appropriate financial support for theological education.

Sec. 3. It shall be the duty of each Theological Seminary of this Church, and of each other institution for the training of men for Holy Orders, to present annually to the Board for Theological Education statistical reports, on forms prepared and provided by the Board.

Convention of 1970

Section 1 was amended to raise the membership of the board from nine to fifteen members.

Section 2 (h) was amended so as to refer to the General Board of Examining Chaplains.

Convention of 1976

Section 2 (a) was amended by inserting the words “the Boards of Trustees of the several seminaries.”

Throughout this section and in Section 3, the word “men” was replaced by “persons” and the word “clergymen” by “clergy.”

Convention of 1979

Section 1 was amended to provide for rotating terms of membership on the board. (The text of new Section 1 as it appears in the Journal of this Convention, p. C-137, is incomplete, and consists only of clause (a). The full text, however, is included in the report of the committee on structure, p. AA-303.)

EXPOSITION OF CANON III.6

The creation of a Board for Theological Education is the result of a long history on the part of the Church to develop appropriate guidelines and programs for theological education. The first canon on the subject was adopted in 1940.

In 1962, when the Division of Christian Ministries was established in the Executive Council, staff responsibility for a comprehensive study of theological education, initiated by the Episcopal Church Foundation, was placed in that division. This study became known as the Pusey Report, named after Dr. Nathan Pusey, who was chairman of the advisory committee. One of the results of the study was a demonstration of the need for a Board for Theological Education.

The present canon evolved from the experience of previous commissions and other agencies dealing with theological education, and from the findings of the Pusey Report.

The Board for Theological Education consists of 16 members: 4 bishops, 4 presbyters or deacons, 2 candidates or postulants enrolled in accredited seminaries, and 6 lay persons. The membership is rotating.

The board is charged with ongoing study of the needs and trends of education for Holy Orders, and is responsible for making recommendations to the appropriate bodies on the basis of their findings. It advises and assists seminaries and other institutions engaged in training persons for Holy Orders, and it promotes continuing cooperation among them.

The board presents, to each General Convention, a complete statistical report of the work of the several seminaries. This information is provided annually by each seminary and institution training persons for ordination, on forms provided by the board.

The board is also responsible for assisting in the enlistment and selection of candidates for Holy Orders, promoting continuing education for the clergy, assisting in programs for lay education, aiding the General Board of Examining Chaplains, and seeking financial support for theological education.



CANON 7. Of a General Board of Examining Chaplains

*General
Board of
Examining
Chaplains.*

Sec. 1. There shall be a General Board of Examining Chaplains, consisting of three Bishops, six Presbyters with pastoral cures, six members of Theological Seminary faculties or of other educational institutions, and six Lay Persons. The members of the board shall be elected by the House of Bishops and confirmed by the House of Deputies, one-third of such members in each of the foregoing categories being so elected and confirmed at each regular meeting of the General Convention for a term of three Convention periods. They shall take office at the close of the said meeting, and shall serve until their successors are elected and qualified. The House of Bishops, at any special meeting that may be held prior to the next General Convention, shall fill for the unexpired portion of the term any vacancy that may have arisen in the interim. The Board shall elect its own Chairman and Secretary, and shall have the power to constitute committees necessary for the carrying on of its work.

*To elect
officers.*

*General
Ordination
Examination.*

Sec. 2 (a). The General Board of Examining Chaplains, with professional assistance, shall prepare at least annually a General Ordination Examination covering the subject matter set forth in Canon III.5 1(a), and shall conduct, administer, and evaluate the same in respect of those Candidates for Holy Orders who have been certified to the Board by their several Bishops.

(b). Persons from jurisdictions outside the forty-eight contiguous States, and others specifically excepted (see Can-

ons III.2, Sec. 5 (b) and (c); III.5, Sec. 2 (a); and III.8) shall be examined by the Commission on Ministry of their Diocese.

(c). Whenever a Candidate shall have been judged by the General Board of Examining Chaplains to have failed the General Ordination Examination, either in whole or in part, the Board shall recommend to the Commission on Ministry, and through the Commission on Ministry to the Board of Examining Chaplains, if such exist, of the Diocese to which candidate belongs how the deficiency may be overcome.

May prepare guidelines.

Sec. 3. The General Board of Examining Chaplains may prepare, in each Convention period, guidelines based upon the subject contained in Canon III.5, Sec. 1 (a), which guidelines shall be available to all persons concerned.

Board to make report.

Sec. 4. The General Board of Examining Chaplains shall promptly report, in writing, to the Bishop and to the Dean of the Seminary the Candidate is attending, the results of all examinations held by them, whether satisfactory or unsatisfactory, making separate reports upon each person examined. The Bishop shall transmit these reports to the Standing Committee and to the Commission on Ministry. In no case shall the Standing Committee recommend a Candidate for Ordination to the Diaconate or to the Priesthood under this Canon until the required examinations have been satisfactorily sustained.

Form of Report.

Report to the Board shall be made in the following form, viz.:

To the Right Reverend _____,

Bishop of (or the Clerical Members of the Standing Committee of, as the case may be) _____:

Place, _____ Date, _____

To the Dean of

Place, _____ Date, _____

(We, having been assigned as)

Examiners of A.B., hereby testify that we have examined the said A.B. upon the subject matter prescribed in Canon III.5. Sensible of our responsibility, we give our judgment as follows: (Here specify the proficiency of A.B. in the subject matter appointed, or any

deficiency therein, as made apparent by the examination.)

(Signed) _____.

Sec. 5. In any case when the report from the Board of Examining Chaplains is held in question on grounds of Doctrine, Faith, or Worship, by the Bishop and the Standing Committee, a Provincial Court of Appeal may be brought into being, according to provisions established by Provincial authority.

Sec. 6. The General Board of Examining Chaplains shall make a report concerning its work to each regular meeting of the General Convention, and, in years between sessions of the General Convention, shall make a report to the House of Bishops.



The first canon of a Board of Examining Chaplains was Canon 6 of 1919. It became Canon 30 in 1943, and Title III, Canon 7, in 1970.

The first provision made for examining chaplains, as such, was contained in the Canons of 1871. Previous thereto, the canons provided that the examination of candidates for orders should be conducted by “the Bishop and his Presbyters,” or by “the Bishop and two Presbyters appointed by him.”

Convention of 1871

In the revision of the canons of ordination by this Convention, Title I, Canon 4, Section 1, was enacted, reading as follows:

In each Diocese there shall be two or more Examining Chaplains, to be appointed by the Bishop, and holding their office at his discretion.

This canon created the office of examining chaplain and made it mandatory upon the bishop of every diocese to appoint two or more persons to that office. Heretofore, it had been the custom in some dioceses, probably in most of them, for the bishop to appoint different examiners for different candidates at different times.

Convention of 1892

This Convention, in revising the canons of ordination, made Title I, Canon 4, Section 1, of the Canons of 1871, Canon 11, Section 7, of the same title, and amended it to read as follows:

(i) There shall be appointed in each Diocese and Missionary Jurisdiction, by the Ecclesiastical Authority thereof, two or more Examining Chaplains, who shall hold their offices at the discretion of the said Ecclesiastical Authority, and whose duty it shall be thoroughly to test the preparation of all such Candidates for Holy Orders as may by the Ecclesiastical Authority be sent to them for that purpose.

(ii) The reports of the Examiners shall be in writing, and attested by their signatures. If the applicant has been examined on more subjects than one, the report shall specify the results on each subject separately.

The Canon of 1871 was deficient in that it made no provision for the appointment of examining chaplains in a diocese where there was no bishop. The earlier canons had provided that the standing committee should appoint the presbyters to conduct the examination of candidates when they were the ecclesiastical authority of a diocese. This defect was cured by the Canon of 1892, by the substitution of the words "Ecclesiastical Authority" for the word "Bishop," in the first sentence of Section 1.

The same Convention enacted Title I, Canon 5, Section 2 (i), reading as follows:

The Bishop, or, if the Diocese be vacant, the clerical members of the Standing Committee, shall assign to the Candidate his Examiners, who shall be two or more Presbyters of good learning, and (if possible) Examining Chaplains of the Diocese or Jurisdiction, and who, upon due notification of the duty laid upon them, shall proceed as speedily as may be to its performance, in accordance with the provisions of this section.

This provision referred to candidates for "Deacon's Orders only."

Convention of 1904

This Convention made Title I, Canon 11, Section 7, of the Canons of 1892, Canon 8, Section 6, and amended it to read as follows:

There shall be appointed in each Diocese and Missionary District, by the Ecclesiastical Authority thereof, two or more Presbyters as Examining Chaplains, who shall hold their office at the discretion of the said Ecclesiastical Authority, and whose duty it shall be to examine Postulants, Candidates for Holy Orders, and Deacons, sent to them by the Ecclesiastical Authority.

The same Convention, which did away with all distinctions between candidates for deacon's orders, and candidates for priest's orders, enacted Canon 4, Section 1 (i), which read as follows:

The Bishop, or the Clerical members of the Standing Committee, when it is acting as the Ecclesiastical Authority, shall assign to the Candidate as his Examiners at least two Presbyters of good learning who shall (if possible) be Examining Chaplains of the Diocese or Missionary District.

Canon 6, Section 1 (i), which applied to deacons desiring to be ordained priests, was identical in wording.

The provision of said Canon 8, and those of said Canons 4 and 6, do not seem to be in entire harmony. While examining chaplains were required to be appointed in every diocese and missionary district, and whose duty it was made to examine postulants and candidates for Holy Orders sent to them, under the provisions of said Canon 8, Canons 4 and 6 provided that the bishop, or the clerical members of the standing committee, as the case might be, *should assign* to all candidates for the diaconate and the priesthood, special examiners who might or might not be examining chaplains. Under the provisions of these canons, the only persons whose examinations the examining chaplains were assured of conducting were those of postulants.

Convention of 1919

This Convention radically changed the provisions relating to examining chaplains by enacting Canon 6, "Of a Board of Examining Chaplains," reading as follows:

Sec. 1. In every Diocese or Missionary District there shall be a Board of Examining Chaplains, consisting of at least two learned Presbyters, canonically resident within the said Diocese or Missionary District. Examining Chaplains shall be nominated by the Bishop at the Annual Convention or Council, the nomination being confirmed by the vote of the Convention or Council. Their term of office shall be fixed by Diocesan Canons. Should vacancies occur in the Board, when the Convention or Council is not in session, the Bishop shall similarly nominate to the Standing Committee or Council of Advice, upon whose confirmation the person or persons so designated shall be added to the Board and shall serve until the next meeting of the Convention or Council.

Sec. 2. The Board of Examining Chaplains may adopt rules for its work, subject to the approval of the Bishop, provided the same are not inconsistent with the Canons of the General Convention. These rules may include the appointment of committees of the Board to act on its behalf.

Sec. 3. It shall be the duty of the Board of Examining Chaplains, under the guidance and oversight of the Bishop, to conduct the examinations of Postulants and Candidates prescribed by these Canons. These examinations shall be, in part at least, in writing. The Examining Chaplains, when so requested by the Bishop, shall give oversight to Postulants and Candidates, and shall advise them in regard to their studies and preparation.

Sec. 4. The Board of Examining Chaplains shall promptly report, in writing, to the Bishop the results of all examinations held by them, whether satisfactory or unsatisfactory, making separate reports upon each of the appointed subjects, and upon each person examined. The Bishop shall transmit these reports to the Standing Committee or Council of Advice, who shall in no case recommend a Postulant for admission as Candidate for Holy Orders, or recommend a Candidate for Ordination to the Diaconate or to the Priesthood, until they have received and considered the report of the Board of Examining Chaplains.

The report of the Board shall be made in the following form, viz.:

To the Right Reverend _____, Bishop of _____ (or the Clerical Members of the Standing Committee of _____ as the case may be).
Place _____ Date _____

We, having been assigned as Examiners of A.B., hereby testify that we have examined the said A.B. upon the subjects prescribed in Canon _____. Sensible of our responsibility, we give our judgment as follows: (Here specify the proficiency of A.B. in each of the subjects appointed, as made apparent by the examinations).

(Signed)

Sec. 5. The Board shall make an annual report concerning its work to the Convention or Council.

Sec. 6. The Bishop, with the consent of the Board of Examining Chaplains, may ask the Examining Chaplains of another Diocese or Missionary District to conduct the examination of a Postulant or Candidate on their behalf.

Sec. 7. Any Provincial Synod shall have the right to form a Provincial Board of Examining Chaplains. The members of the Board shall serve for a term of three years each, or until their successors are appointed. Vacancies occurring in the Board may be filled for the unexpired term by the Synod. It shall be the duty of such Provincial Board to prepare a syllabus indicating the range and character of the attainments required in the several subjects prescribed by these Canons and to prepare question papers for all written examinations. And such syllabus and papers may be adopted for their own use, subject to the approval of the Bishop, by the Board of Examining Chaplains of any Diocese or District within the Province. The Provincial Board, when organized, shall report upon its work to the Synod at each session.

Commenting on this canon in the first edition of this annotation, Dr. White wrote:

The provisions above noted, for the appointment of members of the board of examining chaplains for a definite term, and that such nominations must be confirmed by the diocesan convention or council, are most wise and were sadly needed. Too often had it been the case that men were appointed examining chaplains by a bishop because they were old men and had never received any honor at the hands of the diocesan convention; men whose theology and ideas were half a century old, and who were out of touch with modern thought and conditions. They never resigned, and it sometimes seemed as if they never died. In some dioceses, the examining chaplains were the oldest and most infirm priests in the diocese, utterly unfitted for the work they were supposed to do. It may be for this reason that the Canons of 1904 provided for the appointment of special examiners for candidates for the diaconate and the priesthood, leaving to the examining chaplains only the examination of postulants.

Convention of 1946

The concluding words of Section 4 were amended to read "until they have received a report from the Board of Examining Chaplains that he has successfully passed the required examinations."

As a consequence, passage of examinations has become a *sine qua non*, where before the amendment it was only necessary for the standing committee or council of advice to receive and consider a report from the Board of Examining Chaplains.

Convention of 1970

This Convention adopted a major revision of the canon, now Title III, Canon 7, to provide for a “General Board of Examining Chaplains,” to be elected by the General Convention.

The canon as amended read as follows:

Sec. 1. There shall be a General Board of Examining Chaplains, consisting of three Bishops, six Presbyters with pastoral cures, six members of Theological Seminary faculties or of other educational institutions, and six Lay Persons. The members of the Board shall be elected by the House of Bishops and confirmed by the House of Deputies, at each regular meeting of the General Convention. They shall take office at the close of the said meeting, and shall serve until their successors are elected and qualified. The House of Bishops, at any special meeting that may be held prior to the next General Convention, shall fill for the unexpired portion of the term any vacancy that may have arisen in the interim. The Board shall elect its own Chairman and Secretary, and shall have the power to constitute committees necessary for the carrying on of its work.

Sec. 2 (a). The General Board of Examining Chaplains, with professional assistance, shall prepare at least annually a General Ordination Examination in the subjects set forth in Canon III.5, Sec. 1 (a), and may assist the Diocesan Commissions on Ministry in the conduct, administration, and evaluation of the same.

(b). Persons from jurisdictions outside the forty-eight contiguous States, and others specifically excepted (see Canons III.2, Sec. 5 (b) and (c); III.5, Sec. 2 (a); and III.8) shall be examined by the Commission on Ministry of their Diocese or Missionary District.

Sec. 3. The General Board of Examining Chaplains may prepare, each triennium, guidelines based upon the subjects contained in Canon III.5, Sec. 1 (a), which guidelines shall be available to all persons concerned.

Sec. 4. The General Board of Examining Chaplains shall promptly report, in writing, to the Bishop and to the Dean of the Seminary the Candidate is attending, the results of all examinations held by them, whether satisfactory or unsatisfactory, making separate reports upon each person examined. The Bishop shall transmit these reports to the Standing Committee or Council of Advice and to the Commission on Ministry. In no case shall the Standing Committee or Council of Advice recommend a Candidate for Ordination to the Diaconate or to the Priesthood until the required examinations have been satisfactorily sustained, except as otherwise provided in the Canons.

Report of the Board shall be made in the following form, viz.:
[The text of the report was unchanged from 1919.]

Sections 5 and 6 read as at present, except for a reference to councils of advice in Section 5.

Convention of 1973

The canon was amended to read as at present, the principal amendments being as follows:

Section 1 was amended to provide for rotating membership.

Section 2 (a) was amended to provide that the board itself should conduct, administer, and evaluate the examination.

Section 2 (c) was a new provision.

Section 4 was amended to provide that the report of the examiners should make mention of deficiencies as well as proficiencies.

Throughout the canon, references to councils of advice were deleted.

One effect of the amendment was to introduce a mention of diocesan boards of examining chaplains, whose existence, it may be noted, is no longer mandated by the canons.

EXPOSITION OF CANON III.7

For many decades, the Canons required that candidates for Holy Orders pass examinations administered in each diocese by a diocesan board of examining chaplains. This system gave rise to many inequities and eccentricities. The caliber of the examinations varied markedly from diocese to diocese. Some were embarrassingly easy, others notoriously difficult. Sometimes seminarians prepared to respond more to the known eccentricities and peculiar perspectives of certain examining chaplains than for testing on the canonical subject matter. In one diocese, for example, where seminarians were not aware of one chaplain's special interests, ten of eleven candidates were failed in the Holy Scriptures because they were not as knowledgeable about the recently discovered Dead Sea scrolls as the examiner, who was fascinated by the scrolls, thought necessary. Ten ordinations, ten assignments to parishes, ten salaries were all postponed for three months until a re-examination was made.

In 1936, the late Bernard Iddngs Bell, priest, distinguished theologian and college president, wrote an article, published in *The Living Church*, in which he urged that there be national canonical examinations instead of diocesan ones.

Because of increasing dissatisfaction with the uneven standards which prevailed from diocese to diocese, the General Convention of 1970 voted to establish the General Board of Examining Chaplains, and set it the task of preparing and evaluating annual General Ordination Examinations. This same Convention also eliminated the summaries of what the examination in each canonical subject should include. Only the titles of the canonical subjects were listed, e.g., "Holy Scriptures" or "Church History" (see Canon III.5, above).

One of the prime movers in working for a General Ordination Examination was the Rt. Rev. Stephen Bayne. After a notable career as Bishop of Olympia, Executive Officer of the Anglican Communion, staff member at Church headquarters, and author of many articles and several books, he was then on the faculty of the General Theological Seminary. Bishop Bayne was selected to be the first chairman of the General Board of Examining Chaplains. Under his leadership, the first General Ordination Examinations were held in January 1972. There were 169 candidates examined that first year. Since then, the number examined has come to average about 300 each year. All but two dioceses normally have their candidates take the examination prepared by the board.

The Convention of 1970 added a new subject area to the list (in Canon III.5) of those on which a candidate was to be examined, "Studies in Contemporary Society, including Racial and Minority Groups." At the time, and for some years afterwards, no seminary gave a course or courses pertinent to this subject, and the General Board of Examining Chaplains has had some difficulty understanding what its academic content should be.

The Convention of 1979 added to the list a requirement that candidates be examined in the area of church music.

It remains unclear whether the simple listing of "subject matter" in Canon III.5 will, in the long run, be found adequate as a basis for constructing the annual General Ordination Examination, or whether greater specificity will prove to be necessary. A resolution on this subject is being proposed to the Convention of 1982.



CANON 8. Of Admission to Holy Orders in Special Cases

Requirements may be modified in special cases. Sec. 1. In special cases, the requirements of the Normal Standard of Learning may be modified as hereinafter provided. But, in every case, before a Deacon shall be ordered Priest, he shall be examined, by the Bishop and two Presbyters, in the office and work of a Priest and as to his ability to serve the Church in that Order of the Ministry.

Nature of communities. Sec. 2 (a). With regard to communities which are small, isolated, remote, or distinct in respect of ethnic composition, language, or culture, and which can be supplied only intermittently with the sacramental and pastoral ministrations of the Church, it shall be competent for the Bishop, with the advice and consent of the Standing Committee, and with the prior approval in principle of the House of Bishops of the Province, to seek out and ordain to the Diaconate, and not less than six months later to the Priesthood, residents of the said communities or the Diocese, after a period of Candidacy (pursuant to Canon III.2 6(d)) of not less than six months' duration. In the selection of such Candidates, the recommendations of communicants of this Church resident in said communities shall be sought.

Qualifications of ordinands. (b). The person to be ordained under the provisions of this Section shall have the following qualifications:

- (1). He shall be not less than thirty-two years of age, and shall have been a member of this Church in good standing for at least five years.
- (2). He shall have been a regular attendant upon the stated services of the Church, and faithful in resorting

to the Sacraments when available, and a regular contributor of record to the support of the Church.

(3). He shall be reputed in the community to have comported himself as a Christian in his personal and family life and in his dealings with others in the community.

(4). He shall satisfy the Bishop and Commission on Ministry of the Diocese of his ability to read the Holy Scriptures and conduct the services of the Church in an intelligible, seemly, and reverent fashion. He shall satisfy them likewise of his knowledge of the general outline of the contents of the Old and New Testaments, and of the Church’s teaching as set forth in the Creeds and Offices of Instruction.

Limitations on movement. (c). If a Deacon or Priest who has been ordained in accordance with this Canon shall subsequently remove to another community within the Diocese, he shall be entitled to exercise his ministry in that place only if he be licensed thereto by the Bishop. Such Ministers shall not be granted Letters Dimissory to another Diocese without the request, in writing, of the Bishop of the Diocese to which he wishes to remove.

Record of modified requirements to be kept. Sec. 3. In all cases of the ordination under this Canon of persons with modified requirements of learning, a record of the modifications shall be kept by the Bishop, and the standing of every Minister thus ordained shall be reported to the Recorder with the other matters required in Canon I.1, Sec. 7 (b).



This canon was Canon 5 when it was enacted in 1919. It became Canon 31 in 1943, and Title III, Canon 8, in 1970.

The first provision for ordinations, with the normal requirements modified in certain cases, was enacted by the Convention of 1844.

Convention of 1844

This Convention enacted Canon 6, “Of a discretion to be allowed in the calling, trial, and examination of Deacons in certain cases,” reading as follows:

Sec. 1. It shall be lawful for any Bishop, upon being requested so to do by a Resolution of the Convention of his Diocese, to admit to the Holy order of Deacons persons not

tried and examined as prescribed in the Canons "Of Candidate for Orders," "Of the Learning of those who are to be Ordained," and "Of the Preparatory Exercises of a Candidate for Deacon's Orders," under the following limitations and restrictions, viz.:

1. Every such person shall have attained the full age of twenty-four years.
2. He shall have presented to the Bishop the certificate from the Standing Committee, required by Section 2 of the Canon "Of Candidates for Orders."
3. He shall have remained a Candidate for Orders at least one year from the date of his testimonials.
4. He shall have presented to the Bishop a testimonial from at least one Rector of a parish, signifying a belief that the person so applying is well qualified to minister in the office of a Deacon to the glory of God and the edification of His Church.
5. He shall have been examined by the Bishop and at least two Presbyters, on his fitness for the ministrations declared in the Ordinal to appertain to the office of a Deacon.

Sec. 2. A Deacon ordained under this Canon shall not be allowed to take charge of a Parish.

Sec. 3. In every Parish in which a Deacon, ordained under this Canon, shall officiate, he shall be subject to the direction of the Rector of the Parish, so long as therein resident, and officiating with the approbation of the Bishop.

Sec. 4. A Deacon ordained under this Canon shall not be transferrable to another Diocese without the request of the Bishop to whom he is to be transferred, given in writing to the Bishop to whose jurisdiction he belongs.

Sec. 5. A Deacon ordained under this Canon shall not be entitled to a seat in any Convention, nor made the basis of any representation in the management of the concerns of the Church.

Sec. 6. A Deacon ordained under this Canon shall not be ordained to the Priesthood without first going through all the preparatory exercises of a Candidate for Deacon's Orders, as required by the Canon thereto relating, in addition to those required of a Candidate for Priest's Orders, nor without presenting all the testimonials required by the Canon of Testimonials to be produced on the part of those who are to be ordained.

Sec. 7. In all respects not provided for by this Canon, the Deacons who shall be ordained under it, shall be under the same direction and control as other Deacons.

Convention of 1847

This Convention repealed Section 5 of Canon 6, of the Canons of 1844, which provided that a deacon ordained under this canon should not be entitled to a seat in any convention, nor made the basis of any representation.

Sections 6 and 7 were renumbered accordingly, and the canon was made Canon 5.

Convention of 1853

This Convention repealed Canon 5, of the Canons of 1847, and enacted in place thereof, Canon 5, "Of the Ordination of Deacons."

While this canon contained some of the provisions of the canon repealed, its provisions covered all cases of ordination to the diaconate, and no longer provided for the modification of the normal requirements for ordination to the diaconate.

Convention of 1919

No further legislation on this subject was had until the Convention of 1919, which enacted Canon 5, "Of Examinations for Admission to Holy Orders in Special Cases," as follows:

Sec. 1. In special cases the requirements of the Normal Standard of Learning may be modified as hereinafter provided. But in every case before a Deacon shall be ordered Priest, he shall be examined, by the Bishop and two Presbyters, in the office and work of a Priest, and as to his ability to serve the Church in that Order of the Ministry.

Sec. 2. A Deacon, admitted Candidate under the provisions of Canon 2, Sec. 5 (iv) and who has served two years in the Diaconate with good repute and success, may be advanced to the Priesthood without further examination. But he shall not be granted letters dimissory from one Diocese or District to another, without the request, in writing, of the Bishop of the Diocese or District to which he wishes to go, unless he shall have passed the full examinations prescribed in Canon 4, Sec. 1.

Sec. 3. A Deacon admitted Candidate under the provisions of Canon 2, Sec. 5 (v), and who has served two years in the Diaconate with good repute and success, may be admitted to the Priesthood without further examination; *Provided*, that if he is to minister within the United States of America, he pass a special examination in the history and government thereof. But he shall not be granted letters dimissory from one Diocese or District to another without the request, in writing, of the Bishop of the Diocese or District to which he wishes to go, unless he shall have passed the full examinations prescribed in Canon 4, Sec. 1.

Sec. 4. The Bishop of any Diocese or Missionary District, subject to the consent of the Standing Committee or Council of Advice, may, at his discretion, dispense a Candidate desiring to be ordained Deacon from all examination except in the following subjects: (a) The Contents and Interpretation of the Books of Holy Scripture; (b) the Doctrines of this Church; (c) the Contents and Use of the Book of Common Prayer, and (d) Church History; a general outline, together with the history of this Church in the United States of America, and the history of Christian Missions. And a Deacon so ordained, who has served with good repute and success for at least two years in the Diaconate, may be advanced to the Priesthood without further examination; *Provided*, that no Deacon or Priest so ordained shall be transferred from the Diocese or District within the United States in which he was ordained, until and unless the Board of Examining Chaplains shall certify that he has passed the examinations prescribed in Canon 4, Sec. 1. *However*, any Priest so ordained who conforms to the conditions of Canon 2, Sec. 5 (iv) and Canon 4, Sec. 2 may be granted letters dimissory to another Diocese or District upon the request, in writing, of the Bishop of that Diocese or District.

Section 5 referred to persons who had served as ministers in another body of Christians, and will be considered under another canon.

Sec. 6. In all cases of the ordination under this Canon of men with modified requirements of learning, a record of the modifications shall be kept by the Bishop, and the standing of every Minister thus ordained shall be reported to the Recorder with the other matters required in Canon 50, Sec. 4 (ii).

Convention on 1928

At this Convention a new section was added to the canon as follows:

Sec. 7. In case of a Deacon desiring to be transferred from one Diocese to another, the Ecclesiastical Authority of the former Diocese must state in the Letter Dimissory the exact standing of the Deacon as regards Examinations passed or Dispensations received; also the dates of his birth, admission as a Candidate and ordination.

Convention of 1937

Section 2 of the canon was repealed, with the result that men admitted under the provisions of what is now Canon III.2.6 (c) would have to be examined again before ordination to the priesthood.

The following sections were then renumbered.

Convention of 1943

In the rearrangement made at this Convention, Sections 1 to 5, inclusive, were transferred to and became Canon 31 with the same title.

Section 6 [Section 7 of 1928] was transferred to Canon 47, "Of Deacons," as Section 4.

Convention of 1946

Section 3 of the canon [Section 4 in 1919] was repealed and the remaining sections renumbered.

Convention of 1949

Section 2 [Section 3 in 1919] was amended to read:

A Deacon who has prepared for ordination under the provisions of Canon 26, Sec. 5, (e) and who has served two years in the Diaconate with good repute and success may be admitted to the Priesthood without further examination by the Board of Examining Chaplains; provided, etc.

Special Convention of 1969

The Convention amended the canon to make it apply to the recruiting and ordaining of an indigenous ministry in special situations.

The title was amended to read as at present.

Section 1 was not amended.

Section 2 was amended to read as follows:

(a). With regard to communities which are small, isolated, remote, or distinct in respect of ethnic composition, language, or culture, and which can be supplied only intermittently with the sacramental and pastoral ministrations of the Church, it shall be competent for the Bishop, with the advice and consent of the Standing Committee or Council of Advice, and with the prior approval in principle, of the House of Bishops of the Province, to seek out and ordain to the Diaconate, and not less than six months later to the Priesthood, a resident of the said community, after a period of Candidacy (pursuant to Canon III.2, Section 5 (d)) of not less than six-months' duration.

Clauses (b) and (c) of the section, apart from references to missionary districts which were later removed, were as follows:

Clause (b) read as at present, except for item (4) which read as follows:

he shall satisfy the Bishop and the Committee on Ministry of the Diocese or District of his ability to read the Holy Scriptures and conduct the services of the Church in an intelligible, seemly, and reverent fashion.

Clause (c) read as at present.

Section 3 was not amended.

Convention of 1973

Clause (a) of Section 2 was amended so as not to imply that only one person from such a community might be ordained, and a concluding sentence was added requiring that local communicants be consulted in the selection of such candidates for ordination.

Clause (b) (4) was amended by adding a sentence pertaining to biblical and doctrinal knowledge.

The references to missionary districts were deleted as no longer needed.

Convention of 1979

The word "men" in Section 3 was changed to "persons."

EXPOSITION OF CANON III.8

As noted in the history of this canon, the earliest provisions for the modification of the normal standard of learning applied only to those preparing for ordination to the diaconate. Subsequently, these distinctive provisions were repealed, and instead, the normal requirements were themselves modified, to provide that the examinations formerly required before ordination to the diaconate could be postponed until

before ordination to the priesthood. Before ordination to the diaconate, the examiners were required only to satisfy themselves that the candidate was well acquainted with the Holy Scriptures and the Book of Common Prayer, and was otherwise fit to serve in that order (see Canon III.5 above).

The Convention of 1871 introduced provisions for candidates for “deacon’s orders only,” the examinations for which were again concerned with a thorough knowledge of the Scripture and the Prayer Book, to which was added a requirement of a familiarity with the Articles of Religion.

These provisions are sometimes described, elsewhere in this annotation, by the editors of the two previous editions, as establishing a “perpetual” or “permanent” diaconate. It is important to note that this is true only in a qualified sense.

The modern revival of the life-time diaconate is concerned with establishing the office as one of the three distinctive orders of ordained ministers in the Church. The nineteenth century provisions were primarily a missionary tactic, most frequently employed as a means of supplying an indigenous ministry in communities of distinctive ethnic composition.

In Native American communities, for example, where the number of educated persons was small, and where the local language was not that of the missionaries, the following procedure was often employed:

Young men with evident leadership ability were singled out by the missionaries and trained “on the job” as lay readers. Several years later, after reaching a level of maturity acceptable to the community, and having fulfilled the requirements of the canon, they would be ordained deacon.

Some such men were, usually decades later, ordained to the priesthood. Most, however, not being in a position to fulfill the educational requirements then in effect with respect to the priesthood, remained deacons for the rest of their lives. In many respects, their effectiveness was remarkable, and they are among the chief glories of the missionary work of the Episcopal Church.

The Convention of 1919 again introduced a separate canon on the subject. Under its provisions, the normal standard of learning could be modified in the case of priests as well as deacons. Three distinct situations were provided for. The first concerned men “of other race and speech,” and the second, men who had attained the age of thirty-two

years and had “shown such proficiency in business or professional life as gives promise of usefulness in the Ministry.” In both these cases, an examination was to be administered before ordination to the diaconate in the areas of Scripture, Doctrine, Prayer Book, and Church History. After serving as deacons for two years, such men could be ordained to the priesthood without further examination. (The third group provided for were men who had been ministers in another Christian body, but as this section was later transferred to another canon, it will not be considered here.)

By 1961, as a result of amendments made to it, the canon pertained only to those whose native language was not English, who were to minister among their own people, and to those of distinctive or foreign culture.

In view of the later history of this canon, it is important to note, at this point, that under the canonical provisions thus far considered, ordination was normally to a full-time, stipendiary ministry.

In 1969, a group of memorialists presented to the General Convention a petition calling for the amendment of a number of the canons in order to provide for a self-supporting ministry (*Journal*, p. 415). After noting that the Lambeth Conference of 1958 had itself called for the ordination of such ministers, the memorial noted:

There are churches and chapels in smaller towns and rural areas where the congregation is small and its financial resources limited. Such positions are notoriously difficult to staff. Ministers assigned to them rarely remain for long. While they are there, they are often regarded, and regard themselves, as outsiders, not fully in touch with the inner life of the community. It is increasingly recognized that many of these churches could be much more effectively ministered to by ordaining a mature and respected member of the congregation who is closely linked with the community. Such a man would and should continue, without interruption, in his secular livelihood.

... special cultural and ethnic groups have special needs which must be recognized. Many American Indians and Eskimos, for instance, speak their own languages and naturally desire their own ministers. Virtually no white men attain the fluency to preach, teach, or give pastoral counsel in a native American tongue. Yet there are older Indians, who speak eloquently and are deeply versed in the life and spirituality of their people. Such men are almost never college or high-school graduates, but some of them would be ideally suited to be pastors of their people.

... all of this becomes especially acute in certain overseas mission areas. Our overseas Missionary Districts need and deserve a corps of well-trained, capable clergy, equipped to serve in any situation. Many jurisdictions, at the same time, have a desperate need for sacramental ministers who are more closely identified with local life and tradition, and who can support themselves within the local economy without a crippling dependence on foreign support.

Reference was also made to urban areas, scientific and technological communities, and other situations where non-stipendiary clergy might appropriately minister.

The recommendations of the memorialists were considered in the Conventions of 1969 and 1970 (to which a further memorial on the subject was addressed), and the canonical changes requested were made.

The 1970 amendments to Canons III.10 and III.11 make provision for what many memorialists hoped would become the norm in such situations. Under those provisions, the responsibility for selecting and recommending suitable self-supporting persons for ordination to the permanent diaconate or to the priesthood is assigned to the clergy and laity of local parishes, and appropriate standards for training and study are established.

It was, however, realized that it would take some time for local clergy and parishes to become aware of, and accustomed to, these procedures, and there were areas in which the need for clergy was acute. In some missionary jurisdictions, it was noted, there were villages where the entire population belonged to the Episcopal Church, yet where the administration of the sacraments was dependent on occasional visits by a circuit-riding missionary, who was frequently not fluent in the local language.

In consequence, an amendment to the present canon was proposed and adopted by the Convention of 1969.

Under its provisions, the responsibility for selecting suitable persons rests with the bishop and standing committee, who must, however, have the prior approval, in principle, of the house of bishops of the province.

The qualifications specified are those appropriate to persons who are to minister in particular communities only, and rest on identifiable abilities and religious commitment without regard to academic accomplishment.

As noted above, it was the need for regular celebration of the sacraments that was the primary impetus for amending this canon. Since ordination to the priesthood is, however, ordination to a ministry of the Word as well, the canon was amended in 1973 to require that the candidate have a knowledge of the Scriptures and of the basic doctrines of the Church. This requirement, as we have seen, was a constant feature of earlier legislation.

Nothing in the canon prohibits the ordination of deacons who are not subsequently to be ordained to the priesthood. Where it is judged that

communities would be better served by having diaconal as well as priestly services available to them, the bishop may seek out suitable candidates for that order.

In all cases of ordination under this canon, the recommendation of communicants resident in the community must be sought.

It is the normal assumption that those ordained under the provisions of this canon will receive their livelihood from secular sources. The canon does not, however, forbid them from receiving part or all of their support from the Church, and some have done so. In such cases, the persons become participants in the Church Pension Fund, and the employer is subjected to the usual assessments.

Under Section 2 (c), a deacon or priest ordained under this canon can exercise a ministry in another community to which he removes only with the bishop's license. Nothing in this clause would, however, preclude such a minister from accepting an invitation to preach or officiate in some other place on a particular occasion.

The sentence governing letters dimissory, and Section 4 requiring the keeping of a record of modifications and of notifying the Recorder, have been part of the canon since 1919.



CANON 9. Of General Provisions Respecting Ordination

- Equally applicable to men and women.* Sec. 1. The provisions of these Canons for the admission of Candidates, and for the Ordination to the three Orders, Bishops, Priests and Deacons, shall be equally applicable to men and women.
- Ordinations to be held at Ember Season.* Sec. 2. In accordance with ancient Canons, ordinations shall be held on the Sundays following the Ember Weeks, except that the Bishop may, if he deem proper, for urgent reasons, appoint special ordinations at other times.
- All canonical requirements to be complied with. When Bishop Coadjutor or Suffragan Bishop or Missionary Bishop may act.* Sec. 3. No appointment for the ordination of any Candidate shall be made until the Bishop has had due notice that all the canonical requirements have been complied with.
- Power of Council of Advice.* Sec. 4. (a). For the purpose of this and other Canons of Ordination, the authority assigned to the Bishop of the Diocese may be exercised by a Bishop Coadjutor, when so empowered under Canon III.14, Sec. 2 (a), or by a Suffragan Bishop when requested by the Bishop of a Diocese, or by a Missionary Bishop, or any other Bishop of this Church canonically in charge of a Diocese or of Congregations in foreign parts.
- (b). The Council of Advice of the Convocation of the American Churches in Europe, and the board appointed by a Missionary Bishop having jurisdiction in an Area Mission, in accordance with the provisions of Canon I.10.2 (c), shall, for the purpose of this and other Canons included in Title III of these Canons, have the same powers as the Standing Committee of a Diocese.

In vacant jurisdiction another Bishop may act. (c). In case of a vacancy in the episcopate in a Diocese, the Ecclesiastical Authority may authorize and request the President of the Province, or another Bishop, to take order for an ordination.

Certificates to be in words prescribed. Sec. 5 (a). No certificate or testimonial, the form of which is supplied by Canon, shall be valid, unless it be in the words prescribed; the omission of the date therefrom shall render such certificate or testimonial liable to rejection.

No Candidate to sign. (b). No Candidate for Holy Orders shall sign any of the certificates prescribed in the Canons of Ordination.

Requirements as to signature of Standing Committee. (c). Whenever the testimonial of the Standing Committee is required, such testimonial must be signed at a meeting duly convened, and, in the absence of express provision to the contrary, by a majority of the whole Committee.

Requirements as to signature of Vestry. (d). Whenever the certificate of a Vestry is required, such certificate must be signed by a majority of the whole Vestry, at a meeting duly convened, and the fact must be attested by the Secretary of the said Vestry or by the Minister.

Mode of applying for dispensation. Sec. 6. Whenever dispensation from any of the requirements of the Canons of Ordination is permitted, with the advice and consent of the Standing Committee, the application must be first made to the Bishop, and, if he approve it, be by him referred to the Committee.

Standing Committee to give reasons if declining to recommend. Sec. 7. If, in the case of any applicant for admission as a Candidate for Holy Orders, or for ordination, a majority of the Standing Committee refuse to recommend, or shall fail to act within three months, although the required certificates have been laid before the Committee, it shall be the duty of the Committee, without delay, to give to the Bishop the reasons, in writing, for such refusal or failure to act.

Testimonials, etc., to apply to Ordinations beyond the United States. Sec. 8 (a). No Bishop of this Church shall ordain any person to officiate in any Congregation beyond the limits of the United States until the testimonials and certificates required by the Canons of Ordination shall have been supplied, except as provided for as follows:

(b). Any Missionary Bishop of this Church having jurisdiction in foreign lands, or any Bishop to whom the charge

Special testimonials permitted in foreign lands. of Congregations in foreign lands shall have been assigned by the Presiding Bishop, may ordain as Deacons or Presbyters, to officiate within the limits of his charge, any persons of the age required by the Canons of this Church, who shall exhibit to him the testimonials required by Canons 10 and 11 of Title III, signed by not less than two Presbyters of this Church, who may be subject to his charge, and other satisfactory evidence of moral character from natives of the country not in Holy Orders; *Provided, nevertheless*, that if there be only one Presbyter of this Church subject to his charge, and capable of acting at the time, the signature of a Presbyter in good standing under the jurisdiction of any Bishop in communion with this Church may be admitted to supply the deficiency.



This canon was Title I, Canon 11, when it was adopted in 1892. It became Canon 8 in 1904, Canon 32 in 1943, and Title III, Canon 9, in 1970.

SECTION 1

Convention of 1976

The provisions of this section, which also apply to all other canons of ordination, were adopted by this Convention.

SECTION 2

The American Church adopted stated times for ordination at the very beginning of its national existence.

Convention of 1789

This Convention enacted Canon 8, which read as follows:

Agreeably to the practice of the primitive Church, the stated times of Ordination shall be on the Sunday following the Ember weeks: viz.: The Second Sunday in Lent, the Feast of Trinity, and the Sundays after the Wednesdays following the fourteenth day of September and the thirteenth of December.

Convention of 1808

This Convention amended Canon 8 of 1789 by adding at the end thereof the following words:

Occasional ordinations may be held at such other times as the Bishop shall appoint.

Notwithstanding the provisions of the canon, that ordinations were to be held at stated times, it seems to have been the custom for the bishops to ordain men whenever the candidates were ready for orders. Hence, it was thought best to give express legal sanction to the practice which prevailed among the bishops, of ordaining at any time. This, we are told, was the reason for the amendment of 1808.

This section remained without further amendment until the Convention of 1892, except that it was renumbered by several conventions, becoming Canon 20 in 1832, and Title II, Canon 5, Section 5 in 1871.

Convention of 1892

In the revision of the canons of ordination by the Convention of 1892, the section under consideration became Title I, Canon 11, Section 8, and was amended to read as follows:

(i) Agreeably to the practice of the Primitive Church, the stated times of ordination shall be the Sundays following the Ember weeks.

(ii) But occasional ordinations may be held at other times, as the Bishop shall appoint.

Convention of 1904

In the revision of the Digest of Canons by this Convention, Title I, Canon 11, Section 8, of the Canons of 1892, was made Canon 8, Section 7, and amended to read as follows:

In accordance with ancient Canons, ordination shall be held on the Sundays following the Ember Weeks, except that the Bishop may, if he deem proper, for urgent reasons, appoint special ordinations at other times.

The section was made Section 6 of Canon 9 in 1919, Section 1 of Canon 32 in 1943, and Section 2 of the present canon in 1976.

SECTION 3

Convention of 1904

Section 3, providing that all canonical requirements must be complied with before ordination, was first enacted by the Convention of 1904, as Canon 8, Section 8, and read as follows:

No appointment for the ordination of any Candidate shall be made until the Bishop has had due notice that all the canonical requirements have been complied with.

The section was made Section 7 in 1919, Section 2 in 1943, and Section 3 in 1976.

SECTION 4

The first legislation on the subject of other than diocesan bishops exercising the powers of ordination is found in the Canons of 1871.

Convention of 1871

This Convention enacted Title I, Canon 2, Section 9, which read as follows:

The Bishop of the Diocese, for the purposes of this and other Canons relating to Candidates and Ordinations, shall be understood in cases so requiring, to signify an Assistant Bishop, when so empowered under Canon 13, Sec. 5, of Title I, a Provisional Bishop, a Missionary Bishop, and any other Bishop canonically in charge of a Diocese, Missionary District, or Congregation in foreign parts.

Heretofore, a strict construction of the canons would seem to limit all authority, in matters relating to candidates and ordinations, to diocesan bishops. As it seemed wise to give this same authority to assistant bishops and missionary bishops, in certain cases, and to remove any question in the matter, this section was enacted. The reference to Canon 13, Section 5, relates to assistant bishops and the powers that may be exercised by them. Under the provisions of Canon 13, Section 5, an assistant bishop was to perform such duties, and exercise such episcopal authority in the diocese as the bishop thereof should assign to him. It might well be that the diocesan would desire to assign to the assistant bishop superintendence of candidates for orders, but until this section was enacted, there was a question as to the right of the assistant so to act.

Convention of 1904

This Convention re-enacted Title I, Canon 2, Section 9, of the Canons of 1871, as Canon 8, Section 1 (i), and amended it to read as follows:

For the purpose of this and other Canons of Ordination, the authority assigned to the Bishop of the Diocese may be exercised by a Bishop Coadjutor, when so empowered under Canon 9, Section 2, or by a Missionary Bishop, or any other Bishop of this Church canonically in charge of a Diocese or Missionary District, or of congregations in foreign parts.

The same Convention also enacted a new provision giving to councils of advice in missionary districts the same powers in matters of ordination granted to standing committees. This provision was made clause (ii) of the said Section 1, and read as follows:

The Council of Advice in a Missionary District shall, for the purposes of this and other Canons of Ordination, have the same powers as the Standing Committee of a Diocese.

Convention of 1919

This Convention made no change in the section under consideration except to renumber it as Canon 9, Section 1, and change the canonical reference therein.

Convention of 1931

At this Convention, clause (a) of the section, then Section 1 (i), of Canon 9, was amended by inserting the words “or by a Suffragan Bishop when requested by the Bishop of the Diocese.” Prior to this amendment, it would seem that suffragan bishops had no right of ordination and could not be empowered by the diocesan to ordain. The only exception was a suffragan bishop placed temporarily in charge of a diocese or district.

The section was made Section 3 in 1943.

Convention of 1946

This section was amended by the addition of clause (c) covering ordination during a vacancy in the episcopate in a diocese or district.

Convention of 1973

Clause (a) was amended by striking the words “or Missionary District.”

Clause (b) was amended to read as at present.

Clause (c) was amended by changing the words “Missionary District” to “Missionary Diocese.”

Convention of 1979

Clause (c) of the section, which had been made Section 4 in 1976, was amended by deleting the reference to missionary dioceses as no longer needed.

SECTION 5

The first canon containing the provisions of this section was enacted by the Convention of 1892. Some of the provisions herein contained are found in former canons, but in every case they had reference to some special form and were not general in character, or covering other cases than the one to which they had reference.

Convention of 1892

This Convention enacted Title I, Canon 11, Sections 1, 2, and 3, which read as follows:

Sec. 1. (i) All certificates or testimonials, for which forms are supplied by Canon, should, in order to be valid, be in the words prescribed.

(ii) No Postulant, Candidate for Holy Orders, or student of theology shall sign any of the certificates prescribed in the foregoing Canons relating to Ordination.

(iii) Whenever a dated certificate or testimonial is required, the omission of the date shall render such certificate or testimonial liable to rejection.

(iv) Whenever a substitute for a prescribed certificate is presented to a Standing Committee, the Committee shall be the sole judge as to whether the exigency justifies the substitution.

Sec. 2. Whenever the testimonial of the Standing Committee is required, such testimonial must be signed at a meeting duly convened, and, in the absence of express provision to the contrary, by a majority of the whole Committee.

Sec. 3. Whenever the certificate of a Vestry is required, such certificate must be signed by a majority of the whole Vestry, at a meeting duly convened, and the fact must be attested by the Secretary of the said Vestry or by the Minister.

Convention of 1904

In the revision of the canons by this Convention, Sections 1, 2, and 3, as above noted, were made Canon 8, Section 2, and amended to read as follows:

(i) No certificate or testimonial, the form of which is supplied by Canon, shall be valid, unless it be in the words prescribed; the omission of the date therefrom shall render such certificate or testimonial liable to rejection.

(ii) No Postulant or Candidate for Holy Orders shall sign any of the certificates prescribed in the foregoing Canons of Ordination.

(iii) Whenever the testimonial of the Standing Committee is required, such testimonial must be signed at a meeting duly convened, and, in the absence of express provision to the contrary, by a majority of the whole Committee.

(iv) Whenever the certificate of a Vestry is required, such certificate must be signed by a majority of the whole Vestry, at a meeting duly convened, and the fact must be attested by the Secretary of the said Vestry or by the Minister.

The section became Section 4 in 1943, and Section 5 in 1976.

SECTION 6

The first canonical enactment on the subject of the mode of applying for a dispensation from any of the requirements of the canons of ordination is found in the Canons of 1892.

Convention of 1892

This Convention enacted Title I, Canon 11, Section 4, in the exact words of present Section 6.

Numbered as Section 3 in 1904, it became Section 5 in 1943, and Section 6 in 1976.

SECTION 7

The provision contained in this section, that the standing committee must give to the bishop its reasons when it refused or neglected to recommend a candidate for admission to Holy Orders is first found in the Canons of 1892.

Convention of 1892

This Convention enacted Title I, Canon 11, Section 5, which read as follows:

If, in the case of any applicant for admission as a Candidate for Holy Orders, or for recommendation for ordination, a majority of the Standing Committee shall be unwilling to proceed, although the required certificates have been laid before them, and are in due form, it shall be their duty, without delay, to give to the Bishop their reasons, in writing, for refusal to recommend such applicant.

Convention of 1904

This Convention renumbered the said canon as Canon 8, Section 4, and amended it to read as follows:

If, in any case of any applicant for admission as a Candidate for Holy Orders, or for ordination, a majority of the Standing Committee refuse to recommend, or shall fail to act within three months, although the required certificates have been laid before the Committee, it shall be the duty of the Committee, without delay, to give to the Bishop the reasons, in writing, for such refusal or failure to act.

The section was renumbered as Section 6 in 1943, and Section 7 in 1976.

SECTION 8

The first enactment of General Convention regarding the ordination of persons to officiate in congregations outside the limits of the United States is found in the Canons of 1856.

Convention of 1856

This Convention enacted Canon 5, Section 15, which read as follows:

No Bishop of this Church shall ordain any person to officiate as a Priest in any Congregation or Church destitute of a Bishop, situated without the jurisdiction of the United States, until the usual testimony from the Standing Committee, founded upon sufficient evidence of his soundness in the faith, and of his pious and moral character, has been obtained, nor until the Candidate has been examined on the studies prescribed by the Canons of this Church. And should any such Clergyman, so Ordained, wish to settle in any Congregation of this Church, he must obtain a special license therefor from the Bishop, and officiate as a probationer for at least one year.

Convention of 1859

The above mentioned section was made Title I, Canon 4, Section 4 but without amendment.

Convention of 1871

This Convention renumbered the above named section as Title I, Canon 5, Section 3 (i), (ii), and amended it to read as follows:

(i) No Bishop of this Church shall ordain any person to officiate in any Congregation or Church destitute of a Bishop, situated without the jurisdiction of the United States, except with the canonically prescribed testimonials and examinations.

(ii) Should any person so ordained desire to settle in any Congregation or Parish of this Church, he must obtain a special license therefor from the Bishop, and officiate as a Probationer for at least one year.

Convention of 1892

This Convention renumbered Title I, Canon 5, Section 3, of 1871, as Title I, Canon 11, Section 6, and amended it to read as follows:

No Bishop of this Church shall ordain any person to officiate in any Congregation or Church destitute of a Bishop, or situated beyond the limits of the United States, until the testimonials and certificates required by the Canons relating to Ordination shall have been supplied.

Convention of 1904

This Convention renumbered the above cited canon and section, making it Section 5 of Canon 8, and amending it to read as follows:

(i) No Bishop of this Church shall ordain any person to officiate in any congregation beyond the limits of the United States until the testimonials and certificates required by the Canons of Ordination shall have been supplied except as provided for as follows:

(ii) Any Missionary Bishop of this Church having jurisdiction in foreign lands, or any Bishop to whom the charge of congregations in foreign lands shall have been assigned by the Presiding Bishop, may ordain as Deacons and Presbyters, to officiate within the limits of his charge, any persons of the age required by the Canons of this Church, who shall exhibit to him the testimonials required by Canons 5 and 7, signed by not less than two Presbyters of this Church, who may be subject to his charge, and other satisfactory evidence of moral character from natives of the country not in Holy Orders; *Provided*, nevertheless, that if there be only one Presbyter of this Church subject to his charge, and capable of acting at the time, the signature of a Presbyter in good standing under the jurisdiction of any Bishop in communion with this Church may be admitted to supply the deficiency.

(iii) Any Missionary Bishop of this Church having jurisdiction in foreign lands may, by and with the advice of two Presbyters subject to his charge, dispense with the studies required by Canons 4 and 6; *provided*, that no person in such case be ordered Deacon until he shall have passed a satisfactory examination, as to his knowledge of Holy Scripture and of the doctrine of this Church, and as to his aptitude to teach, by the Bishop in the presence of two Presbyters, and shall have been a Candidate for Holy

Orders for at least three years; and, *provided further*, that he be not ordered Priest until he shall have been a Deacon for at least one year, and shall have satisfied at least the requirements of Canon 4. Such Deacon or Priest shall not be allowed to hold any cure in the United States until he has fully complied with the Canons relating to the learning of persons there ordained.

Convention of 1919

This Convention in its revision of the canons of ordination, repealed clause (iii) and changed the canonical references in clause (ii) to conform to the renumbering of the canons. No other changes were made in the canon.

The section was renumbered Section 7 in 1943 and Section 8 in 1976.

EXPOSITION OF CANON III.9

The adoption of Section 1 of this canon by the General Convention of 1976 constituted the legislative expression of the Church's recognition that women, as well as men, are eligible for ordination to the priesthood and the episcopate. (The decision to admit women to the diaconate was made in 1970.) The resolution of adoption originated in the House of Bishops, where it was approved by a vote of 95 for, 61 against, and 2 abstentions. The canonical change mandated that the provisions relating to the admission of postulants and candidates, and to ordination, apply equally to men and women. There was support for the position that the recognition of the eligibility of women required a constitutional amendment, but the effort to substitute such an amendment for the canonical change was defeated. The resolution for canonical change adopted in the House of Bishops was submitted for concurrence in the House of Deputies. There were a number of deputies who were disappointed that there was no real opportunity given to consider whether or not the ordination of women should be authorized by a constitutional rather than a canonical change. The House of Deputies concurred in the House of Bishops' resolution for canonical change by a vote in the clerical order of 60 yes, 39 no, and 15 divided; and in the lay order of 65 yes, 39 no, and 13 divided.

The cold numbers of the final tally do not bespeak the significance of the events both preceding and following the vote. During the seven year period beginning in 1970, the following events occurred: (i) reference by the October 23, 1970, Special Meeting of the House of Bishops of the following statement for consideration at a subsequent meeting:

It is the mind of this House that it endorses the principle of the ordination of women to the priesthood, and the ordination and consecration of women to the episcopate (*Journal*, 1970, p. 800);

(ii) the adoption of the statement by the House of Bishops at its Special Meeting of October 29, 1972; (iii) the close defeat at the 1973 General Convention of a proposal for canonical change to recognize ordination of women; (iv) the resulting tortured frustration of its proponents, culminating in the admittedly uncanonical ordination of eleven women to the priesthood at Philadelphia on June 29, 1974; (v) the struggles of the House of Bishops to uphold its corporate responsibility to the Constitution and Canons of the Church, despite its expressed position favoring recognition of ordination of women; (vi) the rather bizarre report of the Board of Inquiry, convened to consider whether the ordaining bishops should stand trial, which found willful and knowing violations of the Canons and Constitution, yet declined jurisdiction on the ground that doctrinal issues were involved; (vii) the resolution of censure of the bishops ordaining at Philadelphia, adopted at the September 1975 Special Meeting of the House of Bishops; (viii) the adoption of the amendment to Canon III.9, adding the new Section 1, at the General Convention of 1976; and finally, (ix) the adoption of "A Statement of Conscience" at the September-October 1977 Special Meeting of the House of Bishops, which affirmed that no bishop, priest, deacon, or lay person should be coerced or penalized because of his or her conscientious objection to or support of the General Convention's action with regard to the ordination of women.

Throughout this period, the Church acted and reacted, sometimes illogically and torturedly, but with the end result of bringing the Church through this crisis of conscientiously contested change substantially undivided and reconciled to its differences. As stated in the Pastoral Letter issued by the House of Bishops at the conclusion of its 1977 Special Meeting:

During our October, 1977 meeting, we have discovered an encouraging degree of unity among ourselves.... Since the Minnesota General Convention [1976], we have seen some new dimensions incorporated into the life and practice of our Church. For this, we rejoice.

We are convinced that canon law is necessary to good order in the Church, but it cannot create unity. The only source of the Church's unity is the Spirit of the Lord Jesus Christ upon whom we wait in trust and patience (*Journal*, 1979, p. B-225).

The statesmanship and self-restraint of the leadership of the Church prevailed, or, in another view, the Church muddled through. It is doubtful that it could have done so if there had existed clear and established judicial procedures which would have forced a courtroom confrontation between differing views.

In setting forth, in section 2, stated times for ordinations, the American Church followed the precedent of the Church of England by adopting the Ember Weeks as the proper times for ordinations and, following the language of the English canon, declared that these times were in accordance with the practice of the primitive Church.

In actual fact, the observance of Ember Days was originally a peculiarity of the Church in the City of Rome. Established as quarterly periods of reflection and renewal, they were later (probably because they were already times of fasting and prayer) found to be suitable times for ordinations. Their observance in England is traceable to the fact that the first archbishop of Canterbury, Augustine, was himself a missionary sent from Rome, and their observance in other parts of Europe dates from the reforms of Charlemagne.

The language of the present canon that "In accordance with ancient Canons" the Sundays following the Ember Weeks are to be the stated times for ordinations is thus much nearer the facts in the case.

While the canon declares that ordinations shall be held at these stated times, the bishop is permitted to hold special ordinations at other times, for urgent reasons. As the bishop alone decides what are urgent reasons, the result is that ordinations are now held whenever the bishop sees fit.

The opening words of Section 4 are a recognition of the ancient canon law. Until the revision of the canons of ordination by the Convention of 1871, there seems to have been no provision of the canons permitting other than diocesan bishops to ordain candidates to the diaconate or to the priesthood. Even missionary bishops, apparently, had no canonical right to ordain.

Under the provisions of the Canons of 1871, missionary bishops, bishops canonically in charge of a diocese, missionary district, or congregations in foreign lands, and assistant bishops, when so empowered by the diocesan, were given the power of ordination. These provisions were the same as those at present prescribed by the canons.

It was not until the Convention of 1871 that the council of advice in a missionary district was granted the same powers as standing committees in matters of ordination. The reason for this is clear when we remember that, prior to that time, missionary bishops were not granted the power of ordination by the canons.

The requirement that a testimonial or certificate of a standing committee, or of a vestry, must be signed by a majority of such body at a meeting duly convened, is to provide that, when the question of the

approval of admitting a person to Holy Orders is presented to a standing committee, or to a vestry, it shall be brought before the whole body, and opportunity given to discuss the matter, and hear and decide upon objections, if there be any, instead of securing the individual consents of a majority of the members thereof, with no opportunity for due consideration of so important a matter.

Until the Convention of 1892, there was no canonical provision requiring a standing committee, in case such committee refused or neglected to recommend a candidate for Holy Orders, to give their reasons to the bishop for such refusal or neglect. This was felt to be unjust, both to the bishop and to the candidate, and the canon was amended for the purpose of correcting this injustice. The amendment, however, did not go far enough. It was only in case the standing committee should be unwilling to proceed that they were required to give to the bishop their reason therefor.

The Convention of 1904 endeavored to make it obligatory, in every case of failure on the part of the standing committee to recommend a candidate, to give to the bishop their reasons therefor. The canon was accordingly amended by striking the words "shall be unwilling to proceed," and inserting in place thereof the words "refuse to recommend, or shall fail to act within three months." This is the present law, under which a standing committee must give to the bishop their reasons for refusing to recommend a candidate, or failure to act in the matter within three months after receiving the certificates required by the canons.

Section 8 of this canon provides that no bishop of this Church shall ordain any person to officiate in any congregation outside of the limits of the United States until he has fulfilled all the conditions required of those who are to officiate in this country, except as therein provided.

The language of the first clause of this Section is somewhat ambiguous. It would seem to refer only to ordinations by bishops in this country, and not to missionary bishops in foreign districts. The second clause, which contains the exceptions to the rule, clearly applies to foreign missionary bishops, and not to bishops in this country.



CANON 10. Of Ordination to the Diaconate

- Candidate to be twenty-one years of age.* Sec. 1. No one shall be ordered Deacon until he shall be twenty-one years of age.
- To be eighteen months a Candidate, unless the time be shortened.* Sec. 2. No one shall be ordered Deacon within eighteen months from his admission as Candidate for Holy Orders, unless, under special circumstances, the Bishop, with the advice and consent of a majority of all the members of the Standing Committee, shall shorten the time of his Candidacy; and in no case shall the time be shortened less than six months.
- Examination required.* Sec. 3. Before the ordination of a Deacon the Bishop shall require the applicant to submit to a thorough examination, covering both mental and physical condition, by recognized and licensed professionals appointed by the Bishop. The forms for medical and psychiatric reports prepared by the Church Pension Fund shall be used for these purposes. These reports shall be kept on file by the Bishop and shall be submitted to the Standing Committee when application is made by the Candidate to be ordained Deacon.
- Recommendation from Standing Committee.* Sec. 4. No one shall be ordered Deacon unless he is first recommended to the Bishop by the Standing Committee of the Diocese to which he belongs.
- Papers to be laid before Standing Committee.* Sec. 5. In order to be recommended for ordination the Candidate must lay before the Standing Committee
- (1). An application therefor in writing signed by himself, which shall state the date of his birth.
 - (2). Certificates from the Bishop(s) by whom he was admitted a Postulant and a Candidate, declaring the dates of admission as a Postulant and as a Candidate.

But when such certificate cannot be had, other evidence satisfactory to the Committee shall suffice.

(3). A certificate from a Presbyter of this Church, known to the Ecclesiastical Authority, in the following words, viz.:

**To the Standing Committee of _____
Place, _____ Date, _____**

I hereby certify that I am personally acquainted with A.B., and that I believe him to be well qualified to minister in the Office of Deacon, to the glory of God and the edification of His Church.

(Signed) _____

(4). A certificate from the Minister and Vestry of the Parish of which he is a member, in the following words, viz.:

**To the Standing Committee of _____
Place, _____ Date, _____**

We do certify that, after due inquiry, we are well assured and believe that A.B., for the space of three years last past, hath lived a sober, honest, and godly life, and that he is loyal to the Doctrine, Discipline, and Worship of this Church, and does not hold anything contrary thereto. And, moreover, we think him a person worthy to be admitted to the Sacred Order of Deacons.

(Signed) _____

This certificate must be attested by the Minister of the Parish, or by the Clerk or Secretary of the Vestry, as follows, viz.:

I hereby certify that A.B. is a member of _____ Parish in _____ and a communicant of the same; that the foregoing certificate was signed at a meeting of the Vestry duly convened at _____ on the _____ day of _____; and that the names attached are those of all (or a majority of all) the members of the Vestry.

(Signed) _____

**The Minister of _____
or Clerk or Secretary of Vestry.**

(5). A certificate from the Theological Seminary where

he has been studying, or from those under whose direction he has been pursuing his studies, showing his scholastic record in the subjects required by the Canons, and giving a judgment as to his personal qualifications for the Ministry of this Church.

If Parish has no Minister. Sec. 6. Should the Parish be without a Minister, it shall suffice that in his place the certificate required in paragraph (4) above be signed by some Presbyter of the Diocese in good standing, the reason for the substitution being stated in the attesting clause.

If there be no Parish, by whom certificate is to be signed. Sec. 7 (a). Should there be no organized Parish at the place of residence of the Candidate, or should it be impracticable, through circumstances not affecting his moral or religious character, to obtain the signatures of the Minister and Vestry, or of the Vestry, it may suffice if the certificate be signed by at least—

One Presbyter of the Diocese in good standing, and six Lay Persons, communicants of this Church in good standing; or should the Candidate within the space of three years last past have been a Minister or Licentiate in some body of Christians, by three Presbyters of this Church as to the period during which he has been a Candidate, and by six members in good standing of the denomination from which the Candidate came, as to the period, within the space of three years last past, before he became a Candidate.

Reasons for this form of certificate to be stated. (b). In such case, the reasons for departing from the regular form must be given in the attesting clause, which shall be signed by the same, or some other Presbyter of this Church in good standing, and shall be in the following words, viz.:

I hereby certify that the Lay Persons whose names are attached to the foregoing certificate are communicants of this Church in good standing, and that this form of certificate was used for no reasons affecting the moral or religious character of the Candidate, but because (here give the reasons for departing from the regular form).

(Signed) _____

Presbyter of Diocese, or Missionary Diocese, of

*Testimonial
of Standing
Committee.*

Sec. 8. The Standing Committee, on the receipt of the certificates prescribed above and the report of the Board of Examining Chaplains prescribed in Canon III.7, Sec. 4, and having reason to believe that all other canonical requirements have been complied with, and having no reason to suppose the existence of any sufficient obstacle, physical, mental, moral, or spiritual, may, at a meeting duly convened, a majority of all the members of the Committee consenting, recommend the Candidate for ordination by a testimonial addressed to the Bishop in the following words, viz.:

**To the Right Reverend _____, Bishop
of _____:**

We, being a majority of all the members of the Standing Committee of _____, and having been duly convened at _____, do testify that A.B., desiring to be ordered Deacon, hath laid before us satisfactory certificates that for the space of three years last past he hath lived a sober, honest, and godly life, and that he is loyal to the Doctrine, Discipline, and Worship of this Church and does not hold anything contrary thereto. And we hereby recommend him for ordination to the Diaconate.

**In witness whereof, we have hereunto set our hands
this _____ day of _____, in the year of our
Lord _____.**

(Signed) _____

This testimonial shall be signed by all consenting to its adoption.

*Declaration
of belief and
conformity.*

Sec. 9. The testimonial having been presented to the Bishop, and there being no sufficient objection on grounds physical, mental, moral, doctrinal, or spiritual, the Bishop may take order for the ordination; and at the time of the ordination he shall require the candidate to subscribe and make, in his presence, the declaration required in Article VIII. of the Constitution.

Sec. 10 (a). A person of Christian character, proven fitness, and leadership in his community, who is willing to serve in the capacity of Deacon without relinquishing his secular occupation, may be proposed and recommended to the

Candidacy of those who will retain secular occupations. Bishop, for enrollment as a Candidate, by the Minister and Vestry of the Parish in which his service is desired, or (should the Parish be without a Minister) by the Vestry and some other Presbyter of the Diocese in good standing, or (if it is intended that the Candidate should serve outside, or apart from, an organized Parish) by one such Presbyter and six Lay Communicants of this Church in good standing who are well informed regarding the area or circumstances within which it is proposed that the Candidate should serve. This recommendation shall be in writing, and shall include a statement indicating whether the person is being proposed for the Diaconate only, or for the Diaconate and subsequently for the Priesthood. Such a person may be admitted as a Candidate upon the following conditions:

- Conditions.*
- (1). He shall have reached the canonical age for Deacons, and attained such maturity as the Bishop, Commission on Ministry, and Standing Committee find acceptable for ordination.
 - (2). The requirements of Canon III.2, Sec. 2 (c) and (d), and Secs. 3, 4, 5, 6, 7, 8, 9, and 10, shall be fulfilled in such manner as is pertinent to the circumstances.

Ordination. (b). A Candidate so admitted may be ordained to the Diaconate at any time after six months from his admission as a Candidate, upon the following conditions:

- (1). He shall have prepared for the Diaconate by studying the topics specified in Canon III.5, Sec. 2 (a) for such time and to such extent as is judged suitable by the Bishop, after consultation with the Commission on Ministry, and with the Minister and Lay Persons who proposed and recommended the said Candidate. Similarly, after consultation with persons experienced in the area or field in which this Candidate for the Diaconate is to serve, the Bishop shall appoint such other training or practical experience as is suitable to the Candidate's occupation, his role in the community, and his ecclesiastical ministry. A record of all such training, and an evaluation of the Candidate's attainments, shall be made in writing, and kept on file.
- (2). He shall be recommended for ordination to the Diaconate by the Standing Committee, as required by Sec. 5 of this Canon, except as to term of Candidacy.

- Functions.* (c). A Deacon ordained under the provisions of this Section may execute all the functions pertaining to the office of Deacons, subject to the general provisions of Canon III.24. He may be assigned by the Ecclesiastical Authority as Minister in charge of a Congregation which is unable to receive the services of a resident Priest. At the request, or with the consent, of the Rector and Vestry, he may be assigned as an assistant Minister in one or more Parishes. He may not be transferred to another jurisdiction except upon the express request in writing of the Ecclesiastical Authority thereof.
- Pension Rules do not apply.* (d). The provisions of Canon I.7, "Of The Church Pension Fund," shall not apply, as to either assessments or benefits, to Deacons ordained under the provisions of this Section.
- Advancement to Priesthood.* (e). A Deacon ordained in accordance with this Section, who is willing to serve in the capacity of Priest without relinquishing his secular occupation, may be accepted as a Candidate for the Priesthood if he has been recommended for this Order in accordance with the provisions of Sec. 10 (a) of this Canon, or if he has been so recommended subsequently. In such cases, he is to prepare for ordination to the Priesthood in accordance with the provisions of Canon III. 11, Sec. 10.
- (f). Or, alternatively, a Deacon ordained in accordance with this Section may also be accepted for ordination to the Priesthood if he has passed all examinations required of other Candidates for the Priesthood and complied with all other canonical requirements precedent to such ordination. In such case the provisions of Canon I.7 where applicable shall apply to him from the date of his ordination to the Priesthood.



This canon was Title I, Canon 6, when it was adopted in 1871. It became Canon 5 in 1904, Canon 33 in 1943, and Title III, Canon 10, in 1970.

This canon contains the requirements necessary before a candidate can be ordained to the diaconate, and some of these requirements are found in the original Canons of 1789.

Convention of 1789

The fourth canon of that year read, in part, as follows:

Deacon's Orders shall not be conferred on any person until he shall be twenty-one years old.

The remainder of the canon related to the age required before a person might be ordained priest, or consecrated bishop, and will be considered later.

In primitive times, a person was seldom ordained deacon until he was twenty-five years old, which term was afterwards fixed by both the civil and the canon law. Bingham, in his *Ecclesiastical Antiquities* (Lib. II., Chap. XX), tells us, "that the rule was so strictly observed, that we scarcely meet with an instance of anyone that was ordained Deacon before the age of twenty-five, in all the history of the Church."

The law of the Church of England, since 1661, requires a deacon to be twenty-three years of age, unless a dispensation be granted shortening the time.

The same Convention enacted Canon 6 of that year, entitled, "Of the testimonials to be produced on the part of those who are to be Ordained." This canon read as follows:

Every Candidate for Holy Orders shall be recommended to the Bishop by a Standing Committee of the Convention of the State wherein he resides, which recommendation shall be signed by the names of a majority of the Committee, and shall be the following words:

We whose names are hereunder written, testify that A.B. for the space of three years last past, hath lived piously, soberly, and honestly, nor hath he at any time, as far as we know or believe, written, taught, or held, anything contrary to the doctrine or discipline of the Protestant Episcopal Church; and moreover we think him a person worthy to be admitted to the sacred order of _____.

In witness whereof, we have hereunto set our hands. Dated the _____ day of _____, in the year of our Lord _____.

But before a Standing Committee of any State shall proceed to recommend any candidate, as aforesaid, to the Bishop, such candidate shall produce testimonials of his good morals and orderly conduct for three years last past, from the Minister and Vestry of the parish where he resided, or from the Vestry alone, if the parish be vacant; a publication of his intention to apply for Holy Orders having been previously made by such Minister or Vestry.

In every State in which there is no Standing Committee, such Committee shall be appointed at its next ensuing Convention; and in the meantime, every candidate for Holy Orders shall be recommended according to the regulations or usage of the Church in each State, and the requisitions of the Bishop to whom he applies.

Convention of 1792

This Convention enacted Canon 4, of that year as a supplement to Canon 6, of the Canons of 1789, which read in part, as follows:

In regard to the certificate required in favour of a candidate for Priest's or Deacon's Orders by the 6th Canon, if there be any members of the bodies respectively concerned who have not the requisite personal knowledge of the parties, such persons may prefix the following declaration to their signatures:

We believe the testimony contained in the above Certificate, and we join in the recommendation of A.B. to the office of _____ on sufficient evidence offered to us of the facts set forth.

Provided, that in the case of a Priest or Deacon, two at least of the Standing Committee sign the same, as being personally acquainted with the candidate.

Convention of 1795

This Convention enacted Canon 2 of that year, which read as follows:

Every candidate for Holy Orders shall be recommended to the Bishop by a Standing Committee appointed by the Convention of the church in that State wherein he resides, which recommendations shall be signed by the names of a majority of the Committee, and shall be in the following words:

We, whose names are hereunder written, testify that A.B. hath laid before us satisfactory testimonials, that for the space of three years last past, he hath lived piously, soberly, and honestly: and hath not written, taught, or held, anything contrary to the doctrine or discipline of the Protestant Episcopal Church. And moreover, we think him a person worthy to be admitted to the sacred order of _____. In witness whereof we have hereunto set our hands, this _____ day of _____, in the year of our Lord _____.

But before a Standing Committee in any State shall proceed to recommend any candidate, as aforesaid, to the Bishop, such candidate shall produce from the minister and vestry of the parish where he resides, or from the vestry alone if the parish be vacant, or if there be no vestry, from at least twelve respectable persons of the Protestant Episcopal Church in the neighborhood in which he resides, testimonials of his good morals and orderly conduct for three years last past, and that he has not so far as they know and believe, written, taught, or held anything contrary to the doctrine or discipline of the Protestant Episcopal Church: a publication of his intention to apply for Holy Orders have been previously made by such minister or vestry. He shall also lay before the Standing Committee, testimonials to the same effect, signed by at least one respectable clergyman of the Protestant Episcopal Church in the United States, from his personal knowledge of the candidate for at least one year.

In every State in which there is no Standing Committee, such Committee shall be appointed at its next ensuing Convention; and in the meantime, every candidate for Holy Orders shall be recommended according to the regulations or usage of the Church in each State, and the requisitions of the Bishop to whom he applies.

The last paragraph repealed the two former canons on the subject, the 6th Canon of 1789, and the 4th Canon of 1792, the provisions of both canons being incorporated in this second canon.

Under the provisions of this canon, the standing committee were no longer obliged to testify from personal knowledge of the candidate, but from satisfactory testimonials laid before them. A testimonial was required from one presbyter of the Church, founded on personal knowledge of the candidate for at least one year. This testimonial stood in the place of the personal knowledge of members of the standing committee. Another change made in the law was the allowing of a certificate from “twelve respectable persons” of the Church where there happened to be no vestry.

This same Convention also amended Canon 4, of the Canons of 1789, by the enactment of Canon 3, reading, in part, as follows:

Deacon’s Orders shall not be conferred on any person until he shall be twenty-one years old.

The remainder of the canon refers to the age of ordination for priests, and of consecration for bishops.

The same Convention also enacted Canon 6, the first sentence of which read as follows:

Every candidate for the ministry shall give notice of his intention to the Bishop, or to such body as the Church in the State in which the candidate resides, may have appointed to superintend the instruction of candidates for Holy Orders, at least one year before his ordination.

This is the first canonical legislation regarding the length of time a person must remain as a candidate before his ordination to the diaconate.

Convention of 1804

This Convention enacted an additional canon to Canon 6, of the Canons of 1795, as Canon 7, and reading as follows:

Every candidate for Holy Orders, who may be recommended by a standing committee of any Church destitute of a Bishop, if he have resided for the greater part of the three years last past within the diocese of any Bishop, shall apply to such Bishop for ordination. And such candidate shall produce the usual testimonials, as well as from the committee of the diocese in which he has resided, as from the committee of the Church in the state for which he is to be ordained.

Convention of 1808

This Convention enacted Canon 12 of that year to take the place of Canons 2 and 6, of the Canons of 1795, and Canon 7, of the Canons of 1804, the first paragraph of which read as follows:

No person shall be ordained Deacon or Priest in this Church, unless he exhibit to the Bishop the following testimonials from the Standing Committee of the diocese or state over which the Bishop presides to whom he applies for Holy Orders, which recommendation shall be signed by the names of a majority of the committee duly convened, and shall be in the following words:

(The form of this testimonial is the same as in Canon 2 of 1795.)

The next paragraph remained the same as the second paragraph of Canon 2 of 1795.

The third paragraph read as follows:

But in case a candidate from some peculiar circumstances not affecting his pious or moral character, should be unable to procure testimonials from the minister and vestry of the parish where he resides, the said fact being ascertained by the certificate of said minister and vestry, the Standing Committee may accept testimonials of the purport above stated, from at least twelve respectable members of the Protestant Episcopal Church, and from at least one respectable clergyman of the said Church, who has been personally acquainted with the candidate for at least one year.

The fourth paragraph of the canon is the same as Canon 7 of the Canons of 1804.

The last paragraph of the canon relates to candidates for priest's orders and will be considered later.

Canon 6 of the Canons of 1795 was amended, so that the first line thereof read as follows:

Every person who wishes to become a candidate for orders in this Church.

Convention of 1823

This Convention repealed the first paragraph of Canon 7, of the Canons of 1808, and enacted Canon 1 in its place, which read as follows:

Every person who desires to become a candidate for orders in this Church, shall obtain admission from the Bishop, or such body as the Church in the Diocese or State in which he intends to apply, may appoint, at least one year before his ordination.

Convention of 1826

The only canon enacted by this Convention repealed Canon 1 of 1823, and enacted in its place the following:

Every person who desires to become a candidate for Orders in this Church shall, in the first instance, give notice of his intention to the Bishop, or if there be no Bishop, to such body as the Church in the Diocese or State in which he intends to apply may appoint; and if, after obtaining the canonical testimonials from the Standing Committee, he be admitted as a candidate by the Bishop, or if there be no Bishop, by such body as the Church in the Diocese or State in which he intends to apply may appoint, he shall remain a candidate for the term of three years before his ordination, unless the Bishop,

with the advice and consent of the clerical members of the Standing Committee, shall deem it expedient to ordain the candidate, after the expiration of a shorter period, not less than one year.

Under the provision of this canon, requiring a term of three years' study, arose a question as to the rights of the standing committee in the matter of shortening the time of study. The case as related by Dr. Hawks (*Constitution and Canons*, p. 138) was as follows:

Two gentlemen, graduates of Cambridge University, who had been prosecuting their theological studies for two years, were desirous of being admitted to deacon's orders. Bishop Griswold of Massachusetts, to whose diocese they belonged, was willing to admit them, and addressed to the clerical members of the Standing Committee of Massachusetts, a letter stating his satisfaction with the examination of the young gentlemen, and requesting them to concur with him in dispensing with the residue of the three years required by the Canon. There were two clerical members of the Standing Committee, and they refused to dispense with the full time of three years required by the Canon. This proceeding on their part led to discussion, in which the origin and rights of Standing Committees were commented upon. On the one hand, it was said that they were but a council of advice, and never designed to be a board of control over the bishop; and it was more than intimated that his wishes in the case should have furnished the rule for their conduct. On the other hand, it was contended that the canon, by rendering their assent necessary, of course gave them power of withholding it whenever their conscience required them to do so, and that the bishop's will (however much entitled to respect), was not to be their rule.

Convention of 1832

In its revision of the Digest of Canons, this Convention amended the Canon of 1826, making it Section 7 of Canon 9, and to read as follows:

If after obtaining the canonical testimonials from the Standing Committee, the person be admitted as a candidate by the Bishop, or, if there be no Bishop, by the Standing Committee, he shall remain a candidate for the term of three years before his ordination, unless the Bishop, with the consent of the Clerical Members of the Standing Committee, shall deem it expedient to ordain the candidate after the expiration of a shorter period, not less than one year.

No mention, it will be noted, is made of the "advice" of the clerical members of the standing committee, only of their consent.

This Convention made the third canon of 1795, Canon 8, but without change.

The twelfth canon of 1808 was made Canon 15, and amended to read as follows:

Sec. 1. No person shall be ordained Deacon or Priest in this Church, unless he exhibit to the Bishop the following testimonial from the Standing Committee of the Diocese for which he is to be ordained, which recommendation shall be signed by the names of a majority of all the Committee, the Committee being duly convened, and shall be in the following words:

We whose names are hereunder written, testify that A.B. hath laid before us satisfactory testimonials, that for the space of three years last past, he hath lived piously, soberly, and honestly; and hath not written, taught, or held anything contrary to the doctrine or discipline of the Protestant Episcopal Church; and moreover, we think him a person worthy to be admitted to the sacred order of _____, in witness whereof, we have hereunto set our hands, this _____ day of _____, in the year of our Lord _____.

Sec. 2. But before a Standing Committee shall proceed to recommend any candidate, as aforesaid, to the Bishop, such candidate shall produce from the Minister and Vestry of the parish where he resides, or from the Vestry alone, if the parish be vacant, or if the applicant be the Minister of the parish, a Deacon desirous of Priest's Orders; or if there be no Vestry, from at least twelve respectable persons of the Protestant Episcopal Church, testimonials of his piety, good morals, and orderly conduct in the following form: "We whose names are hereunder written, do testify, from evidence satisfactory to us, that A.B., for the space of three years last past, hath lived piously, soberly, and honestly; and hath not, so far as we know or believe, written, taught, or held anything contrary to the doctrine or discipline of the Protestant Episcopal Church; and moreover, we think him a person worthy to be admitted to the sacred order of _____. In witness whereof, we have hereunto set our hands, this _____ day of _____, in the year of our Lord _____."

He shall also lay before the Standing Committee testimonials, signed by at least one respectable Presbyterian of the Protestant Episcopal Church in the United States, in the following form: "I do testify that A.B., for the space of three years last past, hath lived piously, soberly, and honestly; and hath not, so far as I know or believe, written, taught or held anything contrary to the doctrine or discipline of the Protestant Episcopal Church; and moreover I think him a person worthy to be admitted to the sacred order of _____. This testimonial is founded on my personal knowledge of the said A.B., for one year last past, and for the residue of the said time, upon evidence that is satisfactory to me. In witness whereof, I have hereunto set my hand this _____ day of _____, in the year of our Lord _____."

Sec. 3. But in case a candidate, from some peculiar circumstances not affecting his pious or moral character, should be unable to procure testimonials from the Minister and Vestry of the parish where he resides, the Standing Committee may accept testimonials of the purport above stated, from at least twelve respectable members of the Protestant Episcopal Church, and from at least one respectable Presbyterian of the said Church, who has been personally acquainted with the candidate for at least one year.

Sec. 4. (This section was the same as Canon 7 of 1804.)

Sec. 5. (This section pertained to candidates for priest's orders, and will be considered later.)

Convention of 1856

This Convention made a complete revision of the canons of ordination, and enacted Canon 4, "Of Deacons," which included the provisions of Canon 9, Section 7, of the Canons of 1832, and of Canon 15 of the same year, and which read, in part, as follows:

Sec. 1. Every person hereafter to be Ordained Deacon in this Church shall be examined by the Bishop and two Presbyters, whose duty it shall be to ascertain that he is well

acquainted with the Holy Scriptures, and the Book of Common Prayer, and who shall inquire into his fitness for the ministrations declared in the Ordinal to appertain to the office of a Deacon, and be satisfied thereof.

Sec. 2. No person shall be entitled to such examination until he shall have remained a Candidate for Orders at least one year, and shall have presented to the Bishop a testimonial from at least one Rector of a parish, signifying a belief that he is well qualified to minister in the office of a Deacon, to the glory of God and the edification of the Church.

Sec. 3. (This section refers to candidates not having had episcopal ordination, and will be considered later.)

Sec. 4. No person shall be ordained Deacon in this Church, unless he exhibit to the Bishop testimonials from the Standing Committee of the Diocese for which he is to be ordained, which shall be signed by the names of a majority of all the Committee, the Committee being duly convened, and shall be in the following words:

“We, whose names are hereunder written, testify that A.B. has laid before us satisfactory testimonials, that for the space of three years last past, he has lived piously, soberly, and honestly; and has not written, taught or held anything contrary to the doctrine or discipline of the Protestant Episcopal Church; and moreover, we think him a person worthy to be admitted to the sacred order of Deacons, in witness whereof we have hereunto set our hands this _____ day of _____, in the year of our Lord _____.”

Sec. 5. But before a Standing Committee shall proceed to recommend any Candidate, as aforesaid, to the Bishop, such Candidate shall produce from the Minister and Vestry of the Parish where he resides, or from the Vestry alone, if the Parish be vacant, or if there be no Vestry, from at least twelve respectable persons of the Protestant Episcopal Church, testimonials of his piety, good morals, and orderly conduct in the following form:

“We whose names are hereunder written do testify, from evidence satisfactory to us, that A.B. for the space of three years last past, hath lived piously, soberly, and honestly; and hath not, so far as we know or believe, written, taught, or held anything contrary to the doctrine or discipline of the Protestant Episcopal Church; and moreover, we think him a person worthy to be admitted to the sacred Order of Deacons. In witness whereof, we have hereunto set our hands, this _____ day of _____, in the year of our Lord _____.”

He shall also lay before the Standing Committee testimonials, signed by at least one respectable Presbyter of the Protestant Episcopal Church in the United States, in the following form:

“I do certify that A.B. for the space of three years last past, hath lived piously, soberly, and honestly; and has not, so far as I know or believe, written, taught, or held anything contrary to the doctrine or discipline of the Protestant Episcopal Church; and moreover, I think him a person worthy to be admitted to the sacred Order of Deacons. This testimonial is founded on my personal knowledge of the said A.B. for one year last past, and for the residue of the said time, upon evidence that is satisfactory to me. In witness whereof, I have hereunto set my hand, this _____ day of _____, in the year of our Lord _____.”

Sec. 6. But in case a Candidate, from some peculiar circumstances not affecting his pious or moral character, should be unable to procure testimonials from the Minister and

Vestry of the Parish where he resides, the Standing Committee may accept testimonials from at least twelve respectable members of the Protestant Episcopal Church, and from at least one respectable Presbyter of the said Church, who has been personally acquainted with the Candidate for at least one year.

Sec. 7. Every Candidate for Holy Orders, who may be recommended by the Standing Committee of any Church destitute of a Bishop, if he have resided for the greater part of the three years last past within the Diocese of any Bishop, shall apply to such Bishop for Ordination. And such Candidate shall produce the usual testimonials, as well from the Committee of the Diocese in which he has resided, as from the Committee of the Diocese for which he is to be Ordained.

The remaining section of this canon related to matters that will be considered later.

The former canons required that a candidate must remain as such for a term of three years. Section 2 of this canon required that he remain a candidate only one year, but other sections of this canon would indicate that he should have been a candidate for three years before ordination. Section 2, however, would seem to govern the matter.

Convention of 1859

In the revision of the whole Digest of Canons by this Convention, Canon 8 of 1832 was made Title I, Canon 4, Section 2, without amendment.

Section 7 of Canon 4 of 1856, was made Section 3 of the same canon, also without amendment.

Sections 1, 2, 4, 5, and 6 of Canon 4, of the Canons of 1856, were made Sections 1, 2, 3, 4, and 5, respectively, of Title I, Canon 5, but remained unamended.

Convention of 1862

This Convention amended Title I, Canon 5, Section 2, of the Canons of 1859, to read as follows:

(i) A person admitted as a candidate for Deacon's Orders shall remain a candidate for the term of three years before his ordination, unless the Bishop, with the consent of the Standing Committee, shall deem it expedient to ordain the candidate after the expiration of a shorter period, not less than one year; but this provision shall not apply to candidates under Section 6, Canon 5, Title I.

(ii) Before his examination, the candidate shall present to the Bishop a testimonial from at least one Rector of a Parish, signifying a belief that he is well qualified to minister in the office of a Deacon, to the glory of God and the edification of the Church.

Convention of 1871

This Convention, in its revision of the canons of ordination, enacted Title I, Canon 6, "Of the Ordination of Deacons," which read, in part, as follows:

Sec. 1. A Candidate for the Office and Ministration of a Deacon only shall not be ordained within one year from his admission, unless the Bishop, with the consent of the Standing Committee, shall deem it expedient to ordain him after the expiration of a shorter period, in no case to be less than six months.

Sec. 2. Before the examination preceding ordination, such Candidate shall be required to present to the Bishop a testimonial from at least one Rector of a Parish, signifying the belief that he is well qualified to minister in the Office of a Deacon to the glory of God and the edification of the Church.

Sec. 3. A Candidate for Priest's Orders shall not be ordained to the Diaconate within three years from his admission, unless the Bishop for urgent reasons, with the consent of three-fourths of the Standing Committee, shall admit him to the Diaconate while yet prosecuting his course of theological studies; in which case he may be ordained at any time after the expiration of one year from his admission.

Sec. 4. (i) No person shall be ordained Deacon in this Church unless he be recommended to the Bishop for ordination by the Standing Committee of the Diocese.

(ii) In order to such recommendation, the Candidate must lay before the Standing Committee testimonials from the Minister and Vestry of the Parish or Congregation of which he is a member, or from the Vestry alone, if the Parish be vacant; or, if there be no organized Parish or Congregation where he has resided, from at least twelve respectable members of the Protestant Episcopal Church, testifying to his piety, good morals, and orderly conduct, in the following words:

We, whose names are hereunder written, do testify, from evidence satisfactory to us, that A.B., for the space of three years last past, hath lived piously, soberly, and honestly; and hath not, so far as we know or believe, written, taught, or held anything contrary to the doctrine or discipline of the Protestant Episcopal Church; and moreover, we think him a person worthy to be admitted to the Sacred Order of Deacons. In witness whereof, we have hereunto set our hands, this _____ day of _____, in the year of our Lord _____.

(iii) But in case a Candidate, from some peculiar circumstances not affecting his pious or moral character, shall be unable to procure testimonials from the Minister and Vestry of the Parish where he resides, the Standing Committee may accept testimonials, of the purport above stated, from at least twelve respectable members of the Protestant Episcopal Church.

(iv) The Candidate shall also lay before the Standing Committee a testimonial, signed by at least one respectable Presbyterian of the Protestant Episcopal Church in the United States, in the following words:

I (or we) do certify that A.B., for the space of three years last past, hath lived piously, soberly, and honestly; and hath not, so far as I (or we) know or believe, written, taught, or held anything contrary to the doctrine or discipline of the Protestant Episcopal Church; and moreover, I (or we) think him a person worthy to be admitted to the Sacred Order of Deacons. This testimonial is founded on my (or our) personal knowledge of the said A.B., for one year last past, and, for the residue of the said time, upon evidence that is satisfactory to me (or us). In witness whereof, I (or we) have hereunto set my (or our) hand (or hands), this _____ day of _____, in the year of our Lord _____.

(v) The Standing Committee, on receipt of such testimonials, may, at a meeting duly convened, a majority of all the Committee consenting, proceed to recommend the

Candidate for ordination, by a testimonial addressed to the Bishop of the Diocese, in the following words:

We, whose names are hereunder written, certify that A.B. hath laid before us satisfactory testimonials that for the space of three years last past, he hath lived piously, soberly, and honestly; and hath not written, taught, or held anything contrary to the doctrine or discipline of the Protestant Episcopal Church; and moreover, we think him a person worthy to be admitted to the Sacred Order of Deacons. In witness whereof, we have hereunto set our hands, this _____ day of _____, in the year of our Lord _____.

This testimonial shall have the signatures of all consenting to it.

Sections 5 and 6 of this canon do not concern the subject we are now considering.

Sec. 7. Deacon's Orders shall not be conferred on any person under the age of twenty-one years complete.

Section 1 of this canon was a new section and concerned the ordination of a candidate for deacon's orders only.

The remaining sections are all derived from earlier provisions.

Canon 4, Section 3, of Title I of 1859, was made Canon 5, Section 2, and amended to read as follows:

(i) A Candidate for Holy Orders, recommended by a Standing Committee, canonically acting as Ecclesiastical Authority, if he have lately resided for a length of time, not less than one year, in any other Diocese, shall apply to the Bishop of such Diocese for ordination.

(ii) Such Candidate shall, besides his recommendation from his own Diocese, apply for recommendation from the Standing Committee of the Diocese in which he seeks ordination.

Convention of 1892

This Convention also radically amended the canons of ordination. It enacted Title I, Canon 7, "Of Ordination to the Diaconate," which contained most of the provisions contained in Title I, Canon 6, of 1871.

Section 1 was the same as Section 7 of said Canon 6.

Sec. 2. A Candidate for Deacon's Orders only shall not be ordained within one year from his admission as such Candidate.

This section was practically the same as Section 1 of former Canon 6, except that the provision for shortening the time of candidateship was stricken.

Sec. 3. A Candidate for Priest's Orders shall not be made Deacon within three years from his admission as such Candidate, unless the Bishop, for urgent reasons, with the advice and consent of three-fourths of the whole Standing Committee, shall shorten the

time of his candidateship, but in no case shall the time be shortened to less than six months; Provided, further, that in case a person has attained the age of thirty-five years, and who has been duly confirmed and admitted to the Holy Communion in this Church, desires to become a Candidate for Priest's Orders with a dispensation from the usual period of candidateship, but not from any canonical examination prescribed for the Diaconate and Priesthood, and applies for this dispensation on the ground of mature age and experience in speaking and teaching publicly, he being also a graduate in arts in some reputable college or university, the Bishop may, by and with the advice and consent of three-fourths of the Standing Committee, admit him at once to Deacon's Orders; Provided, also that he shall not be advanced to the Priesthood until the expiration of one full year from his admission to the Order of Deacons.

This section contained the subject matter of former Section 3 of Canon 6. The provisos, however, were new.

Sec. 4. No person shall be ordained Deacon unless he be first recommended to the Bishop for ordination by the Standing Committee of the Diocese or Missionary Jurisdiction to which he belongs.

This section contained the subject matter of former Section 4 (i) of Canon 6.

Sec. 5. In order to such recommendation, he must lay before the Standing Committee:

(a) An application therefor in writing, under his own signature, which shall state the date of his birth.

(b) A certificate from the Bishop by whom he was admitted a Candidate, declaring the date of his admission, and the character of his candidateship. *Provided*, that when such certificate cannot be had, other evidence, satisfactory to the Committee, shall suffice.

(c) A certificate from at least one Presbyter of this Church in good standing, and known to the Ecclesiastical Authority, in the following words, viz.:

To the Standing Committee of _____.

Place _____.

Date _____.

I hereby certify that I am personally acquainted with A.B., and that I believe him to be well qualified to minister in the office of Deacon to the glory of God and the edification of His Church.

(d) A certificate from the Minister and Vestry of the Parish of which he is a member, in the following words, viz.:

To the Standing Committee of _____.

Place _____.

Date _____.

We, whose names are hereunder written, do certify, from personal knowledge or from evidence satisfactory to us, that A.B., for the space of three years last past, hath lived piously, soberly and honestly, and hath not since the date of his admission as a Candidate for Holy Orders, written, taught, or held anything contrary to the doctrine or discipline of the Protestant Episcopal Church. And, moreover, we think him a person worthy to be admitted to the Sacred Order of Deacons.

(Signed)

Minister of _____ Parish.
Vestry of _____.

This certificate must be attested by the Minister of the Parish, or by the Clerk or Secretary of the Vestry, as follows, viz.:

I hereby certify, that A.B. is a member of _____ Parish, in _____ and a communicant in the same; that the foregoing certificate was adopted at a duly convened meeting of the Vestry, and that the names attached are those of a majority of the whole body.

(Signed)

Minister of _____ or Clerk or Secretary of Vestry.

Section 5 contained the subject matter of former Section 4 (ii) and (iii) of said Canon 6.

Sec. 6. Should the Parish to which the Candidate belongs be vacant, it shall suffice if the foregoing certificate be signed by the Vestry and by some Presbyter of the Diocese in good standing. But in such case, the attesting clause shall state the reason for departure from the regular form.

Section 6 was practically a new section.

Sec. 7. Should there be no organized Parish at the place of residence of the Candidate, or, there being such Parish, should the Candidate be unable, through circumstances not affecting his moral or religious character, to procure such certificate from the Minister and Vestry, the Standing Committee may accept a certificate in the same words, signed by one presbyter of this Church in good standing and six respectable Laymen, communicants of this Church, the attesting clause being subscribed by the Presbyter signing the certificate, or by some other Presbyter of this Church known to the Committee, in the following words, viz.:

I hereby certify, that all the signatures to the foregoing certificate are genuine, and are those of communicants of the Protestant Episcopal Church in good standing. I further certify, that the certificate was so signed for no reasons unfavorably affecting the moral or religious character of the Candidate, but because (here give the reasons for departing from the regular form).

(Signed)

Sec. 8. (i) The Standing Committee, on the receipt in either case of the certificate prescribed as above, and having reason to believe that all other canonical requirements have been complied with, and having no reason to suppose the existence of any sufficient obstacle, physical, intellectual or moral, may, at a meeting duly convened, a majority of all the Committee consenting, proceed to recommend the Candidate for ordination by a testimonial addressed to the Bishop in the following words, viz.:

To the Right Reverend _____, Bishop of _____.

We, whose names are hereunder written, being a majority of the whole Standing Committee of _____ and having duly convened at _____, do testify that A.B. hath laid before us satisfactory certificates that for the space of three years last past he hath lived piously, soberly, and honestly, and hath not, since his admission as a Candidate for Orders, written, taught or held anything contrary to the doctrine or discipline of the Protestant Episcopal Church; and we hereby recommend him for

admission to the Sacred Order of Deacons. In witness whereof, we have hereunto set our hands, this _____ day of _____, in the year of our Lord _____.
(Signed)

Standing Committee of _____.

(ii) This testimonial shall be signed by all consenting to its adoption.

This section contained the subject matter of former Section 4 (v) of Canon 6.

Sec. 9. (i) The testimonial above prescribed, having been presented to the Bishop, and there being no known objection to the ordination of the Candidate on grounds physical, intellectual or moral, the Bishop shall require him to sign the declaration prescribed by Article VII of the Constitution of this Church, and shall then proceed to take order for the ordination at such time and place as may to him seem best, giving the preference whenever practicable to one of the Ember Seasons.

(ii) But no appointment for the ordination of any Candidate shall be made until the Bishop shall have sufficient knowledge of the favourable action of the Standing Committee.

This section was entirely new in its provisions. It seems somewhat strange that the constitutional requirement regarding the signing of the declaration of conformity as set forth in the Constitution should have been omitted from the ordination canons for over one hundred years.

Title I, Canon 5, Section 2, of the Canons of 1871, seems to have been repealed by the Convention of 1892.

Convention of 1898

This Convention amended Title I, Canon 7, Section 3, of 1892, by striking the words "six months" immediately before the first proviso, and inserting in place thereof the words "one year."

Also, in the same section, striking the word "further" after the word "Proviso."

Also, in the same section, striking these words at the end of the section:

admit him at once to Deacon's Orders: Provided, also that he shall not be advanced to the Priesthood until the expiration of one full year from his admission to the Order of Deacons.

and inserting in place thereof, the following:

admit him to Deacon's Orders after six months.

A new section was also added to this canon, to be numbered Section 4, the other sections being renumbered accordingly:

In the computation of the time required to elapse between a candidate's admission and his ordering as a Deacon, the successful completion of three academic years in any incorporated Seminary of the Church may be reckoned as three calendar years.

Convention of 1904

Title I, Canon 7, of 1898 was made Canon 5 by this Convention and amended to read as follows:

Sec. 1. No one shall be ordered Deacon until he shall be twenty-one years of age.

Sec. 2. No one shall be ordered Deacon within three years from his admission as a Candidate for Holy Orders, unless the Bishop, with the advice and consent of three-fourths of all the members of the Standing Committee, shall shorten the time of his candidateship; but the time shall not be shortened to less than one year, except in the case of a person who shall have attained the age of thirty years, and shall have had experience in speaking and teaching publicly; and in no case shall the time be shortened to less than six months. In the computation required to elapse between his admission as a Candidate and his ordering as a Deacon, the successful completion of three academic years in any incorporated Seminary of the Church may be considered as equivalent to three calendar years.

Sec. 3. No one shall be ordered Deacon unless he be first recommended to the Bishop by the Standing Committee of the Diocese, or the Council of Advice of the Missionary District, to which he belongs.

Sec. 4. In order to be recommended for ordination, the Candidate must lay before the Standing Committee:

- (a) An application therefor in writing, signed by himself, which shall state the date of his birth.
- (b) A certificate from the Bishop by whom he was admitted a Candidate, declaring the date of his admission; but when such certificate cannot be had, other evidence satisfactory to the Committee shall suffice.
- (c) A certificate from a Presbyter of this Church, known to the Ecclesiastical Authority, in the following words, viz.:

To the Standing Committee of _____.
Place _____.
Date _____.

I hereby certify that I am personally acquainted with A.B., and that I believe him to be well qualified to minister in the office of Deacon to the glory of God and the edification of His Church.

(Signed)

- (d) A certificate from the Minister and Vestry of the Parish of which he is a member, in the following words, viz.:

To the Standing Committee of _____.
Place _____.
Date _____.

We do certify that, after due inquiry, we are well assured and believe that A.B., for the space of three years last past, hath lived a sober, honest, and godly life, and that

he is loyal to the Doctrine, Discipline, and Worship of this Church, and does not hold anything contrary thereto. And, moreover, we think him a person worthy to be admitted to the Sacred Order of Deacons.

(Signed)

This certificate must be attested by the Minister of the Parish, or by the Clerk or Secretary of the Vestry, as follows, viz.:

I hereby certify that A.B. is a member of _____ Parish in _____, and a communicant of the same; that the foregoing certificate was signed at a meeting of the Vestry duly convened at _____ on the _____ day of _____, and that the names attached are those of all (or a majority of all) the members of the Vestry.

(Signed)

The Minister of _____, or Clerk or Secretary of Vestry.

Sec. 5. But should the Parish be without a Minister, it shall suffice that in his place the certificate be signed by some Presbyter of the Diocese or Missionary District in good standing, the reason for the substitution being stated in the attesting clause.

Sec. 6. (i) Should there be no organized Parish at the place of residence of the Candidate, or should it be impracticable, through circumstances not affecting his moral or religious character, to obtain the signatures of the Minister and Vestry, or of the Vestry, it may suffice if the certificate be signed by at least—

(a) One Presbyter of the Diocese or Missionary District in good standing; and,

(b) Six Laymen, communicants of this Church in good standing.

(ii) In such case, the reasons for departing from the regular form must be given in the attesting clause, which shall be signed by the same, or some other Presbyter of this Church in good standing, and shall be in the following words, viz.:

I hereby certify, that the laymen whose names are attached to the foregoing certificate are communicants of this Church in good standing, and that this form of certificate was used for no reasons affecting the moral or religious character of the candidate, but because (here give the reasons for departing from the regular form).

(Signed)

Presbyter of the Diocese, or Missionary District of _____.

Sec. 7. The Standing Committee, on the receipt of the certificates prescribed as above, and having reason to believe that all other canonical requirements have been complied with, and having no reason to suppose the existence of any sufficient obstacle, physical, mental, moral or spiritual, may, at a meeting duly convened, a majority of all members of the Committee consenting, recommend the Candidate for ordination by a testimonial addressed to the Bishop in the following words, viz.:

To the Right Reverend _____, Bishop of _____.

We, being a majority of all the members of the Standing Committee of _____, and having been duly convened at _____, do testify that A.B, desiring to be ordered Deacon, hath laid before us satisfactory certificates that for the space of three years last past he hath lived a sober, honest, and godly life, and that he is loyal to the Doctrine, Discipline, and Worship of this Church and does not hold anything contrary thereto. And we hereby recommend him for ordination to the Diaconate.

In witness whereof, we have hereunto set our hands this _____ day of _____,
in the year of our Lord _____.

(Signed)

This testimonial shall be signed by all consenting to its adoption.

Sec. 8. The testimonial having been presented to the Bishop, and there being no sufficient objection on grounds physical, mental, moral, doctrinal, or spiritual, the Bishop shall take order for the ordination; and at the time of the ordination he shall require the Candidate to subscribe and make, in his presence, the declaration required in Article VIII of the Constitution.

Convention of 1919

Section 2 was amended to require the consent of a simple majority, rather than three-fourths, of the standing committee to shorten the period of candidacy.

Convention of 1931

Section 6 (i) was amended by adding after item (b) thereof:

Or (c) Three Presbyters of this Church who have known the candidate for the space of three years last past; or

(d) Should the candidate within the space of three years last past have been a Minister or Licentiate in some other body of Christians, by three Presbyters of this Church as to the period during which he has been a candidate, and by six adult male members in good standing of the denomination from which the candidate came, as to the period, within the space of three years last past, before he became a candidate.

Convention of 1934

Section 2 was amended by changing the word “three” to “two” in the three places it occurred, thus shortening the prescribed period of candidacy to two years.

Convention of 1937

This Convention added a new Section 3 reading as follows:

Before the ordination of a Deacon the Bishop shall require the applicant to submit to a thorough examination by a physician appointed by the Bishop. This examination shall cover the man’s mental and nervous as well as his physical condition. The form of medical report prepared by the Church Pension Fund shall be used for this purpose. This report shall be kept on file by the Bishop and shall be submitted to the Standing Committee or Council of Advice when application is made by the candidate to be ordained Deacon.

The remaining sections were renumbered.

Section 5 [former Section 4] was amended by adding a new clause (e) reading as follows:

A certificate from the theological seminary where he has been studying, or from the clergyman under whose direction he has been pursuing his studies, showing that he has completed all the studies required by the Canons, and is otherwise qualified to serve in the Ministry of the Church.

Convention of 1940

Section 6 was amended by the insertion of the words, “required in paragraph (4) above.”

Section 7 was amended by striking out clause (c) added in 1931.

Section 9 was amended by deleting the words “The Bishop shall take order” and inserting instead the words “the Bishop may take order,” making the provision permissive.

The canon was made Canon 33 in 1943 and Canon 34 in 1946.

Convention of 1949

Section 5 (5) [Section 5 (e) in 1937] was amended to read as follows:

A certificate from the theological seminary where he has been studying, or from the clergyman under whose direction he has been pursuing his studies, showing his scholastic record in the subjects required by the canons, and giving a judgment as to his personal qualifications for the Ministry of this Church.

The reason for this amendment was that, since most canonical examinations take place before graduation, the seminaries could not, in fact, certify to the completion of all studies.

Section 8 was amended to read:

The Standing Committee, on the receipt of the certificates prescribed above and the report of the Board of Examining Chaplains prescribed in Canon 31, Sec. 4, and having reason to believe, etc.

Convention of 1952

This Convention added a new Section 10, to provide for a “permanent” diaconate, and reading as follows:

(a) A man of devout character and proved fitness, desirous to serve in the capacity of Deacon without relinquishing his secular occupation and with no intention of seeking advancement to the Priesthood, may be accepted as a Postulant and admitted as a Candidate upon the following conditions:

- (1) He shall be not less than thirty-two years of age.
- (2) He shall be accepted as a Postulant as provided in Canon 26.
- (3) Fulfillment of the requirements of Clause (c) of Section 5 of Canon 26 shall suffice as educational qualification for admission to Candidateship.

(b) A Candidate so admitted may be ordained to the Diaconate at any time after six months from his admission as a Candidate, upon the following conditions:

(1) He shall have passed examinations in the subjects set forth in Section 2 (a) of Canon 29; but the Bishop may at his discretion dispense him from examination in subjects (c), (d), and (e) of Practical Theology.

(2) He shall be recommended for ordination to the Diaconate by the Standing Committee or Council of Advice, as required by Section 5 of this Canon, except as to terms of Candidateship.

(c) A deacon under the provisions of this Section shall exercise his Ministry as assistant in any parish or parishes to which, at the request or with the consent of the Rector and Vestry, he may be assigned by the Ecclesiastical Authority. As such assistant he may execute all functions appertaining to the office of Deacon; he may not in any respect act as Minister in charge of a congregation. He may not be transferred to another jurisdiction except upon the express request in writing of the Ecclesiastical Authority thereof.

(d) The provisions of Canon 7, Of the Church Pension Fund, shall not apply, as to either assessments or benefits, to Deacons ordained under the provisions of this Section.

(e) Any Deacon ordained in accordance with this Section who may afterward desire to be advanced to the Priesthood shall be required to pass all examinations required of other Candidates for the Priesthood and to comply with all other canonical requirements precedent to such ordination. In such case the provisions of Canon 7 shall apply to him from the date of his ordination to the Priesthood.

Convention of 1955

Section 2 was amended by deleting the words “of this Church” in the last sentence thereof.

This action was taken in view of the increasing number of seminarians who were attending interdenominational seminaries.

Convention of 1961

Section 2 was amended to read as at present, except for a mention of councils of advice, which was later deleted.

Convention of 1964

Section 10 (c) was amended to provide that a deacon ordained under the provisions of this section might, in certain circumstances, be placed in charge of a congregation.

The section as amended read as at present, except that it contained the following words immediately before the last sentence:

He shall not be dispensed as in Section 10 (b) (1) above.

Convention of 1967

A reference to clause (d) of Canon 26 was added to Section 10 (a) (3).

The effect was to permit modifications of the educational prerequisites for those to be ordained for an indigenous ministry identical to those granted to aspirants for Holy Orders in foreign lands.

Convention of 1970

The opening paragraph of Section 10 (a) was amended to read as follows:

A man of Christian character, proven fitness, and leadership in his community, who is willing to serve in the capacity of Deacon without relinquishing his secular occupation, may be proposed and recommended to the Bishop, for enrollment as a Postulant, by the Minister and Vestry of the Parish in which his service is desired, or (should the Parish be without a Minister) by the Vestry and some other Presbyter of the Diocese or Missionary District in good standing, or (if it is intended that the Postulant should serve outside, or apart from, an organized Parish) by one such Presbyter and six Lay Communicants of this Church in good standing who are well informed regarding the area or circumstances within which it is proposed that the Postulant should serve. This recommendation shall be in writing, and shall include a statement indicating whether the man is being proposed for the Diaconate only, or for the Diaconate and subsequently for the Priesthood. Such a Postulant may be admitted as a Candidate upon the following conditions:

Clause (e) of the same section was amended to read as at present.

A new clause (f), reading as at present, was added.

The effect of the amendments was to make provision for a non-stipendiary priesthood as well as a non-stipendiary diaconate.

It should be noted that the canon places the initiative in selecting and proposing such persons for ordination on the clergy and laity of the area to be served, and not on the person to be ordained.

Convention of 1973

Paragraph (1) of Section 10 (a) was amended to read as at present, thereby no longer requiring such candidates to be at least thirty-two years of age.

Paragraphs (2) and (3) of said Section 10 (a) were stricken, and the present paragraph (2) adopted.

Paragraph (1) of Section 10 (b) was amended to read as at present.

The effect of the last amendment was to introduce greater flexibility in academic preparation and to require such other training as may be needed or suitable.

The various references to missionary districts were deleted as no longer needed, except in the certificate in Section 7, where the reference was changed to read "Missionary Diocese."

Convention of 1976

Section 5 (2) was amended to include a reference to postulancy.

In paragraph (5) of the same section, the words "the clergyman" were replaced by the word "those."

In Section 7, the word "Laymen" was replaced with the words "Lay persons," and the word "male" was omitted.

Convention of 1979

Section 3 was amended to read as at present.

In Section 10, the word "man" was replaced with the word "person."

EXPOSITION OF CANON III.10

It is required that every person to be ordained deacon be twenty-one years of age, and have been a candidate for eighteen months. There are two exceptions to this rule, however. Under special circumstances, the period of candidacy may be shortened to as little as six months, and candidates accepted under the provisions of Section 10 may be ordained at any time after six months.

An examination, covering the candidate's mental and physical condition, is required, the reports of which are to be submitted to the standing committee.

Also to be submitted to the standing committee are the report of the interview by the commission on ministry (Canon III.1.5) and the results of the General Ordination Examination (Canon III.7.4).

The next requirement is the recommendation of the standing committee to the bishop. To obtain such recommendation, the canon marks out the several steps that must be taken. Six papers must be laid before the committee: the candidate's own application; the bishop's certificates that the person has been admitted a postulant and a candidate, giving the dates of such admission; the certificate of a presbyter known to the bishop, or the standing committee, whichever may happen to be the ecclesiastical authority; the certificate from the minister and vestry of the candidate's home parish, certifying to said candidate's character for the three years last past; and the certificate of the seminary or tutors of scholastic record and judgment of personal qualifications.

It is recognized that, through no fault of the candidate, circumstances may be such as to make it impossible for the candidate to obtain some of the required certificates, and provision is made for such cases. It might happen that in the case of the decease, for instance, of the bishop who admitted the candidate, the record of the admission of such candidate cannot be obtained. In such a case, the standing committee is authorized to accept other evidence that is satisfactory.

If the candidate comes from a parish that happens to have no minister at the time, any presbyter of the diocese in good standing may sign the certificate, stating in the attestation clause the reason for signing it in place of the minister.

Or, the candidate may come from a place where there is no organized parish, thus making it impossible to obtain the required certificate of the minister and vestry or, through circumstances that in no way affect the character of the candidate, render it impossible to secure the required certificate. In such cases, the standing committee may accept a certificate signed by a presbyter of the diocese in good standing, and by six lay persons, who are communicants of the Church in good standing. The reasons for presenting such a certificate must be stated in the attestation clause, which clause must be signed by the presbyter signing the certificate or by some other presbyter of the Church, not necessarily belonging to the diocese to which the said committee belongs, and stating that the lay persons signing the certificate are communicants of the Church in good standing.

Until all of these canonical papers, reports, and certificates are in the possession of the standing committee, such committee has no power to take any action towards recommending the candidate for ordination. When, however, all these canonical requirements have been complied with, then the committee may recommend the candidate for ordination to the diaconate by a testimonial addressed to the bishop, and in the form prescribed by the canon.

It is to be noted that a candidate who has completed all the canonical requirements has the absolute right of access to the standing committee without the necessity of obtaining the permission of any other body or person, including the bishop.

The bishop, having received the testimonial, determines whether or not the candidate is to be ordained.

The last step required of the candidate now takes place at the beginning of the rite of ordination: He or she must subscribe and make the declaration of conformity as required by Article VIII of the Constitution.

Section 10 of the canon, added in 1952 and revised several times, most extensively in 1970, provides for a vocational, life-long diaconate. Popular terms such as “permanent” and “perpetual” (the diaconate as a continuing office) or “transitional” (the diaconate as a temporary office, a stepping-stone to the priesthood) do not occur either in the canons or in the Book of Common Prayer.

The historical background to Section 10 includes the order of deaconesses, canonically recognized in 1970 as within the diaconate (see Canon III.24, below), the missionary or indigenous deacons ordained under the provisions of 1871-1904 (see Canon III.8), and the male deacons ordained under the 1952 canon, mainly for sacramental and pastoral assistance. A few men and women ordained deacon under the standard requirements for ordination have also remained in the order as a permanent vocation.

The section covers mainly the selection of deacons, their postulancy and candidacy, preparation for ordination, and deployment.

The principal change in 1970 was to shift the initiative in selection from the applicant to the local community. A parish or other ecclesiastical group (such as a mission or diocesan body) proposes a qualified person. The proposed deacon must be willing to remain in secular work. In practice, this provision has not prevented a few deacons ordained under this section from receiving stipends from the Church, at least for part-time work; most, however, remain non-stipendiary. Despite the clear intent of the section to provide for a distinctive diaconate, the written proposal to the bishop must state whether the person is to remain a deacon or to go on to the priesthood.

The proposed deacon applies in writing to the bishop, confers with the bishop (if possible), takes the standard mental and physical examinations, and (if the bishop wishes to proceed) is interviewed by the commission on ministry for a review of the application and recommendation of training. The bishop may then admit the applicant to postulancy. Candidacy may follow at least six months later. To become a candidate, the proposed deacon must be at least twenty-one years old (although a riper age is common) and must satisfy minimal educational requirements of at least four subjects of high school level. After the commission on ministry and the standing committee have recommended candidacy, the bishop may admit the proposed deacon as a candidate.

Preparation covers three areas: academic study or education, practical training or experience, and spiritual development or discipline. The

commission on ministry and the original proposers help the bishop to plan study in six academic areas (listed in Canon III.5.2[a]), and persons experienced in the proposed deacon's field of service advise the bishop on practical training. The canon specifies an "evaluation" rather than examinations. Spiritual discipline, though not mentioned in the canon, is implied by the candidate's Embertide letters to the bishop. In actual practice, many dioceses with diaconal programs handle preparation through a school or program for deacons, commonly for a period of three years, and sometimes associated with formation for lay ministries.

After at least six months of candidacy, and following submission of the usual certificates and approval by the standing committee, the bishop may ordain the candidate.

Although the deacon may have charge of a congregation unable to have a resident priest, more commonly the deacon assists in one or more parishes, at the request of, or with the consent of, the rector and vestry. Transfer to another jurisdiction may take place only upon the written request of the new ecclesiastical authority.

Deacons ordained under this canon may not participate in the Church Pension Fund.

Two final provisions enable deacons ordained under the canon to be ordained priest. A deacon willing to remain in secular work, whose initial proposal specified the priesthood, or who is later recommended for the priesthood, may continue toward that order under Canon III.11.10. Other deacons may be ordained priest after they have passed the standard examinations and complied with the other canonical provisions for the priesthood; they then come under the Pension Fund.

The apparent contradiction of a section on the distinctive diaconate which provides also for the priesthood reflects a larger issue in the Church. Since 1975, several diocesan conventions and other groups have passed resolutions calling for ordination *per saltum* ("by a leap"), the normative practice of the undivided Church in the first millennium, whereby those intended for each order were ordained directly to that order. Under many such proposals, General Convention is asked to provide for ordination directly to the priesthood, without an intervening ordination to the diaconate, at the option of diocesan bishops.

Permanent deacons are governed not only by the provisions of Section 10 but, as with transitional deacons, are subject to the provisions of Canon III.24.



CANON 11. Of Ordination to the Priesthood

- Candidate to be twenty-four years of age.* Sec. 1. No one shall be ordered Priest until he be twenty-four years of age.
- To be a Deacon one year, and Candidate two years, unless the time be shortened.* Sec. 2. No one shall be ordered Priest until he has been a Deacon one full year, unless it shall seem good to the Bishop, for reasonable causes, with the advice and consent of a majority of all the members of the Standing Committee, to shorten the time; nor within two years from his admission as a Candidate for Holy Orders, unless the Bishop, for urgent reasons fully stated, with the advice and consent of a majority of all the members of the Standing Committee, shall shorten the time. And in no case shall he be ordered Priest within less than one year from his admission as a Candidate for Holy Orders, nor until he has been a Deacon for at least six months.
- Recommendation from Standing Committee.* Sec. 3. No Deacon shall be ordered Priest unless he be first recommended to the Bishop by the Standing Committee of the Diocese to which he belongs.
- Papers to be laid before Standing Committee.* Sec. 4. In order to be recommended for ordination by the Standing Committee, the Deacon must lay before the Committee:
- (1). An application therefor in writing signed by himself, which shall state the date of his birth.
 - (2). A certificate from the Bishop declaring that the terms of his Postulancy and Candidacy and the time of his service in the Diaconate have been completed; but when such certificate cannot be had, other evidence, satisfactory to the Committee, may suffice.

(3). A certificate from the Minister and Vestry of the Parish where he resides, in the following words, viz.:

To the Standing Committee of _____
Place, _____
Date, _____

We do certify that, after due inquiry, we are well assured and believe that the Reverend A.B., Deacon since the _____ day of _____ in the year _____, being the date of his ordination to the Diaconate (or for the space of three years last past), hath lived a sober, honest, and godly life, and hath not written, taught, or held anything contrary to the Doctrine, Discipline, or Worship of this Church. And, moreover, we think him a person worthy to be admitted to the Sacred Order of Priests.

(Signed) _____

This certificate must be attested by the Minister of the Parish, or by the Clerk or Secretary of the Vestry, as follows, viz.:

I hereby certify that the Reverend A.B. is a resident of _____ Parish in _____; that the foregoing certificate was signed at a meeting of the Vestry duly convened at _____ on the _____ day of _____, and the names attached are those of all (or a majority of all) the members of the Vestry.

(Signed) _____

The Minister of _____
Or Clerk or Secretary of Vestry.

If Parish has no Minister. Sec. 5. But should the Parish be without a Minister, it shall suffice that in his place the certificate be signed by some Presbyter of the Diocese in good standing, the reason for the substitution being stated in the attesting clause.

If there be no Parish, by whom certificate is to be signed. Sec. 6. (a). Should there be no organized Parish at the place of residence of the Candidate, or should it be impracticable, through circumstances not affecting his moral or religious character, to obtain the signature of the Minister and Vestry, or of the Vestry, it may suffice if the certificate be signed by at least—

- (1). One Presbyter of the Diocese in good standing and
- (2). Six Lay Persons; communicants of this Church, in good standing.

Reasons for this form of certificate to be stated. (b). In such case, the reasons for departing from the regular form must be given in the attesting clause, which shall be signed by the same, or some other, Presbyter of this Church in good standing, and shall be in the following words, viz.:

I hereby certify that the Lay Persons whose names are attached to the foregoing certificate are communicants of this Church in good standing, and that this form of certificate was used for no reasons affecting the moral or religious character of the Candidate, but because (here give the reason for departing from the regular form).

(Signed) _____
Presbyter of the Diocese, or Missionary Diocese, of

Testimonial of Standing Committee. Sec. 7. The Standing Committee, on the receipt of the certificates prescribed above and the report of the General Board of Examining Chaplains prescribed in Canon III.7, Sec. 4, and having reason to believe that all other canonical requirements have been complied with, and having no reason to suppose the existence of any sufficient obstacle, physical, mental, moral, or spiritual, may, at a meeting duly convened, a majority of all the members of the Committee consenting, recommend the Deacon for ordination by a testimonial addressed to the Bishop in the following words, viz.:

**To the Right Reverend _____,
 Bishop of _____:**

We, being a majority of all the members of the Standing Committee of _____ and having been duly convened at _____, do testify that the Reverend A.B., Deacon, desiring to be ordered Priest, hath laid before us satisfactory certificates that since the _____ day of _____ in the year _____, being the date of his ordination to the Diaconate (or for the space of three years last past), hath lived a sober, honest, and

godly life, and hath not written, taught, or held anything contrary to the Doctrine, Discipline, or Worship of this Church; and we hereby recommend him for ordination to the Priesthood.

In witness whereof, we have hereunto set our hands this _____ day of _____, in the year of our Lord _____.

(Signed) _____

This testimonial shall be signed by all consenting to its adoption.

Declaration of belief and conformity. Sec. 8. The testimonial having been presented to the Bishop, and there being no sufficient objection on grounds physical, mental, moral, doctrinal, or spiritual, the Bishop may take order for the ordination; and at the time of the ordination he shall require the Deacon to subscribe and make, in his presence, the declaration required in Article VIII. of the Constitution.

Evidence of his appointment to some Cure. Sec. 9. No Deacon shall be ordered Priest until he shall have been appointed to serve in some Parochial Cure within the jurisdiction of this Church, or as a Missionary under the Ecclesiastical Authority of some Diocese, or as an officer of some Missionary Society recognized by the General Convention, or as a Chaplain of the Armed Forces of the United States, or as a Chaplain in some recognized hospital or other welfare institution, or as a Chaplain or instructor in some college or other seminary of learning, with opportunity for the exercise of his Ministry judged sufficient by the Bishop.

Of Deacons, ordained under III.10, Sec. 10, seeking Priesthood. Sec. 10 (a). A Deacon who has been ordained under Canon III.10, Sec. 10, who becomes a Candidate for the Priesthood under the provisions of Clause (e) of that Section, may prepare for the Priesthood by studying the topics specified in Canon III.5, for such time and to such extent as is judged suitable by the Bishop after consultation with the Commission on Ministry and with the Minister and Lay Persons who proposed and recommended the said Deacon. Similarly, after consultation with persons experienced in the area or field in which this Candidate for the Priesthood is to serve, the Bishop shall appoint such other training or practical experience as is suitable to the Candidate's occupation, his role in the community, and his ec-

Study and training.

clesiastical ministry. A record of all such training, and an evaluation of the Candidate's attainments, shall be made in writing, and kept on file.

Service in (b). The Bishop or Ecclesiastical Authority shall satisfy
Diaconate. himself, and the Standing Committee, that the Candidate for the Priesthood has served acceptably in the Order of Deacons for a least one year.

(c). When such requirements have been fulfilled, the Bishop, with the advice and consent of the Standing Committee, may proceed to ordain the said Deacon to the Priesthood.



This canon was Title I, Canon 7, in 1859. It became Canon 7 in 1904, Canon 34 in 1943, and Title III, Canon 11, in 1970.

In the earlier canons, the provisions relating to the ordination of deacons, and those to the ordination of priests, were usually incorporated in one and the same canon. As these provisions have already been noted in our consideration of Canon III.10, "Of Ordination to the Diaconate," it would hardly seem necessary to again note them in our consideration of the present canon.

Convention of 1789

The Convention of 1789 enacted Canon 4, containing a provision as to the age a deacon must have attained before being ordered priest. This provision of the canon read as follows:

nor Priests' Orders on anyone until he shall be twenty-four years old; and except on urgent occasions, unless he hath been a Deacon one year.

This Convention also enacted Canon 5, reading as follows:

No person shall be ordained either Deacon or Priest, unless he shall produce a satisfactory certificate from some Church, parish, or congregation, that he is engaged with them, and that they will receive him as their minister, and allow him a reasonable support; or unless he be engaged as a professor, tutor, or instructor of youth, in some college, academy, or general seminary of learning, duly incorporated; or unless the Standing Committee of the Church in the State for which he is to be ordained, shall certify to the Bishop their full belief and expectation, that he will be received and settled as a pastor by some one of the vacant churches in that State.

Convention of 1795

This Convention amended Canon 4 of 1789, so far as it relates to priest's orders, making it Canon 3, and striking the words "except on urgent occasions."

Convention of 1808

Canon 5 of 1789 was made Canon 13, and amended by striking the words “either Deacon or” in the first line thereof.

This Convention also amended Canon 2 of 1795, containing the provisions for the testimonials to be produced by those who are to be ordained to the diaconate and to the priesthood, and which have already been noted in the consideration of the canon “Of Ordination to the Diaconate.” The amendment was the addition of a new paragraph relating to the testimonials to be produced by a deacon desiring to be ordered priest, as follows:

In the case of a candidate for Priests' orders, his letters of orders as a Deacon shall be received by the Standing Committee as evidence of his pious, moral, and orderly conduct for three years prior to his receiving Deacons' orders; unless some circumstance should have occurred that tends to invalidate the force of this evidence.

Canon 3 of 1795 was made Canon 6, and amended, so far as it relates to priest's orders, to read as follows:

And no Deacon shall be ordained Priest, unless he shall have been a Deacon one year (except for reasonable causes it shall otherwise seem good unto the Bishop).

This amendment restored to the bishop the power of dispensation in the matter of time a man must serve as deacon before being ordered priest, which was taken from him by the Convention of 1795. It will be noted that in this case the power of dispensation belonged to the bishop alone, differing from most of the cases in which dispensations were allowed in the matter of admission to the ministry.

Convention of 1832

This Convention made a complete revision of the canons, and made Canon 12 of 1808 into Canon 15, and amended the last paragraph thereof to read as follows:

Sec. 5. In the case of a candidate for Priest's Orders, who has been ordained a Deacon within three years preceding, the testimonials above prescribed, may be so altered as to extend to such portion only of the three years preceding his application for Priest's orders, as have elapsed since his ordination as Deacon: and the Standing Committee shall allow the testimonials so altered the same effect as if in the form prescribed, and shall sign their own testimonial in such altered form, with the same effect as if in the form above prescribed, unless some circumstance shall have occurred that tends to invalidate the force of the evidence on which the candidate was ordained Deacon.

Canon 13 of 1808 was made Canon 19, and amended to read as follows:

No person shall be ordained Priest, unless he shall produce to the Bishop a satisfactory certificate from some Church, parish, or congregation, that he is engaged with them,

and that they will receive him as their Minister, or unless he be a missionary under the ecclesiastical authority of the Diocese to which he belongs; or in the employment of some missionary society recognized by the General Convention; or unless he be engaged as a professor, tutor, or instructor of youth, in some college, academy, or other seminary of learning, duly incorporated.

Convention of 1856

In the revision of the canons of ordination made by the Convention of 1856, the requirements for ordination to the priesthood were separated, for the first time, from the requirements for ordination to the diaconate. The Convention enacted Canon 5, "Of the Ordination of Priests," which read, in part, as follows:

Sec. 1. Every Deacon of this Church may be admitted by the Bishop of the Diocese to which he belongs (on the recommendation of the Standing Committee, or where there is no Bishop, by the Standing Committee), a Candidate for Priest's Orders; provided he have the qualifications hereinafter required.

A candidate for Deacon's Orders may, in like manner and upon the same terms, be admitted a Candidate for Priest's Orders; provided he do not require the dispensation hereinafter allowed. But no person shall be ordained Priest, until he has been a Deacon one year.

The last sentence of this section contained the provision of Canon 6 of 1808, except that the dispensation for reasonable causes is stricken, thus taking from the bishop the power formerly granted him of allowing a dispensation in the matter of time a person must remain a deacon.

Section 2 contained the educational requirements for a deacon desiring to be ordered priest, and has already been noted.

Section 3 contained the literary requirements of a person desiring to become a candidate for priest's orders, and has already been noted.

Section 4 contained the provisions for a dispensation from the Latin, Greek, and Hebrew languages, and other branches of learning, not strictly ecclesiastical, and has been sufficiently noted.

Sec. 5. If, after obtaining the Canonical testimonials from the Standing Committee, the person be admitted as a Candidate by the Bishop, or, if there be no Bishop, by the Standing Committee, he shall remain a Candidate for the term of three years before his Ordination as Priest, unless the Bishop, with the consent of the Standing Committee, shall deem it expedient to ordain the Candidate after the expiration of a shorter period not less than one year.

Section 6 contained the provisions relating to dispensations that may be granted to persons who have been candidates for the ministry in some other religious body, and is noted in another place.

Sec. 7. No person shall be ordained Priest in this Church, unless he exhibit to the Bishop, testimonials from the Standing Committee of the Diocese for which he is to be Ordained, which shall be signed by the names of a majority of all the Committee, the Committee being duly convened, and shall be in the following words:

We, whose names are hereunto written, testify that A. B., hath laid before us satisfactory testimonials, that for the space of three years last past, he hath lived piously, soberly, and honestly; and hath not written, taught, or held, anything contrary to the doctrine or discipline of the Protestant Episcopal Church; and moreover, we think him a person worthy to be admitted to the Sacred Order of Priests. In witness whereof, we have hereunto set our Hands, this _____ day of _____, in the Year of Our Lord _____.

Sec. 8. But before a Standing Committee shall proceed to recommend any Candidate, as aforesaid, to the Bishop, such Candidate shall produce from the Minister and Vestry of the Parish where he resides, or if the Parish be vacant, or if the applicant be the Minister of the Parish, a Deacon desirous of Priest's Orders, from the Vestry alone, testimonials of his piety, good morals, and orderly conduct, in the form prescribed in the Fifth Section of the Canon entitled, "Of Deacons," only changing the word "Deacons" wherever it occurs, for Priests. Under the circumstances mentioned in the Sixth Section of that Canon, or if there should be no Vestry, the certificates provided for in that Section, may be substituted for that above mentioned.

The fifth section referred to in this section is the fifth section of Canon 4 of 1856, and contained the form of the testimonial required of a person desiring to be ordained deacon, residing in a parish where there is no minister, or where there is no vestry. The sixth section of the same canon, also referred to in this section, related to the case of a candidate who was unable to procure a testimonial from the minister and vestry of his parish, owing to some peculiar circumstances. Both of these sections have already been noted in our consideration of Canon III. 10.

Sec. 9. In the case of a Candidate for Priest's Orders, who has been Ordained a Deacon within three years preceding, the testimonials above prescribed may be so altered as to extend to such portion only of the three years preceding his application for Priest's Orders, as have elapsed since his Ordination as Deacon; and the Standing Committee shall allow the testimonials so altered the same effect as if in the form prescribed, and shall sign their own testimonial in such altered form, with the same effect as if in the form above prescribed, unless some circumstances shall have occurred that tends to invalidate the force of the evidence, on which the Candidate was Ordained Deacon.

This section is in the same words as Section 5 of Canon 15 of 1832.

Sec. 10. No person shall be Ordained Priest, unless he shall produce to the Bishop a satisfactory Certificate from some Church, Parish, or Congregation, that he is engaged with them, and that they will receive him as their Minister, or unless he be a Missionary under the Ecclesiastical Authority of the Diocese to which he belongs, or in the employment of some Missionary Society recognized by the General Convention, or, unless he be engaged as a Professor, Tutor, or Instructor of Youth, in some College, Academy, or other Seminary of Learning, duly incorporated.

This section was in the same words as Canon 19 of 1832.

Section 11 contained the provisions for the examinations of candidates for priest's orders, with the subjects of such examinations, and has already been noted in our consideration of Canon III.5.

Section 12 contained the provisions for the bishop's appointment of some of his presbyters to conduct the examinations referred to in Section 11, and has already been noted.

Section 13 contained the provisions for the appointment of examining presbyters by the standing committee in a diocese where there is no bishop.

Section 14 prescribed that a candidate for priest's orders, who shall not within three years after his admission apply to have some of his examinations held, or in five years to have his final examination held, should cease to be a candidate. The provisions of this section have been noted.

Section 15 contained the provisions relating to the ordination of priests to officiate in a congregation outside the jurisdiction of the United States, and where there is no bishop, and have been noted in the consideration of Canon III.9, Section 8.

Sec. 16. A Clergyman who presents a person to the Bishop for Orders, as specified in the office for Ordination, without having good grounds to believe that the requisitions of the Canons have been complied with, shall be liable to Ecclesiastical censure.

Section 17 is simply a repealing clause of the former canon, the provisions of which were included in this canon.

Convention of 1859

In its revision of the Digest of the Canons, Canon 5 of 1856 became Title I, Canon 7, and was amended as follows:

Sections 1, 3, 4, 6, 7, 8, 9, and 11, corresponding to Sections 14, 3, 4, 6, 11, 12, and 2, of Canon 5 of 1856, respectively, are noted in the consideration of other canons and need not be noted here.

Section 2 (i) and (ii) were the same as Section 2 of former Canon 5, except that the last sentence thereof, "But no person shall be ordained Priest, until he has been a Deacon one year," was made a part of Title I, Canon 4, Section 2, which section was a re-enactment of Canon 8 of 1808, apparently omitted in the revision of 1856.

Section 5 is former Section 5 of said Canon 5, but amended to read as follows:

If, after obtaining the canonical testimonials from the Standing Committee, the person be admitted as a candidate, he shall remain a candidate for the term of three years before his ordination as Priest, unless the Bishop, with the consent of the Standing Committee, shall deem it expedient to ordain the candidate after the expiration of a shorter period, not less than one year.

Section 10 was the same as Section 11 of former Canon 5, without amendment.

Section 12 was the same as Section 7 of Canon 5, with two slight amendments as follows:

The word “unless” before the words “he exhibit” was changed to “until.” The first words of the form of the testimonial, “We whose names are hereunto written,” were stricken, and these words inserted in place thereof:

We, whose names are underwritten, members of the Standing Committee of the Diocese of _____, do _____.

Section 13 is Section 8 of former Canon 5, but amended to read as follows:

But before the Standing Committee shall proceed to recommend any candidate, as aforesaid, to the Bishop, such candidate shall produce from the Minister and Vestry of the parish where he resides, or, if the parish be vacant, or if the applicant be the Minister of the parish (a Deacon desirous of Priest’s orders), from the Vestry alone, testimonials of his piety, good morals, and orderly conduct, in the following words:

“We, whose names are hereunder written, do testify that A.B., for the space of three years last past, hath lived piously, soberly, and honestly, and hath not, so far as we know or believe, written, taught, or held anything contrary to the doctrine or discipline of the Protestant Episcopal Church; and moreover, we think him a person worthy to be admitted to the sacred Order of Priests. In witness whereof, we have hereunto set our hands this _____ day of _____, in the year of our Lord _____.”

He shall also lay before the Standing Committee testimonials signed by at least one respectable Presbyter of the Protestant Episcopal Church in the United States, in the following form:

“I do certify, that A.B., for the space of three years last past, has lived piously, soberly, and honestly, and has not, so far as I know or believe, written, taught, or held anything contrary to the doctrine or discipline of the Protestant Episcopal Church; and moreover, I think him a person worthy to be admitted to the sacred Order of Deacons. This testimonial is founded on my personal knowledge of the said A.B. for one year last past, and for the residue of the said time upon evidence that is satisfactory to me. In witness whereof I have hereunto set my hand this _____ day of _____, in the year of our Lord _____.”

Under the circumstances mentioned in Section 5 of said Canon 5 or if there should be no Vestry, the certificate provided for in that Section may be substituted for the one above mentioned.

The word “Deacons” in this last form of testimonial was a typographical error and was corrected by the next Convention.

Section 14 was the same as Section 9 of Canon 5, except for a slight amendment. The words “above prescribed” after the word “testimonials” were stricken.

Convention of 1862

This Convention repealed Section 5, of Title I, Canon 7, of the Canons of 1859, and re-enacted it as Section 2 (i) of Canon 5, of the same title, and made to apply to deacon’s orders only. It need not be noted here, having already been considered.

Section 10 was also amended by adding at the end thereof the words, “or as a chaplain in the Army or Navy of the United States.”

Convention of 1871

This Convention, in its revision of the canons of ordination, very materially amended the former canon, “Of the Ordination of Priests,” as established by the Convention of 1859. The canon, formerly Canon 7 of Title I, was renumbered Canon 8, of the same title.

Section 1 relates to the period of previous study by candidates from other religious bodies, and does not belong to our present discussion.

The remaining sections read as follows:

Sec. 2. A Candidate for Priesthood shall not be ordained within three years from his admission, nor, in any case, within one year from his reception of Deacon’s Orders, except by the advice and consent of three-fourths of all the members of the Standing Committee of the Diocese, at a meeting duly convened.

This was practically a new section enacted by this Convention.

Section 3 is identical with Section 10 of the canons of 1859, as amended in 1862, except that the word “a” was inserted before the word “Priest.”

Sec. 4. (i) No person shall be ordained a Priest in this Church unless he be recommended to the Bishop for ordination by the Standing Committee of the Diocese for which he is to be ordained.

(ii) In order to [obtain] such recommendation, the Candidate must lay before the Standing Committee testimonials of his piety, good morals, and orderly conduct, from the Minister and Vestry of the Parish where he resides; or, if the Parish be vacant, or if the applicant be the Minister of the Parish (a Deacon desirous of Priest’s Orders), from the Vestry alone, in the following words:

We, whose names are hereunder written, do testify that A.B., for the space of three years last past, hath lived piously, soberly, and honestly, and hath not, so far as we know

or believe, written, taught, or held anything contrary to the doctrine or discipline of the Protestant Episcopal Church; and, moreover, we think him a person worthy to be admitted to the Sacred Order of Priests. In witness whereof, we have hereunto set our hands, this _____ day of _____, in the year of our Lord _____.

(iii) But in case peculiar circumstances, not affecting his moral character, or the want of a Vestry where he is residing or ministering, should hinder the procurement of testimonials as above, the Standing Committee may accept testimonials, of the same tenor, from at least twelve respectable members of the Protestant Episcopal Church.

(iv) The Candidate shall also lay before the Standing Committee a testimonial signed by at least one Presbyter of the Protestant Episcopal Church in the United States, in the following form:

(The testimonial was in the same words as set forth in Title I, Canon 7, Section 13.)

This testimonial shall have the signatures of all consenting to it.

This section contained the subject matter set forth in Sections 5 and 13 of Title I, Canon 7, of 1859.

Sec. 5. Candidates for the Priesthood, ordained Deacons under Sections 5 or 6 of Canon 6, shall not be required to have testimonials covering more time than has elapsed since their admission to Candidateship.

This section referred to the testimonials required of ministers of other Christian bodies, and those ordained to a Church in which the service is celebrated in a foreign language.

Sec. 6. A Candidate for Priest's Orders, ordained Deacon within three years preceding the time of his application for recommendation for ordination to the Priesthood, shall only be required to have testimonials extending back to the time of his ordination: *Provided*, nothing shall have in the meanwhile occurred that tends to invalidate the force of the evidence on which the Candidate was ordained a Deacon.

This section contained the subject matter of Title I, Canon 7, Section 14, of the Canons of 1859.

Sec. 7. Priest's Orders shall not be conferred on any person until he shall have attained the age of twenty-four years complete.

This section contained a part of the subject matter of Title I, Canon 4, Section 2, of the Canons of 1859.

This Convention separated the provisions concerning the learning and examinations of candidates from the provisions concerning the testimonials requisite for ordination, placing them in separate canons instead of in different sections of the same canon.

Convention of 1892

This Convention made another revision of the canons of ordination, changing some of the provisions of the former Title I, Canon 8, "Of Ordination to the Priesthood." The canon was renumbered Canon 10, of the same title, and was amended to read as follows:

Sec. 1. A Candidate for Priest's Orders, on making application for his ordination to the Priesthood shall lay before the Standing Committee:

(a) A certificate from the Bishop, or if the Diocese be vacant, from the President of the Standing Committee, attesting that he is of sufficient age, and that the term of his candidateship and the time of his service in the Diaconate have been completed.

(b) A certificate from two Presbyters in the following words, viz.:

To the Standing Committee of _____.

Place _____.

Date _____.

We do hereby certify, that A.B., a Candidate for Priest's Orders, for the space of three years last past (or since the _____ day of _____, in the year _____, that being the date of his admission to Deacon's Orders) hath lived piously, soberly and honestly, and hath not, so far as we know or believe, written, taught or held anything contrary to the doctrine or discipline of the Protestant Episcopal Church. And, moreover, we think him a person worthy to be admitted to the Sacred Order of Priests. This certificate is founded on our personal knowledge of the said A.B., for one year last past, and for the residue of the time upon evidence satisfactory to us.

(Signed)

(c) A certificate from the Vestry of the Parish where he resides, in the following words, viz.:

To the Standing Committee of _____.

Place _____.

Date _____.

We, whose names are hereunder written, do certify, from personal knowledge, or from evidence satisfactory to us, that A.B., for the space of three years last past (or since the _____ day of _____, in the year _____, that being the date of his admission to the Diaconate) hath lived piously, soberly and honestly, and hath not written, taught or held anything contrary to the doctrine or discipline of the Protestant Episcopal Church. And, moreover, we think him a person worthy to be admitted to the Sacred Order of Priests.

(Signed)

This certificate must be attested by the Minister of the Parish, or by the Clerk or Secretary of the Vestry, as follows:

I hereby certify, that A.B. is a resident of _____ Parish, in _____. The foregoing certificate was adopted at a duly convened meeting of the Vestry of _____ Parish; and the names attached are those of a majority of the whole Vestry.

(Signed)

Minister of _____ or Clerk or Secretary of the Vestry.

(d) Should the Parish be vacant, or should the Candidate be himself the Minister thereof, it shall suffice that the foregoing certificate be signed by a majority of the whole Vestry, and attested by the Clerk or Secretary in the same words as before, but with an additional clause explanatory of the omission of the signature of the Minister.

(e) Should there be no organized Parish at the place of residence of the Candidate, or there being such a Parish, should he be unable, through circumstances not affecting unfavorably to his moral or religious character, to procure such certificate from the

Minister and Vestry, the Standing Committee, if the circumstances seem to them to justify such a course, may accept a certificate in the same words, signed by one Presbyter of this Church in good standing, and six respectable Laymen, communicants of this Church, the attestation in such case being made by the Presbyter signing the certificate, or by some other Presbyter of this Church, known to the Committee, and in the following words, viz.:

I do hereby certify, that the Lay signatures to the foregoing certificate are genuine, and are those of Communicants of the Protestant Episcopal Church in good standing. I further certify, that the certificate was so signed for no reason unfavorably affecting the moral or religious character of the Candidate, but because (here give the reasons for departing from the regular form).

(Signed)

Sec. 2. The certificates above prescribed having been presented to the Standing Committee, they may proceed to recommend the Deacon for Priest's Orders, by a testimonial addressed to the Bishop in the following words, viz.:

To the Right Reverend _____, Bishop of _____.

We, whose names are hereunder written, being a majority of the whole Standing Committee of _____, the said Committee having been duly convened at _____, do testify, that A.B., a Candidate for Priest's Orders, hath laid before us satisfactory certificates, that for the space of three years last past (or since the _____ day of _____, in the year _____, that being the date of his admission to Deacon's Orders), he hath lived piously, soberly and honestly, and hath not written, taught or held anything contrary to the doctrine or discipline of this Church: and we hereby recommend him for admission to the Sacred Order of priests. In witness whereof, we have hereunto set our hands, this _____ day of _____, in the year of our Lord _____.

(Signed)

Standing Committee of _____.

Sec. 3. No person shall be ordained Priest until he shall have produced evidence satisfactory to the Bishop that he is engaged with some Church, Parish, or Congregation, or as a Missionary, under the Ecclesiastical Authority, of some Diocese or Missionary Jurisdiction, or of some Missionary Society recognized by the General Convention, or as a professor, tutor, or instructor in some college or academy, or other seminary of learning, duly incorporated, or as a Chaplain in the Army or Navy of the United States.

This Convention also enacted Canon 9 of the same title, which read as follows:

Sec. 1. Priest's Orders shall not be conferred upon anyone until he shall have obtained the age of twenty-four years complete.

Sec. 2. No person shall be ordered Priest until he has been a Deacon one full year, except when, by the advice and consent of a majority of the whole Standing Committee, the time may be shortened.

Sec. 3. A Candidate for Priest's Orders shall not be ordained Priest within three years from his admission as such Candidate, unless the Bishop, for urgent reasons, with the advice and consent of three-fourths of the whole Standing Committee, shall shorten the time of his candidateship to not less than one year; but, in case the Candidate was not

admitted a Candidate for Priest's Orders until he was a Candidate for Deacon's Orders only, or was admitted under a dispensation from any of the regular examinations, the time of his candidateship shall not be shortened to less than two years.

The fourth and last section related to candidates from other Christian bodies, and does not fall within the scope of our present consideration.

The first section of this canon was practically the same as Section 7 of Title I, Canon 8, of 1871.

The second section contained the second of the provisions of Section 2 of Canon 8.

The third Section contained the first provision of Section 2 of Canon 8, considerably amplified.

Convention of 1904

In the revision of the canons made by this Convention, this canon was made Canon 7 and amended to read substantially as at present. Apart from references to missionary districts removed in 1973 as no longer needed, the canon was constituted as follows:

Section 1 read as at present.

Section 2 read as follows:

No one shall be ordered Priest until he has been a deacon one full year, unless it shall seem good to the Bishop, for reasonable causes, with the advice and consent of a majority of all the members of the Standing Committee, to shorten the time; nor within three years from his admission as a Candidate for Holy Orders, unless the Bishop, for urgent reasons fully stated, with the advice and consent of three-fourths of all the members of the Committee, shall shorten the time. This shortening of the time of candidateship shall not be allowed in any case where dispensation is sought from any part of the full Canonical examinations; and in no case shall he be ordered Priest within less than one year from his admission as Candidate for Holy Orders, nor until he has been a Deacon for at least six months.

Section 3 read as at present.

Section 4 read as at present, except that clause (b) thereof [now clause (2)] contained no reference to postulancy.

Section 5 read as at present.

Section 6 read as at present, except for two references to "laymen."

Section 7 read as at present, except for the opening words thereof, which were as follows:

The Standing Committee, on the receipt of the certificates prescribed as above, and having reason to believe that all other canonical requirements have been complied with...

The reference to conditions which might constitute an “obstacle” was new.

Section 8 was a new provision. Before 1901, the signing of the declaration was required only prior to ordination to the diaconate. Section 8 brought the canon into conformity with Article VIII of the Constitution as amended in 1901.

Section 9 read as at present, except that the words “Army or Navy” stood where the words “Armed Forces” now stand.

In the former canon, the section relating to the evidence of the appointment of the deacon to be ordered priest to some cure, provided that if he was engaged as a professor or instructor in some college or other seminary of learning, such college or seminary must be a duly incorporated institution. The Convention of 1904 struck out this requirement and inserted in place thereof the words:

with opportunity for the exercise of his Ministry judged sufficient by the Bishop.

Convention of 1907

This Convention amended Canon 7, Section 2, by making the last paragraph thereof to read as follows:

This shortening of time of candidateship shall not be allowed in any case where the Candidate has a dispensation from any part of the full canonical examinations, except a dispensation from the study of Hebrew; and in no case shall he be ordered Priest within less than one year from his admission as Candidate for Holy Orders, nor until he has been a Deacon for at least six months.

Convention of 1919

The following sentence was added at the end of Section 2:

But a Deacon who has been ordained under the provisions of Canon 32, Section 2, shall not be ordered Priest until he has been a Deacon for at least two years, unless in the meantime he shall have fulfilled the requirements of Canon 29, Section 1.

The reference was to deacons who had been dispensed from the requirements of the canon “Of the Normal Standard of Learning.” Under this amendment they might be ordained priest sooner if, in the meantime, they had fulfilled the requirements of that canon.

Convention of 1949

Section 7 of the canon, now Canon 35, was amended to read as follows:

The Standing Committee, on the receipt of the certificates prescribed above and the report of the Board of Examining Chaplains prescribed in Canon 31, Sec. 4, and having reason to believe, etc.

Convention of 1961

Section 2 was amended to provide that the time which must elapse between acceptance as a candidate and ordination to the priesthood be two years rather than, as formerly, three years.

Convention of 1970

Section 10 was added by this Convention. It read as at present, except for references to missionary districts, which were later deleted.

Convention of 1973

The last sentence of Section 2, added in 1919, was stricken as inconsistent with Canon III.8.2, enacted in 1970.

In Section 6, in the last line of the certificate, the words "Missionary District" were changed to "Missionary Diocese."

The remaining references to missionary districts were deleted as no longer needed.

In Section 7, the word "General" was inserted before the words "Board of Examining Chaplains."

Convention of 1976

Section 2 (2) was amended to read as at present by the insertion of a reference to postulancy.

In Section 6, the two references to "laymen" were changed to "Lay persons."

Convention of 1979

In Section 9, the words "Army or Navy" were replaced with the words "Armed Forces."

EXPOSITION OF CANON III.11

The age which a person must have attained before ordination to the priesthood was fixed by the Church in its first General Convention in 1789 and has never been changed. In the ancient Church, presbyters seem to have been ordained at different ages. Bingham tells us (*Ecclesiastical Antiquities*, Lib. II, Chap. XIX) that "a presbyter or elder in the Christian Church is one who is ordained to a certain office, and authorized by his quality, *not by his age*, to discharge the several duties of that office, and station wherein he is placed; though the decrees of some of the early councils forbid his ordination until he has reached the age of thirty."

In the Church of England, the law, since 1549, has required that a person must be twenty-four years old before he can be ordered priest, and the American Church re-enacted the law without question.

No dispensation is allowed in this age requirement.

While in ordinary cases a deacon must remain as such for one year before being ordained priest, the canon provides that the bishop may, for urgent reasons, and with the advice and consent of a majority of all the members of the standing committee, shorten the time to not less than six months. The procedure to be followed in requesting this dispensation is given in Section 6 of Canon III.9. This exception does not apply to deacons ordained under the provisions of Canon III.10.10.

Before the bishop is allowed by the canon to ordain a deacon to the priesthood, he must first have the recommendation of the standing committee. This requirement admits of no exceptions.

The canon provides that, before the standing committee can give this recommendation to the bishop, the deacon must present certain papers to the committee. These are three in number: the deacon's own application, specifying the date of birth; a certificate from the bishop, stating that the deacon has completed the required terms of postulancy, candidacy, and service in the diaconate (or other satisfactory evidence of these facts); and a certificate from the minister and vestry of the deacon's parish, testifying as to good character and worthiness for ordination. This certificate must be signed at a duly convened meeting of the vestry, and by a majority of all the members of the vestry, and these facts must be attested by the minister, if there be one, if not, then by the clerk or secretary of the vestry. In case there be no minister of the parish, the certificate must also then be signed by some presbyter of the diocese, and the reason why such presbyter signs the certificate must be stated in the attestation clause. It would not meet the canonical requirement if the certificate should be signed by a majority of those present at a vestry meeting when such majority did not include a majority of all the members thereof, nor if it was signed by a majority of all the members at any other time than in a meeting of the vestry duly convened.

A certificate so signed would be null and void, and could not be accepted by the standing committee.

The canon makes provision for a case where there is no organized parish at the place where the deacon resides, and also for a case where the deacon is unable, through circumstances not affecting moral or religious character, to obtain the signatures of the minister and vestry,

or of the vestry. In such cases the canonical certificate may be signed by one presbyter of the diocese and six lay persons who are communicants of the Church. Either the presbyter signing the certificate, or some other presbyter, must sign the attestation clause, in which must be stated the reasons for departing from the regular form, and also that the lay persons signing the certificate are communicants of the Church in good standing.

The papers and certificates required by the canon, having been laid before the standing committee, together with the report of the General Board of Examining Chaplains, and the findings of the commission on ministry if such be submitted (see Canon III.1.5), and found satisfactory, the standing committee may then proceed to recommend the deacon to the bishop for ordination to the priesthood.

When the bishop has received the recommendation of the committee, he may then, and not until then, proceed to take order for the ordination of the deacon to the priesthood. It must be noted, however, that the bishop is not obliged, in any case, to ordain a person either to the diaconate or to the priesthood. Even after he has received the testimonial of the standing committee, if, for any reason, he does not deem it wise to ordain the candidate, he has the right to refuse ordination, and his refusal cannot be overruled. The right to ordain belongs to the bishop, and to him alone. It is one of his inherent prerogatives and cannot legally be taken from him.

Since 1904, the canon has required that the deacon, before ordination to the priesthood, subscribe and make, in the presence of the bishop, the declaration required in Article VIII of the Constitution. Formerly, this was ordinarily done in the sacristy before the service. Since 1979, it has been done publicly as a part of the ordination rite itself.

There is one other canonical requirement before a deacon can be ordered priest; the bishop must be satisfied that the person to be so ordained has been appointed to serve in some parochial cure, or as a missionary, or officer of some missionary society recognized by the General Convention, or as a chaplain in the Armed Forces of this country, or as a chaplain in some recognized hospital or welfare institution, or as chaplain or instructor in some college or other seminary of learning, with opportunity for the exercise of ministry judged sufficient by the bishop.

We find that it was a rule of the early Church that no person should be ordained, either as a deacon or priest, who had not some certain place where he was to exercise his ministry. The Council of Chalcedon,

in 451, enacted a canon to this effect. The Church of England continued this rule after the Reformation, and the American Church adopted the same rule, at first making this requirement to extend to deacons as well as priests, but the Convention of 1808 amended the canon so as to make this requirement cover only cases of ordination to the priesthood.

Section 10 of the canon, added in 1970, makes special provisions for those to be ordained to a non-stipendiary priesthood. See the exposition of Canon III.8.



CANON 12. Of Ministers Ordained in Churches Not in Communion with this Church

Of Ministers who have not received ordination in this Church.

Sec. 1 (a). When a Minister ordained in a Church not in communion with this Church desires to be a Deacon or Priest in this Church, he shall apply to a Bishop, attaching to his written application the following:

Certificates required.

- (1). Evidence that he has been duly baptized with water in the name of the Father, and of the Son, and of the Holy Ghost;
- (2). His letters of Ordination and satisfactory evidence that they and his other credentials are valid and authentic;
- (3). Satisfactory evidence of his moral and godly character; and that he is free from any vows or other engagements inconsistent with the exercise of Ministry in this Church;
- (4). Transcripts of his academic and theological studies;
- (5). A certificate from at least two Presbyters of this Church stating that, from personal examination, or from satisfactory evidence laid before them, they believe that his desire to leave the Communion to which he has belonged has not arisen from any circumstance unfavorable to his moral or religious character, or on account of which it may not be expedient to admit him to the exercise of the Ministry of this Church;
- (6). A certificate in the form provided in Canon III.10, Sec. 5 (3) and (4), from the Minister and Vestry of a Parish of this Church; and
- (7). A statement of the reasons which have moved him to seek to enter the Ministry of this Church.

(b). With regard to the fulfillment of requirements as to pre-theological education the provisions of Canon III.2, Sec. 6 and Sec. 7. shall be applicable. The applicant shall also submit to the examinations required in Canon III.10, Sec. 3, the result of such examination to be filed and submitted as therein required.

Pre-ordination requirements.

Sec. 2. (a). If such a Minister furnish evidence of a satisfactory theological training in his previous Communion, and have exercised his ministry therein with good repute and success for at least five years, he shall be examined by the Commission on Ministry in the following subjects:

- (1). Church History: the History of the Church of England, and of this Church;
- (2). Doctrine: the Church's teaching as set forth in the Creeds and the Offices of Instruction;
- (3). Liturgics: the Principles and History of Christian Worship; the Contents and Use of the Book of Common Prayer;
- (4). Practical Theology:
 - (a) The Office and Work of a Deacon and of a Priest,
 - (b) The Conduct of Public Worship,
 - (c) The Constitution and Canons of the General Convention, and of the Diocese in which he is canonically resident.
 - (d) The use of the voice in reading and speaking.
- (5). The points of Doctrine, Discipline, Polity, and Worship in which the Communion from which he has come differs from this Church. This portion of the examination shall be conducted, in part at least, by written questions and answers, and the replies kept on file for at least three years.

The Commission on Ministry may, with the consent of the Bishop, and with due notice to the applicant, examine the latter in any other subject required by Canon III.5, Sec. 1.

(b). But if such Minister cannot furnish evidence of a satisfactory theological training in his previous Communion, or if he have not exercised his Ministry therein with good repute and success for at least five years, he shall conform to the requirements of Canon III.5, Sec. 1.

Certificates required. Sec. 3 (a). Prior to being examined as heretofore provided, the applicant shall have received certificates from the Bishop and from the Standing Committee, that he is acceptable as a Minister of this Church, subject to the successful completion of said examination; but he shall not be ordained or received until, after the provision of said certificates, at least six calendar months shall have elapsed, during which period he shall undertake such studies, in a theological seminary or otherwise, as shall be directed by the Bishop with the advice of the Commission on Ministry.

(b). The Bishop, in a book to be kept for that purpose, shall enter the name of each applicant, with the fact of his approval or disapproval of the application, and the date of such entry. If he approve of the application, he shall inform the applicant of the fact, and of the date of his acceptance.

Declarations required. Sec. 4. Before such Minister shall be ordained or received into the Ministry of this Church, the Bishop shall require him to promise in writing to submit himself in all things to the Discipline of this Church without recourse to any other ecclesiastical jurisdiction or foreign civil jurisdiction; and shall further require him to subscribe and make in his presence, and in the presence of two or more Presbyters, the declaration required in Article VIII of the Constitution.

Alternatives at ordination. Sec. 5 (a). Thereafter the Bishop, being satisfied of such Minister's theological attainments and soundness in the faith, may

- (1). Receive him into the Diocese as a Deacon of this Church, and, no sooner than four months thereafter, as a Priest, if he has already been ordained by a Bishop in the historic succession; or
- (2). Confirm him and make him a Deacon and, no sooner than four months thereafter, ordain him as Priest, if he has not received such ordination; or
- (3). Make him a Deacon and no sooner than four months thereafter, ordain him a Priest conditionally (having baptized and confirmed him conditionally if necessary) if he has been ordained by a Bishop whose authority to convey such orders has not been recognized by this Church.

Special Prefaces authorized. (b). In the case of an ordination pursuant to Sec. 5 (a) (2) of this Canon, the Bishop may, at the time of such ordination, read this preface to the service:

A.B., who is already a minister of Christ, now desires to be made a Deacon (or ordained a Priest) in this Church. He has satisfied the Ecclesiastical Authority of this Diocese that he accepts the Doctrine, Discipline, and Worship of this Church. We are about to confer upon him the grace and authority of Holy Orders as this Church has received them and requires them for the exercise of the Ministry therein.

The letters of ordination in such cases may contain the words:

Acknowledging the ministry which he has already received and hereby adding to that commission the grace and authority of Holy Orders as understood and required by this Church for the exercise of the Ministry.

(c). In the case of a conditional ordination pursuant to Sec. 5 (a) (3) of this Canon, the Bishop shall at the time of such ordination, read this preface to the service:

A.B., who has been ordained by a Bishop whose authority has not been recognized by this Church, has now satisfied the Ecclesiastical Authority of this Diocese that he accepts the Doctrine, Discipline, and Worship of this Church and that he now desires conditional ordination. By this service or ordination, we propose to establish that A.B. is qualified to minister in this Church.

Age limits. Sec. 6. No one shall be ordered Deacon or received as such until he be 21 years of age. No one shall be ordered Priest or received as such until he be 24 years of age.

Sec. 7. Any other provisions in other Canons inconsistent with this Canon are inapplicable.



This canon was Canon 36 when it was adopted in 1961. It became Title III, Canon 12, in 1970.

SECTIONS 1 THROUGH 4

These sections relate to procedures leading to reception as a minister of this Church, or to ordination.

Convention of 1804

Applications for admission to the ministry of this Church from those who were ministers in other religious bodies were not of such frequent occurrence in the early days of the Church as to require any canon on the subject until 1804.

This Convention enacted Canon 6 of that year, entitled "Limiting the Operation of Canon 6 of 1795," and reading as follows:

When a minister of any other denomination of Christians shall apply for Orders in this Church, the Bishop to whom application is made, being satisfied that he is a man of piety and unexceptionable character, that he holds the doctrines of the Church, and that he possesses all the literary and other qualifications required, and being furnished with testimonials from the Standing Committee duly convened, may ordain him as soon as is convenient. In all such cases the Standing Committee may insert in their testimonial the words, "we believe him to be sincerely attached to the doctrines and discipline of the Protestant Episcopal Church," instead of the words "and hath not written, taught, or held anything contrary to the doctrine or discipline of the Protestant Episcopal Church."

Under the provisions of this canon, the minister of another religious body applying for orders in the Church was given the privilege of immediate ordination, while other candidates were required to remain as such for one year. The standing committee was also allowed to make a change in the form of its testimonial. In all other respects the candidate was obliged to possess the qualifications required of all other candidates.

Convention of 1808

This Convention amended Canon 6, of the Canons of 1804, making it Canon 17. The following was substituted for the first eight words thereof: "When any person who has officiated as a minister among any other denomination of Christians." Also, the words, "on examination according to the Canons" were inserted after the words "being satisfied."

Convention of 1820

This Convention enacted two additional canons governing the ordination of ministers of other religious bodies: Canons 4 and 5. These canons read as follows:

Canon 4. In the case of a minister of some other denomination of Christians applying for holy orders in this Church, the Standing Committee may receive testimonials of his piety, good morals, and orderly conduct from twelve members of the denomination from which he came: provided the members of the committee have such confidence in the persons thus testifying, as to satisfy them of the correctness of the testimony: and also a testimonial from at least one clergyman of the Protestant Episcopal Church.

Canon 5. When any person, not a citizen of the United States, who has officiated as a minister among any other denomination of Christians, shall apply for orders in this Church, the Bishop, to whom application is made, shall require of him (in addition to the qualifications made necessary by the seventeenth canon of 1808) satisfactory evidence that he has resided at least one year in the United States, previous to his application.

Convention of 1829

This Convention combined the first two canons quoted above into Section 1 of Canon 1. Canon 5 of 1820 was made Section 2 of the same canon.

Convention of 1832

In the revision of the canons by this Convention, Canon 1, of the Canons of 1829, was made Canon 21.

The first section of this canon was practically the same as Section 1 of the former canon, with these amendments:

After the words "that he holds the doctrines of the Church" were inserted the words:

is adequately acquainted with the offices of the Church, and has been a communicant in the Church for not less than six months.

Also, at the end of the section were added the following words:

Provided, that the Bishop may, on special grounds, and acting with the advice and consent of the Clerical members of the Standing Committee, dispense with the above requirement of six months' connection with the communion of this Church.

The Convention added a new section, reading as follows:

Sec. 2. When a person, with the literary qualifications required by Canon 13 and ascertained as directed in Canon 14, Sec. 3, who has been a candidate for the ministry of some other denomination, or is a licentiate (or in some equal and corresponding station) therein, shall apply for orders in this Church, there may be deducted from the term of his candidateship by the Bishop, with the consent of the Clerical Members of the Standing Committee, as long a period as he has already prosecuted Theological studies as a duly entered or admitted candidate of said denomination; provided he shall have been a candidate for orders in this Church for at least six months. The testimonials of character and attachment to the Church, addressed to the Standing Committee, shall be as in the first section of this Canon, and his examinations, besides having the usual object of ascertaining his proficiency in theology, and the other required studies, shall

also be especially directed to the points in which the denomination to which he before belonged differs from this Church, with the view of testing his soundness and sufficient information in the same.

Section 2 of the former canon was made Section 3, with no amendment thereto.

New Section 2, it will be noted, applied to those preparing for the ministry of another denomination, not to those who had already been admitted to such a ministry.

This Convention also adopted the first legislation on ministers of other Churches, ordained in the historic succession, who desired to be admitted to the ministry of this Church.

Section 4 of Canon 23 of this Convention read as follows:

When a Deacon or Priest, ordained by a Bishop not in communion with this Church, shall apply to a Bishop for reception into the same as a Minister thereof, he shall produce the testimonials of character required in the first section of Canon 21; and shall also, not less than six months after his application, in the presence of the Bishop, and two or more Presbyters, subscribe the declaration contained in the seventh article of the constitution; which being done, the Bishop, being satisfied of his theological requirements, may receive him as such.

Convention of 1835

This Convention very materially amended Canon 21 of the Canons of 1832, but as the canon underwent a complete revision in 1838, no analysis of the canon seems necessary.

Convention of 1838

This Convention revised Canon 21 of the Canons of 1832, and Canon 3 of the Canons of 1835, making it Canon 7 of that year, and reading, in part, as follows:

Sec. 1. All persons seeking admission to the Ministry of this Church, are to be regarded as Candidates for Holy Orders.

Sec. 2. When a person who, not having had Episcopal Ordination, has been acknowledged as an ordained Minister or Licentiate among any other denomination of Christians, shall desire to be ordained in this Church, he shall give notice thereof to the Bishop, or if there be no Bishop, to the Standing Committee of the Diocese in which he resides; or if he resides in a State or Territory in which there is no organized Diocese, to the Missionary Bishop within whose jurisdiction he resides; which notice shall be accompanied with a written certificate from at least two Presbyters of this Church, stating, that from personal knowledge of the party, or satisfactory evidence laid before them, they believe that his desire to leave the denomination to which he has belonged has not arisen from any circumstances unfavorable to his religious or moral character, or on account of which it may be inexpedient to admit him to the exercise of the Ministry in this Church: and they may also add what they know, or believe on good authority, of the circumstances leading to the said desire.

Sec. 3. If the Bishop or Standing Committee shall think proper to proceed, the party applying to be received as a Candidate, shall produce to the Standing Committee the same testimonials of literary qualifications as are required of all other Candidates; and also a testimonial from at least twelve members of the denomination from which he came, or twelve members of the Protestant Episcopal Church, or twelve persons, in part of the denomination from which he came, and in part Episcopalians, satisfactory to the Committee, that the applicant has, for three years last past lived piously, soberly, and honestly; and also a testimonial from at least two Presbyters of this Church that they believe him to be pious, sober, and honest, and sincerely attached to the doctrines, discipline and worship of the Church. The Standing Committee being satisfied on these points, may recommend him to the Bishop to be received as a Candidate for Orders in this Church, or in a vacant Diocese the Standing Committee may so receive him.

The remaining sections relate to requirements not contained in the section we are considering, and need not, therefore, be noted.

The object of the first section was, apparently, to bring all candidates for orders under the same regulations. We are told that there was a question under the former canons, whether a minister from some other body of Christians seeking to be ordained in the Church could be considered a candidate in the strict sense of the word, because he was exempt from many of the requirements provided for ordinary candidates, and his ordination could take place almost immediately.

From the somewhat elaborate provisions made for the reception of those coming from other religious bodies, it would seem that the number of such applicants had greatly increased since the early days of the Church.

Convention of 1841

This Convention repealed Section 4 of Canon 23, of the Canons of 1832, and enacted Canon 10 in its place, which read as follows:

When a Deacon or Priest, ordained by a Bishop not in communion with this Church, shall apply to a Bishop for admission into the same as a Minister thereof, he shall produce a written certificate from at least two Presbyters of this Church, stating, that from personal knowledge of the party, or satisfactory evidence laid before them, they believe that his desire to leave the communion to which he has belonged, has not arisen from any circumstance unfavorable to his religious or moral character, or on account of which it may be inexpedient to admit him to the exercise of the Ministry in this Church; and shall also, not less than six months after his application, in the presence of the Bishop and two or more Presbyters, subscribe the declaration contained in Article VII of the Constitution; which being done, the Bishop being satisfied of his theological acquirements, may receive him as such.

No mention is made, it will be noted, of testimonials from lay persons, whether of this Church or of that from which he came.

Convention of 1856

This Convention revised the canons of ordination, incorporating the provisions of Canon 7, of the Canons of 1838, among the provisions of Canon 3 of that year. Sections 2 and 3, as noted above, were made Sections 8 and 9, respectively.

Section 3 of the former canon, now Section 9, was amended by striking the words

the same testimonials of literary qualifications as are required of all other Candidates; and also

in the opening clause thereof. A footnote to this section in the *Journal* of 1856 says that these words were stricken “as not applicable to the present system.”

Convention of 1859

In the general revision of the canons by this Convention, Sections 8 and 9 of Canon 7, of the Canons of 1856, became Section 8 (i) and (ii) of Title I, Canon 2, and without amendment.

Canon 10 of 1841 was made Title I, Canon 9. The only amendment made thereto was the addition of the word “Minister” at the end of the canon.

Convention of 1871

In the revision of the canons of ordination by this Convention, this ninth canon of 1859 was inadvertently omitted from the 1871 Digest of Canons.

Section 8 of Canon 2, Title I, of the Canons of 1859, was made Section 7 of Canon 2, and amended to read as follows:

(i) A person not having had Episcopal Ordination, but acknowledged as an Ordained Minister or Licentiate in any other denomination of Christians may become a Candidate for Holy Orders in this Church.

(ii) Such person must give notice of his desire to become Candidate to the Bishop of the Diocese in which he may be resident, stating, 1st, whether he has applied for admission as Candidate in any other Diocese; and 2nd, the ground and reasons of his desire; and, 3rd, furnishing sufficient evidence of his standing in the denomination in which he has been Minister or Licentiate.

(iii) With the aforesaid notice of desire must be forwarded a written certificate from at least two Presbyters of this Church, stating that, from personal knowledge of the Postulant, or from satisfactory evidence laid before them, they believe that his desire to leave the denomination to which he belonged has not arisen from any circumstance unfavorable to his moral or religious character or on account of which it may be inexpedient to admit him to the exercise of the Ministry in this Church; and they may also add what they know or believe on good authority, of the circumstances leading to the said desire.

(iv) If, on receipt of such notice and certificate, the Bishop authorize further procedure, the Postulant may apply to the Standing Committee of the Diocese for recommendation; in order to which he must lay before the Committee,—

(1) A testimonial from at least twelve members of the denomination from which he comes, or twelve members of the Protestant Episcopal Church, or twelve persons—in part of the denomination from which he comes, and in part of this Church—satisfactory to the Committee, certifying that the Postulant has, for three years last past, lived piously, soberly, and honestly; and

(2) A testimonial from at least two Presbyters of this Church, certifying that they believe the Postulant to be pious, sober, and honest, and sincerely attached to the doctrine, discipline, and worship of the Church; and that, in their opinion, he possesses such qualifications as fit him for usefulness in this Church.

(v) The Standing Committee and Bishop may then proceed as provided for in Sections 3 and 4 of this Canon.

The only change of importance made by the new canon is found in (ii), which provided that the person desiring to become a candidate for orders in the Church must state to the bishop whether he has ever before applied for admission as a candidate; the ground and reasons for his desire to enter the Church, and also furnish to the bishop sufficient evidence of his standing in the denomination from which he came.

The remainder of the section was simply a rearrangement of the provisions of the former canon on the subject.

Convention of 1874

The Committee on Canons of the House of Bishops reported to the said house that Canon 9 of Title I had not been repealed, but that it had failed to appear in the Digest of 1871, “through an inadvertence which arose from a renumbering of the Canons of Title I, growing out of the changes made in the Canons relating to Ordination.”

The canon was renumbered Title I, Canon 11.

Convention of 1892

This Convention made a thorough revision of the canons of ordination, and Canon 2, Section 7, of the Canons of 1871, became Canon 3, Section 6, and amended to read as follows:

(i) Should the applicant have been a Minister or Licentiate, in some other body of Christians, it may suffice that the certificate be signed by either—

(a) Eight adult laymen, members in good standing of the denomination from which the applicant has come, or

(b) Eight adult laymen, members in good standing of the Protestant Episcopal Church, or

(c) Eight adult laymen, members in good standing, in part members of the Church, and in part of the denomination from which the applicant has come.

(ii) The genuineness of the signatures to such certificate and the standing of the signers must be attested by some person or persons known to a member of the Standing Committee, or under the seal of a Notary Public, in the following words, viz.:

I do hereby certify that the names attached to the foregoing certificate are genuine, and are those of persons in good standing, members of (as the case may be),
(Signed)

(iii) He shall, in such case, also lay before the Standing Committee a certificate, signed by two Presbyters of this Church in good standing and known to the Committee, in the following words, viz.:

To the Standing Committee _____.

Place _____.

Date _____.

We, the undersigned, Presbyters of the Protestant Episcopal Church, do hereby certify, that we are personally acquainted with A.B.; that he has become a communicant of this Church, and that we believe him to be pious, sober, and honest. Furthermore, that after personal conversation with him, and due inquiry concerning him as to his change of Ecclesiastical relations, we are satisfied that he is sincerely attached to the doctrine, discipline and worship of the Protestant Episcopal Church, and that his desire to leave the denomination to which he belonged has not arisen from any circumstances unfavorable to his moral or religious character, or on account of which it may be inexpedient to admit him to the Ministry of this Church.

(Signed)

Convention of 1904

In the revision of the Digest of Canons by this Convention, Section 6 of Canon 3, of Title I, became Section 4 of Canon 2, but received no amendment except that in (iii), the words "in such case" were stricken out, and the words "or Council of Advice" were inserted after the words "Standing Committee."

Title I, Canon 11, was renumbered Canon 18, and was materially amended to read as follows:

Sec. 1. When a Minister ordained by a Bishop not in communion with this Church shall apply to a Bishop for admission into the same as a Minister thereof, he shall produce to the Bishop satisfactory evidence of his moral and godly character and of his theological acquirements, and that his letters of Holy Orders and other credentials are valid and authentic; he shall also produce a written certificate from at least two Presbyters of this Church, stating, from personal examination, or from satisfactory evidence laid before them, they believe that his desire to leave the Communion to which he has belonged has not arisen from any circumstance unfavorable to his moral or religious character, or on account of which it may not be expedient to admit him to the exercise of the Ministry in this Church. Before such Minister shall be received into the Ministry of this Church, the Bishop shall require him to promise in writing to submit himself in all things to the discipline of this Church without recourse to any foreign jurisdiction, civil or ecclesiastical; and shall further require him to subscribe and make in his presence,

and in the presence of two or more Presbyters, the declaration required in Article VIII of the Constitution.

After which the Bishop, being satisfied of his theological acquirements and soundness in the faith, may, with the consent of the Standing Committee, or Council of Advice, receive him into the Diocese or Missionary District as a Minister of this Church; *Provided*, that such Minister shall not be entitled to hold canonical charge in any Parish or Congregation until he shall have resided one year in the United States subsequent to the acceptance of his credentials.

Sec. 2. If such Minister be a Deacon he shall not be ordered Priest until he shall have resided in the United States at least one year.

Convention of 1919

Canon 18 was renumbered as Canon 11, and the following paragraph was inserted immediately after the first paragraph of Section 1:

If such a Minister furnish evidence of a thorough theological training in his previous communion, and have exercised his ministry therein with good repute and success for at least five years, he shall be examined by the Bishop and two Presbyters in the following subjects:

- (1) Ecclesiastical Polity and Canon Law, including the Constitution and Canons of the General Convention and of the Diocese in which he expects to serve;
- (2) The History of the Church of England and of this Church;
- (3) The History, Contents and Use of the Book of Common Prayer;
- (4) The points of Doctrine, Discipline and Worship in which the Communion from which he has come differs from this Church.

But if such Minister cannot furnish evidence of a thorough theological training in his previous Communion, or if he have not exercised his Ministry therein with good repute and success for at least five years, he shall conform to the requirements of Canon 26, Sec. 5, and Canon 29, Sec. 1, in full.

This Canon was renumbered Canon 12 in 1922, Canon 13 in 1940, Canon 37 in 1943, and Canon 38 in 1946.

Section 4 (i) of Canon 2 of 1904 was amended to read as follows:

Should the Postulant have been a Minister or Licentiate in some other body of Christians, instead of the certificate required in Sec. 1, he shall submit a certificate in the following words:

To the Standing Committee of _____.
 Place _____.
 Date _____.

We whose names are hereunder written, testify to our belief (based on personal knowledge, or on evidence satisfactory to us) that A.B. is sober, honest, and godly. We do furthermore declare that in our opinion, he possess such qualifications as fit him to be admitted a Candidate for Holy orders.

(Signed)

This certificate may be signed, etc.

The remainder of the clause received no amendment.

The following new clause (vi) was enacted as part of Section 5 of the said Canon 2.

If the Postulant have served with good repute and success in the regular Ministry of some other body of Christians for at least five years, and shall lay before the Board of Examining Chaplains satisfactory evidence of a thorough theological training in his previous communion, the Bishop, on recommendation of the Board, may, at his discretion, dispense him from the above examinations. But in all other cases such Minister shall conform to the requirements of other Postulants.

The examinations referred to concerned academic subjects.

Section 5 of Canon 5, "Of Examinations for Admission to Holy Orders in Special Cases," enacted by this Convention, read as follows:

(i). A Postulant who has become a Candidate under the provisions of Canon 2, Sec. 5 (vi), shall, before his ordination to the Diaconate, be required to pass an examination in the following subjects:

1. Ecclesiastical Polity, including the Constitution and Canons of the General Convention, and of the Diocese in which he is canonically resident;
2. The History of the Church of England and of this American Church;
3. The History, Contents and Use of the Book of Common Prayer;
4. The Elements of Christian Doctrine as contained in the Creeds and Catechism;
5. The points of Doctrine, Discipline and Worship in which the communion from which he has come differs from this Church. This portion of the examination shall be conducted in part at least by written questions and answers, and the replies kept on file for at least three years.

(ii). A Deacon so ordained may be advanced to the Priesthood without further examination, save as prescribed in Sec. 1 of this Canon.

(iii). In all other cases a Candidate who has been a Minister or Licentiate in some other body of Christians shall pass the examinations required of other Candidates.

Canon 2 became Canon 26 in 1943 and Canon 27 in 1946.

Canon 5 was made Canon 31 in 1943 and Canon 32 in 1946.

Convention of 1946

Section 5 of Canon 27 was made Section 5 of Canon 26, "Of Postulants."

Canon 11 of 1919, now Canon 38, was amended by substituting the word "satisfactory" for the word "thorough" in two places in the second paragraph.

Convention of 1949

Canon 38 was amended by the addition of a new Section 3, reading as follows:

No Minister ordained by a Bishop not in communion with this Church shall be accepted by a Bishop of this Church or placed on the clergy list of this Church until such Minister shall have submitted himself to, and satisfactorily passed, a thorough examination by a physician appointed by the Bishop. The examination shall cover the man's mental and nervous, as well as his physical condition. The form of medical report prepared by The Church Pension Fund shall be used for this purpose.

Convention of 1952

Section 1 of Canon 38 was amended by adding, after the words "United States" in the last paragraph, the words "or in a Diocese or Missionary District of this Church located outside the United States."

The same words were added in Section 2.

Convention of 1961

Canon 38 was repealed in its entirety and, with it, the sections of Canons 26, 27, and 32 considered above. The provisions thereof, materially amended, were then combined and included as part of a new Canon 36, applicable both to ministers ordained by bishops in the historic succession and to those not so ordained.

SECTION 5

A number of the provisions of this section derive from a canon adopted in 1922.

Convention of 1922

This Convention adopted a new Canon 11, "Of the Ordination of Deacons and Priests in Special Cases," which provided that, under certain circumstances, a minister of another denomination might be ordained to the diaconate and priesthood by a bishop of this Church without relinquishing his membership and ministerial status in that denomination. Since its major provisions no longer apply, the canon is not given here in full. (For its text and history, see the 1954 edition of this annotation, pages 613-616.)

Convention of 1958

As of this Convention, the canon, now Canon 36, contained the following provisions:

(1) The confirmation and ordination of a Minister of another Church intending to remain as such (Sections 1-4);

(2) The conditions under which a Minister so ordained might officiate in a Diocese or Missionary District and restrictions thereon, and under which he might become for all purposes a Minister of this Church (Section 5);

(3) Section 6, which read, in part, as follows:

(a). If any Minister who has not received Episcopal ordination desires to be made a Deacon or to be ordered Priest in this Church, without giving up or denying his fellowship or his ministry in the Communion to which he belongs ... [the Bishop] may make him a Deacon or order him Priest. At the time of such ordination the Bishop may read this preface to the service:

A.B., who has already been ordained a minister of Christ, and desires to be a Deacon (or Priest) in this Church, has satisfied the Ecclesiastical Authority of this Diocese that he accepts the Doctrine, Discipline and Worship of this Church. We are about to confer upon him authority to minister in this Church.

(b). The letters of ordination in such cases may contain the words: Recognizing the ministry which he has already received and hereby adding to that commission the grace and authority of Holy Orders as required for the exercise of the ministry of this Church.

(c). If any minister who has been ordained to the Diaconate or to the Priesthood by a Bishop whose authority to convey such orders is open to question, shall desire to exercise his ministry in this Church, the Bishop of the Diocese in which he resides shall, if necessary, baptize him and confirm him, and with the advice and consent of the Standing Committee or of the Council of Advice of the Missionary District after all canonical requirements precedent to ordination have been fulfilled, may ordain him conditionally to the Diaconate and to the Priesthood. The Bishop at the time of such ordination shall read this preface to the service:

A.B., who was ordained by a Bishop whose authority is not recognized by this Church, has now satisfied the Bishop of the Diocese that he accepts the Doctrine, Discipline and Worship of this Church, and desires conditional ordination. We propose to give assurance that A.B. is qualified to minister in this Church.

Convention of 1961

Canon 36 was repealed and the present canon enacted in its place. Some of the provisions of former Section 6 were incorporated into new Section 5, but the canon as a whole makes no provision for the retaining of a former membership or ministerial status.

SECTIONS 6 AND 7

These sections were enacted in 1961.

Apart from changes in cross references made to accommodate changes in the numbering of the canons, and the deletion in 1973 of references to missionary districts, the canon has remained unamended since its adoption.

EXPOSITION OF CANON III.12

This canon, providing for ministers of other Churches who desire to become ministers of this Church, bears little resemblance to the earlier canons on the subject.

Until 1961, the provisions for receiving deacons and priests of other Churches, who had been ordained in the historic succession, were contained in a separate canon, and, in the nineteenth century, were very simple. Under the canon of 1841, practically all that was required of such a minister was first, the production to the bishop of a certificate signed by two presbyters of the Church, stating that his desire to leave his former communion was not because of any circumstance unfavorable to his moral or religious character, or such as to render it inexpedient to admit him to the ministry of this Church; and second, subscribing to the declaration set forth in Article VIII of the Constitution. He was not obliged to make any proof that his letters of orders and other credentials were valid and authentic, nor was he required to promise that he would submit himself to the discipline of this Church, and abjure all allegiance to any foreign jurisdiction, civil or ecclesiastical. In this respect, the canon was exceedingly defective.

Not until 1904 were the provisions amended to require satisfactory evidence of character and theological attainments, and a promise to submit himself in all things to the discipline of this Church without recourse to any foreign jurisdiction, civil or ecclesiastical. The consent of the standing committee was now required, also.

The provisions for receiving ministers of other Churches who had not been ordained in the historic succession were, in contrast, complex, and were scattered among a number of the canons. The process required was essentially the same as that required of other postulants and candidates for Holy Orders, except that, in view of the person's past experience and training, it admitted of a considerable number of dispensations.

Under the present canon, all ministers of other communions desiring ordination or reception as ministers of this Church must meet the same requirements, take the same examinations, and be subject to the same time periods.

It will be observed that such ministers are not classified as postulants and candidates but as *applicants*, and remain such for six months; that the period between the diaconate and the priesthood is shortened to four months; and that in the case of non-Catholic ministers, and ministers in dubious Catholic orders, appropriate prologues to the service are provided. This is not provided in the case of ministers clearly ordained

in the historic succession, since there an act of reception is prescribed, rather than ordination, thus affirming their existing orders.

In Section 5(b) the bishop is permitted, at the time of ordination, pursuant to section 5(a) (2), to read a preface to the service recognizing the ordinand as “already a minister of Christ.”

The essential difference between the various categories appears in Section 5(a), where it is provided that clergy already ordained in the historic succession are to be received, clergy not so ordained are to be ordained, and clergy whose Catholic orders are doubtful are to be ordained *sub conditione*.

It will be noted that a minister may be received as an applicant without becoming a member of this Church by confirmation, provision being made under Section 5(a) for confirmation just prior to the day of ordination. This serves a practical purpose by permitting an applicant to continue in his or her present Church while undertaking study and preparation for examinations.

There are two questions which must be raised with respect to this canon in the light of the revision of the Prayer Book in 1979.

The first has to do with the propriety of receiving clerics first as deacons, and later as priests. It is contended by some that this practice is reflective of the view of the 1928 Prayer Book that the diaconate is an “inferior office,” and is not congruent with the teaching of the revised book.

The second pertains to the prefaces to the service of ordination contained in clauses (b) and (c) of Section 5. In form, style, and content, these were designed to fit the rites of ordination of the 1928 book. Should such forms still be desired, they should be recast in a style appropriate to the new rites, and a suitable place for their inclusion in the service established.



CANON 13. Of Ministers Ordained by Bishops of other Churches in Communion with this Church

*Certificate
required
before he
can officiate
in this
Church.*

Sec. 1 (a). A Minister declaring himself to have been ordained by a Bishop of another Church in communion with this Church, or by a Bishop consecrated for a foreign country by Bishops of this Church under Article III. of the Constitution shall, before he be permitted to officiate in any Parish or Congregation of this Church, exhibit to the Minister, or, if there be no Minister, to the Vestry thereof, a certificate of recent date, signed by the Ecclesiastical Authority of the Diocese that his letters of Holy Orders and other credentials are valid and authentic, and given by a Bishop in communion with this Church, and whose authority is acknowledged by this Church, and also that he has exhibited to the said Ecclesiastical Authority satisfactory evidence of his moral and godly character and of his theological acquirements.

*Before
taking
charge of a
Parish.*

(b). And before he shall be permitted to take charge of any Parish or Congregation, or be received into any Diocese of this Church as a Minister thereof, he shall produce to the Ecclesiastical Authority Letters Dimissory or equivalent credentials under the hand and seal of the Bishop with whose Diocese he has been last connected, which letters or credentials shall be delivered within six months from the date thereof. Before such Minister shall be so received, the Bishop shall require him to promise in writing to submit himself in all things to the Discipline of this Church, without recourse to any foreign jurisdiction, civil or ecclesiastical; and shall further require him to subscribe and make in his presence, and in the presence of two or more

Presbyters, the declaration required in Article VIII. of the Constitution. He shall also be examined by the Bishop and at least one Presbyter as to his knowledge of the history of this Church, its worship and government. The said Ecclesiastical Authority, being satisfied of his theological acquirements, may then receive him into the Diocese as a Minister of this Church; *Provided*, that such Minister shall not be entitled to hold canonical charge in any Parish or Congregation, until he shall have resided one year in the United States subsequent to the acceptance of his credentials.

Examination. (c). A Minister declaring himself to have been ordained by a Bishop of another Church in communion with this Church, or by a Bishop consecrated for a foreign country by Bishops of this Church, under Article III. of the Constitution, shall not be accepted nor shall the Minister named therein be placed on the clergy list of this Church until such a Minister shall have submitted himself to, and satisfactorily passed, a thorough examination, covering both mental and physical condition by recognized and licensed professionals appointed by the Bishop. The forms for medical and psychiatric reports prepared by The Church Pension Fund shall be used for these purposes.

*If a Deacon,
to reside one
year in this
country.*

Sec. 2. If such Minister be a Deacon, he shall not be ordered priest until he shall have resided in the United States at least one year.



This canon was Title I, Canon 10, in 1859. It became Canon 17 in 1904, Canon 36 in 1943, and Title III, Canon 13, in 1970.

Soon after the close of the War of Revolution, clergymen began coming over to this country from England in considerable number, and it became necessary to make some provision whereby it might be ascertained whether they were duly ordained clergymen or not, and such a provision was inserted in the first canons of the Church.

Convention of 1789

The Convention enacted Canon 9 of that year which read as follows:

No person, not a member of this Church, who shall profess to be episcopally ordained, shall be permitted to officiate therein, until he shall have exhibited to the Vestry of the

Church in which he shall offer to officiate, a certificate signed by the Bishop of the Diocese or district, or, where there is no Bishop, by three Clergymen of the Standing Committee of the Convention of that State, that his Letters of Orders are authentic, and given by some Bishop whose authority is acknowledged by this Church, and also satisfactory evidence of his moral character.

Convention of 1804

Canon 9 of 1789 was made Canon 5, and amended to read as follows:

A clergyman coming from a foreign country, and professing to be regularly ordained, shall, before he be permitted to officiate in any parish or church, exhibit to the Vestry thereof satisfactory evidence of his moral character, and a certificate signed by the Bishop of the diocese, or, where there is no Bishop, by three clerical members of the standing committee, that his letters of Orders are authentic, and given by some Bishop whose authority is acknowledged by this Church. And should any such clergyman desire to settle in any diocese, he shall first obtain the license of the Bishop, or, where there is no Bishop, the permission of three clerical members of the standing committee, to officiate within the diocese or state. And if, within one year, he shall be guilty of any unworthy conduct, the Bishop, or, where there is no Bishop, three clerical members of the standing committee, shall withdraw this license or permission; nor shall he be allowed to discharge the clerical functions, till he shall have produced to the Bishop such testimonials as are prescribed in the 2nd Canon of 1795, or to the clerical members of the standing committee, such credentials as would induce them to give said testimonials.

And in any case, before he shall be entitled to be inducted into a parish or church, he shall have resided one year in the United States.

And if any such foreign clergyman shall remove from one diocese to another, before one year has expired, he shall not be allowed by the ecclesiastical authority of the diocese to which he goes, to officiate in said diocese, till he shall have complied with the requisitions of the Canons concerning ministers removing from one diocese or state to another.

The first paragraph of this canon contained the substance of Canon 9 of 1789, which it repealed, but with some important additions, which experience had shown to be necessary.

If such a clergyman desired to settle in a diocese, he must first obtain a license from the bishop, or, where there was no bishop, then from three clerical members of the standing committee. Before he could officiate as a clergyman, he must present to the bishop testimonials from the standing committee, similar to those granted by such committee to a candidate for orders. The second paragraph required one year's residence in the United States before he could become rector of a parish.

Convention of 1808

Canon 5 of 1804 was made Canon 36 by this Convention, and the first and second paragraphs thereof were amended to read as follows:

A clergyman coming from a foreign country, and professing to be regularly ordained, shall, before he be permitted to officiate in any parish or congregation, exhibit to the minister, or if there be no minister, to the Vestry thereof, a certificate, signed by the Bishop of the diocese, or, if there be no Bishop, by a majority of the Standing Committee duly convened, that his letters of orders are authentic, and given by some Bishop whose authority is acknowledged by this Church; and also that he has exhibited to the Bishop or Standing Committee, satisfactory evidence of his pious and moral character, and of his theological acquirements. And should he be guilty of any unworthy conduct, he shall be liable to presentment and trial. And in any case, before he shall be entitled to settle in any parish or church as the minister thereof, the Bishop, or ecclesiastical authority of the diocese, must obtain satisfactory evidence of his respectable standing in the church there; and he must also have resided one year in the United States.

The third paragraph remained without amendment, except that it was made the second paragraph.

The important change made in the first paragraph by the amendment was the recognition of the rights of the minister of the parish. Under the former canon, the foreign clergyman was required to satisfy the vestry of a church that his ordination was valid, and also as to his character, before he could officiate therein. This canon of 1808 recognized the right of the minister of the parish, not the vestry, to determine who should and who should not officiate within his cure.

Convention of 1832

This Convention renumbered Canon 36 of 1808, making it Canon 23, and amending it as follows:

The first paragraph of the former canon was made Section 1, and amended by striking the words "by a majority of the Standing Committee," and inserting in place thereof the words "by all the Clerical members of the Standing Committee."

The second paragraph of the former canon was made Section 2, and amended by striking the word "such" at the beginning, and the words "or state" at the end thereof.

Two new sections were added to the canon, the first of which read as follows:

Sec. 3. And if such foreign Clergyman be a Deacon, he shall remain in this country at least three years, and obtain in this country the required testimonials of character, before he be ordained a Priest.

The other section, Section 4, relates to clergymen ordained by a bishop not in communion with this Church and has been noted in our consideration of Canon III.12.

Convention of 1841

This Convention repealed Canon 23 of 1832, and enacted Canon 6 in place thereof, and reading as follows:

Sec. 1. A Clergyman coming from a foreign country, and professing to be regularly Ordained, shall, before he be permitted to officiate in any Parish or Congregation, exhibit to the Minister, or if there be no Minister, to the Vestry thereof, a Certificate, signed by the Bishop of the Diocese, or, if there be no Bishop, the Standing Committee, duly convened, that his Letters of Orders are authentic, and given by some Bishop in Communion with this Church, and whose authority is acknowledged by this Church; and also that he has exhibited to the Bishop or Standing Committee, satisfactory evidence of his pious and moral character, and his Theological acquirements; and, in any case, before he shall be permitted to settle in any Church or Parish, or be received into union with any Diocese of this Church, as a Minister thereof, he shall produce to the Bishop, or if there be no Bishop, the Standing Committee of such Diocese, a Letter of Dismission, from under the hand and seal of the Bishop, with whose Diocese he has been last connected; which letter shall be, in substance, that provided for in Section 1st, of Canon 4th, of 1835, and shall be delivered within six months from the date thereof; and when such Clergyman shall have been so received, he shall be considered as having passed entirely from the jurisdiction of the Bishop from whom the Letter of Dismission was brought, to the full jurisdiction of the Bishop, or other ecclesiastical authority, by whom it shall have been accepted, and become thereby subject to all the Canonical provisions of this Church, provided that no such Clergyman shall be so received into union with any Diocese, until he shall have subscribed, in the presence of the Bishop of the Diocese, in which he applies for reception, and of two or more Presbyters, the Declaration contained in the Seventh Article of the Constitution; which being done, said Bishop, or Standing Committee, being satisfied of his Theological acquirements, may receive him into union with this Church, as a Minister of the same; provided also, that such Minister shall not be entitled to settle in any Parish or Church, as Canonically in charge of the same, until he has resided one year in the United States, subsequent to the acceptance of his Letter of Dismission.

Sec. 2. And if such foreign Clergyman be a Deacon, he shall reside in the country at least three years, and obtain in this country the requisite testimonials of character before he be ordained a Priest.

As will be noted, this canon was radically different from the former canon. Its requirements were stated more definitely, and were far stricter than before.

The canon returned to the provisions of the Canon of 1808, that where there was no bishop, the clergyman was to exhibit his testimonials to the standing committee, instead of to the clerical members thereof, as provided in the Canon of 1832, and those testimonials must have been given by a bishop whose authority was not only recognized by this Church, but one who was in communion with this Church. Most important of all, he must have produced a letter of dismission from the bishop of the diocese with which he was last connected, substantially in the same form as that required to be given by a bishop to a clergyman removing from his diocese to another diocese in this country, and such

letter must be delivered within six months from the date thereof. When the clergyman had been so received, he passed entirely from the jurisdiction of his former bishop, and became subject to the canonical provisions of this Church, provided, however, he must first have signed in the presence of the bishop, and two of his presbyters, the declaration of conformity as contained in Article VII of the Constitution.

The former provision, that if he be guilty of any unworthy conduct he should be liable to presentment and trial, was repealed as no longer necessary, he being now subject to all provisions of the canons of the American Church. It is extremely doubtful if the former provision was legal. He had not necessarily severed his connection with the foreign jurisdiction from whence he came, and was not, therefore, within the jurisdiction of the American Church in such manner as to permit of his being put on trial here. It was probably the recognition of this fact that led to the amendment of the canon.

Convention of 1844

This Convention repealed Canon 6 of 1841 and enacted Canon 9 in place thereof. The only amendment made to the canon, aside from a canonical reference, was that the words, "A Clergyman coming from a foreign country, and professing to be regularly Ordained," at the beginning of the first section, were stricken and these words inserted in place thereof:

A Clergyman coming from a foreign country, and professing to have been ordained out of the United States by a foreign Bishop in communion with this Church, or by a Bishop consecrated for a foreign country by Bishops of this Church, under Article X of the Constitution, or by a Missionary Bishop elected to exercise Episcopal functions in any place or places out of the United States.

The reference in the former canon to "Section 1st of Canon 4th of 1835," was changed to read "Section 1, of Canon V of 1844."

As the then tenth article of the Constitution had been adopted by this Convention, providing for the consecration of bishops for foreign countries, and in the event that such bishops might be consecrated, provision was made in the amended canon for the reception of clergymen ordained by such bishops.

Convention of 1859

This Convention numbered the canon Title I, Canon 10, and entitled it "Of Ministers ordained in Foreign Countries by Bishops in Communion with this Church."

Convention of 1868

This Convention amended Section 2 of the canon by replacing the words “three years” with the words “one year.”

The purpose of this amendment was to require only one year’s residence in this country for a deacon, instead of three years, before his ordination to the priesthood.

Convention of 1892

In the revision of the canons of ordination by this Convention, Canon 10 of Title I, of 1859, was renumbered Canon 14, of the same title, and amended by inserting after the words “his letters of Holy Orders” in the opening clause, the words “and Letters Testimonial.”

The canonical reference, “Section 7, of Canon 12, of this Title,” was changed to read “Canon 17, Section 7, of this Title.”

Convention of 1901

The only change made by this Convention in the canon was changing the reference from Article X to “Article III,” and Article VII to “Article VIII,” owing to the revision of the Constitution made by this Convention.

Convention of 1904

This Convention renumbered the canon as Canon 17, and amended it to read as follows:

Sec. 1. (i) A Minister who alleges that he has been ordained beyond the limits of the United States by a foreign Bishop in communion with this Church, or by a Bishop consecrated for a foreign country by Bishops of this Church under Article III. of the Constitution, or by a Missionary Bishop elected to exercise jurisdiction beyond the limits of the United States, shall, before he be permitted to officiate in any Parish or Congregation of this Church, exhibit to the Minister, or, if there be no Minister, to the Vestry thereof, a certificate of recent date, signed by the Ecclesiastical Authority of the Diocese or Missionary District, that his letters of Holy Orders and other credentials are valid and authentic, and given by a Bishop in communion with this Church, and whose authority is acknowledged by this Church, and also that he has exhibited to the said Ecclesiastical Authority satisfactory evidence of his moral and godly character, and of his theological acquirements.

(ii) And before he shall be permitted to take charge of any Parish or Congregation, or be received into any Diocese or Missionary District of this Church as a Minister thereof, he shall produce to the Ecclesiastical Authority Letters Dimissory or equivalent credentials under the hand and seal of the Bishop with whose Diocese or Missionary District he has been last connected, which letters or credentials shall be delivered within six months from the date thereof. Before such Minister shall be so received, the Bishop shall require him to promise in writing to submit himself in all things to the discipline of this Church, without recourse to any foreign jurisdiction, civil or ecclesiastical; and shall

further require him to subscribe and make in his presence, and in the presence of two or more Presbyters, the declaration required in Article VIII. of the Constitution.

After which the said Ecclesiastical Authority, being satisfied of his theological acquirements, may receive him into the Diocese or Missionary District as a Minister of this Church; *provided*, that such Minister shall not be entitled to hold canonical charge in any Parish or Congregation, until he shall have resided one year in the United States subsequent to the acceptance of his credentials.

Sec. 2. If such Minister be a Deacon, he shall not be ordered Priest until he shall have resided in the United States at least one year.

Convention of 1907

This Convention amended the first section of the canon by striking the words "A Minister who alleges" in clause (i), and inserting in place thereof the following: "A Minister declaring himself."

The words of the former canon, "who alleges," were not happily chosen, as they were open to the construction that his statement might not be true.

This Convention also amended Section 1 (i) by striking the words "or a Missionary Bishop elected to exercise jurisdiction beyond the limits of the United States."

It was felt that such a bishop was not a "foreign bishop," nor was he a bishop in communion with this Church, in the meaning given to those words in the title to the canon, but was a bishop of this Church, and that some of the provisions of the canons ought not to apply to a minister ordained by such bishop. This amendment was offered by a bishop of a foreign missionary district.

Convention of 1919

This Convention renumbered this canon as Canon 10, and made two amendments to Section 1 (ii). The first amendment was the insertion, after the words "Article VIII of the Constitution," of the words following:

He shall also be examined by the Bishop and at least one Presbyter as to his knowledge of the history of this Church, its worship and government.

The second amendment was simply a verbal one, striking the words after which" at the beginning of the second paragraph of Section 1 (ii), and inserting the word "then" between the words "may" and "receive."

Convention of 1949

The canon, now Canon 37, was amended by adding to Section 1 a new clause (c) reading as follows:

A Minister declaring himself to have been ordained beyond the limits of the United States by a foreign Bishop in communion with this Church, or by a Bishop consecrated for a foreign country by Bishops of this Church, under Article III of the Constitution, shall not be accepted nor shall the Minister named therein be placed on the clergy list of this Church until such a Minister shall have submitted himself to, and satisfactorily passed, a thorough examination by a physician appointed by the Bishop. This examination shall cover the man's mental and nervous, as well as his physical condition. The form of medical report prepared by The Church Pension Fund shall be used for this purpose.

Convention of 1973

The canon, now Canon III.13, was amended by deleting, as no longer needed, the various references to missionary districts.

Convention of 1979

The title of the canon was amended to its present wording.

The words at the beginning of clauses (a) and (c) of Section 1, "beyond the limits of the United States by a foreign bishop," were replaced with the words "by a Bishop of another Church."

By these amendments, the canon is made applicable to ministers of all Churches with which this Church is in communion.

Clause (c) was also amended to bring the provisions for medical examinations into conformity with those in the canons of ordination.

EXPOSITION OF CANON III.13

When this canon was first enacted, its provisions were intended to apply to clergymen of the Church of England coming to this country and, through most of its history, it applied only to ministers of the Anglican Communion. In 1979 its provisions were broadened to encompass ministers of all Churches with which this Church is in communion.

Section 1 (a) of the canon specifies the requirements that must be fulfilled in the case of such ministers who desire to officiate in this Church while still canonically under the jurisdiction of a bishop of such other Church. No rector or vestry of this Church, it will be noted, has the authority to engage the services of such a minister until the certificate from the ecclesiastical authority of the diocese to which the parish belongs has been produced. The certificate, moreover, must be of recent date.

The remainder of the canon pertains to such ministers when it is their desire to be received as members of the clergy of this Church. The requirements themselves are clear and need no exposition. It should be noted, however, that the receiving of such persons is the prerogative of the bishop of the diocese. No provision is made for the receiving of them during a vacancy in the episcopate.

A priest so received must have resided in this country for one year subsequent to the acceptance of the specified credentials before being eligible to take charge of a parish.

A deacon so received must have resided in this country for at least a year before being eligible for ordination to the priesthood.



CANON 14. Of the Ordination and Consecration of Bishops

*Testimonials
of
Bishop-elect
to be sent to
Secretary of
House of
Deputies.*

Sec. 1 (a). Whenever the Church in any Diocese shall desire the ordination and consecration of a Bishop-elect, if the election shall have taken place within three months before a meeting of the General Convention, the Standing Committee of the said Diocese shall, by their President, or by some person or persons, specially appointed, forward to the Secretary of the House of Deputies evidence of the election of the Bishop-elect by the Convention of the Diocese, together with evidence of his having been duly ordered Deacon and Priest, and also a testimonial, signed by a constitutional majority of such Convention, in the following words, viz.:

We, whose names are hereunder written, fully sensible how important it is that the Sacred Order and Office of a Bishop should not be unworthily conferred and firmly persuaded that it is our duty to bear testimony on this solemn occasion without partiality or affection, do, in the presence of Almighty God, testify that the Reverend A.B. is not, so far as we are informed, justly liable to evil report, either for error in religion or for viciousness of life; and that we know of no impediment on account of which he ought not to be ordained or consecrated to that Holy Office. We do, moreover, jointly and severally declare that we believe him to be of such sufficiency in good learning, of such soundness in the Faith, and of such virtuous and pure manners and godly conversation, that he is apt and meet to exercise the Office of a Bishop to the honour of God and the edifying of His Church, and to be a wholesome example to the flock of Christ.

(Signed) _____

Medical examination. The Secretary of such Convention shall certify upon this testimonial that it has been signed by a constitutional majority thereof. There shall also be forwarded with the testimonial and other documents a certificate from two medical doctors, who shall be chosen by the Presiding Bishop, that they have thoroughly examined the Bishop-elect and have not discovered in his physical, mental, or nervous condition any reason why it would not be wise for him to undertake the work for which he has been chosen.

Notice of consent of House of Deputies to be sent to House of Bishops. The Secretary of the House of Deputies shall lay the said testimonials before the House, and if the House shall consent to the consecration of the Bishop-elect, notice of said consent, certified by the President and Secretary of said House, shall be sent to the House of Bishops, together with the testimonials aforesaid.

Presiding Bishop to take order for consecration. (b). If the House of Bishops consent to the consecration, the Presiding Bishop shall, without delay, notify such consent to the Standing Committee of the Diocese electing and to the Bishop-elect; and upon notice of the acceptance by the Bishop-elect of his election, the Presiding Bishop shall take order for the consecration of the said Bishop-elect either by himself or the President of the Province of which the Diocese electing is a part, and two other Bishops of this Church, or by any three Bishops of the Church to whom he may communicate the testimonials.

Bishop presiding at consecration to have direction of service. In all particulars the service at the consecration of a Bishop shall be under the direction of the Bishop presiding at such consecration.

Procedure during recess of General Convention. (c). If the election of a Bishop shall have taken place more than three months before the meeting of the General Convention, the Standing Committee of the Diocese electing shall, by their President, or by some person or persons specially appointed, immediately send certificate of the election to the Standing Committees of the several Dioceses, together with copies of the necessary testimonials and other documents, including the medical certificate as required in Sec. 1 (a) of this Canon; and if a majority of the Standing Committees of all the Dioceses shall consent to the consecration of the Bishop-elect, the Standing Com-

mittee of the Diocese electing shall then forward the evidence of said consent, with the other necessary testimonials, to the Presiding Bishop, who shall immediately communicate the same to every Bishop of this Church having jurisdiction, and if a majority of such Bishops shall consent to the consecration, the Presiding Bishop shall, without delay, notify such consent to the Standing Committee of the Diocese electing and to the Bishop-elect, and upon notice of his acceptance of the election, the Presiding Bishop shall take order for the consecration of the said Bishop-elect either by himself or the President of the Province of which the Diocese electing is a part and two other Bishops of this Church, or by any three Bishops of this Church to whom he may communicate the testimonials.

The evidence of the consent of the several Standing Committees shall be a testimonial in the following words, signed by a majority of the Standing Committees of all the Dioceses:

We, being a majority of all the members of the Standing Committee of _____, and having been duly convened at _____, fully sensible how important it is that the Sacred Order and Office of a Bishop should not be unworthily conferred, and firmly persuaded that it is our duty to bear testimony on this solemn occasion without partiality or affection, do, in the presence of Almighty God, testify that the Reverend A.B. is not, so far as we are informed, justly liable to evil report, either for error in religion or for viciousness of life; and that we know of no impediment on account of which he ought not to be ordained and consecrated to that Holy Office.

In witness whereof, we have hereunto set our hands this _____ day of _____ in the year of our Lord _____.

(Signed) _____

If Bishops shall not consent within three months.

If the Presiding Bishop shall not have received the consent of a majority of the Bishops within three months from the date of his notice to them, he shall then give notice of such failure to the Standing Committee of the Diocese electing.

(d). In case a majority of all the Standing Committees of the several Dioceses shall not consent to the consecration

If Standing Committees or Bishops shall not consent. of a Bishop-elect within the period of six months from the date of the notification of the election by the Standing Committee of the Diocese electing, or in case a majority of all the Bishops entitled to act in the premises shall not consent within the period of three months from the date of notification to them by the Presiding Bishop of the election, the Presiding Bishop shall declare the election null and void, and the Convention of the Diocese may then proceed to a new election.

Notification to Presiding Bishop. (e). It shall be the duty of the Secretary of the Convention electing a Bishop, Bishop Coadjutor, or Suffragan Bishop, to inform the Presiding Bishop promptly of the name of the person elected. It shall be the duty of the Bishop-elect to notify the Presiding Bishop of his acceptance or declination of the election, at the same time as he notifies the electing Diocese.

Bishops Coadjutor. Sec. 2 (a). When a Bishop of a Diocese is unable, by reason of age, or other permanent cause of infirmity, or, except in a Missionary Diocese, by reason of the extent of Diocesan work, fully to discharge the duties of his office, a Bishop Coadjutor may be elected by and for said Diocese, who shall have the right of succession; *Provided*, that before the election of a Bishop Coadjutor for the reason of extent of Diocesan work, the consent of the General Convention, or during the recess thereof, the consent of a majority of the Bishops having jurisdiction and of the several Standing Committees, must be had and obtained.

Consent required.

Consent of Bishop and duties assigned to be specified. Before any election of a Bishop Coadjutor, the Bishop of the Diocese shall read, or cause to be read, to the Convention thereof, his written consent to such election, and in such consent he shall state the duties which he thereby assigns to the Bishop Coadjutor, when duly ordained and consecrated, and such consent shall form part of the proceedings of the Convention. The duties assigned by the Bishop to the Bishop Coadjutor in any Diocese may be enlarged by mutual consent whenever the Bishop of the Diocese may desire to assign such additional duties to the Bishop Coadjutor. In case of the inability of the Bishop of the Diocese to issue the aforesaid consent, the Standing Committee of the Diocese may request the Convention to act without such consent, and such request shall be accompanied by certificates of medical persons as to the inability of the Bishop of the Diocese to issue his written consent.

Grounds for election to be communicated. (b). In the case of a Bishop Coadjutor, the grounds for his election, as stated in the record of the Convention, shall be communicated, with the other required testimonials, to the General Convention, or to the Standing Committees and the Presiding Bishop.

Certificate that every requirement has been complied with. (c). In the case of application for the ordination and consecration of a Bishop Coadjutor, the Standing Committee shall forward to the Presiding Bishop, in addition to the evidence and testimonials required by the preceding Section, a certificate of the Presiding Officer and Secretary of the Convention that every requirement of this Section has been complied with.

Only one Bishop Coadjutor in a Diocese. (d). There shall not be in any Diocese at the same time more than one Bishop Coadjutor.

Election of successor, prior to Bishop's resignation or retirement. Sec. 3. It shall be lawful, within six months prior to the effective date of the resignation or retirement of a Bishop from his jurisdiction, for the said Bishop, with the advice and consent of the Standing Committee, to call a special meeting of the Convention of the Diocese to elect a successor; *Provided*, that if the Convention is to meet in regular session meanwhile, it may hold the election during such regular session. The proceedings incident to preparation for the ordination and consecration of such successor shall be as provided in Sec. 1 of this Canon; but the Presiding Bishop shall not take order for the consecration to be on any date prior to that upon which the resignation is to become effective.

Proviso.

Declaration of belief and conformity. Sec. 4. No one shall be ordained and consecrated Bishop unless he shall at the time subscribe, in the presence of the ordaining and consecrating Bishops, the declaration required in Article VIII. of the Constitution.



This canon was part of Title I, Canon 13, in 1859. It became Canon 9 in 1904, Canon 38 in 1943, and Title III, Canon 14, in 1970.

Convention of 1789

Canon 2 of 1789 read as follows:

Every Bishop elect, before his consecration, shall produce to the Bishops, to whom he is presented for that holy office, from the Convention by whom he is elected a Bishop, and from the General Convention, or a Committee of that body to be appointed to act in their recess, certificates, respectively in the following words, viz.:

Testimony from the Members of the Convention in the State from Whence the Person is Recommended for Consecration

We, whose names are underwritten, fully sensible how important it is, that the sacred office of a Bishop should not be unworthily conferred, and firmly persuaded that it is our duty to bear testimony on this solemn occasion without partiality or affection, do, in the presence of Almighty God, testify, that A.B. is not, so far as we are informed, justly liable to evil report, either for error in religion or for viciousness of life; and that we do not know or believe there is any impediment or notable crime for which he ought not to be consecrated to that holy office. We do, moreover, jointly and severally declare that having personally known him for three years last past, we do in our consciences believe him to be of such sufficiency in good learning, such soundness in the faith, and of such virtuous and pure manners and godly conversation, that he is apt and meet to exercise the Office of a Bishop, to the honour of God and the edifying of his Church, and to be a wholesome example to the flock of Christ.

Testimony from the General Convention

We, whose names are underwritten, fully sensible how important it is that the sacred office of a bishop should not be unworthily conferred, and firmly persuaded that it is our duty to bear our testimony on this solemn occasion without partiality or affection, do in the presence of Almighty God, testify that A.B. is not, so far as we are informed, justly liable to evil report, either for error in religion or for viciousness of life; and that we do not know or believe there is any impediment or notable crime, on account of which he ought not to be consecrated to that holy office, but that he hath, as we believe, led his life, for three years last past, piously, soberly, and honestly.

The Rev. Dr. Hawks in his *Constitution and Canons* (p. 85) has a long note on this canon, from which the following extracts are taken.

In the English Church the election of a bishop is made by a dean and chapter, under the writ of *congé d'elire*, which is always accompanied by a "letter missive" from the sovereign, naming the person, and adding "we have been pleased, by these our letters patent to *name* and recommend him unto you to be elected and chosen," so that under this restraint, the only choice the electors have is whether they will obey the sovereign or incur the penalties of a *premunire*. No testimonials are produced or required.

When, however, application was made to the Church of England for the consecration of the first bishop of our Church, the English bishops very properly required testimonials of the fitness of the individuals who might be sent over, because there could not be, as in the case of an English clergyman, any knowledge derived from observation of his life. Hence, in reply to the application made by the Church in America for the consecration of bishops, the Archbishops of Canterbury and York wrote that "We think it necessary that the several persons, candidates for episcopal consecration, should bring to us both a testimonial from the General Convention of the Episcopal Church, signed by as many as possible, and a more particular one from the respective conventions in those States which recommend them. We have sent you such a form as appears to us proper to be used for that purpose."

The forms spoken of as having been sent with this communication were precisely in the words of those contained in the Canon of 1789, and it was under such testimonial that Bishops White, Provoost, and Madison were consecrated.

A circumstance occurred in June, 1789, which called attention to the necessity of enacting some canon on the subject of the consecration of a bishop. The Church in the states of Massachusetts and New Hampshire elected a Rev. Mr. Bass to the office of bishop, and requested the bishops of Pennsylvania and New York, together with Bishop Seabury of Connecticut, to unite in his consecration. At this time a union had not been effected between the Churches in the Eastern States [i.e., New England] and those in the other parts of the country, though it was earnestly desired by all, and one object in the election of Mr. Bass was by means of his consecration to further the union (*White's Memoirs*, p. 28). The General Convention met soon after this election, and though Bishops White and Provoost did not feel themselves at liberty to violate what they deemed an implied pledge to the Archbishop of Canterbury, not to consecrate until three bishops had been obtained from England, yet the necessity of prescribing the form of testimonials for future cases was apparent, and probably led to the adoption of the Canon of 1789.

Under this canon occurred the first instance in our history of the consecration of a bishop upon a testimonial furnished by a committee of the General Convention, that of Dr. Bass, who was elected a second time by the Convention of the States of Massachusetts and New Hampshire.

Convention of 1792

This Convention enacted Canon 4 as a supplement to the second Canon of 1789, which read, in part, as follows:

In regard to the first certificate required in favour of a Bishop elect, by the 2nd Canon of the last General Convention, _____ if there be any members of the bodies respectively concerned who have not the requisite personal knowledge of the parties, such persons may prefix the following declaration to their signatures:

We believe the testimony contained in the above Certificate, and we join in the recommendation of A.B. to the office of _____ on sufficient evidence offered to us of the facts set forth.

The part of the canon omitted related to the certificate provided for candidates for deacon's and priest's orders.

Convention of 1799

This Convention enacted Canon 2 of that year regarding the consecration of bishops during the recess of General Convention, which read as follows:

If, during the recess of the General Convention, the Church in any State should be desirous of the consecration of a Bishop, the Standing Committee of the Church in such State may, by their president, or by some other persons specially appointed, communicate the desire to the Standing Committees of the churches in the different States, together with copies of the necessary testimonials; and if the major number of the Standing Committees shall consent to the proposed consecration, the Standing Committee of the State concerned may communicate the evidences of such consent, together with the other testimonials, to any three Bishops of this Church, who may then proceed to the consecration. The evidences of the consent of the different Standing Committees shall be in the form prescribed for the General Convention in the 2nd Canon of 1789. And without the aforesaid requisites, no consecration shall take place during the recess of the General Convention.

Convention of 1808

A complete revision of the canons was made by this Convention. The second canon of 1789 became Canon 3, and was amended as follows:

In the first paragraph the words “from the General Convention, or a committee appointed to act in their recess” were stricken, and these words inserted: “from the House of Clerical and Lay Deputies in General Convention.”

The reason for this change was apparently because standing committees had been appointed in every diocese, and canons had been enacted requiring testimonials from them during the recess of the General Convention in favor of a bishop-elect, and therefore, it was no longer necessary to have a committee of the Convention for that purpose.

In both forms of testimonials the words “notable crime” were stricken as being unnecessary to state as an impediment to consecration.

Also, the words “having personally known him for three years last past” were stricken out of the form of testimonial required from the convention of the diocese electing the bishop. When the canon was first enacted in 1789, a diocese usually elected one of its own presbyters as its bishop, and therefore, the members thereof would have personal knowledge of him. As the years went by, the dioceses began to elect, as their bishops, presbyters who were not members of the diocese electing, and hence it was improbable that all, or even a majority of the members of the Convention would have a personal knowledge of the bishop-elect in such a case. Necessity probably induced the omission of these words.

Convention of 1820

Canon 2 of 1799, which was made Canon 5 of 1808, was repealed by this Convention, and Canon 6 was enacted in its place. This canon read as follows:

If, during the recess of the General Convention, the Church in any State or Diocese should be desirous of the consecration of a Bishop elect, the standing committee of the Church in such State or Diocese may, by their president or by some person or persons specially appointed, communicate the desire to the standing committees of the Churches in the different States together with copies of the necessary testimonials: and if the major number of the standing committees shall consent to the proposed consecration, the standing committee of the State or Diocese concerned, shall forward the evidence of such consent, together with other testimonials, to the Presiding Bishop of the House of Bishops, who shall communicate the same to all the Bishops of this Church in the United States; and if a majority of the Bishops should consent to the consecration, the Presiding Bishop, with any two Bishops, may proceed to perform the same; or any three Bishops to whom he may communicate the testimonials.

The evidence of the consent of the different Standing Committees shall be in the form prescribed for the House of Clerical and Lay Deputies in General Convention; and without the aforesaid requisites no consecration shall take place during the recess of the General Convention. But in case the election of a Bishop shall take place within a year before the meeting of the General Convention, all matters relative to the consecration shall be deferred until the said meeting.

Convention of 1829

This Convention enacted the first law providing for assistant bishops as Canon 5, and reading as follows:

When the Bishop of a Diocese is unable, by reason of old age, or other permanent cause of infirmity, to discharge his Episcopal duties, one Assistant Bishop may be elected by and for the said Diocese, who shall, in all cases, succeed the Bishop, in case of surviving him. The Assistant Bishop shall perform such Episcopal duties, and exercise such Episcopal authority in the Diocese, as the Bishop shall assign to him; and in case of the Bishop's inability to assign such duties, declared by the Convention of the Diocese, the Assistant Bishop shall, during such inability, perform all the duties, and exercise all the authorities which appertain to the office of Bishop. No person shall be elected or consecrated a suffragan Bishop, nor shall there be more than one Assistant Bishop in a Diocese at the same time.

Convention of 1832

In the revision of the Digest of Canons by this Convention, Canon 3 of 1808 remained as Canon 3, but with amendments.

The first paragraph of Section 1 was amended to read as follows:

Every Bishop elect, before his Consecration, shall produce to the House of Bishops from the Convention by whom he is elected, evidence of such election, and from the House of Clerical and Lay Deputies in General Convention, evidence of their approbation of his testimonials, and of their assent to his Consecration, and also certificates respectively,

in the following words; such certificates, in both cases, to be signed by a constitutional majority of the Clerical and Lay Deputies composing the State Convention, or the House of Clerical and Lay Deputies, as the case may be. The same evidence of election by, and the same certificate from the members of the State Convention, shall be presented to the House of Clerical and Lay Deputies in General Convention.

No amendment was made to the form of testimonial from the diocesan convention, except that in the heading thereof, the word "State" was changed to "Diocese." At the end thereof were added these words:

The above certificate shall be presented to the House of Clerical and Lay Deputies in General Convention.

The only change made in the second form of testimonial was in changing the heading thereof to read:

Testimony from the House of Clerical and Lay Deputies in General Convention.

A new section was added to the canon, reading as follows:

Sec. 2. If the House of Bishops consent to the consecration, the presiding Bishop, with any two Bishops, may proceed to perform the same, or any three Bishops to whom he may communicate the testimonials,

Canon 6 of 1820 was made Canon 5, with slight amendments as follows: The words "State or" and the word "States" were stricken out wherever they occurred therein, and the word "Dioceses" inserted in the place of the word "States."

Also, after the words "Presiding Bishop of the House of Bishops," were inserted the words:

or in case of his death, to the Bishop who, according to the rules of the House of Bishops is to preside at the next General Convention.

In the following clause, after the words "Presiding Bishop" were added the words "or Bishop aforesaid."

The first paragraph of the former canon was made Section 1, and the second paragraph, Section 2.

Canon 5 of the Canons of 1829 was made Canon 6, without amendment, except that the word "the" in the first line thereof was changed to "a."

Convention of 1859

This Convention amended the second paragraph of Canon 5 of 1832 by changing the words "one year" to "six months," and renumbered the canons as follows:

Canon 3 of 1832 was made Title I, Canon 13, Section 2 (i) and (ii). Canon 5 of 1832 was made Section 3 (i) and (ii), of the same canon; and Canon 6 of 1832 was made Section 5 of the same canon.

Convention of 1871

This Convention amended Title I, Canon 13, Section 5, as follows: The opening words were changed to read as follows:

When a Bishop of a Diocese is unable, by reason of old age, or other permanent cause of infirmity, or by reason of the extent of his Diocese.

Also, after the words “in case of surviving him,” was added the following proviso:

Provided, that before the election of an Assistant Bishop for the reason of extent of Diocese, the consent of the General Convention, or during the recess thereof, the consent of a majority of the Bishops and of the several Standing Committees, must be had and obtained.

These amendments were made to provide for the election of an assistant bishop, by reason of extent of the diocese.

Convention of 1883

This Convention amended Title I, Canon 13, Section 2 (ii) of the Canons of 1871 (made Canon 15 by the Convention of 1874) to read as follows:

If the House of Bishops consent to the consecration, the Presiding Bishop, without delay, shall notify the Bishop elect of such consent; and, on notice of his acceptance, the Presiding Bishop shall take order for the consecration of said Bishop elect by himself and two other Bishops, or by any three Bishops to whom he may communicate the testimonials.

Section 3 (i) was amended by inserting after the words “who shall communicate the same to all the Bishops of this Church in the United States” these words: “excepting those whose resignations have been accepted.”

Also, by striking out all the last part of said clause (i), beginning with the words “the Presiding Bishop or Bishop aforesaid,” and inserting in place thereof the following:

the Presiding Bishop without delay shall notify the Bishop elect of such consent; and, on his acceptance, the Presiding Bishop shall take order for the consecration of said Bishop elect by himself and two other Bishops, or by any three Bishops to whom he may communicate the testimonials.

Convention of 1889

This Convention amended Title I, Canon 15, Section 3 (ii), of the Canons of 1883, by substituting “three months” for “six months,” as the

time in which no consecration might be held during the recess of the General Convention.

Section 5 of the same canon was also amended by striking the last two sentences thereof, beginning with the words: "The Assistant Bishop shall perform, etc." and inserting, in place thereof, the following:

Prior to any election of an Assistant Bishop, the Bishop of the Diocese shall consent in writing to such election, and in such consent he shall state the duties which he thereby assigns to the Assistant Bishop when duly elected and consecrated. And in case of the inability of the Bishop of the Diocese to issue the aforesaid consent to the election of an Assistant Bishop, the Standing Committee of the Diocese may request the Convention to issue such letter of consent. And the request of the said Standing Committee shall be accompanied by medical certificates of the inability of the Bishop of the Diocese to issue such written consent. No person shall be elected or consecrated a Suffragan Bishop, nor shall there be more than one Assistant Bishop in a Diocese at the same time.

Convention of 1895

The only change made by this Convention in the sections of the canon under consideration was the substitution of the words "Bishop Coadjutor" for the words "Assistant Bishop" wherever they occurred in Section 5. This amendment was made necessary by reason of the final adoption by this Convention of an amendment to the Constitution making the same substitution.

Convention of 1901

This Convention amended Section 3 of the canon by the addition of a new clause, reading as follows:

(iii) If the Presiding Bishop shall not have received the consent of a majority of the Bishops within three months from the date of his notice to them, he shall then give notice of such failure to the Standing Committee of the Diocese electing. In case a majority of all the Standing Committees of the several Dioceses shall not consent to the consecration of a Bishop elect within the period of six months from the date of the notification of the election by the Standing Committee of the Diocese electing, or in case a majority of all the Bishops entitled to act in the premises shall not consent within the period of three months from the date of the notification to them by the Presiding Bishop of the election, the Convention of the Diocese may declare the election null and void, and proceed to a new election.

The canon was renumbered Title I, Canon 19.

Convention of 1904

In the revision of the Digest of Canons made by this Convention, former Title I, Canon 19, "Of Bishops," was divided into several different canons and Sections 2, 3, and 5, were made Canon 9, "Of Ordination or Consecration of Bishops," and amended to read as follows:

Sec. 1. (i) Whenever the Church in any Diocese shall desire the ordination and consecration of a Bishop elect, if the election shall have taken place within three months before a meeting of the General Convention, the Standing Committee of the said Diocese shall, by their President, or by some person or persons specially appointed, forward to the Secretary of the House of Deputies, evidence of the election of the Bishop elect by the Convention of the Diocese, together with evidence of his having been duly ordered Deacon and Priest, and also a testimonial, signed by a constitutional majority of such Convention, in the following words, viz.:

We, whose names are hereunder written, fully sensible how important it is that the Sacred Order and Office of Bishop should not be unworthily conferred, and firmly persuaded that it is our duty to bear testimony on this solemn occasion without partiality or affection, do, in the presence of Almighty God, testify that the Reverend A.B. is not, so far as we are informed, justly liable to evil report, either for error in religion or for viciousness of life; and that we know of no impediment on account of which he ought not to be ordained and consecrated to that Holy Office. We do, moreover, jointly and severally declare that we believe him to be of such sufficiency in good learning, of such soundness in the Faith, and of such virtuous and pure manners and godly conversation, that he is apt and meet to exercise the Office of a Bishop to the honour of God and the edifying of His Church, and to be a wholesome example to the flock of Christ.

(Signed)

The Secretary of such Convention shall certify upon this testimonial that it has been signed by a constitutional majority thereof.

The Secretary of the House of Deputies shall lay the said testimonials before the House, and if the House shall consent to the consecration of the Bishop elect, notice of said consent shall be sent to the House of Bishops, together with the testimonials aforesaid, and also a testimonial signed by a constitutional majority of the House of Deputies in the following words, viz.:

We, whose names are hereunder written, fully sensible how important it is that the Sacred Order and Office of a Bishop should not be unworthily conferred, and firmly persuaded that it is our duty to bear testimony on this solemn occasion without partiality or affection, do, in the presence of Almighty God, testify that the Reverend A.B. is not, so far as we are informed, justly liable to evil report, either for error in religion or for viciousness of life; and that we know of no impediment on account of which he ought not to be ordained and consecrated to that Holy Office.

(Signed)

(ii) If the House of Bishops consent to the consecration, the Presiding Bishop shall, without delay, notify such consent to the Standing Committee of the Diocese electing and to the Bishop elect; and upon notice of the acceptance by the Bishop elect of his election, the Presiding Bishop shall take order for the consecration of the said Bishop elect either by himself and two other Bishops of this Church, or by any three Bishops of this Church to whom he may communicate the testimonials.

In all particulars the service at the consecration of a Bishop shall be under the direction of the Bishop presiding at such consecration.

(iii) If the election of a Bishop shall have taken place more than three months before the meeting of the General Convention, the Standing Committee of the Diocese electing shall, by their President, or by some person or persons specially appointed, immediately send certificate of the election to the Standing Committees of the several Dioceses, together with copies of the necessary testimonials; and if a majority of the Standing

Committees of all the Dioceses shall consent to the consecration of the Bishop elect, the Standing Committee of the Diocese electing shall then forward the evidence of said consent, with the other necessary testimonials, to the Presiding Bishop, who shall immediately communicate the same to every Bishop of this Church in the United States, who has a seat and vote in the House of Bishops, and if a majority of such Bishops shall consent to the consecration, the Presiding Bishop shall, without delay, notify such consent to the Standing Committee of the Diocese electing and to the Bishop elect, and upon notice of his acceptance of the election, the Presiding Bishop shall take order for the consecration of the said Bishop elect either by himself and two other Bishops of this Church, or by any three Bishops of this Church to whom he may communicate the testimonials.

The evidence of the consent of the several Standing Committees shall be a testimonial in the following words, signed by a majority of the Standing Committees of all the Dioceses:

We, whose names are hereunder written, fully sensible how important it is that the Sacred Order and Office of a Bishop should not be unworthily conferred, and firmly persuaded that it is our duty to bear testimony on this solemn occasion without partiality or affection, do, in the presence of Almighty God, testify that the Reverend A.B. is not, so far as we are informed, justly liable to evil report, either for error in religion or for viciousness of life; and that we know of no impediment on account of which he ought not to be ordained and consecrated to that Holy Office.

(Signed)

If the Presiding Bishop shall not have received the consent of a majority of the Bishops within three months from the date of his notice to them, he shall then give notice of such failure to the Standing Committee of the Diocese electing.

(iv) In case a majority of all the Standing Committees of the several Dioceses shall not consent to the consecration of a Bishop elect within the period of six months from the date of the notification of the election by the Standing Committee of the Diocese electing, or in case a majority of all the Bishops entitled to act in the premises shall not consent within the period of three months from the date of the notification to them by the Presiding Bishop of the election, the Convention of the Diocese may declare the election null and void, and proceed to a new election.

Sec. 2. (i) When a Bishop of a Diocese is unable, by reason of age, or other permanent cause of infirmity, or by reason of the extent of Diocesan work, fully to discharge the duties of his office, a Bishop Coadjutor may be elected by and for said Diocese, who shall have the right of succession: *Provided*, that before the election of a Bishop Coadjutor for the reason of extent of Diocesan work, the consent of the General Convention, or during the recess thereof, the consent of a majority of the Bishops and of the several Standing Committees, must be had and obtained. Before any election of a Bishop Coadjutor, the Bishop of the Diocese shall read, or cause to be read, to the Convention thereof, his written consent to such election, and in such consent he shall state the duties which he thereby assigns to the Bishop Coadjutor, when duly ordained and consecrated, and such consent shall form part of the proceedings of the convention. In case of the inability of the Bishop of the Diocese to issue the aforesaid consent, the Standing Committee of the Diocese may request the Convention to act without such consent, and such request shall be accompanied by certificates of medical men as to the inability of the Bishop of the Diocese to issue his written consent.

(ii) In the case of a Bishop Coadjutor, the grounds for his election, as stated in the record of the Convention, shall be communicated, with the other required testimonials, to the General Convention, or to the Standing Committees and Bishops.

(iii) In case of application for the ordination and consecration of a Bishop Coadjutor, the Standing Committee shall forward to the Presiding Bishop, in addition to the evidence and testimonials required by the preceding section, a certificate of the Presiding Officer and Secretary of the Convention that every requirement of this Section has been complied with.

(iv) There shall not be in any Diocese at the same time more than one Bishop Coadjutor.

Sec. 3. No one shall be ordained and consecrated Bishop unless he shall at the time subscribe, in the presence of the ordaining and consecrating Bishops, the declaration required in Article VIII of the Constitution.

Section 1 of the new canon was an amended form of former Sections 2 and 3.

The method of procedure set forth in this section, regarding the testimonials to be forwarded to the General Convention by the convention of the diocese electing, within three months of the meeting of the General Convention, is much more definite, orderly, and dignified than the former provision. The bishop-elect is no longer put in the light of a seeker after the office of bishop. No testimonials or evidence of any kind is now required of him. It is the church in the diocese electing him that is desirous of his ordination and consecration. The president of the standing committee, or some person or persons specially appointed for that purpose, is required to forward to the secretary of the House of Deputies evidence of his election, as well as evidence of his ordination as a deacon and a priest, and also the testimonial signed by a constitutional majority of the diocesan convention, certified to by the secretary of the convention that the signatures appended thereto represent a constitutional majority of the Convention.

The second paragraph of clause (ii) of the section was added because of an unfortunate incident that occurred at a consecration of a bishop, shortly before the meeting of the Convention of 1904.

The Presiding Bishop took order for the consecration of the bishop in question, and the service was appointed to be held in a certain church in the diocese electing. The rector of the church had prepared the order of the consecration service, which provided for the singing of the Litany and the Creed. When the Presiding Bishop arrived at the church and learned that it was proposed to sing the Litany and the Creed, he objected, and declared that he would not go on with the consecration unless both were said and not sung. The rector stated that it was always the custom to sing the Litany and Creed in the parish, and that as rector of the church he had the right to direct what parts of the service should

be said, and what sung. The standing committee of the diocese upheld the rector in his contention. The Presiding Bishop, however, was firm in his refusal to go on with the service unless his wishes were complied with. The service of consecration was delayed for some time beyond the hour appointed while the bishop, rector, and standing committee debated the question. For a while it seemed as if the service of consecration would have to be postponed, so firm were the several parties in their stand. Finally, a compromise was effected, whereby the Litany was to be sung and the Creed said.

The matter was afterwards discussed pro and con at considerable length in the church press, some holding that the Presiding Bishop had the direction of the consecration service, others, that the rector of the parish in which the service was held had that right, and still others held that the direction of the service belonged to the standing committee as the ecclesiastical authority of the diocese. It was universally recognized, however, that there was no canonical regulation of the matter. To remedy this, and so prevent a like occurrence in the future, the General Convention of 1904 enacted this amendment to the canon, prescribing that all particulars in the service at the consecration of a bishop should be under the direction of the bishop presiding at the consecration.

In clause (iii) of the section, one omission in the former canon was corrected. There was formerly no provision made to notify the standing committee of the diocese electing that the canonical consents to the consecration had been received. The Presiding Bishop is now required to notify the said standing committee, as well as the bishop-elect, of this fact.

Small, verbal alterations were made in the two forms of testimonial included in this section. In addition, in the form to be used by the General Convention, or by the several standing committees, the concluding words "but that he hath, as we believe, led his life, for the three years past, piously, soberly, and honestly" were stricken.

Section 2 of the new canon was an amended form of former Section 5.

The principal change made by the amendments to this section was the enlarging of the grounds on which a coadjutor might be elected. Heretofore, besides the reasons of age and permanent infirmity, a coadjutor could only be elected on account of "extent of the Diocese." This ground was a somewhat limited one, based on territorial extent, and more particularly applicable, in its intention at least, to new dioceses.

The amendment of 1904 did away with this limitation by changing “extent of Diocese” to “extent of Diocesan work,” a term which can be so construed as to permit the election of a coadjutor for almost any cause deemed sufficient by the bishop desiring a coadjutor.

The specific prohibition against suffragan bishops, formerly contained in this section, was stricken.

Section 3 of the amended canon was new. It is a canonical statement of a requirement of Article VIII of the Constitution.

Convention of 1907

This Convention amended Section 1 (iii) of Canon 9, by striking the first six words of the form of testimonial, reading “We, whose names are hereunder written,” and inserting in place thereof the following:

We, being a majority of all the members of the Standing Committee of _____, and having been duly convened at _____.

The former form was defective in that it did not certify that it was signed by a majority of all the members of the standing committee, duly convened.

Convention of 1910

This Convention enacted a canon “Of Suffragan Bishops.” See Title III, Canon 16, below.

Convention of 1913

This Convention amended Canon 9, Section 1 (iv), by striking the last few words thereof, reading “the Convention of the Diocese may declare the election null and void, and proceed to a new election,” and inserting in place thereof the following:

the Presiding Bishop shall declare the election null and void, and the Diocese may then proceed to a new election.

This amendment was due to a case occurring which showed the necessity therefor.

The bishop-elect of a certain diocese failed to obtain the consents of a majority of the bishops to his consecration within the required three months. Under the provisions of the canon, as it then stood, the convention of the diocese was given power to declare the election null and void, and to proceed to a new election. It was not provided that the election *must* be declared null and void, only that it might be so declared. The members of the convention of the diocese in question were divided in opinion as to the proper course to pursue. Many of them

felt that, after having made their choice of a bishop, they could not consistently declare such election null and void, but that it was the duty of the Presiding Bishop to declare that there had been no canonical election. This the Presiding Bishop declined to do on the ground that the canons gave him no power to make such a declaration. In order to prevent a recurrence of a like condition, the next Convention so amended the canon as to make it the duty of the Presiding Bishop to declare an election null and void in such cases.

Convention of 1916

This Convention amended Section 1 (iii) of Canon 9, by striking the words “who has a seat and vote in the House of Bishops,” and inserting in place thereof the following: “having jurisdiction.”

This amendment was made in order that the canon might conform to Article II of the Constitution, which, at that time, required the consent “of a majority of the Bishops exercising jurisdiction within the United States” to the consecration of a bishop.

Convention of 1922

This Convention amended Canon 9 by making it Canon 13, and by striking the last paragraph of Section 1 (i) and replacing it with a much shorter paragraph, reading as at present.

The effect of the amendment was to delete a requirement that, with the notice of consent of the House of Deputies to the consecration of a bishop-elect to be sent to the House of Bishops, there must also be sent testimonial signed by a majority of the House of Deputies, and in a prescribed form.

While in the early days of the Church this requirement may have had some practical value, when a bishop-elect was known to a majority of the deputies, in the present day, when most of the deputies had never even heard of the person for whom they were required to sign a testimonial that he was not justly liable to evil report for error in religion or in conduct, so far as they were informed, and that they knew of no impediment on account of which he ought not to be consecrated a bishop, this requirement had become a mere empty form and meaningless, besides entailing unnecessary work upon the secretaries who were obliged to obtain the signatures of a majority of the members of the house during its sessions, and when the members were intent upon the business of the house. It was felt that the consent of the house, certified by the president and secretary, was all that was now necessary, and the canon was accordingly amended so as to do away with the requirement of the personal testimonial from members of the house.

This same Convention also amended Section 2 (i) of Canon 13, by inserting after the word “office” in the opening clause thereof, the words:

or when the Bishop of the Diocese shall have been elected Presiding Bishop of this Church, or President of the Council.

The section amended states the conditions under which a bishop coadjutor may be elected in a diocese. The amendment added one more condition under which such a bishop may be so elected. If the bishop of a diocese should be elected Presiding Bishop, or president of the council, it would be necessary, in case there was no bishop coadjutor in the diocese, for such diocese to elect a bishop coadjutor to perform episcopal duties therein, but no provision had been made for the election of such a bishop in such a contingency, and it was questioned whether the diocese could legally elect a bishop coadjutor under the canons, hence the amendment providing for such an election. (There was, at this time, no provision in the canons by which a Presiding Bishop or other bishop appointed to a national post might resign his jurisdiction.)

The canon was also further amended by the addition of a new section, numbered 4, to read as follows:

This Canon shall take effect immediately.

This section was added in order that the amendment to Section 1 (i), striking the requirement that a testimonial as to the character of a bishop-elect, signed by a majority of the members of the House of Deputies, must be sent with the consent of said house to the consecration of a bishop, to the House of Bishops, might take effect immediately, and apply to the cases of four bishops-elect coming before the Convention of 1922.

Convention of 1925

Section 2 (i) of the canon was amended by inserting before the last sentence thereof, the following:

The duties assigned by the Bishop to the Bishop Coadjutor in any Diocese may be enlarged by mutual consent whenever the Bishop of the Diocese may desire to assign such additional duties to the Bishop Coadjutor.

Convention of 1931

Section 1 (ii) was amended by inserting the words “or the President of the Province” so as to read “by himself or the President of the Province and two other Bishops of this Church or by any three bishops, etc.”

Section 1 (iii) was amended by inserting toward the end thereof the words “or the President of the Synod” so as to read “by himself or the President of the Synod and two other Bishops of this Church or by any three Bishops, etc.”

Why, in one place, the words “President of the Province” and, in the other, “President of the Synod” are used, does not appear.

The effect of these amendments is to suggest the propriety of the Presiding Bishop naming the president of the provincial house of bishops as chief consecrator, a practice which, if generally adopted, would leave the Presiding Bishop more time and energy for the other matters with which he is so heavily burdened.

Convention of 1943

The canon was renumbered Canon 38.

The text was corrected in Section 1 (i) by inserting the word “a” before the word “Bishop” in the opening phrase of the testimonial.

An amendment was introduced in the House of Bishops requiring a physical examination of a bishop-elect and referred to the committee on canons, which does not appear to have made any report on the subject.

Section 2 (i) was amended by striking the words “or when the Bishop of a Diocese shall have been elected Presiding Bishop or president of the council.”

It was at this Convention that Canon 2, Section 3 [now Canon I.2.3] was amended to provide for resignation of his jurisdiction by the Presiding Bishop, so that striking the provision for a bishop coadjutor was natural.

Convention of 1949

Section 1 (a) [formerly 1 (i)] of the canon, now Canon 39, was amended by inserting the following immediately before the last paragraph:

There shall also be forwarded with the testimonial and other documents a certificate from two medical doctors, who shall be chosen by The Church Pension Fund after consultation with the Bishop-elect, that they have thoroughly examined the Bishop-elect and have not discovered in his physical, mental or nervous condition any reason why it would not be wise for him to undertake the work for which he has been chosen.

Convention of 1952

At this Convention, Section 1 (a) of this canon was amended by striking the words “who shall be chosen by the Church Pension Fund after

consultation with the Presiding Bishop” in the paragraph providing for medical examination of a bishop-elect and substituting the words “who shall be chosen by the Presiding Bishop.”

The canon was further amended by the addition of a new Section 3, reading as follows:

It shall be lawful, within six months prior to the effective date of the resignation or retirement of a Bishop from his jurisdiction, for the said Bishop, with the advice and consent of the Standing Committee, to call a special meeting of the Convention of the Diocese to elect a successor; *Provided*, that if the Convention is to meet in regular session meanwhile, it may hold the election during such regular session. The proceedings incident to preparation for the ordination and consecration of such successor shall be as provided in Section 1 of this Canon; but the Presiding Bishop shall not take order for the consecration to be on any date prior to that upon which the resignation is to become effective.

This amendment makes it clear that, at any time during the six months preceding the effective date of his resignation or retirement, a diocesan may call a special meeting of the convention of the diocese to elect a successor. All proceedings for the consecration may be taken prior to the date upon which the resignation is to become effective, except for consecration itself. Except for clarification, the amendment seems to have been unnecessary. It will be observed that the canon provides for a special meeting of the Convention, and not a special Convention, so that the deputies or delegates to the last annual Convention would seem to be those eligible to sit and vote in the absence of a diocesan canon providing otherwise. The effect of the proviso would seem to be that, where the Convention is to meet within six months prior to the date of resignation or retirement becoming effective, the election shall be held by it.

Under Article II, Section 8, of the Constitution, a bishop is directed to tender his resignation upon attaining the age of seventy-two. Under Canon III.18.7, the resignation is sent to the Presiding Bishop, who declares its acceptance and the date upon which it shall be effective, which is not later than three months from its date.

Where a diocesan or coadjutor desires to resign for other than the constitutional age limit, he proceeds under Canon III.18.8.

Canon 39, Section 1 (b) was amended at this Convention by adding, after the words “President of the Province,” the words “of which the diocese electing is a part.”

Section 1 (c) was amended by inserting after the words “necessary testimonials” in the first paragraph the words “and other documents, including the medical certificate as required in Section 1 (a) of this

Canon” and by changing the words “President of the Synod” in the first paragraph to “President of the Province of which the Diocese electing is a part.”

At this Convention the words “a majority of the Bishops” in Section 2 (a) were changed to read “a majority of the Bishops having jurisdiction in the United States.”

Convention of 1958

At the request of the Presiding Bishop, a new clause (e) was added to Section 1. It read as follows:

It shall be the duty of the Bishop-elect to notify the Presiding Bishop of his acceptance or declination of the election at the same time as he notifies the electing Diocese.

Special Convention of 1969

Clause (e) of Section 1 was amended by adding the present first sentence, making it a duty of the secretary of a convention electing a bishop to notify the Presiding Bishop of the name of the person elected.

Convention of 1973

The canon, now Title III, Canon 14, was amended by striking the words “in the United States” after the words “having jurisdiction” in Sections 1 (c) and 2 (a).

The effect is to include bishops of jurisdictions outside the United States among those whose consents are required before proceeding to the consecration of a bishop.

Convention of 1979

The words “except in a Missionary Diocese” were inserted in the opening clause of Section 2 (a). (*Journal*, p. C-22; the reference in the index is incorrect.)

In the last sentence of the said section, the word “men” was changed to “persons.”

EXPOSITION OF CANON III.14

The first provision of the canons, as enacted in 1789, required that the bishop-elect of a diocese must, himself, produce to the bishops two certificates, one from the convention of the diocese electing him, and one from the General Convention, before he could be consecrated a bishop.

While the canons required a certificate from the General Convention, it is evident that only the House of Deputies was meant by the words General Convention, from the fact that in the case of Bishop Claggett of Maryland, the certificate was signed only by the members of the House of Deputies. It was not until 1808 that the canons were so amended as to state that the said certificate was to be made by the House of Deputies. The canon also originally provided that the certificate might be signed in the recess of the General Convention by a committee of that body appointed for that purpose.

No provision seems to have been made in the canons as to what bishop should take order for the consecration of a bishop-elect until the Convention of 1832, when an amendment to the canon was enacted, providing that the Presiding Bishop, with any two other bishops, or any three bishops to whom he may communicate the testimonials, may proceed to the consecration of a bishop-elect. As will be noted, the Presiding Bishop is not required, under this canon, to take order for the consecration of a bishop, only that he might proceed to do so. It was not until the Convention of 1883 that it was made mandatory upon the Presiding Bishop to take order for the consecration of a bishop. Until this Convention, there was no provision in the canons requiring the Presiding Bishop to notify the bishop-elect that the canonical consents to his consecration had been received.

It was not until the Convention of 1904 that the provisions for the consecration of a bishop were put into a logical and satisfactory form.

Until this Convention, the bishop-elect was put in the undignified position of asking for his own consecration. He was obliged to present to the House of Bishops the evidence from the convention which elected him, that he had been so elected, and also the certificate from the House of Deputies that they approved of his testimonials.

The method of procedure in the consecration of a bishop now provided by the canons, when the election has taken place within three months of the meeting of the General Convention, is as follows:

First: The president of the convention of the diocese electing must forward to the secretary of the House of Deputies evidence of the election of the bishop-elect, together with evidence of his having been duly ordered a deacon and a priest, and also a testimonial which must be signed by a constitutional majority of the convention electing, certified to by the secretary of such convention that it was so signed.

Second: The secretary of the House of Deputies then lays the said testimonials before the House of Deputies when it meets in General

Convention, The question arises, what is sufficient evidence of the election of a bishop by a convention? It would seem as if the certified copy of the proceedings of the convention which elected him would be sufficient *prima facie* evidence, but such evidence is only *prima facie*, and the House of Deputies has a right to go behind the certificate and make an inquiry into the whole matter of the election. The usual practice is to refer the testimonials and other papers in the matter to a standing committee on the consecration of bishops to consider and report to the house. When the said committee makes its report, a day is set for the consideration of the committee's report. When considering the election of a bishop and the question of giving consent thereto, the House of Deputies sits with closed doors. If the House of Deputies consents to the consecration of the bishop-elect, notice thereof, together with the canonical testimonials, and the consent of said house, certified by the president and secretary, is then sent to the House of Bishops. If the House of Bishops consents to the consecration of the said bishop-elect, the Presiding Bishop must at once notify the standing committee of the diocese electing, and also the bishop-elect. If the said bishop-elect accepts the election, he must notify the Presiding Bishop, who thereupon takes order for the consecration of said bishop-elect, which he may do, either by himself, or by the president of the provincial house of bishops, and two other bishops of the Church, or by any three bishops to whom he shall communicate the testimonials.

It would seem, from the language of the canon, that the Presiding Bishop has the right to select the two bishops to act with him, or the three bishops to whom he is to communicate the testimonials.

The canon seems to require that a duly certified copy of the proceedings of the diocesan convention in the election of a bishop be laid before the House of Deputies, and this is the usual rule. The question may arise, would any other evidence be received as satisfactory by the House of Deputies? There is one case on record where such other evidence was received by said house.

When the case of Bishop Meade, Assistant Bishop-elect of Virginia came before the General Convention of 1829, the only evidence first offered was a printed copy of the Journal of Convention of Virginia. When the matter was referred to a committee, it was objected to on the floor of the House of Deputies on the ground that it was not sufficient. The chairman *pro tempore* of the Virginia Convention was a member of that house, and he immediately furnished a certificate of the fact that Bishop Meade had been duly elected, and Bishop Moore, the Bishop of Virginia, also furnished a similar certificate. These certificates, together

with the printed Journal of the diocesan convention, were then referred to a special committee, which reported that there seemed to them “sufficient evidence of the fact that the Rev. Dr. William Meade had been elected Assistant Bishop of Virginia,” and the House of Deputies concurred in the opinion of the committee by giving its assent to the consecration of Bishop-elect Meade.

It will be noted how careful the Church has been to subject every man who becomes a bishop to a threefold scrutiny; first, by the convention which elects him; next, by the House of Deputies; and finally, by the House of Bishops. The House of Deputies can take no steps whatever regarding the election of a diocesan bishop until the convention of the diocese presents his name to that house, and the House of Bishops cannot order the consecration of such bishop until it receives the consent of the House of Deputies.

The foregoing remarks apply only to a bishop elected within three months of the time of the meeting of the General Convention. Should the election occur more than three months before such meeting, the canon provides a different method of procedure. In such case, the standing committee of the diocese electing must send, to the standing committees of every diocese, a certificate of the election, together with canonical testimonials. If a majority of these standing committees give their consent to the consecration of the bishop-elect, then the standing committee of the diocese electing forwards to the Presiding Bishop the evidence of such consent, together with the necessary testimonials and documents. Immediately, upon receipt of such evidence and testimonials, the Presiding Bishop must communicate the same to every bishop having jurisdiction, and each of said bishops is requested to send his assent or refusal to such consecration to the Presiding Bishop, who, if he receives the consents of the majority of all of said bishops, shall at once notify the bishop-elect, and also the standing committee of the diocese electing, of the fact of such consent. When the Presiding Bishop receives notice from the bishop-elect of his acceptance of the election, then the Presiding Bishop shall take order for his consecration in the same way as provided for in the case of an election occurring within three months of the meeting of the General Convention.

During the first ten years after the Convention of 1789, the canons provided that, during the recess of the General Convention, a committee to be appointed for that purpose might act for that body in giving the consent and testimonials required, at that time, from the General Convention. Two bishops were consecrated under testimonials given by such a committee—Bishop Bass of Massachusetts and Bishop Jarvis of Connecticut in 1797.

Until 1808, any three bishops of the Church, who were satisfied with the testimonials laid before them, had power to consecrate a bishop-elect, even if all the other bishops were opposed thereto. Fortunately, however, no one was ever thus consecrated against the wishes of the other bishops.

When the canons were revised in 1808, this unwise provision was stricken out, and provision made that the testimonials of the diocese electing should be forwarded, not to any one or more bishops, but to the Presiding Bishop, who was also required to collect the opinions of all the bishops, and making the consent of a majority of the bishops necessary before consecration could take place.

The present canon requires the consents of a majority of all the bishops "having jurisdiction." This provision clearly includes missionary bishops, and excludes all bishops who have resigned their jurisdictions, and suffragan bishops; the only question is as to bishops coadjutor, whether their consent is necessary, and whether they should be included as making up the number of bishops, of which a majority is required. Most, if not all, bishops coadjutor are given jurisdiction by the diocesan, but possess no inherent right of jurisdiction. A comparison of this provision of the canon with Article I, Section 2, which makes a clear distinction between bishops having jurisdiction and bishop coadjutor, would seem to indicate that the consent of a bishop coadjutor is not necessary to the consecration of a bishop-elect, and they are not to be counted as making up the number of bishops, a majority of whom must consent to such consecration.

The first provision for the election of an assistant bishop was made by the Convention of 1829, but assistant bishops were elected long before there was any canonical provision in the matter.

Bingham, in his *Ecclesiastical Antiquities* (Lib. II, Ch. xiii) cites many instances of assistant bishops in the early days of the Church, and which seemed to be sanctioned by no law but by the necessities of the case. The ancient canons affirmed the ancient rule that there should be but one bishop in a city, and Canon 8 of Nicea, referring to the return of the Novatian bishops to the Church, decreed that they should not come back to the cities where they had formerly presided, and in which other bishops had been placed, giving as the reason therefor, "that there may not be two Bishops in one City."

The American Church, in the beginning, seems to have followed the law of necessity in the absence of any positive enactment on the subject.

In 1801, Bishop Provoost of New York sent to Bishop White, as president of the House of Bishops, a letter saying that he had resigned to his diocese his episcopal jurisdiction. The House of Bishops decided it to be inconsistent with the sacred trust committed to them, to recognize the bishop's act as an effectual resignation of his episcopal jurisdiction. Still, from "the exigencies of the Church in New York, they were willing to consecrate another Bishop for that Diocese duly elected and qualified, but with an explicit declaration that they should consider such a person as assistant or coadjutor Bishop during Bishop Provoost's life." The House of Bishops, having made this declaration, consented to the consecration of Bishop Moore for New York, who, in the opinion of the House of Bishops, thus became the first assistant bishop in the American Church.

For several years the Church acquiesced in the election of assistant bishops, whenever the necessities of the case seemed to call for such election, as a principle of the common law of the Church. In May, 1829, Virginia elected the Rev. Dr. Moore as an assistant bishop, but with the express declaration that he was not to be considered as entitled to the succession on the death of the diocesan. The General Convention met in August of that year and his case came before it. We are told by Dr. Hawks (*Constitution and Canons*, p. 114) that

The Convention of Virginia had not found their course free from perplexities; for there were questions involved touching the number of assistants a diocese might have, and the circumstances under which they might be chosen, in which they had no guides, because there was no legislative declaration on the subject. The decisions of different dioceses on these and other points, might not always be the same, and yet uniformity of proceeding was of great importance. Hence the delegates from Virginia were instructed to bring the subject before the General Convention, and that body, entering upon it with a knowledge of all the cases which we have placed before the reader, enacted the Canon of 1829.

The circumstances attending the election of Bishop Moore of Virginia, and the question of his succession, have already been considered in our discussion of Articles I and II of the Constitution. As stated by Dr. Hawks, it was the case of Bishop Moore that led to the enactment of the Canon of 1829.

The reasons assigned in the canon as sufficient to warrant the election of an assistant bishop were, "old age or other permanent cause of infirmity." These reasons are precisely those which alone seemed to have justified such an election in the early Church. Bingham, after citing several cases of assistant bishops, relates "these instances are evident proof that it was not thought contrary to the true sense of the Canon, in case of infirmity or old age to have coadjutors in the Church" (*Ecclesiastical Antiquities*, Lib. II, Ch. xiii).

This continued to be the law of the Church until 1871, when the Convention of that year added another reason for the election of an assistant bishop, "extent of diocese." This amendment was made to meet the needs of the Dioceses of Texas and California. They had asked relief for their overworked bishops at the previous Convention, and, although it was recognized that the need for such relief was most urgent, no way had then been found to afford it. It had been proposed to set off a portion of each diocese as a missionary district, but this proposed measure had been defeated because of grave doubts of its constitutionality. The House of Bishops, in the Convention of 1871, realizing more fully, perhaps, than the House of Deputies the necessity of affording some relief to the bishops of Texas and California, conceived the idea of electing assistant bishops on account of the extent of the diocese. When this proposed amendment came before the House of Deputies, strong opposition was made to its approval, although it was clearly stated that it was only a provisional matter, and not contemplated to be permanent in its action; that an amendment to the Constitution had already been proposed, which, if adopted, would provide for the division of large dioceses in a constitutional way; that if this proposition was rejected, there seemed to be no possible mode of relief for Texas and California for at least three years to come, and that the very life of the Church in those dioceses was at stake. The House of Deputies amended the proposition of the House of Bishops so as to require the consent of two-thirds of each house of General Convention, or, two-thirds of all the bishops and two-thirds of all the standing committees. The House of Bishops refused to concur in the amendment, and the House of Deputies reluctantly receded from their proposed amendment, and concurred with the House of Bishops in the adoption of the amendment permitting a diocese to elect an assistant bishop for the reason of extent of diocese.

One cannot read the debate on this question in the House of Deputies without being impressed with the fact of the great reluctance of that house to permit of the election of an assistant bishop on account of extent of the diocese, that it was adopted only as a provisional measure, and to meet the needs of a special case, with the distinct understanding that it was not a permanent measure. It is extremely doubtful if the House of Deputies would have approved the amendment giving a diocese the right to elect an assistant bishop on account of extent of the diocese, if it had been foreseen how frequent would become the elections of assistant bishops under its provisions in the years to come. There is no precedent whatever in any other branch of the Catholic Church, in any age, for the election of an assistant bishop on such ground. It is entirely new, and belongs to the American Church alone.

In 1895, the term assistant bishop was changed to bishop coadjutor. When the Convention of 1904 revised the whole Digest of Canons, another change was made in the provisions for the election of an assistant bishop, or coadjutor bishop, as he was now called. The former provision, that a bishop coadjutor might be elected on the ground of "extent of Diocese," was a limited one, based on territorial extent, and was only applicable to dioceses having a large expanse of territory which was not capable of a fair and satisfactory division. The amendment of 1904 swept away this limitation by changing "extent of Diocese" to "extent of Diocesan work," a term which permits the election of a coadjutor practically on the desire of the diocesan to have an assistant in his work. It may be said that his request for a coadjutor must be passed upon by the General Convention, or by the bishops and several standing committees, and their consent obtained before a coadjutor can be elected, but the history of coadjutor elections since 1904 shows how easy it is to gain such consent. The practical result of the present canon is that any diocese may have a coadjutor where the diocesan really desires it.

The first step in the matter of the election of a coadjutor, on account of extent of diocesan work, is the obtaining of the consent of the General Convention, or during the recess thereof, the consent of a majority of all the bishops and the consent of a majority of the standing committees of all the dioceses. These consents having been obtained, the bishop of the diocese must read, or cause to be read, to the convention, before the convention proceeds to any election, his written consent to the election of a coadjutor, and in his written consent he must state the precise duties which he thereby assigns to the coadjutor when consecrated, and this written consent must form a part of the proceedings of the convention. After such consent has been read to the convention of the diocese, then, and not until then, the convention may proceed to an election. In addition to the testimonials provided for by Section 1 of the canon, the grounds upon which the election of the coadjutor was had must be stated to the General Convention, or to the standing committees and bishops, as the case may be, and also, the standing committee must forward to the Presiding Bishop a certificate signed by the presiding officer and secretary of the Convention that every requirement of Section 2 has been complied with. This last named certificate is not required to be sent to the standing committees, but only to the Presiding Bishop. The canon is silent as to whether he is to forward a copy thereof, with the certificates and testimonials, to the several bishops. There does not seem to be any canonical requirement obliging him to do so. The assignment of duties to the coadjutor, made by the diocesan in his

written consent to the election, is a permanent matter, and the duties so assigned cannot afterward be changed except by mutual consent. This fact probably accounts for the lack of definiteness in the duties assigned which marks many of the statements made thereof by dioceses to their conventions.

The provision that there shall not be more than one bishop coadjutor in a diocese at the same time, would seem like a self evident truth, and without need of canonical enactment, since the canon provides that the coadjutor has the right of succession, and two bishops could not have the same right at the same time.

The provision, that the bishop to be consecrated must subscribe in the presence of the consecrating bishops the declaration of belief and conformity as set forth in Article VIII of the Constitution before his consecration, was first enacted by the Convention of 1904, and in its present form. Since the adoption of the present Prayer Book, this has taken place publicly as a part of the service for the ordination of a bishop, the text of the declaration having been incorporated into the promise of conformity formerly contained therein.



CANON 15. Of Missionary Bishops

- Election by Convention of Diocese.* Sec. 1 (a). The election of a person to be a Bishop in a Missionary Diocese shall be held in accordance with the procedures set forth in the Constitution and Canons of the said Diocese, and, except as hereinafter provided, pursuant to the provisions of Canon III.14.
- May request Synod of Province to elect.* (b). The Convention of a Missionary Diocese may, in lieu of electing a Bishop, request that such election be made on its behalf by the Synod of the Province, or the House of Bishops of the Province subject to confirmation of the Provincial Council, or the Regional Council of Churches in communion with this Church of which the Diocese is a member, as provided in paragraph (c) of this Section; or it may request that such election be made on its behalf by the House of Bishops as provided in Sec. 2 (a) of this Canon.
- Certificate.* (c). In the event of an election of a Bishop by the Provincial Synod or House of Bishops of the Province, or by a Regional Council of Churches, as provided in the foregoing paragraph (b), a Certificate of the Election, signed by the presiding officer and the Secretary of the Synod or Provincial House of Bishops, or Regional Council, and a testimonial in the form required in Canon III.14.1 (a) signed by a constitutional majority of the Synod, Provincial House of Bishops or Regional Council, shall be transmitted by its presiding officer to the Standing Committee of the Missionary Diocese on whose behalf such election was made. The Standing Committee shall thereupon proceed as set forth in Canon III.14.1, the above Certificate of Election

and Testimonial serving in lieu of evidence of election and testimonial therein required.

May ask House of Bishops to elect. Sec. 2 (a). The House of Bishops may, upon the request of the Convention of a Missionary Diocese, as provided in Sec. 1 (b) of this Canon, elect a person to be a Bishop therein. Such choice shall be subject to confirmation by the House of Deputies during the session of the General Convention, and at other times to confirmation by a majority of the Standing Committees of the several Dioceses. The medical certificate as required in Canon III.14.1 (a) shall also be required of Missionary Bishops-elect.

Synod of Province may nominate. (b). When the House of Bishops is to elect a Bishop for a Missionary Diocese within a given Province, the President of the Province may convene the Synod of the Province prior to the meeting of the House of Bishops at which a Bishop for such Missionary Diocese is to be elected. The Synod of the Province may thereupon nominate not exceeding three persons to the House of Bishops for that office. It shall be the duty of the President of the Province to transmit such nominations, if any be made, to the Presiding Officer of the House of Bishops, who shall, three weeks before the meeting of the House of Bishops, communicate the same to the Bishops, along with other nominations that have been made, in accordance with the Rules of Order of the House. Each Province containing a Missionary Diocese shall, by Ordinance, provide the manner of convening the Synod and making such nomination.

Evidence of such election. (c). The evidence of such choice shall be a certificate signed by the Bishop presiding in the House of Bishops and by its Secretary, with a testimonial, or certified copy thereof, signed by a majority of the Bishops of the House, in the form required in Canon III.14, Sec. 1 (a), which shall be sent to the Presiding Officer of the House of Deputies, or to the Standing Committees of the several Dioceses, if the General Convention be not in session.

Approval of House of Deputies or of Standing Committees required. (d). When the Presiding Bishop shall have received a certificate signed by the President and Secretary of the House of Deputies (or certificates signed by the Presidents and Secretaries of a majority of the Standing Committees as the case may be), that the election has been approved, and shall have received notice of the acceptance by the

Bishop-elect of his election, he shall take order for the consecration of the said Bishop-elect either by himself and two other Bishops of this Church, or by any three Bishops of this Church to whom he may communicate the certificates and testimonial.

How jurisdiction may be declared vacant. Sec. 3. In the case of the permanent disability of the Bishop of a Missionary Diocese, where the said Bishop shall not have submitted his resignation of his jurisdiction, the Presiding Bishop shall, upon certification of the said permanent disability by at least three reputable physicians, declare the jurisdiction vacant.

Provision for Bishop Coadjutor in Missionary Diocese. Sec. 4. When the Bishop of a Missionary Diocese is unable, by reason of age or other permanent cause of disability, fully to discharge the duties of his office, a Bishop Coadjutor may be elected by the said Diocese, subject to the provisions of Canon III.14.2.

Seat in the House of Bishops. Eligible for election. Proviso. Sec. 5. Any Bishop or Bishops elected and consecrated under this Canon shall be entitled to a seat and vote in the House of Bishops, and shall be eligible to the office of Bishop or Bishop Coadjutor or Suffragan Bishop in any organized Diocese within the United States; *Provided*, that such Bishop shall not be so eligible within five years from the date of his consecration, except to the Office of Bishop of a Diocese formed in whole or in part out of his Missionary Diocese.

Election of a Missionary Bishop as a Diocesan, Coadjutor or Suffragan. Sec. 6 (a). When a Diocese, entitled to the choice of a Bishop, shall elect as its Diocesan, or as its Bishop Coadjutor, or as Suffragan Bishop, a Missionary Bishop of this Church, if such election shall have taken place within three months before a meeting of the General Convention, evidence thereof shall be laid before each House of the General Convention, and the concurrence of each House, and its express consent, shall be necessary to the validity of said election, and shall complete the same; so that the Bishop thus elected shall be thereafter the Bishop of the Diocese which has elected him.

Election during recess. (b). If the said election have taken place more than three months before a meeting of the General Convention, the above process may be adopted, or the following instead thereof, viz.: The Standing Committee of the Diocese elect-

<i>Consent of Bishops and Standing Committee.</i>	ing shall give duly certified evidence of the election to every Bishop of this Church having jurisdiction, and to the Standing Committee of every Diocese. On receiving notice of the concurrence of a majority of such Bishops and of the Standing Committees in the election, and their express consent thereto, the Standing Committee of the Diocese electing shall transmit notice thereof to the Ecclesiastical Authority of every Diocese within the United States; which notice shall state what Bishops and what Standing Committees have consented to the election. On receiving this notice the Presiding Bishop shall certify to the Secretary of the House of Bishops the altered status and style of the Bishop so elected.
<i>Notice of election.</i>	The Standing Committee of such Diocese shall transmit to every Congregation thereof, to be publicly read therein, a notice of the election thus completed, and also cause public notice thereof to be given in such other way as they may think proper.
<i>Standing Committee becomes Ecclesiastical Authority in vacancy.</i>	Sec. 7. In the event of a vacancy in the episcopate of a Missionary Diocese, on account of death, resignation, or other cause, the Standing Committee shall become the Ecclesiastical Authority thereof until the vacancy is filled.
<i>In Area Mission charge devolves on Presiding Bishop.</i>	In the event of a vacancy in the office of Bishop assigned jurisdiction in an Area Mission, the charge thereof shall devolve upon the Presiding Bishop, with the power of appointing some other Bishop as his substitute in such charge, until the vacancy is filled by the House of Bishops.



This canon was part of Title I, Canon 13, in 1859. It became Canon 10 in 1904, Canon 39 in 1943, and Title III, Canon 15, in 1970.

The first legislation on the subject of missionary bishops was enacted by the Convention of 1835, which was known as a Missionary Convention, for the reason that much of the time of the Convention was devoted to the discussion of missionary questions, and because of the legislation enacted to provide episcopal oversight for scattered congregations in states and territories, not sufficient in strength or numbers to be organized into dioceses. Until the enactment of this legislation there was no canonical provision made for extending the Church outside of the organized dioceses.

In the report of the committee of the House of Deputies in the Convention of 1835, appointed to consider and report on the “consecration of Missionary Bishops, and of a Bishop for each of the States and Territories now destitute,” it was stated that

the reason why it was formerly supposed that there was not a reasonable prospect of accomplishing the object [referring to the needs of church people in those parts of the country where there was no episcopal supervision] was, that the Convention had not the power of providing “food and raiment” for the Bishops whose consecration was so much desired. A missionary spirit, on which reliance may now be had, has been awakened in the Church, and its missionary department puts it in the power of the Convention now to send the requisite number of Bishops to those settlements.

The committee recommended the repeal of Canon 2 of the Canons of 1832, relating to the election of bishops, and the enactment of a canon to provide for missionary bishops.

Convention of 1835

This Convention enacted Canon 2 of that year, “Of Missionary Bishops,” which read as follows:

Sec. 1. The House of Clerical and Lay Deputies may, from time to time, on nomination by the House of Bishops, elect a suitable person or persons to be a Bishop or Bishops of this Church, to exercise Episcopal functions in States and Territories not organized as Dioceses. The evidence of such election shall be a certificate, to be subscribed by a constitutional majority of said House of Clerical and Lay Deputies, in the form required by the 3rd Canon of 1832, to be given by the members of Diocesan Conventions, on the recommendations of Bishops elect for consecration, which certificate shall be produced to the House of Bishops, and if the House of Bishops shall consent to the Consecration, they may take order for that purpose.

Sec. 2. The Bishop or Bishops so elected and consecrated, shall exercise Episcopal functions in such States and Territories, in conformity with the Constitution and Canons of the Church, and under such regulations and instructions, not inconsistent therewith, as the House of Bishops may prescribe.

Sec. 3. The jurisdiction of this Church extending in right though not always in form, to all persons belonging to it within the United States, it is hereby enacted that each Missionary Bishop shall have jurisdiction over the Clergy in the district assigned to him; and may, in case a presentment and trial of a Clergyman become proper, request the action of any Presbyters and Standing Committees in any Diocese sufficiently near: and the presentment and trial shall be according to the Constitution and Canons of said Diocese.

Sec. 4. The House of Clerical and Lay Deputies may, on nomination by the House of Bishops, in like manner, from time to time, elect, and the House of Bishops consenting thereto, may, in like manner, take order for the consecration of a suitable person to be Bishop of this Church, to exercise Episcopal functions in any place out of the territory of the United States, which the House of Bishops may designate.

Sec. 5. If, during the recess of the General Convention, the Board of Missions should deem it expedient to have a missionary Bishop sent to any place without the territory

of the United States, it may propose a station to the several Bishops of this Church, which station shall be adopted if approved by a majority of the Bishops. The Board of Missions may then request the Bishops of this Church to select a suitable person as Bishop for said station, and upon the selection of a suitable person by a majority of the Bishops of this Church, the presiding Bishop shall communicate the same to the Standing Committees of the Churches in the different Dioceses, and to the Board of Missions, and if a major number of the Standing Committees, and the Board of Missions, shall consent to the consecration of such person, the presiding Bishop, with any two Bishops, or any three Bishops, to whom he may communicate the testimonials, may proceed to the consecration of the Bishop elect. The evidence of the consent of the different Standing Committees, and the Board of Missions shall be in accordance with the 5th Canon of 1832.

Sec. 6. Any Bishop or Bishops elected and consecrated under this Canon, shall be entitled to a seat in the House of Bishops, and shall be eligible to the office of Diocesan Bishop in any organized Diocese within the United States.

Sec. 7. Every such Bishop shall report to each General Convention his proceedings, and the state and condition of the Church in said States and Territories, and place or places out of the territory of the United States, and at least once a year make a report to the Board of Missions.

Another canon on the same subject was enacted by this same Convention of 1835 as Canon 1. It differed from the canon just set forth in that it made provision for dioceses not having the required number of presbyters to elect a bishop. The first two sections of the canon read as follows:

Sec. 1. Any Diocese in union with this Church, having, at the time, less than six officiating Presbyters, residing therein, regularly settled in a parish or Church, and qualified to vote for a Bishop; and any Diocese at the time of its organization, with a view to ask for admission into union with this Church, may, by a vote of the Convention thereof, request the General Convention to elect a Bishop for the same; and, thereupon, the House of Bishops may nominate to the House of Clerical and Lay Deputies for their concurrence, a suitable person for the office of Bishop; who shall, in case of their concurrence, be consecrated as the Bishop of such Diocese. The evidence of the concurrence of the Clerical and Lay Deputies shall be a certificate, to be signed by a constitutional majority of them, agreeably to the form required by the third Canon of 1832, to be signed by the members of the Convention in a Diocese whence any person is recommended for consecration.

Sec. 2. In the recess of the General Convention, the Church in any such Diocese may, by a vote of the Convention thereof, request the election of a Bishop for such Diocese by the Bishops of the Church; and when such request shall be made known to the Presiding Bishop, who shall communicate information of the same to the other Bishops, a majority of the Bishops may select a suitable person for such Bishop; and if a majority of the Standing Committees of the Churches in the different Dioceses shall consent to the consecration of the persons so selected, the Presiding Bishop, with any two Bishops, or any three Bishops, to whom he may communicate the testimonials, may proceed to the consecration. And the evidence of the consent of the different Standing Committees shall be in accordance with the 5th Canon of 1832.

The remaining sections of this canon related to the election of a bishop by a diocese having six or more presbyters regularly settled therein, and does not concern the subject we are now considering.

This first canon of 1835 was enacted in place of the second canon of 1832, the repeal of which was recommended by the special committee appointed by the House of Deputies to consider the question of missionary bishops. Its principal object, so far as the first two sections were concerned, was to provide for the appointment of missionary bishops in dioceses not having the requisite number of presbyters to canonically elect a bishop. The first section made provision for a request to the General Convention by the convention of such a diocese for the election by it of a bishop. The second section provided for the election of such a bishop during a recess of General Convention.

The first case that arose under this canon was that of Bishop McCoskry of Michigan. The Diocese of Michigan, not having the requisite number of presbyters necessary for the election of a bishop, preferred a request to the Presiding Bishop for the election of a diocesan under the provisions of the second section of the canon. The Presiding Bishop communicated this request to the other bishops of the Church, and appointed a certain day for a meeting of the bishops to consider the matter. On the day appointed for the meeting of the House of Bishops, only five out of the whole number of fifteen bishops were present. Two of the bishops present were in favor of proceeding with the election, the Presiding Bishop to collect the opinions and votes of those absent. The other three bishops, however, deemed it wiser to defer action in the matter until a majority of the bishops should decide upon the proper mode of procedure under the canon, and it was decided to call another meeting for the month of June, a few months later. In the meantime, the question of whether it was necessary for the bishops to assemble and make the election in person, or whether the election could be made by each bishop sending to the Presiding Bishop his vote, was very fully discussed in the church periodicals. The Rev. Dr. Hawks, in his *Constitution and Canons* (p. 73), makes this discussion the subject of a very extended note. He says, in part:

For the necessity of a personal presence on the part of the Bishops, it was argued that the duties to be performed were such as could not be accomplished by letter; there were two things to be done: first, to decide upon the expediency of making a selection; and second, to make the choice. As to the first of these, it evidently called for personal consultation, it was said, because all the facts bearing upon it would not otherwise be known. Manifold ill consequences, it was further contended, would be likely to flow from the plan of voting by letter; intrigue might be busy, and a distant Bishop be imposed upon: or if not, so many different individuals might receive votes that no one would be elected. It was also urged as a rule of law, and of course not to be lost sight

of in the interpretation of the statute or canon, that wherever individuals are appointed to perform an act requiring the exercise of judgment and discretion, they *must meet* to perform it, or the act is void. And finally, it was contended, that in law neither a letter nor a verbal message is, strictly speaking, a *vote*.

On the other hand it was argued, that the letter of the canon certainly did not require that the Bishops should *meet*, and that the omission of such a requirement was intentional, being founded on the known inconvenience of personal attendance on the part of the Bishops. Again, it was said, that to require such a meeting was in effect to consider the Bishops as incapable of joint action, except as a "House of Bishops," an organized body; but by the constitution and canons, they never are considered as a "house" or "body," save when they sit as such during a General Convention; and lastly, it was contended that the canon should receive a liberal interpretation, because it was a remedial law, and, in the absence of any express terms, requiring personal attendance, was, if not entirely to destroy, yet virtually to restrict the exercise of a canonical right belonging to the Bishops, the exercise of which was a great moment to the Church.

At the second meeting of the bishops in June, 1836, again there was not a quorum present, but the Presiding Bishop, in the meantime, had received from a majority of the bishops the opinion that personal attendance was not necessary, and they sent their votes to the Presiding Bishop. A majority of these votes, together with the votes of the bishops present, were found to be cast in favor of the Rev. Dr. McCoskry, and he was later consecrated Bishop of Michigan.

It is doubtful if this action of the bishops was canonically correct, or even legal. Canon 53 of 1832 declared that "in all cases in which a Canon directs a duty to be performed, or a power to be exercised by a Standing Committee, or by the clerical members thereof, or by any other body consisting of several members, a majority of the said members, the whole having been duly cited to meet, shall be a quorum; and a majority of the quorum so convened shall be competent to act, unless the contrary is expressly required by the canon."

The whole body of bishops would certainly seem to come under the designation of "any other body consisting of several members," and if it be true, as it has been contended, that the canon in every case "contemplates a meeting in person of the individuals composing a body on whom a duty is enjoined, or a power conferred by the General Convention, when the action of the individual is required to be joint," it is difficult to see how the action of the bishops in this case can successfully be defended.

Convention of 1838

This Convention repealed the second section of Canon 1 of 1835, relating to the election of a bishop during the recess of the General Convention, under which section Bishop McCoskry was elected.

This same Convention also repealed the fifth section of Canon 2 of 1835, "Of Missionary Bishops." This section related to the election of missionary bishops during the recess of the General Convention. The repeal of those two provisions providing for the election of a bishop by the whole number of bishops during the recess of the General Convention was probably due to the controversy over the election of Bishop McCoskry, and the doubts raised as to the validity of his election.

The same Convention also amended Section 3, of Canon 2, of the Canons of 1835, by adding thereto the following:

And the House of Bishops may at any time increase or diminish the number of States or Territories, over which the said Bishop or Bishops shall exercise Episcopal functions. And in case of the death or resignation of a Missionary Bishop, the charge of the vacant Missionary Episcopate shall devolve on the senior Bishop of this Church, with the power of appointing some other Bishop, as his substitute in the said charge.

Convention of 1841

This Convention enacted Canon 3, "Of the Election of a Missionary Bishop to the Office of Diocesan Bishop," which read as follows:

Sec. 1. When a Diocese entitled, agreeably to the second Section of the first Canon of 1838, to the choice of a Bishop, shall elect as its Diocesan a Missionary Bishop of this Church; if such election has taken place within three months before a meeting of the General Convention, evidence thereof shall be laid before each House of the General Convention, and the concurrence of each House, and its express consent, shall be necessary to the validity of said election, and shall complete the same; so that the Bishop thus elected shall be thereafter the Bishop of the Diocese which has elected him.

Sec. 2. If the said election has taken place more than three months before a meeting of the General Convention, the above process may be adopted, or the following instead thereof, viz.: The Standing Committee of the Diocese electing, shall give duly certified evidence of the election to every Bishop of this Church, and to the Standing Committee of every Diocese. On receiving notice of the concurrence of a majority of the Bishops, and a majority of the Standing Committees, in the election, and their express consent thereto, the Standing Committee of the Diocese concerned shall transmit notice thereof to every Bishop of this Church, and to the Standing Committee of each vacant Diocese, which notice shall state what Bishops and what Standing Committees have consented to the election. And the same Committee shall transmit to every Congregation in the Diocese concerned, to be publicly read therein, a notice of the election to the Episcopate thereof of the Bishop thus elected; and also public notice thereof to be given in such other way as they may think proper.

Sec. 3. When, agreeably to the first Section of the first Canon of 1838, a Diocese requests the General Convention to elect a Bishop for the same, if the House of Bishops should nominate a Missionary Bishop to the House of Clerical and Lay Deputies, a vote of the said House of Deputies, concurring in the nomination, shall complete the election of the said Missionary Bishop to the Diocesan charge of the Diocese concerned.

Convention of 1844

This Convention repealed Canon 1 of 1835, providing for the election of a bishop by the General Convention for a diocese having less than six officiating presbyters.

This Convention also made the second canon of 1838, which was also the second canon of 1835, Canon 8, and amended it by striking Sections 4 and 5, which referred to missionary work outside of the United States. This Convention also enacted Article X of the Constitution, "Of Foreign Missionary Bishops," and Canon 7, "Of Foreign Missionary Bishops." The first, second, and last sections of this canon, which are the only sections closely related to the subject in hand, read as follows:

Sec. 1. The House of Clerical and Lay Deputies may, from time to time, on nomination by the House of Bishops, elect a suitable person or persons to be a Bishop or Bishops of this Church, to exercise Episcopal functions in any missionary station or stations of this Church out of the territory of the United States, which the House of Bishops, with the concurrence of the House of Clerical and Lay Deputies, may have designated. The evidence of such election shall be a certificate, to be subscribed by a constitutional majority of said House of Clerical and Lay Deputies, expressing their assent to the said nomination, which certificate shall be produced to the House of Bishops, and if the House of Bishops shall consent to the consecration, they may take order for that purpose.

Sec. 2. Any Bishop elected and consecrated under this Canon to exercise Episcopal functions in any place or country which may have been thus designated, shall have no jurisdiction except in the place or country for which he has been elected and consecrated. He shall not be entitled to a seat in the House of Bishops, nor shall he be eligible to the office of Diocesan Bishop in any organized Diocese within the United States.

Sec. 7. Every Bishop elected and consecrated under this Canon, shall report to each General Convention his proceedings and acts, and the state of the Mission under his supervision. He shall also make a similar report, at least once every year, to the Board of Missions of this Church.

It is not quite clear whether this canon was enacted to carry out the provisions of Article III of the Constitution, enacted by the same Convention to provide for the consecration of bishops for foreign countries, or whether it was intended to provide for the election of foreign missionary bishops as we know them today. Some of the restrictions contained in the said article are also set forth in the canon, as for instance, that such a bishop shall not be entitled to a seat in the House of Bishops, nor be eligible to the office of a diocesan bishop in the United States. On the other hand, it provides for the election of bishops for missionary stations outside of the territory of the United States, which the House of Bishops, with the concurrence of the House of Deputies, may have established and designated. It also provides that such bishops must report to the House of Bishops and to the Board of Missions.

It would seem as if the Convention intended to provide for two separate and distinct kinds of bishops in the same canon.

As the new Canon 7 related only to missionary bishops outside the United States, the words “and place or places out of the territory” in Section 7 of former Canon 2, were stricken.

Convention of 1850

This Convention amended the second section of Canon 7 of 1844 by inserting after the word “Canon” the following words:

or any Foreign Missionary Bishop heretofore consecrated.

Also, adding at the end of said section the following:

unless with the consent of three-fourths of all the Bishops entitled to seats in the House of Bishops, and also of three-fourths of the Clerical and Lay Deputies present at the Session of the General Convention; or in the recess of the General Convention, with the consent of the Standing Committees of three-fourths of the Dioceses.

The former canon declared that no foreign missionary bishop should have a seat in the House of Bishops, nor should he be eligible to become a diocesan bishop in the United States. The above amendment provided that he might have such seat and become such bishop under its provisions.

Convention of 1853

This Convention made Canon 8 of 1844, Canon 10, and amended it as follows:

In the third section after the words “Constitution and Canons of said Diocese,” were inserted these words:

Or if there be such a Standing Committee appointed by the Missionary Bishop as hereinafter provided for, the Clerical Members thereof may make Presentment, and the Trial shall take place, according to the Constitution and Canons of any Diocese of this Church which may have been selected at the time of the appointment of such Standing Committee; provided that the Court shall be composed of, at least, three Presbyters, excluding the members of the Standing Committee and the accused.

Also, after the words “vacant Missionary Episcopate shall devolve on” in the last sentence thereof, there were inserted, in place of the former words, the following:

the Senior Bishop of this Church, with the power of appointing some other Bishop as his substitute in said charge.

Section 4 was amended by adding, at the end thereof, the following:

And whenever a Diocese shall have been organized within the jurisdiction of such Missionary Bishop, if he shall be chosen Bishop of such Diocese, he may accept the office without vacating his Missionary appointment, provided that he continue to discharge the duties of Missionary Bishop within the residue of his original jurisdiction.

A new section was added to read as follows:

Sec. 5. Every such Bishop may yearly appoint two Presbyters and two Laymen, Communicants of this church, resident within his Missionary jurisdiction, to perform the duties of a Standing Committee for such jurisdiction; provided that no Standing Committee constituted under this Canon shall be the Ecclesiastical authority of the jurisdiction of said Missionary Bishop during the vacancy of the Episcopate thereof, or shall have power to give or refuse assent to the Consecration of a Bishop.

Former Section 5 was renumbered Section 6.

Convention of 1856

This Convention made Canon 3 of 1841, providing for the election of a missionary bishop to the office of a diocesan bishop, Canon 9, and amended it as follows:

In Section 1, the words "agreeably to the second Section of the first Canon of 1838" were stricken. Also the third section of the same canon was stricken.

Canon 10, of the Canons of 1853, was amended as follows:

Section 4 was amended by the addition of these words at the end thereof: "if there be such a residue."

Section 5 was amended by striking these words: "shall be the Ecclesiastical authority of the jurisdiction of said Missionary Bishop during the vacancy of the Episcopate thereof, or."

Under the former canon the standing committee of a missionary district could not act as the ecclesiastical authority thereof during a vacancy in the episcopate. This restriction was now removed by the amendment.

Convention of 1859

In the revision of the Digest of the Canons by this Convention, all the canonical provisions concerning bishops, both diocesan and missionary, were combined in one canon, Title I, Canon 13.

Section 1 of Canon 10, of the Canons of 1856, was made Section 7 (i) of said Canon 13, and amended by striking the words "in the form required by Canon 3 of 1832" after the words "Lay Deputies," and inserting in place thereof the following: "in the form required by the second section of this Canon."

Section 2 became Section 7 (ii), and was amended by adding thereto the following words taken from former Section 4 of said Canon 10:

and the House of Bishops may at any time increase or diminish the number of States or Territories over which the said Bishop or Bishops shall exercise Episcopal functions.

Section 3, except the words taken therefrom and added to Section 7 (ii), as above noted, and also the last sentence thereof, was made Section 7 (iv).

The last sentence of former Section 3 was made Section 7 (iii).

Section 4 was made Section 7 (v), without amendment.

Section 5 was made Section 7 (vi), also without amendment.

Section 6 was made Section 7 (vii), and remained unamended.

Canon 1 of 1850, "Of Foreign Missionary Bishops," was made Section 8 of said Canon 13, and amended by making Sections 1 and 2 of said former Canon 1, Section 8 (i) and (ii), without further amendment.

Section 7 was made Section 8 (xi) of said Canon 13, and without amendment.

The remaining provisions of said Canon 13 relate to matters which do not belong to the particular subject we are now considering.

Canon 9 of 1856, "Of the Election of a Missionary Bishop to the Office of Diocesan Bishop," was made Section 9 (i) and (ii) of said Canon 13, and without further amendment.

Convention of 1868

This Convention amended Title I, Canon 13, Section 8 (ii), by striking the words "He shall not be entitled to a seat in the House of Bishops, nor shall he become a Diocesan Bishop," at the beginning of the second sentence of said clause (ii), and inserting in place thereof the following:

He shall be entitled to a seat in the House of Bishops, but shall not become a Diocesan Bishop.

The effect of this amendment was to give foreign missionary bishops a seat in the House of Bishops, which right had before been denied to them.

Convention of 1874

Canon 13, of Title I, was renumbered as Title I, Canon 15.

Section 7 (vi) was amended by substituting “shall” for the word “may” in the first line thereof, making it mandatory upon a missionary bishop to appoint a standing committee, instead of its being merely permissory as formerly.

Convention of 1877

This Convention amended Title I, Canon 15, Section 7 (iv), by striking these words:

and may, in case a presentment and trial of a Clergyman become proper, request the action of any Presbyters and Standing Committee, in any Diocese sufficiently near, and the presentment and trial shall be according to the Constitution and Canons of said Diocese. Or, if there be such a Standing Committee appointed by the Missionary Bishop as is hereinafter provided for, the Clerical Members thereof may make presentment.

and inserting in place thereof the following:

and in case a presentment and trial of a Clergyman become proper, the Clerical Members of the Standing Committee appointed by the Missionary Bishop as is hereinafter provided for may make presentment.

Also, at the end of the clause were added these words:

And if there be not a sufficient number of qualified Presbyters within his jurisdiction, the said Missionary Bishop may call to his aid Presbyters of any Diocese or Missionary jurisdiction sufficiently near.

The first amendment was made because of the action of the previous Convention in making it mandatory upon the missionary bishop to appoint a standing committee for his jurisdiction, thus rendering it no longer necessary to provide for cases where there was no standing committee in the district.

Convention of 1883

This Convention amended all the clauses of Section 7 of said Canon 15, except the first two clauses thereof, as follows:

Clause (iii) was amended by striking the word “Episcopate,” and inserting in place thereof the word “Jurisdiction.”

Clause (iv) was amended by striking all of said clause after the words “assigned him” in the first sentence, and inserting, in place thereof, the former sixth clause.

A new clause (v) was added, reading as follows:

He shall, for the due administration of his Jurisdiction, select the Constitution and Canons of one of the Dioceses of this Church, which shall remain in force, so far as applicable to the circumstances of such Missionary Jurisdiction, until it shall be erected into a Diocese and shall have adopted its own Constitution and Canons.

The substance of the words stricken out of former clause (iv) were made clause (vi) and amended to read as follows:

In case a presentment and trial of a Clergyman become proper, the Clerical Members of the Standing Committee may make presentment; *Provided*, that the Court shall be composed of at least three Presbyters; and if there be not a sufficient number of qualified Presbyters within his jurisdiction (excluding the members of the Standing Committee, and the accused), the said Missionary Bishop may call to his aid Presbyters of any Diocese or Missionary Jurisdiction sufficiently near.

Former clauses (v) and (vii) were made clauses (vii) and (viii), respectively, without amendment.

Convention of 1889

This Convention amended clause (vii) of former Section 7 of Canon 15, now made Section 6, by the repeal of former Section 6 by the Convention of 1886, by striking out the word "Diocesan" before the word "Bishop" in the first sentence thereof.

Title I, Canon 15, was renumbered as Title I, Canon 16.

Convention of 1892

This Convention renumbered said Canon 16 as Canon 19.

Convention of 1895

This Convention amended Title I, Canon 19, Section 7 (i) as follows:

The words "which certificate shall be produced, etc." to the end of the said clause were stricken, and the following words inserted in their place:

which certificate shall be in the following form: We, whose names are underwritten, fully sensible how important it is that the sacred office of a Bishop should not be unworthily conferred, and firmly persuaded that it is our duty to bear testimony on this solemn occasion, without partiality or affection, do, in the presence of Almighty God, testify that the Reverend A.B., nominated by the House of Bishops to the House of Deputies for election to the Bishopric of the Missionary District of _____, as a suitable person to be elected a Bishop of this Church in foreign lands, has been duly and canonically elected by the House of Deputies as Bishop aforesaid, on this _____ day of _____ A.D. And we whose names are hereunto subscribed, members of the House of Deputies, do hereby testify that the said Reverend A.B., Missionary Bishop elect of _____, is not, so far as we are informed, justly liable to evil report, either for error in religion, or for viciousness in life; and that we do not know or believe there is any impediment, on account of which he ought not to be consecrated to that Holy Office.

We do, therefore, hereby severally signify our assent to the said nomination and election, humbly trusting that the consecration of the said Bishop elect will conduce to the edification and enlargement of the Church of our Lord Jesus Christ.

Done at _____, in General Convention of the Church in the United States, on this _____ day of _____ A.D.

This certificate shall be produced to the House of Bishops; and if the House of Bishops shall consent to the consecration, they may take order for that purpose.

Convention of 1898

This Convention amended Title I, Canon 19, Section 6 (viii) to read as follows:

Every such Bishop shall report annually to the Presiding Bishop his proceedings, and the state and condition of the Church within his Missionary District; such report to be transmitted by the Presiding Bishop to the Board of Managers.

Convention of 1901

The words "Missionary Jurisdiction" were changed to "Missionary District" wherever they occurred.

Title I, Canon 19, Section 6 was amended by the insertion of a new clause to be numbered (iii), the remaining clauses being renumbered accordingly, said clause to read as follows:

In case of the permanent disability of the Bishop in charge, the House of Bishops shall have power to declare the Missionary District vacant.

Clause (v) of the said Section 6 was amended to read as follows:

On the formation of a Missionary District the Bishop consecrated or assigned thereto shall, for the administration of his jurisdiction, select the Constitution and Canons of one of the Dioceses of this Church, which shall remain in force, so far as applicable to the circumstances of such Missionary District, except so far as altered by the Bishop and Convocation from time to time with the approbation of the House of Bishops.

Clause (viii) of the same section was amended by the insertion of the words "or Bishop Coadjutor" before the words "in any organized Diocese;" also by the insertion of the following words at the end of the first sentence:

Provided, that such Bishop shall not be so eligible within five years from the date of his consecration, except to the office of Bishop of a Diocese formed in whole or in part out of his Missionary District.

The amendment contained in this proviso was occasioned by the election of the Missionary Bishop of North Dakota as the Bishop of Minnesota, only a little over two years after he had become Bishop of North Dakota. It was felt that it was only just to a missionary district that its bishop should not be removed therefrom in less than five years after beginning his work therein. It was represented to the General Convention by the District of North Dakota, that the work in that district had suffered severely by the removal of its bishop before he had

completed the work which he had undertaken after assuming jurisdiction thereof.

Section 7 of said Canon 19 was amended by the insertion of a new clause, numbered (xii), and to read as follows:

In case of the permanent disability of the Bishop in charge, the House of Bishops shall have power to declare the Missionary District vacant.

Convention of 1904

In the revision of the Digest of Canons made by this Convention, most of the provisions of Title I, Canon 19, Section 6, and some of the provisions of Section 7 of the same canon were combined in one canon, numbered Canon 10, "Of Missionary Bishops," and amended to read as follows:

Sec. 1. The House of Bishops may establish Missionary Districts in States and Territories, or parts thereof, not organized into Dioceses, or in territory beyond the United States, not under the charge of Bishops in communion with this Church. It may also, from time to time, change, increase, or diminish the territory included in such Missionary Districts.

Sec. 2. (i) The House of Bishops may, from time to time, choose a suitable person or persons to be a Bishop or Bishops of this Church in Missionary Districts, such choice to be subject to confirmation by the House of Deputies during the session of the General Convention, and at other times to confirmation by a majority of the Standing Committees of the several Dioceses.

(ii) The evidence of such choice shall be a certificate signed by the Presiding Bishop and the Secretary of the House of Bishops, with a testimonial, or certified copy thereof, signed by a majority of the Bishops of the House, in the second form required in Canon 9, Section 1, which shall be sent to the Presiding Officer of the House of Deputies, or to the Secretaries of the Standing Committees of the several Dioceses, if the General Convention be not in session.

(iii) Before taking order for the consecration of any such Missionary Bishop elect, the Presiding Bishop must receive a certificate signed by the President and Secretary of the House of Deputies, or by the Presidents and Secretaries of a majority of the Standing Committees of the Dioceses, that the election has been approved.

Sec. 3. (i) The House of Bishops shall have power, at their discretion, to transfer a Missionary Bishop from one Missionary District to another, and, in case of the permanent disability of the Bishop in charge, to declare the Missionary District vacant.

(ii) If a Missionary Bishop shall be unable by reason of age or other permanent cause of infirmity fully to discharge the duties of his office, and if it shall appear to the House of Bishops that no other method for his relief is available, a Missionary Bishop may be elected and consecrated in the manner prescribed for the election and Consecration of other Missionary Bishops, such Bishop to be assigned for the time being to assist the partially disabled Bishop. And the said Bishop, so elected, consecrated and assigned, shall be and remain in all respects subject to the rules and regulations of the House of Bishops as provided in Canon 10.

(iii) This Canon shall take effect immediately, but no election shall take place under the provisions of Section 3 (ii) after December 31, 1905.

Sec. 4. Any Bishop or Bishops elected and consecrated under this Canon shall be entitled to a seat in the House of Bishops, and shall be eligible to the office of Bishop or Bishop Coadjutor in any organized Diocese within the United States: *Provided*, that such Bishop shall not be so eligible within five years from the date of his consecration, except to the office of Bishop of a Diocese formed in whole or in part out of his Missionary District. And whenever a Diocese shall have been organized within the jurisdiction of such Missionary Bishop, if he shall be chosen Bishop of such Diocese, he may accept the office without vacating his Missionary appointment: *Provided*, that he continue to discharge the duties of Missionary Bishop within the residue of his original jurisdiction, if there be such residue.

Sec. 5. (i) When a Diocese, entitled to the choice of a Bishop, shall elect as its Diocesan, or as its Bishop Coadjutor, a Missionary Bishop of this Church, if such election shall have taken place within three months before a meeting of the General Convention, evidence thereof shall be laid before each House of the General Convention, and the concurrence of each House, and its express consent, shall be necessary to the validity of said election, and shall complete the same; so that the Bishop thus elected shall be thereafter the Bishop of the Diocese which has elected him.

(ii) If the said election has taken place more than three months before a meeting of the General Convention, the above process may be adopted, or the following instead thereof, viz.: The Standing Committee of the Diocese electing shall give duly certified evidence of the election to every Bishop of this Church, and to the Standing Committee of every Diocese. On receiving notice of the concurrence of a majority of the Bishops and of the Standing Committees in the election, and their express consent thereto, the Standing Committee of the Diocese concerned shall transmit notice thereof to the Ecclesiastical Authority of every Diocese and Missionary District within the United States; which notice shall state what Bishops and what Standing Committees have consented to the election.

The Standing Committee of such Diocese shall transmit to every congregation thereof, to be publicly read therein, a notice of the election thus completed, and also cause public notice thereof to be given in such other way as they may think proper.

Sec. 6. In case of the death or resignation of a Missionary Bishop, or of a vacancy in the Missionary District from other cause, the charge thereof shall devolve upon the Presiding Bishop with the power of appointing some other Bishop of this Church as his substitute in said charge until the vacancy is filled.

Sec. 7. If during the recess of the General Convention, and more than six months previous to its session, there shall be a vacancy in a Missionary District arising from any cause, the House of Bishops shall, on the written request of twelve members of the same, be convened by the Presiding Bishop; and thereupon may proceed to elect a Bishop for such District.

The substance of Section 6 (i) of the former Canon 19 was embodied in Section 1 and Section 2 (i), (ii), and (iii) of Canon 10.

Section 3 was an entirely new section.

Section 4 was a re-enactment of clause (viii) of former Section 6.

Section 5 was an entirely new section.

Section 6 was practically the same as former clause (iv) of said Section 6.

The remaining provision of former Section 6 will be found incorporated in other canons.

None of the provisions of former Section 7 of Canon 19 were incorporated in Canon 10, except the right of the House of Bishops, with the consent of the House of Deputies, to elect a bishop for a foreign missionary district, which is contained in the first and second sections.

Convention of 1907

This Convention amended Canon 10, Section 2 (iii) to read as follows:

When the Presiding Bishop shall have received a certificate signed by the President and Secretary of the House of Deputies (or certificates signed by the Presidents and Secretaries of the Standing Committees of a majority of the Dioceses as the case may be) that the election has been approved, and shall have received notice of the acceptance by the Bishop elect of his election, he shall take order for the consecration of said Bishop elect either by himself and two other Bishops of this Church, or by any three Bishops of this Church to whom he may communicate the certificates and testimonial.

This amendment was made to conform the consecration of a missionary bishop to the same procedure as in the case of a diocesan bishop. The Canon of 1904 omitted to provide that the Presiding Bishop shall take order for the consecration of a missionary bishop, either by himself and two other bishops, or by any three bishops to whom he might communicate the testimonials.

Convention of 1910

The opening words of Section 2 (ii) of Canon 10 were amended to read as follows:

The evidence of such choice shall be a certificate signed by the Bishop Presiding in the House of Bishops and by its Secretary, with a testimonial, etc.

Section 3, clauses (ii) and (iii) were repealed, as the time had elapsed in which elections under its provisions could take place.

Section 4 of the same canon was amended by adding the following words at the end thereof:

until the House of Bishops shall elect a Missionary Bishop of such residue.

Convention of 1916

This Convention amended Canon 10, Section 2 (ii), by striking the words “the Secretaries of” before the words “the Standing Committees.”

The former provision provided that on the election of a missionary bishop by the House of Bishops, when the General Convention was not in session, evidence of the election was to be sent to the secretaries of the standing committees of the several dioceses. A strict interpretation of the former canon seemed to require that the evidence of the election of a missionary bishop by the House of Bishops, when the General Convention was not in session, must be sent to the secretaries of the standing committees. It was found, however, that it was more difficult to ascertain the name and address of the secretary of a standing committee than it was of the president thereof, and as the whole purpose of this provision of the canon was to put the several standing committees in possession of the evidence of the election, it was thought best to strike out the requirement that such evidence be sent to the secretaries, and permit its being sent to that officer of such committee whose name and address might be most readily ascertained.

Section 4 was also amended by adding after the words “entitled to a seat,” in the opening phrase thereof, the words “and vote.”

This amendment was made in order that the canon should conform to Article I, Section 2, of the Constitution, which provided that missionary bishops should have a vote as well as a seat in the House of Bishops.

Convention of 1919

This Convention amended Canon 10, Section 4, by inserting the words “or Suffragan Bishop” after the words “Bishop Coadjutor.” The same amendment was made to Section 5 (i).

These amendments were suggested by the election of the Missionary Bishop of Salina as Suffragan Bishop of Chicago, which election was questioned by some as to its being strictly canonical. The committee on canons in the House of Bishops, in reporting these amendments to the House of Bishops in the Convention of 1916, when these amendments were first adopted by the House of Bishops, remarked as follows:

In the judgment of the Committee the election of a Missionary Bishop to be a Suffragan in a Diocese would not now be unlawful; but since the question has been raised, it is desirable to avoid any possible misunderstanding, and the Committee recommends, the House of Deputies concurring, the proposed amendment.

Section 5 (ii) was amended by adding thereto at the end of the first paragraph, the following:

On receiving this notice the Presiding Bishop shall certify to the Secretary of the House of Bishops the altered status and style of the Bishop concerned.

This amendment was made at the suggestion of the Presiding Bishop, and concerns the certification by that officer of the elections of bishops, more particularly the election of suffragans to be coadjutors or diocesan bishops, as well as the election of a missionary bishop to be a suffragan. Its purpose is to assist the secretary of the House of Bishops in making up the roll of that house.

Convention of 1928

Section 2 was amended by the addition of a new clause (ii) reading as follows:

When a vacancy shall occur in the Episcopate in any Missionary District within a Province, the President of the Province may convene the Synod of the Province prior to the meeting of the House of Bishops of the Church at which a Missionary Bishop for such Missionary District is to be elected. The Synod of the Province may thereupon nominate one person to the House of Bishops of the Church for that office. It shall be the duty of the President of the Province to transmit such nomination, if any be made, to the Presiding Officer of the House of Bishops, who shall three weeks before the meeting of the House of Bishops communicate the same to the Bishops along with other nominations that have been made in accordance with the Rules of Order of the House. Each Province containing a Missionary District shall, by ordinance, provide the manner of convening the Synod and making such nomination. The foregoing provision for nomination by the Synod of the Province, shall not apply in the case of the election of Missionary Bishops for Districts in Alaska, the Canal Zone, or in any other region outside the continental boundaries of the United States, notwithstanding such Districts may be included in Provinces.

Former clauses (ii) and (iii) were renumbered as clauses (iii) and (iv).

Convention of 1931

Section 5 (ii) of the canon, now Canon 14, was amended by adding after the words "Bishop of this Church" the words "who has a seat and vote in the House of Bishops."

Convention of 1937

Section 2 (ii) was amended by changing the words "one person" in the second sentence to "not exceeding three persons."

Section 2 (iii) was amended by deleting the word "second" from the words "the second form required."

Convention of 1943

At this Convention the canon was renumbered Canon 39 and was amended by the addition of a new section, numbered Section 4, reading as follows:

When the Bishop of a Missionary District is unable, by reason of age or other permanent cause of disability, fully to discharge the duties of his office, at his request a Bishop Coadjutor may be elected for that Missionary District with right of succession and subject to all the other provisions of this Canon governing the election of Missionary Bishops. Before such election the Bishop asking for such assistance shall state the duties which he thereby assigns to the Bishop Coadjutor. The duties assigned by the Bishop may be enlarged by mutual consent whenever the Bishop of the Missionary District may desire to assign such additional duties to the Bishop Coadjutor.

(By error, this new section appeared in the printed edition of the canons of that year as Section 5. The error was corrected in subsequent editions.)

The subsequent sections were renumbered.

The lower-case Roman numerals, (i), (ii), (iii), etc., prefixed to clauses within sections were replaced by letters: (a), (b), (c), etc.

Convention of 1949

Section 6 (b) of the canon, now Canon 40, was amended by substituting the words "having jurisdiction in the United States" for the words "who has a seat and vote in the House of Bishops" in the first sentence, and the words "such Bishops" for the words "the Bishops" at the beginning of the following sentence.

Convention of 1952

At this Convention, Section 2 (a) of this canon was amended by adding at the end a new sentence, as follows:

The medical certificate as required in Canon 39, Sec. 1 (a), shall also be required of Missionary Bishops-elect.

Section 2 (b) was amended by striking the words "of the Church" in two places.

Section 6 (b) was amended by changing the word "concerned" in the second sentence to the words "so electing" and the words "Bishops concerned" at the end of the section to the words "Bishop so elected."

Convention of 1964

At this Convention, Section 2 (b) was amended by deleting the last sentence thereof.

The effect was to extend the right of provincial synods to nominate missionary bishops to include Alaska, the Canal Zone, and other jurisdictions outside the continental boundaries of the United States.

Special Convention of 1969

Section 2 (b) of the canon was amended to read as at present, except for references to “Missionary District” which were later changed to “Missionary Diocese.”

The same section was amended by adding a new clause (e) reading as follows:

The House of Bishops, after having made such investigation as it deems advisable, may accord to a Missionary District the right of electing a person to be a Bishop for the said District. Notice of such action by the House of Bishops shall be communicated to the Bishop of the jurisdiction if there be such, or if there be none, to the President of the Council of Advice; and the election shall thereupon proceed in conformity with the provisions set forth in Sections 1 and 2 of Canon 38, the Council of Advice exercising the functions there required of the Standing Committee.

Section 3 was amended to read as follows:

The House of Bishops shall have the power, at its discretion, to transfer a Missionary Bishop from one Missionary District to another, save in the case where the said Bishop shall have been chosen under the provisions of Section 2 (e). In case of the permanent disability of the Bishop in charge, the House of Bishops shall declare the Missionary District vacant.

This Convention thus made it possible, for the first time in our history, that a missionary jurisdiction might elect its own bishop.

Convention of 1973

In keeping with the amendment of Articles I and VI of the Constitution in 1970, by which former missionary districts were designated as missionary dioceses, and granted parity of representation and voting with established dioceses in the House of Deputies, this Convention adopted new Canon I.10, establishing canonical norms for such jurisdictions and making provision for a new type of missionary jurisdiction, to be known as “area missions.”

The Convention also radically amended the canon under consideration. Former Section 1, clause (e) of Section 2, and Section 8 were repealed.

New Section 1 read as follows:

(a). The election of a person to be a Bishop in a Missionary Diocese shall be held in accordance with the procedures set forth in the Constitution and Canons of the said Diocese, and, except as hereinafter provided, pursuant to the provisions of Canon III.14.

(b). The Convention of a Missionary Diocese may, in lieu of electing a Bishop, request that such election be made on its behalf by the Synod of the Province, or the Regional Council of Churches in communion with this Church, of which the Diocese is a member, as provided in paragraph (c) of this Section; or, it may request that such

election be made on its behalf by the House of Bishops, as provided in Sec. 2 (a) of this Canon.

(c). In the event of an election of a Bishop by the Provincial Synod, or by a Regional Council of Churches, as provided in the foregoing paragraph (b), a Certificate of the Election, signed by the presiding officer and the secretary of the Synod or Council, and a Testimonial in the form required in Canon III.14 (a), signed by a constitutional majority of the Synod or Council, shall be transmitted by its presiding officer to the Standing Committee of the Missionary Diocese on whose behalf such election was made. The Standing Committee shall thereupon proceed as set forth in Canon III.14.1, the above Certificate of Election and Testimonial serving in lieu of the evidence of election and testimonial there required.

The remaining sections were amended to read as at present.

The principal change made by the amendments was to extend to missionary dioceses the same right with respect to the election of a bishop as that enjoyed by other dioceses. It did, however, make provision for other methods of election, should that be desired by the missionary diocese, including the former procedure of election by the House of Bishops with confirmation by the House of Deputies.

Convention of 1979

This Convention amended Section 1 to its present reading by providing for still another alternative method of election: by the House of Bishops of the province, subject to confirmation by the provincial council.

EXPOSITION OF CANON III.15

In the earlier days of the Church, there were two opposite theories concerning the power of General Convention to enact legislation. One theory, based upon a supposed parallel between the nation and the Church, was that the General Convention possessed such powers of legislation only as were expressly conferred upon it by the Constitution. The other theory was that General Convention was unlimited in its powers of legislation, except where there was some restriction in the Constitution to the contrary, either expressly or clearly implied; that the General Convention did not have to look to the Constitution for power to enact canons, but that it could enact canons on any subject not forbidden by that Constitution. That the majority in the Church held to the latter theory is clearly evidenced by the fact that General Convention, almost from the very beginning, proceeded to enact legislation for which there was not the slightest authority in the Constitution. A conspicuous example of such legislation is furnished by the canon we are now considering.

Until the revision of the Constitution by the Convention of 1901, there was not a single word in the Constitution regarding missions or missionary bishops, nor the slightest hint of any power granted to the General Convention to enact canons on the subject. And yet, for nearly seventy years before 1901, missionary bishops had been elected under the provisions of canons enacted by the General Convention. The first canon on this subject was enacted by the Convention of 1835, which empowered the General Convention to elect bishops to exercise jurisdiction in states and territories not organized into dioceses, and also in such places outside of the territory of the United States, which the House of Bishops might designate.

The canon of 1904 combined the provisions for the election of both domestic and foreign missionary bishops. Until then, the provisions in each case were separate and distinct, and those providing for the election of foreign missionary bishops were exceedingly elaborate. In both cases, however, the right to elect remained a prerogative of the House of Bishops.

The first step in the emancipation and enfranchisement of missionary jurisdictions was taken by the Convention of 1967, which proposed to the Convention of 1970 an amendment of Article I of the Constitution, by which "missionary districts" would henceforth be known as "missionary dioceses," and would have parity with other dioceses in respect of voting rights and representation in General Convention. This proposal was adopted in 1970.

In the meantime, the Convention proceeded to amend the present canon to grant to such missionary jurisdictions the right to elect their own bishops. Tentatively granted in 1969, but only after "investigation" by the House of Bishops, and only in selected cases, it became the universal right in 1973.

The alternatives provided in 1973 to election by the diocese itself were essentially practical in nature: election by the House of Bishops, as formerly, and election by the provincial synod. In view of the logistical problems involved in convening a synod, and the relative infrequency with which synodical bodies convene, the 1976 Convention added the possibility of election by a provincial house of bishops with the concurrence of the provincial council.

The amendment of Section 3 was also practical in intent. Since the House of Bishops normally meets only once a year, provision was made that the Presiding Bishop might act to declare a vacancy in the episcopate.

Other changes made in 1973 include provision for the election of bishops coadjutor, and for the right of the standing committee to act as the ecclesiastical authority in the same manner as in domestic dioceses.

Former Section 1 of the canon made provision for the establishment of missionary jurisdictions. This is now covered by Title I, Canon 10, which speaks of area missions as well as missionary dioceses. Only in the case of area missions does the House of Bishops retain the right to assign a missionary bishop. An area mission admitted as a missionary diocese acquires, at that time, the right to elect its own bishop.



CANON 16. Of Suffragan Bishops

How elected. Sec. 1. A Suffragan Bishop shall be elected in accordance with the Canons enacted in each Diocese for the election of a Bishop. But the initiative shall always be taken by the Bishop of the Diocese asking for the assistance of a Suffragan.

Consent of General Convention or Bishops and Standing Committees necessary. Sec. 2 (a). Before the election of a Suffragan Bishop in a Diocese, the consent of the General Convention, or during the recess thereof the consent of a majority of the Bishops having jurisdiction and of the several Standing Committees, must be had and obtained.

(b). Whenever the Church in any Diocese shall desire the ordination and consecration of a Suffragan-Bishop-elect, subsequent proceedings in accordance with the provisions of Canon III.14, Sec. 1, shall be taken.

(c). If the consents required by Canon III.14, Sec. 1, are not received as therein prescribed, or if the Suffragan-Bishop-elect decline his election, the Convention of the Diocese may then proceed to a new election.

Not more than two in one Diocese. Sec. 3. There shall not at any time be more than two Suffragan Bishops holding office in and for any Diocese, save by special consent of the General Convention previously obtained.

Suffragan for Missionary Diocese. Sec. 4. A Suffragan Bishop may be elected and consecrated for any Missionary Diocese in accordance with the provisions of Sec. 2 of this Canon, and subject to all the provisions thereof.

- Assistant to the Bishop.* Sec. 5. A Suffragan Bishop shall act, in all respects, as the assistant of the Bishop of the Diocese, and under his direction.
- Resignation required at age 72.* Sec. 6 (a). Every Suffragan Bishop, upon attaining the age of seventy-two years, shall forthwith tender his resignation from his position by sending it to the Presiding Bishop, who shall immediately communicate the same to every Bishop of this Church having jurisdiction and shall declare the said Bishop's resignation accepted, effective at a designated date not later than three months from the date of such resignation.
- Presiding Bishop to notify other Bishops.* (b). The Presiding Bishop shall communicate to the resigning Bishop the fact of the acceptance of his resignation and the termination of his position effective as of the date fixed; and, in the case of a Suffragan of a Diocese, shall certify the same to the Ecclesiastical Authority of the Diocese concerned. He shall also order the Secretary of the House of Bishops to record the same effective as of the date fixed, to be incorporated in the Journal of the House.
- Presiding Bishop to communicate fact of acceptance.* (b). The Presiding Bishop shall communicate to the resigning Bishop the fact of the acceptance of his resignation and the termination of his position effective as of the date fixed; and, in the case of a Suffragan of a Diocese, shall certify the same to the Ecclesiastical Authority of the Diocese concerned. He shall also order the Secretary of the House of Bishops to record the same effective as of the date fixed, to be incorporated in the Journal of the House.
- Record to be made.* (b). The Presiding Bishop shall communicate to the resigning Bishop the fact of the acceptance of his resignation and the termination of his position effective as of the date fixed; and, in the case of a Suffragan of a Diocese, shall certify the same to the Ecclesiastical Authority of the Diocese concerned. He shall also order the Secretary of the House of Bishops to record the same effective as of the date fixed, to be incorporated in the Journal of the House.
- House of Deputies to be notified.* At each meeting of the General Convention, it shall be the duty of the Presiding Officer of the House of Bishops to communicate to the House of Deputies, when in session, a list of such resignations which have been accepted since the preceding meeting of the General Convention.
- Procedure in case of failure to resign at age 72.* (c). If any Suffragan Bishop should for any reason fail to submit his resignation upon attaining the age of seventy-two years, as provided in Clause (a) above, the Presiding Bishop shall certify that fact to the House of Bishops. The House of Bishops shall then declare the said Bishop's position terminated, effective at a date not later than three months from the date of such declaration; and shall order the Presiding Bishop's certificate and its own declaration and action to be recorded in its Journal. It shall then be the duty of the Presiding Officer of the House of Bishops to pronounce such position terminated, and to communicate the fact to the House of Deputies, if in session, and to the Ecclesiastical Authority of each Diocese.
- Tenure of Office.* (d). The tenure of office of a Suffragan Bishop shall not be terminated on the death or removal of the Bishop of the Diocese. A Suffragan Bishop may, at any time, resign his

May resign. position as Suffragan of a Diocese with the consent of a majority of the Bishops of this Church having jurisdiction under the procedure set out in Canon III.18, Sec. 8, so far as it applies.

Limitation on exercise of episcopal functions. A Suffragan Bishop whose resignation has been accepted shall exercise episcopal functions only as he may be authorized by the Ecclesiastical Authority of a Diocese or of an Area Mission.

May be elected Bishop or Bishop Coadjutor. Consent necessary to validity of election. Sec. 7 (a). Whenever a Suffragan Bishop shall be elected Bishop or Bishop Coadjutor of a Diocese, if such election shall have taken place within three months before a meeting of the General Convention, evidence thereof shall be laid before each House of the General Convention and the concurrence of each House and its express consent shall be necessary to the validity of said election, and shall complete the same, so that the Bishop thus elected shall be thereafter the Bishop or Bishop Coadjutor of the Diocese which has elected him.

Alternative procedure. (b). If the said election has taken place more than three months before a meeting of the General Convention, the above process may be adopted, or the following instead thereof, viz.:

The Standing Committee of the Diocese electing, or the Secretary of the House of Bishops, as the case may be, shall give duly certified evidence of the election to every Bishop of this Church having jurisdiction and to the Standing Committee of every Diocese.

On receiving notice of the concurrence of a majority of the Bishops and of the Standing Committees in the election, and their express consent thereto, the Standing Committee of the Diocese concerned or the Secretary of the House of Bishops, as the case may be, shall transmit notice thereof to the Presiding Bishop and to the Ecclesiastical Authority of every Diocese; which notice shall state what Bishops and what Standing Committees have consented to the election. On receiving this notice the Presiding Bishop shall certify to the Secretary of the House of Bishops the altered status and style of the Bishop so elected.

If the Presiding Bishop shall not have received the consent of a majority of the Bishops within three months from the

Cannot be date of his notice to them, he shall then give notice of such
Rector: failure to the Standing Committee of the Diocese electing.

Sec. 8. No Suffragan Bishop, while acting as such, shall be Rector or settled Minister in charge of a Parish or Congregation.



This canon was Canon 11 when it was adopted in 1910. It became Canon 40 in 1943, and Title III, Canon 16, in 1970.

Convention of 1829

The first canonical enactment on the subject of suffragan bishops was made by the General Convention of 1829, as a part of Canon 5 of that year, and which read as follows:

No person shall be elected or consecrated a Suffragan Bishop, nor shall there be more than one Assistant Bishop in a Diocese at the same time.

In 1814 the Rev. Dr. Kemp was elected Suffragan Bishop of Maryland. This election was the cause of much controversy in the Church at that time. The principal objection to his consecration as suffragan bishop was that the office was unknown in the constitution of the church in Maryland, as well as in the Constitution of the General Convention. On this point, the consecrating bishops held that, while the office of suffragan was not authorized by the Constitution, it was not prohibited by it, and therefore, a suffragan bishop might be had on the principle of the *lex non scripta*, the common law ecclesiastical, whenever necessity required it, as it was a matter of frequent occurrence in the history of the Christian Church.

In 1829 the Rev. Dr. Meade was elected assistant bishop by the convention of Virginia, but with the express declaration that he was not to be considered as entitled to the succession on the demise of the diocesan. This declaration made the status of the bishop-elect simply that of a suffragan.

When the question of his confirmation came before the General Convention of 1829, this declaration of the Virginia convention was very strenuously objected to. The House of Deputies finally decided that the canonical testimonial should be sent to the House of Bishops and the Presiding Bishop authorized to take order for the consecration of Bishop-elect Meade, upon his receiving satisfactory assurance from Virginia that he should be entitled to the succession. The next diocesan

convention of Virginia complied with the request of the General Convention and made provision that the assistant bishop should be entitled to the succession.

It was to prevent a recurrence of any similar case that the Convention of 1829 enacted Canon 5 of that year, which provided that the assistant bishop should, in all cases, succeed the diocesan, in case of surviving him, and that no person should be elected or consecrated as suffragan bishop. This provision was retained in the Digest of Canons until its repeal by the Convention of 1904.

Repeated attempts were made in General Convention to enact a canon providing for suffragan bishops. In 1847 the House of Deputies passed a canon on suffragan bishops, but the House of Bishops refused concurrence. This proposed canon was in response to a memorial from the Diocese of New York, whose bishop was under a sentence of suspension, praying for relief from the conditions which existed because of such suspension. It seemed to be the opinion of the House of Deputies that a suffragan bishop was the only solution of the difficulty. The question of suffragan bishops was referred to a joint committee to report to the next Convention, but the Journal of the Convention of 1850 makes no mention of any report from this joint committee. This failure to report may have been due to the fact that the Convention enacted a canon providing for a provisional bishop for New York, thus obviating the necessity for the immediate consideration of the question of suffragan bishops, especially so far as the needs of New York were concerned.

The question of suffragan bishops was not again brought seriously to the attention of General Convention until 1871, but from that time until the enactment of Article II, Section 4, of the Constitution, and Canon 11, by the Convention of 1910, it received the consideration of nearly every intervening Convention.

The revival of interest in the question of suffragan bishops was due, in most cases, to memorials from southern dioceses which desired such bishops for work among the "colored" people therein. The amendment to the Constitution adopted by the Convention of 1910 was proposed by the "Joint Commission on the Memorial of Church Workers among Colored People." The commission concluded its report to the General Convention, in part, as follows:

We recommend in the direction of organization an auxiliary Episcopate in the Diocese which may need this help for special racial conditions, and which may apply this agency, when secured on their initiative and request, to the service of any race which may require particular provision.

This commission recommended the enactment of an amendment to Article II.

Convention of 1910

This same Convention, after the enactment of Article II, Section 4, of the Constitution, then enacted Canon 11, "Of Suffragan Bishops," to carry out the provisions of this article. It read as follows:

Sec. 1. A Suffragan Bishop shall be elected in accordance with the Canons enacted in each Diocese for the election of a Bishop. But the initiative shall always be taken by the Bishop of the Diocese asking for the assistance of a Suffragan.

Sec. 2. There shall not at any time be more than two Suffragan Bishops holding office in and for any Diocese, save by special consent of the General Convention previously obtained.

Sec. 3. A Suffragan Bishop shall in all respects act as the assistant of the Bishop of the Diocese and under his direction.

Sec. 4. The tenure of office of a Suffragan Bishop shall not be terminated on the death or removal of the Bishop of the Diocese. He may, however, at any time, with the consent of a majority of those entitled to vote in the House of Bishops, resign his position as Suffragan of the Diocese, and on his resignation being accepted by the Convention of the Diocese, he shall exercise Episcopal functions only as he may be called upon and authorized so to do by the Ecclesiastical Authority of a Diocese or Missionary District.

Sec. 5. No Suffragan Bishop, while acting as such, shall be Rector or settled Minister in charge of a Parish or congregation.

Sec. 6. This Canon shall go into effect immediately.

Convention of 1916

This Convention amended Section 4 of Canon 11 by striking the words:

with the consent of a majority of those entitled to vote in the House of Bishops, resign his position as Suffragan of the Diocese, and on his resignation being accepted by the Convention of the Diocese,

in the second sentence, and inserting in place thereof the following:

resign his position as a Suffragan of the Diocese according to the provisions of Canon 13, Section 7.

The provisions referred to in the above amendment are those governing the resignations of bishops.

The same Convention also amended Canon 11, by the addition of a new section, numbered Section 3, reading as follows:

The House of Bishops, from time to time in its discretion, may choose a Suffragan Bishop for any Missionary District in same manner as provided by Canon 10, Section 2, and subject to all the provisions thereof.

Former Section 3 was made Section 4 and was amended by the insertion of the words “or Missionary District” after the word “Diocese.” This amendment was made necessary by the adoption of Section 3, providing for a suffragan to a missionary district.

Section 4 was made Section 5 and was amended by the insertion of the words “or Missionary District” after the word “Diocese” in the first sentence thereof. It was also amended by recasting the remainder of the section to read as follows:

A Suffragan Bishop at any time may resign his position as Suffragan of a Diocese with the consent also of the Convention of the Diocese. A Suffragan Bishop of a Missionary District, at any time, may resign his position as such Suffragan Bishop with the consent of a majority of those entitled to vote in the House of Bishops. A Suffragan Bishop whose resignation has been accepted shall exercise Episcopal functions only as he may be authorized by the Ecclesiastical Authority of a Diocese or of a Missionary District.

These amendments to Section 5 were also made necessary by the enactment of Section 3, providing for the election of a suffragan in a missionary district.

The same Convention further amended the canon by the addition of another new section, numbered Section 6, and reading as follows:

(i) Whenever a Suffragan Bishop shall be elected Bishop or Bishop Coadjutor of a Diocese or Missionary District, if such election shall have taken place within three months before a meeting of the General Convention, evidence thereof shall be laid before each House of the General Convention and the concurrence of each House and its express consent shall be necessary to the validity of said election, and shall complete the same, so that the Bishop, thus elected shall be thereafter the Bishop or Bishop Coadjutor of the Diocese which has elected him, or Missionary Bishop of the District, as the case may be.

(ii) If the said election has taken place more than three months before a meeting of the General Convention, the above process may be adopted, or the following instead thereof, viz.:

The Standing Committee of the Diocese electing, or the Secretary of the House of Bishops, as the case may be, shall give duly certified evidence of the election to every Bishop of this Church in the United States who has a seat and vote in the House of Bishops, and to the Standing Committee of every Diocese.

On receiving notice of the concurrence of a majority of the Bishops and of the Standing Committees in the election, and their express consent thereto, the Standing Committee of the Diocese concerned or the Secretary of the House of Bishops, as the case may be, shall transmit notice thereof to the Ecclesiastical Authority of every Diocese and Missionary District within the United States; which notice shall state what Bishops and what Standing Committees have consented to the election.

Former Sections 5 and 6 were made Sections 7 and 8.

Convention of 1919

This Convention amended Section 6 (ii) by adding, at the end of the first paragraph, the following:

On receiving this notice the Presiding Bishop shall certify to the Secretary of the House of Bishops the altered status and style of the Bishop concerned.

Convention of 1922

This Convention amended Section 5 by striking the words “with the consent also of the Convention of the Diocese.”

This section formerly required the consent of the diocese, as well as the consent of the House of Bishops, to make effective the resignation of a suffragan bishop. As only the consent of the House of Bishops is required for the resignation of a diocesan or bishop coadjutor, there seemed no good reason why the same rule should not apply to a suffragan bishop, and for this reason the words, requiring the consent of the convention of the diocese in which the suffragan is officiating, to effect his resignation, were stricken.

Convention of 1934

At this Convention a new Section 2 was added, reading as follows:

Before the election of a Suffragan Bishop in a Diocese or Missionary District the consent of the General Convention, or during the recess thereof the consent of a majority of the Bishops and of the several Standing Committees, must be had and obtained.

The consent spoken of in this Section is a consent to create the office, not to the choice of an individual to fill it.

The remaining sections were renumbered and correspond with the present numbering.

Convention of 1937

A new paragraph, reading as follows, was added at the end of Section 7:

If the Presiding Bishop shall not have received the consent of a majority of the Bishops within three months from the date of his notice to them, he shall then give notice of such failure to the Standing Committee of the Diocese electing.

The canon was renumbered Canon 40 in 1943.

Convention of 1946

Three new clauses were added at the beginning of Section 6 to provide for mandatory retirement at age seventy-two:

(a). Every Suffragan Bishop, upon attaining the age of seventy-two years, shall forthwith tender his resignation from his position by sending it to the Presiding Bishop, who shall submit it to the House of Bishops at the first meeting held by the House of Bishops after its receipt, and said resignation shall be accepted by the House of Bishops during that session to take effect at a designated date not later than three months from the date of acceptance of such resignation.

(b). The House of Bishops shall cause its acceptance of such resignation, effective as of the date fixed, to be recorded in its Journal. It shall then be the duty of the Presiding Officer of the House of Bishops to communicate to the House of Deputies, if in session, and to the Ecclesiastical Authority of each Diocese and Missionary District, the fact of the acceptance of such resignation, and the termination of the said Bishop's position, effective as of the date fixed.

(c). If any Suffragan Bishop should for any reason fail to submit his resignation upon attaining the age of seventy-two years, as provided in Clause (a) above, the Presiding Bishop shall certify that fact to the House of Bishops. The House of Bishops shall then declare the said Bishop's position terminated, effective at a date not later than three months from the date of such declaration; and shall order the Presiding Bishop's certificate and its own declaration and action to be recorded in its Journal. It shall then be the duty of the Presiding Officer of the House of Bishops to pronounce such position terminated, and to communicate the fact to the House of Deputies, if in session, and to the Ecclesiastical Authority of each Diocese and Missionary District.

The former content of the section was made clause (d).

Convention of 1949

This Convention made further amendments to Section 6.

Clause (a) was amended to read as follows:

Every Suffragan Bishop, upon attaining the age of seventy-two years, shall forthwith tender his resignation from his position by sending it to the Presiding Bishop, who shall immediately communicate the same to every Bishop of this Church having jurisdiction in the United States and shall declare the said Bishop's resignation accepted, effective at a designated date not later than three months from the date of such resignation.

Clause (b) was amended to read as at present.

Clause (c) was new:

Such retired Suffragan Bishop shall receive from the Treasurer of the General Convention a retiring allowance of twenty-five hundred dollars per annum, less whatever allowance such Bishop may receive from The Church Pension Fund and from the Diocese in which he served as Suffragan Bishop. Such retiring allowance may be revised whenever such retired Bishop shall receive a regular stipend from ecclesiastical employment.

Clauses (d) and (e) were former clauses (c) and (d), unamended.

Convention of 1952

At this Convention the words “a majority of the Bishops” in Section 2 were changed to read “a majority of the Bishops having jurisdiction in the United States,” and in Section 7 (b) the words “every Bishop of this Church having jurisdiction in the United States.”

The purpose of the latter amendment was conformance with Canon 40, Section 6 (b) as amended in 1949. (A typographical error in the official copy of the canons is found in Canon 41, Sec. 7 (b) where the words “of every” should be “to every” [p. 109].)

At the end of the third paragraph of Section 7 (b) the word “concerned” was changed to the words “so elected.”

Section 7 (b) was also amended by changing the word “concerned” in the last line to the word “electing.”

Convention of 1958

The amount of the retiring allowance provided for in Section 6 (c) was raised to four thousand dollars.

Convention of 1964

Former Section 2 was made Section 2 (a) and two new clauses, (b) and (c), were added.

The effect was to make it unnecessary to seek the permission of the General Convention for a second election when a person elected as suffragan bishop declines his election or the necessary consents are not given.

Section 6 (c), providing for a retiring allowance, was repealed, and the remaining clauses relettered.

Section 7 (b) was amended by inserting the words “to the Presiding Bishop and” after the words “transmit notice thereof” in the third paragraph thereof.

Convention of 1973

Section 4 and clause (d) of Section 6 were amended to their present wording.

The various references to missionary districts were deleted as no longer needed.

The references to the United States in Sections 2, 6, and 7, which limited the giving of consents to jurisdictions within, and bishops having jurisdiction within, the United States were deleted, thus bringing the canon to its present form.

EXPOSITION OF CANON III.16

A brief history of suffragan bishops has already been noted in the consideration of the amendment to the Constitution providing for the election of suffragan bishops, in Article II, Section 4.

The method of procedure in the election of a suffragan bishop is precisely the same as for the election of a coadjutor, but no election can be had until the diocesan signifies to the Convention his desire for such assistance. It is his prerogative to state the kind of assistance he desires, whether it shall be a coadjutor or a suffragan, and the Convention can only elect the kind of a bishop that he desires.

Only two suffragans are permitted in a diocese at any one time, except by special consent of the General Convention, which must be had before any such election can be held.

The provision permitting the election of a suffragan bishop for a missionary diocese was enacted in 1916, in response to the appeal of the Missionary District of South Dakota for additional episcopal supervision. That diocese has, within its jurisdiction, a large number of Indian congregations, scattered through different parts of the diocese, which made it practically impossible to divide it, separating the Indian from the non-Indian work. While it was realized that some form of episcopal assistance must be given to the Bishop of South Dakota, there was a decided difference of opinion between the two houses of Convention as to the form which such assistance should take. A joint committee, appointed at the beginning of the session to take in consideration the needs of South Dakota, and to recommend to the Convention such action as, in its opinion, would best serve such needs, made a majority report in favor of a suffragan missionary bishop, and submitted a proposed amendment to the canon "Of Suffragan Bishops." There was also a minority report in favor of an assistant missionary bishop, recommending the adoption of an amendment to the canon on missionary bishops in the same form as the amendment made by the Convention of 1904 to provide relief for the former Bishop of South Dakota, which was later repealed. The House of Deputies adopted the amendment to Canon 11, providing for a suffragan missionary bishop, while the House of Bishops adopted the proposed amendment to Canon 10, providing for an assistant missionary bishop. A committee of conference was appointed, which finally agreed to recommend, to each house, that the plan proposed by the House of Deputies providing for a suffragan missionary bishop be adopted, and the proposed amendments to Canon 11 be enacted. These amendments were enacted on the last day of the session, bringing to a conclusion a controversy between the two houses

that had lasted throughout the whole session of the Convention. The House of Deputies strenuously objected to the plan of an assistant missionary bishop, on the ground that it was special legislation, and especially that it would create co-ordinate authority between two missionary bishops in the same jurisdiction, an arrangement that would be liable to create misunderstandings and disputes. The canon on suffragan bishops clearly defines the status of a missionary suffragan, that he is an assistant to the missionary bishop, and is to act under his direction. The status and duties of an assistant missionary bishop were nowhere defined, which was the ground for one of the reasons why the House of Deputies objected to the creation of such an office.

In the English Church, the commission given to a suffragan bishop terminates upon the death of the diocesan, and may be renewed or not, according to the pleasure of his successor. The American Church, in our opinion, has acted more wisely, by providing that the tenure of office of a suffragan shall not be terminated by the death or removal of the diocesan.

When the canon on suffragan bishops was first being considered in the committee on canons of the House of Deputies, a member of the committee proposed to strike the section prohibiting a suffragan bishop, while acting as such, from having charge of a parish as rector or settled minister thereof, stating that he did so at the request of the bishop of his diocese, who desired to have two clergymen, rectors of parishes in his diocese, elected as suffragans, and for the purpose only of assisting him in administering the rite of confirmation. As one purpose of this section was to prevent any such misuse of the canon, the committee refused to consider the proposition.

The principle of suffragan bishops is one concerning which there has been a wide diversity of opinion in the Church. Those who favor the principle, however, are able to present strong arguments in support thereof. Under the present canons, a coadjutor must have his duties assigned to him for the whole term of his office by the diocesan, not only before he is elected, but before it is known who he will be, or what he is best fitted for and most competent to perform. But how is any bishop able to foresee what the future requirements and duties of his diocese may be? And how can he wisely divide them before he knows what they are or what they may become? New duties require new adjustments; and if any business, that of the Church, or any other, is to grow, it must have such flexibility of relation in its partnership terms as will permit, from time to time, these new and needed adjustments. The supporters of the suffragan principle claim that this is precisely what the suffragan

episcopate does permit and give, and what a coadjutor episcopate cannot give. No duties are assigned to a suffragan before he is elected and consecrated, but after his consecration he performs such duties as may be assigned to him by the diocesan, and those duties may be changed from time to time as the diocesan may decide.

Again, a coadjutor automatically succeeds the diocesan upon his decease, while a suffragan does not so succeed. It is claimed, and there seems to be much merit in the claim, that while it may be the part of wisdom for a diocese to elect a coadjutor when the bishop of the diocese is unable, by reason of age or infirmity, to fully perform the duties of his office, and with the probability of the coadjutor succeeding to the office of diocesan in the very near future, it is most unwise to elect a coadjutor when the diocesan is still in the prime of life, with the probability that the coadjutor will not be called upon to succeed him for several years. The needs of the diocese today may not be the needs of the diocese years hence, and it can well happen that a bishop with very different skills and talents is what will be needed.

It would seem to be the better course of action, when the work of a diocese becomes too great for one bishop to efficiently perform, to either divide the diocese or elect a suffragan, unless the diocesan is of advanced age or suffering from a permanent infirmity.

Another possibility is to secure the services of an assistant bishop. See Canon III.20.

Suffragans, like diocesans, must resign at the age of seventy-two.



CANON 17. Of the Consecration of Bishops for Foreign Lands

*Statement of
facts to be
presented to
the Presiding
Bishop.*

Sec. 1. Pursuant to the provisions of Article III. of the Constitution, the following conditions are prescribed as necessary to be fulfilled before the Presiding Bishop of this Church shall take order for a Consecration to the Episcopate authorized by that Article.

(1). A person seeking to be ordained and consecrated a Bishop for a foreign land, within the purport of Article III. of the Constitution, must present to the Presiding Bishop of this Church a statement in writing subscribed by him setting forth his name, and the date and place of his birth; his Ecclesiastical and Civil status; whether he is in Priest's Orders, and, if so, the time and place and Episcopal source of his admission thereto, and to the Diaconate; the fact of his election or appointment, by a body of Christian people in a foreign land, to be, when duly ordained and consecrated, their Bishop; the corporate name under which such body is or desires and intends to be known as a distinct part of the Catholic Church of Christ; and the land wherein and the civil government under which it claims and purposes to exercise its jurisdiction as such; that the position of this body of Christian people in the land wherein they dwell is such as to justify its distinct organization as a Church therein; that the members of that body will receive the person consecrated for them by the Episcopate of this Church as a true and lawful Chief Pastor, will suitably maintain him as such, and will render to him all due canonical obedience in the exercise of his proper Episcopal functions; that by the lawful authority recognized

in the body applying through him for the Episcopate there has been prescribed for use in that body a Book of Offices containing the Creeds commonly called the Apostles' and Nicene Creeds, together with forms for the Administration of the Sacraments of Baptism and the Lord's Supper, an Ordinal, an Office for the Administration of Confirmation by the Laying on of Hands, and an Order for the public reading of the Holy Scriptures of the Old and New Testaments, in which Book the Faith and Order of the Church, as this Church hath received the same, are clearly set forth and established as the Faith and Order of the Church in which the Episcopate is as aforesaid desired to be settled and maintained; and that the person presenting himself for consecration is, in his life and teaching, in entire conformity with the principles of such Faith and Order, that he is not justly liable to evil report for error in religion or viciousness of life, and that he has no knowledge of any impediment on account of which he ought not to be consecrated to the Office of a Bishop.

Consecration of second or third Bishop. (2). In case a Bishop should already have been consecrated for a foreign land under the provisions of Article III. of the Constitution, and application should be made for the consecration of a second or of a third Bishop for the same country, the judgment in writing of the Bishop or Bishops exercising jurisdiction in that land concerning the proposed consecration shall be presented to the Presiding Bishop together with the papers required in the foregoing Clause.

Evidence substantiating such facts to be presented. (3). The applicant making the statement required in Clause (1) shall with it present to the Presiding Bishop evidence fully substantiating the said statement in every particular thereof; and shall make such further statement, supported by such further evidence, as the Presiding Bishop may in the premises deem to be desirable or essential.

Presiding Bishop to lay the whole record before the House of Bishops if evidence sufficient. (4). If the Presiding Bishop shall deem the statement so submitted, with the evidence substantiating the same, sufficient to justify the consideration of the application by the Bishops of this Church, he shall lay the whole record embodying such statement and evidence before the House of Bishops on the next occasion on which they may be duly convened as such, with the presence of a majority of all the Bishops of this Church entitled to vote in that House.

- Presiding Bishop to take order for the consecration.* Sec. 2. If after consideration of the statement and evidence so presented, and of any other evidence of which they may be cognizant, a majority of the Bishops of this Church entitled to vote in the House of Bishops shall consent to the proposed ordination and consecration under the provisions of Article III. of the Constitution, the Presiding Bishop shall take order therefor in the same manner as order is prescribed to be taken by him in the consecration of Bishops in this Church, the Order of Consecration being conformed, as nearly as may be in the judgment of the Bishops consecrating, to that used in this Church.
- Provision for prior ordination to the Diaconate and the Priesthood.* Sec. 3. If a majority of the Bishops of this Church entitled to vote in the House of Bishops shall have given their consent to the proposed ordination and consecration as required in Section 2 of this Canon, but the person seeking such ordination and consecration shall not have received Episcopal ordination to the Diaconate and to the Priesthood, the Presiding Bishop, or some Bishop of this Church appointed by him for that purpose, shall proceed to ordain such person to the Diaconate and to the Priesthood, and may do so on successive days, the Order of Ordination being conformed, as nearly as may be in the judgment of the Bishop ordaining, to that used in this Church.
- Record to be delivered to Registrar.* Sec. 4. Immediately after a consecration as herein provided shall have taken place, the Presiding Bishop shall lodge the original record of the statement and evidence above required, together with such other papers and documents as he may deem essential to the true and complete history of the proceedings, with the Registrar of the General Convention for preservation among the Archives of this Church.



This canon was Canon 11 when it was adopted in 1904. It became Canon 41 in 1943, and Title III, Canon 17, in 1970.

Convention of 1844

The first legislation on the subject of the consecration of bishops for foreign lands was the enactment of Article III of the Constitution by the General Convention of 1844. In the report of the Board of Missions to the General Convention of 1841 was incorporated a resolution, declaring it to be the sense of the board that there should be consecrated

to the episcopate one who could act as a missionary bishop in foreign lands. The House of Bishops, in the Convention of 1841, adopted a canon providing for the consecration of bishops for foreign countries, but the House of Deputies refused concurrence. The House of Bishops also sent down to the House of Deputies a nomination for a missionary bishop of the "Maryland Colony" in Liberia and other parts of western Africa, but the House of Deputies refused to confirm the nomination on the ground that it was not expedient to elect a bishop for foreign lands, until "the authority, rights, duties, and responsibility of such Bishop, and of those ordained by him, shall have been declared and established, and a mode provided, by Canon or otherwise, of rendering them amenable to the laws of this Church."

The House of Bishops then adopted a proposed amendment, in which the House of Deputies concurred, and which was finally enacted as Article X of the Constitution by the Convention of 1844.

This article of the Constitution was enacted to meet what was thought, at the time, to be an urgent need, and yet no bishop was consecrated under its provisions until 1874, thirty years later, when Bishop Holly was consecrated for Haiti. The explanation of this singular fact is that Liberia, for which the missionary bishop was desired, was soon afterwards made a foreign missionary district and placed under the control of the Board of Missions, and a foreign missionary bishop elected for the district.

It also seems strange that, while the article of the Constitution provides that bishops may be consecrated for foreign lands "under such conditions as may be prescribed by Canons of General Convention," no such canons were enacted by Convention until long after the consecration of all but one of the only bishops consecrated under the provisions of the article.

Convention of 1901

The first canonical legislation on the subject was enacted by the Convention of 1901, which enacted Section 8 of Canon 19, Title I, reading as follows:

Before acting upon an application to ordain and consecrate a Bishop for a Foreign Country, the House of Bishops shall secure from the person applying for such ordination and consecration evidence of his having been duly elected or appointed by a body of Christian people seeking the Episcopate; there shall be further required evidence which shall satisfy the House of Bishops that a Book of Offices is prescribed for use, containing the Creeds, commonly called the Apostles' and the Nicene Creeds, together with Forms for the Administration of the Sacraments of Baptism and the Lord's Supper, an Ordinal, an Office for the Administration of Confirmation by the Laying on of Hands, and an

Order for the public reading of the Holy Scriptures of the Old and New Testaments, in which Book the Faith and Order of the Church, as this Church has received the same, are clearly set forth.

The report of the committee of canons of the House of Bishops, recommending the adoption of the above section, stated that it was for the purpose of “providing safeguards with reference to the consecration of a Bishop for a foreign country, in accordance with Article III of the Constitution.” In light of the fact that three bishops had been already consecrated under that article, we are reminded of the old proverb about locking the stable door after the horse is stolen.

Convention of 1904

This Convention enacted a new canon on the subject, Canon 11. Except for a verbal amendment made in 1907, the three sections of this canon read exactly as the present Sections 1, 2, and 4.

Convention of 1907

The third clause of Section 1 was amended by changing the words “in the foregoing paragraph” to the words “in Clause (i).”

Convention of 1961

The present Section 3, covering cases where the person to be consecrated a bishop had not received episcopal ordination to the diaconate and priesthood, was added by this Convention. This provision was suggested by the Joint Commission on Approaches to Unity.

Former Section 3 was made Section 4.

EXPOSITION OF CANON III.17

The purpose of this canon is to implement Article III of the Constitution, which permits the consecration of bishops for foreign lands with the approbation of a majority of the bishops entitled to vote in the House of Bishops, under such conditions as may be prescribed by canons of General Convention.

An example of proceedings under this canon is found in the action of the House of Bishops on the petition of the Philippine Independent Church at the special meeting of the House in 1949 (*Journal*, 1949, p. 74). See the exposition of Article III above.



CANON 18. Of Duties of Bishops

*Bishop to
reside in his
jurisdiction.*

Sec. 1. It shall be the duty of every Bishop having jurisdiction in a Diocese of this Church, to reside within the limits of his jurisdiction; nor shall he absent himself therefrom for more than three months without the consent of the Convention or the Standing Committee of the Diocese.

*Bishop to
visit each
church every
three years.*

Sec. 2 (a). Every Bishop shall visit the Congregations within his jurisdiction at least once in three years, for the purposes of examining their condition, inspecting the behavior of the Clergy, administering Confirmation, preaching the Word, and at his direction celebrating the Sacrament of the Lord's Supper. At every visitation it shall be the duty of the Bishop to examine the records required by Canon III.20, Sec. 3.

*Council of
Conciliation.*

(b). If a Bishop shall for three years have declined to visit a Parish or Congregation, the Minister and Vestry [or the Corporation], or the Bishop, may apply to the Presiding Bishop to appoint the five Bishops in charge of Dioceses who live nearest to the Diocese in which such Church or Congregation may be situated as a Council of Conciliation, who shall amicably determine all matters of difference between the parties, and each party shall conform to the decision of the Council in the premises; *Provided*, that in case of any subsequent trial of either party for failure to conform to such decision, any constitutional or canonical right of the defendant in the premises may be pleaded and established as a sufficient defense, notwithstanding such former decision; and, *Provided, further*, that in any case the Bishop may at any time apply for such Council of Conciliation.

Bishop to keep record. (c). Every Bishop shall keep a record of all his official acts, which record shall be the property of the Diocese, and shall be transmitted to his successor.

Charges and Pastoral Letters. Sec. 3. Every Bishop shall deliver, from time to time at his discretion, a Charge to the Clergy of his jurisdiction, and may, from time to time, address to the people of his jurisdiction Pastoral Letters on points of Christian doctrine, worship, or manners, which he may require the Clergy to read to their Congregations.

Bishop to deliver a statement at every annual Convention. Sec. 4. At every Annual Convention the Bishop shall make a statement of the affairs of the Diocese since the last meeting of the Convention; the names of the Churches which he has visited; the number of persons confirmed; the names of those who have been received as Postulants and Candidates for Holy Orders, and of those who have been ordained, and of those who have been by him suspended or deposed from the Ministry; the changes by death, removal, or otherwise, which have taken place among the Clergy; and all matters tending to throw light upon the affairs of the Diocese; which statement shall be inserted in the Journal.

Ecclesiastical Authority in case of a Bishop's absence. Sec. 5. It shall be the duty of a Bishop, whenever leaving his Diocese for the space of six calendar months, to authorize, by writing, under his hand and seal, the Bishop Coadjutor, or, should there be none, the Standing Committee of the Diocese, to act as the Ecclesiastical Authority thereof during his absence. The Bishop Coadjutor, or, should there be none, the Standing Committee, may become at any time the Ecclesiastical Authority upon the written request of the Bishop, and continue to act as such until the request be revoked by him in writing.

Any Bishop may be invited to perform episcopal offices in a vacant Diocese. Sec. 6 (a). Any Bishop of this Church may, on the invitation of the Convention or of the Standing Committee of any Diocese where there is no Bishop, or where the Bishop is for the time under a disability to perform episcopal offices by reason of a judicial sentence, visit and perform episcopal offices in that Diocese, or in any part thereof; and this invitation may be for a stated period, and may be at any time revoked.

Convention may place a vacant Diocese under charge of a Bishop. (b). A Diocese without a Bishop, or of which the Bishop is for the time under a disability by reason of a judicial sentence, may, by its Convention, be placed under the provisional charge and authority of the Bishop or Bishop Coadjutor of another Diocese, who shall by that act be authorized to perform all the duties and offices of the Bishop of the Diocese so vacant or whose Bishop is under disability, until, in the case of a vacant Diocese, a Bishop be duly elected and consecrated for the same; or, in the case of a Diocese whose Bishop is disabled, until the disqualification be removed; or, until, in either case, the said act of the Convention be revoked.

No other Bishop to be invited. (c). A Diocese, while under the provisional charge of a Bishop, shall not invite any other Bishop to perform any episcopal duty or exercise authority.

To resign jurisdiction at age seventy-two. Presiding Bishop to notify other Bishops. Sec. 7 (a). Every Bishop and every Bishop Coadjutor and every Missionary Bishop, upon attaining the age of seventy-two years, shall forthwith tender his resignation from his jurisdiction, as required by Sec. 9 of Article II. of the Constitution, by sending it to the Presiding Bishop, who shall immediately communicate the same to every Bishop of this Church having jurisdiction and shall declare the said Bishop's resignation accepted, effective at a designated date not later than three months from the date of such resignation.

Presiding Bishop to communicate fact of acceptance. Record to be made. (b). The Presiding Bishop shall communicate to the resigning Bishop the fact of the acceptance of his resignation and the termination of his jurisdiction effective as of the date fixed; and, in the case of a Bishop or Bishop Coadjutor of a Diocese, shall certify the same to the Standing Committee of the Diocese concerned. He shall also order the Secretary of the House of Bishops to record the same, effective as of the date fixed, to be incorporated in the Journal of the House.

Procedure in case of failure to resign at age seventy-two. (c). If any Bishop should for any reason fail to submit his resignation upon attaining the age of seventy-two years, as provided in Clause (a) above, the Presiding Bishop shall certify that fact to the House of Bishops. The House of Bishops shall then declare the said Bishop's jurisdiction terminated, effective at a date not later than three months from the date of declaration; and shall order the Presiding

Bishop's certificate and its own declaration and action to be recorded in its Journal. It shall then be the duty of the Presiding Officer of the House of Bishops to pronounce such jurisdiction terminated, effective as of the date fixed, and to communicate the fact to the House of Deputies, if in session, and to the Ecclesiastical Authority of each Diocese.

*A Bishop
desiring to
resign.*

Sec. 8 (a). If the Bishop of a Diocese, or a Bishop Coadjutor, shall desire to resign his jurisdiction, he shall send in writing to the Presiding Bishop his resignation with the reasons therefor. This communication shall be sent at least thirty days before the date set for a regular or a special meeting of the House of Bishops. The Presiding Bishop shall without delay send a copy of the communication to every Bishop of this Church having ecclesiastical jurisdiction, and also to the Standing Committee of the Bishop desiring to resign, in order that the Standing Committee may on behalf of the Diocese be heard either in person or by correspondence upon the subject. The House during its session shall investigate the whole case, and by a majority of those present accept or refuse the resignation.

*Presiding
Bishop to
notify other
Bishops.*

*Consent
required.*

*Presiding
Bishop to
com-
municate
fact of
acceptance.*

*Record to be
made.*

(b). If said resignation shall have been tendered more than three months before a regular or special meeting of the House of Bishops, the Presiding Bishop shall communicate the same, together with any statement from the Standing Committee of the Diocese concerned, to every Bishop of this Church having jurisdiction; and if a majority of such Bishops shall consent to the resignation, the Presiding Bishop shall, without delay, notify the resigning Bishop and the Standing Committee of the Diocese concerned, of the acceptance of such resignation and the termination of said Bishop's jurisdiction, effective as of the date fixed. He shall also order the Secretary of the House of Bishops to record the same, effective as of the date fixed, to be incorporated in the Journal of the House.

*Resignation
of a
Missionary
Bishop.*

(c). The House of Bishops may accept the resignation of a Missionary Bishop at any session of the House by a vote of a majority of those present; *Provided*, that, in case the resignation be sent to the Presiding Bishop more than three months before a regular or special meeting of the House of Bishops, the Presiding Bishop shall follow the procedure set out in Clause (b) above so far as it applies.

Notice of resignation sent to House of Deputies. (d). At each meeting of the General Convention, it shall be the duty of the Presiding Officer of the House of Bishops to communicate to the House of Deputies, when in session, a list of the resignations which have been accepted since the preceding meeting of the General Convention.

Retiring allowance for resigned Bishops. (e). Every Missionary Bishop whose resignation for cause of age or disability has been accepted may receive from the Executive Council an annual retirement or disability supplement to be paid by the Treasurer of the Executive Council in an amount to be fixed by the Executive Council. Any such supplement would be in addition to his regular pension received from the Church Pension Fund, and may be revised whenever such Retired Bishop shall receive a regular stipend from any ecclesiastical employment.

(f). Every Missionary Bishop, and every Bishop holding an office created by the General Convention, whose salary is paid by the Executive Council, whose resignation for reasons of policy or strategy, or for reasons beyond his control, has been accepted, and who has reached retirement age, or who has suffered total disability, shall receive from the Executive Council a retiring allowance to be paid by the Treasurer of the Executive Council in an amount to be fixed by the Executive Council.

When a Bishop who has resigned may perform episcopal acts. Sec. 9 (a). A Bishop whose resignation has been accepted by the House of Bishops may perform any episcopal act, at the request of any Bishop of this Church, within the limits of the said Bishop's jurisdiction. He may also, by vote of the Convention of any Diocese, and with the consent of the Bishop of the Diocese, be given an honorary seat in the Convention, with voice but without vote, or such honorary seat in the Cathedral of any Diocese, subject to the authority competent to act in the premises. He shall report all ministerial acts to the Bishop and to the Diocese in which such acts are performed. The foregoing provisions of this paragraph shall also be applicable to a resigned Bishop of another Church in communion with this Church, subject to the approval of competent authority within such other Church, where such approval may be required.

- To be still subject to Canons.* (b). A Bishop who ceases to have episcopal charge shall still be subject in all matters to the Canons and authority of the General Convention.
- May be enrolled among the Clergy of Diocese of his choice.* (c). A Bishop whose resignation has been accepted may, at the discretion of the Bishop of the Diocese in which he chooses to reside, and upon the presentation of Letters Dimissory from the Ecclesiastical Authority of the Diocese in which he has had Canonical Residence, be enrolled among the clergy of that Diocese, and become subject to its canons and regulations; and may be accorded a seat and vote in the Diocesan Convention, in accordance with its canonical provisions for qualification of Presbyters; but if he shall accept a pastoral charge or other ministerial post within the Diocese, as hereinafter provided, he shall process such Letters Dimissory and be enrolled among the clergy of the Diocese, and be given seat and vote in the Diocesan Convention, subject to the provisions of paragraph (g) of this section.
- May accept pastoral charge.* (d). Such resigned Bishop may, with the approval of the Bishop of the Diocese in which he chooses to reside, accept a pastoral charge in said Diocese, and subject to its canonical provisions for the filling of vacancies, may accept election as the Rector of a Parish therein.
- May accept position created by Diocesan Convention.* (e). Such resigned Bishop may, with the approval of the Bishop of the Diocese in which he chooses to reside, accept any position created under the authority of the Diocesan Convention, including that of Assistant Bishop. He may, at the same time, occupy a pastoral charge.
- Retains rights in House of Bishops. Applies to resigned Bishop in his former jurisdiction if Canons of Diocese so provide.* (f). Enrollment among the clergy of, or acceptance of any position within, a Diocese shall not deprive a resigned Bishop of the seat and vote in the House of Bishops to which he may be entitled under Article I., Sec. 2, of the Constitution.
- (g). The provisions of the foregoing paragraphs of this section shall be applicable to a resigned Bishop who continues to reside within the limits of the jurisdiction he previously served as Bishop, except that he shall not have the right to vote in the Diocesan Convention, unless the Canons of the Diocese so specifically provide.

If Bishop incapable of designating Ecclesiastical Authority. Sec. 10. When it is certified to the Presiding Bishop by at least three competent physicians who shall have examined the case, that the Bishop of any Diocese is incapable of authorizing the Bishop Coadjutor, if there be one, or a Suffragan Bishop, if there be one, or the Standing Committee, to act as the Ecclesiastical Authority, then, upon the advice of the five Bishops of neighboring Dioceses, to be selected by the Presiding Bishop, the Bishop Coadjutor, if there be one or a Suffragan Bishop, if there be one, and if the Constitution and Canons of the Diocese so provide, or the Standing Committee, shall be declared by the Presiding Bishop to be the Ecclesiastical Authority for all purposes set forth in these Canons, and shall retain such authority until such time as, acting upon a like certificate, the Presiding Bishop shall declare the said Bishop competent to perform official duties.



This canon was part of Title I, Canon 13, in 1859. It became Canon 12 in 1904, Canon 42 in 1943, and Title III, Canon 18, in 1970.

The duties of bishops was made the subject of canonical legislation by the first General Convention of the Church.

Convention of 1789

This Convention enacted Canon 3, which read as follows:

Every Bishop in this Church shall, as often as may be convenient, visit the churches within his Diocese or district, for the purpose of examining the state of his Church, inspecting the behaviour of the Clergy, and administering the apostolic rite of Confirmation.

Gibson, in his *Codex* (p. 996), tells us that the ancient law of visitations of a bishop was once a year, and that this was the law of the English Church as early as the year 787. In the tenth century, the ecclesiastical law in England prescribed that bishops were to make their visitations as often as time would permit. The first legislation of the American Church on this subject followed the English law, leaving the matter of the frequency of a bishop's visitations to be regulated by convenience. This method, however, was not wholly satisfactory, for the Convention changed this method six years later.

Convention of 1795

This Convention amended Canon 3 of 1789, making it Canon 1, and to read as follows:

Every Bishop in this Church shall visit the churches within his Diocese or district, for the purposes of examining the state of his Church, inspecting the behaviour of the Clergy, and administering the apostolic rite of Confirmation. And it is deemed proper that such visitations be made once in three years at least, by every Bishop to every church within his Diocese or district, which shall make provision for defraying the necessary expenses of the Bishop at such visitation. And it is hereby declared to be the duty of the minister and vestry of every church or congregation, to make such provision accordingly.

The Bishop of any Diocese or State district may, on the invitation of the Convention or Standing Committee of the church in any State where there is not a Bishop, visit and perform the episcopal offices in that State, or part of the State, as the case may be, provision being made for defraying the expenses as aforesaid: and such State, or part of a State, shall be considered as annexed to the district or Diocese of such Bishop, until a Bishop is duly elected and consecrated for such State, or until the invitation given by the Convention or Standing Committee be revoked. But it is to be understood, that to enable the Bishop to make the aforesaid visitations, it shall be the duty of the Clergy, in such reasonable rotation as may be devised, to officiate for him in any parochial duties which belong to him.

The remainder of the canon provides for the number of presbyters in a diocese necessary for the election of a bishop. As this provision is now contained in Article V of the Constitution, and has already been considered, it need not be noted further.

It will be noted that the bishop was not obliged to make a visitation once in three years, he was only advised that it was thought proper that he should do so. Nor was he obliged to make any visitation to a parish unless that parish made provision for defraying his expenses on the occasion of his visitation.

Convention of 1801

This Convention enacted Canon 4, entitled "Making an addition to the 1st Canon of 1795, concerning Episcopal Visitation," which read as follows:

It shall be the duty of every Bishop of this Church to keep a register of his proceedings at every visitation of his Diocese, and particularly of the names and age of the persons confirmed, and to report a copy of such register to the House of Bishops, at every triennial meeting of the General Convention of this Church, in order that the same may be communicated to the House of Clerical and Lay Deputies, to be preserved among the general records of the Church.

This amendment was probably made because the law at that time did not require the minister of a parish to keep a record of the persons confirmed therein. For this reason, the bishop was required to keep a

record of the Confirmations, and, in order that such record might be preserved, it was ordered that such record be sent to the House of Deputies to be preserved among the general records of the Church.

Convention of 1808

This Convention amended Canon 1 of 1795, making it Canon 20, and striking the two sentences relating to the number of presbyters necessary for the election of a bishop by a diocese; also the provision that two dioceses might join in the election of a bishop. The canon was further amended by striking the last clause thereof, added by the Convention of 1801, and inserting in place thereof the following:

It shall be the duty of the Bishop to keep a register of his proceedings at every visitation of his Diocese.

The same Convention also enacted Canon 23, which read as follows:

It is deemed proper that every Bishop of this Church shall deliver at least once in three years, a Charge to the Clergy of his Diocese, unless prevented by reasonable cause. And it is also deemed proper, that from time to time he shall address to the people of his Diocese, Pastoral Letters on some points of Christian doctrine, worship, or manners.

Convention of 1832

This Convention renumbered Canon 20 of 1808 as Canon 25, and amended it as follows:

The first paragraph of the former canon was made Section 1 without amendment.

The remainder of the canon was stricken and the following inserted in place thereof:

Sec. 2. But it is to be understood, that to enable the Bishop to make the aforesaid visitations, it shall be the duty of the Clergy, in such reasonable rotation as may be devised, to officiate for him in any parochial duties belonging to him.

Sec. 3. It shall be the duty of the Bishop to keep a register of his proceedings at every visitation of his Diocese.

Canon 23 of 1808 was renumbered Canon 27, without amendment.

The second paragraph of former Canon 20 was enacted as a separate canon, Canon 7, and amended to read as follows:

Sec. 1. Any Bishop or Assistant Bishop may, on the invitation of the Convention or Standing Committee of any Diocese where there is no Bishop, visit and perform Episcopal offices in that Diocese, or in any part thereof. And this invitation may be temporary; and it may at any time be revoked.

Sec. 2. A Diocese without a Bishop may, by its Convention, be placed under the full Episcopal charge and authority of the Bishop of another Diocese, who shall by that act become the Bishop also of the said vacant Diocese, until a Bishop is duly elected and consecrated for the same, or until the said act of its Convention be revoked. And in case there shall be an Assistant Bishop of the Diocese, under the Episcopal charge of whose Bishop the Diocese without a Bishop shall be placed, the Assistant Bishop shall have the like charge and authority therein as he has in the Diocese of which he has been chosen Assistant Bishop.

Sec. 3. No Diocese thus placed under the full charge and authority of the Bishop of another Diocese, shall invite a second Bishop to perform any Episcopal duty, or exercise authority, till its connection with the first Bishop has expired or is revoked. Where there is no Bishop, the Standing Committee is the ecclesiastical authority for all purposes declared in these Canons.

This canon made important changes in the former canon. The first section provided for a temporary supervision of a vacant diocese by the bishop of another diocese, or by the assistant bishop of such diocese, and the invitation to assume such supervision might be made either by the convention or the standing committee of such vacant diocese.

The most important change was made in Section 2, under the provisions of which the vacant diocese might make itself, for the time being, a part of the diocese of the bishop thus invited. It prescribed that such bishop should become "the Bishop also of the vacant Diocese," until it had its own bishop, or until the act of its convention was revoked. The invitation to a bishop to become its bishop for the time being, under the provisions of Section 2, must be the act of the convention of the vacant diocese, and not that of the standing committee. As if to emphasize the merging of the two dioceses, it was provided that the assistant bishop of the diocese, if there was one, must also be recognized as the assistant bishop of the vacant diocese, with the same authority that he possessed in the diocese in which he was chosen as an assistant. A vacant diocese was free to choose the bishop of any diocese to become its bishop under the provisions of the canon, no matter how far the two dioceses might be separated from each other. Contiguity of territory was not necessary. Under this canon, the Bishop of Connecticut was, for a time, Bishop of Alabama.

Section 3 provided that while the vacant diocese was under the charge of one bishop, it could not invite another bishop to perform any episcopal act therein. Dr. Hawks tells us (*Constitution and Canons*, p. 124) that this section was enacted because of a case which had occurred. In 1814 the Diocese of Connecticut being without a bishop, the convention thereof directed the standing committee, "upon application from any church or churches in the diocese to request any bishop in the United States to attend an Episcopal visitation among them." Bishop

Griswold of the Eastern Diocese was first invited under this resolution to perform certain episcopal acts. In May 1815, he held an ordination in the state, and in June of the same year attended the convention of Connecticut. In June 1816, Bishop Hobart of New York was invited by the convention of Connecticut “to visit and perform Episcopal acts in the Diocese”; and did so until a bishop was elected. As before stated, because of this incident, it is probable that Section 3 was enacted.

The first legislation on the subject embraced in Section 7, concerning the resignation of a bishop, was enacted by the Convention of 1832, in Canon 32 of that year, which read as follows:

Whereas the resignation of the Episcopal jurisdiction of a Diocese is to be discountenanced, but circumstances may sometimes create an exigency which would render an adherence to this principle inexpedient; it is hereby declared, that the Episcopal resignation of a Diocese may take place under the following restrictions; that is to say—

Sec. 1. A Bishop desiring to resign, shall declare his desire to do so, with the reasons therefor in writing, and under his hand and seal, to his council of advice, which shall record the said writing, and send a copy of the same forthwith to every Clergyman and every Parish in the diocese.

Sec. 2. At the next Convention of the said Diocese, held not less than six months after the delivery of the said writing to the council of advice, the proposed resignation of its Bishop shall be considered; and if two-thirds of the Clergy present, entitled to vote in the election of a Bishop, and two-thirds of the parishes in union with the said Convention, and entitled to vote, and at that time represented, each parish having one vote by its Delegate or Delegates, shall consent to the proposed resignation, the subject shall be referred to the General Convention; but otherwise, the tender of resignation shall be void.

Sec. 3. The writing aforesaid, and the proceedings of the Diocesan Convention consenting to the resignation shall be laid before the House of Clerical and Lay Deputies at the next General Convention, which shall have cognizance of all matters relating to them; and if a majority of each order of that House, voting by States, shall agree to the measure, the said writing and proceedings shall be laid before the House of Bishops of that Convention; but otherwise, the said writing and proceedings shall be void.

Sec. 4. The said writing and proceedings being laid before the House of Bishops, it shall have cognizance of all matters relating to them; and the Bishop who proposes to resign, may sit and vote as before in that House; and if a majority of the members present of that House shall agree to the proposed resignation, the Presiding Bishop shall declare that it is confirmed; and this declaration shall be entered on the journal of the House. But if a majority of the Bishops present do not agree to the resignation, all the previous proceedings shall be void.

Sec. 5. If no meeting of the General Convention is expected to be held within one year of the sitting of the Diocesan Convention aforesaid, the President of the Standing Committee of the Diocese shall transmit copies of the said writing and proceedings of the Diocesan Convention to the Standing Committees of all the Dioceses of this Church; and if a majority of them consent to the proposed resignation, the said President shall transmit copies of the said writing and proceedings, and of the consent of a majority of the Bishops shall notify the senior Bishop of their consent to the proposed resignation,

he shall declare, under his hand and seal, that the said resignation is confirmed, and shall transmit the said declaration to the President of the Standing Committee of the Diocese concerned. But if a majority of the Bishops do not notify the senior Bishop of their consent to the measure within six months, all the previous proceedings shall be void.

Sec. 6. A Bishop whose resignation of the Episcopal jurisdiction of a Diocese has been thus confirmed, shall perform no Episcopal act, except by the request of the Bishop of some Diocese, or of the Convention, or the Standing Committee of a vacant Diocese. And if the said Bishop shall perform any Episcopal act contrary to these provisions, or shall in any wise act contrary to his Christian and Episcopal character, he shall, on trial and proof of the fact, be degraded from the ministry by any five Bishops, or a majority of them, to be appointed by the senior Bishop of this Church, and to be governed by their own rules in the case; and notice of the same shall be given to all the Bishops and Standing Committees, as in the case of other degraded Ministers.

Sec. 7. No Bishop whose resignation of the Episcopal jurisdiction of a Diocese has been confirmed as aforesaid, shall have a seat in the House of Bishops.

Sec. 8. A Bishop who ceases in any way to have the Episcopal charge of a Diocese, is still subject, in all matters, to the authority of the General Convention.

The first case of the resignation of a bishop in the American Church was that of Bishop Provoost of New York in 1801, which will be found to be fully set forth in the discussion of Article II, Section 6, of the Constitution. This resignation resulted in no legislation on the subject.

In 1831 a case occurred which led to a great deal of discussion in the General Convention, and which finally resulted in the foregoing most stringent canon on the subject of episcopal resignations.

In September of that year, Bishop Chase of Ohio, who was also president of Kenyon College in that State, because of certain circumstances connected with that college, resigned to his convention the "charge of the Diocese" as well as the presidency of the college, and removed from the state. The case, occurring one year before the meeting of the General Convention of 1832, was brought before that body, and led to a discussion that lasted through the greater part of the Convention. The Convention was loath to accept the resignation of Bishop Chase as a completed action, but as there was no canon on the subject, and realizing the needs of Ohio, and that it was impossible to induce the bishop to recede from the ground he had taken, finally resolved to accept the resignation as an accomplished fact, and to consecrate Bishop-elect McIlvaine, who had been elected bishop by the convention of Ohio. Both houses of Convention adopted resolutions strongly condemning the action of Bishop Chase. The House of Bishops in passing a resolution providing for the consecration of Bishop-elect McIlvaine, ordered the following protestation to be annexed to the resolution:

The House of Bishops beg leave to inform the House of Clerical and Lay Deputies, that in adopting the foregoing resolution, they feel impelled to add their solemn protestation against its being drawn into a precedent on any future occasion.

The Bishops are deeply impressed with a consideration of the evils which may result to the Church, from capricious and unregulated resignations of Episcopal jurisdiction. They are of the opinion that the acts of Right Rev. Bishop Chase, by which he has relinquished the Episcopate of the Diocese of Ohio, and removed to territory beyond the jurisdiction of this Church, are not warranted by any regulation of the Protestant Episcopal Church in the United States, nor by any general usage of the Church....

The House of Bishops hopes that the House of Clerical and Lay Deputies will concur with them in this protestation, and in the passage of a canon prohibiting episcopal resignations, except on great and urgent occasions, and regulating the manner in which they shall be made, and also designating the ecclesiastical body to whose approval they shall be subjected.

Before the consecration of Bishop-elect McIlvaine, the House of Bishops adopted the foregoing canon which was concurred in by the House of Deputies. Dr. Hawks tells us that it was currently reported, and believed, that a majority of the bishops were opposed to the consecration of the four bishops-elect whose credentials were before the bishops, unless the canon was enacted.

The object of the canon was, apparently, to make the resignation of a bishop exceedingly difficult to accomplish. The bishop must state his desire to resign, with the reason therefor, to his council of advice, a copy of which was then to be sent to every clergyman in the diocese. When the question came before the diocesan convention, it had to receive the approval of two-thirds of the clergy and two-thirds of the parishes of the diocese. This having been obtained, the matter next came before the House of Deputies, where it had to have the approval of a majority of each order, voting by dioceses. The approval of the House of Deputies having been obtained, the matter then went to the House of Bishops; then, if the majority of the bishops agreed to the proposed resignation, the Presiding Bishop was to declare the resignation effective. Provision was also made, in the case of there being no meeting of the General Convention within one year from the meeting of the diocesan convention at which the resignation was offered, for obtaining the consents of the standing committee and the bishops.

Dr. Hawks, in a long note on this canon, says, in part (*Constitution and Canons*, pp. 302-305):

So far as our research has extended, this law is without a precedent in the history of the Christian Church. We may be mistaken, but we believe that ours is the first Church in Christendom, that ever legislated for the express purpose of preventing Episcopal resignations; for the Canon prescribes so many restrictions, that the obstacles render it almost impossible for a Bishop to lay down his jurisdiction ... A Bishop who desires to

resign, and who ineffectually endeavors to “run the gauntlet” of this Canon is not likely to be useful in an office, which he is thus forced to retain.

Dr. Hawks also objected very strongly to leaving it to the bishops to say whether one of their number may relinquish his jurisdiction; that it made the Episcopal College a closed corporation. He seemed to think that all the legislation necessary was for a canon to prevent the abuse of episcopal power after a resignation, and therefore the last three sections of the canon were, in his mind, sufficient.

Convention of 1838

This Convention renumbered Canon 7 of 1832 as Canon 3, and amended it as follows:

The first line of the first section was changed to read as follows: “Sec. 1. Any Bishop, Assistant Bishop, or Missionary Bishop.”

Also, in the second section, after the words “another Diocese” were inserted the words “or of a Missionary Bishop.”

The same change was also made in the third section.

These amendments were made because of the enactment of the canon on missionary bishops, and it was deemed advisable to give the same rights to perform episcopal duties in vacant dioceses to them as to diocesan bishops.

Section 3 was amended by striking the last sentence thereof, which provided that, where there was no bishop, the standing committee was to be considered as the ecclesiastical authority for all purposes declared in the canons, as being unnecessary, it being already a part of another canon on standing committees.

Convention of 1844

This Convention repealed Canon 32 of 1832, relating to episcopal resignations, and enacted Canon 4 in place thereof, which read as follows:

Sec. 1. If, during the session of any General Convention, or within six calendar months before the meeting of any such Convention, a Bishop shall desire to resign his jurisdiction, he shall make known in writing to the House of Bishops such his desire, together with the reasons moving him thereto; whereupon the House of Bishops may investigate the whole case of the proposed resignation, including not only the facts and reasons that may be set forth in the application for the proposed resignation, but any other facts and circumstances bearing upon it, so that the whole subject of the propriety or necessity of such resignation may be placed fully before the House of Bishops.

Sec. 2. An investigation, having thus been made, the House of Bishops may decide on the application, and, by the vote of a majority of those present, accept or refuse to accept, such resignation: and in all cases of a proposed resignation, the Bishops shall

cause their proceedings to be recorded on their Journal; and in case of acceptance, the resignation shall be complete when thus recorded, and notice thereof shall be given to the House of Clerical and Lay Deputies.

Sec. 3. In case a Bishop should desire to resign at any period not within six calendar months before the meeting of a General Convention, he shall make known to the Presiding Bishop such his desire, with the reasons moving him thereto; whereupon the Presiding Bishop shall communicate, without delay, a copy of the same to every Bishop of this Church, having Ecclesiastical jurisdiction; and also to the Standing Committee of the Diocese to which the Bishop desiring to resign may belong, and at the same time summon said Bishops to meet him in person, at a place to be by him designated, and at a time not less than three calendar months from the date of his summons: and should a number not less than a majority of all the said Bishops, meet at the time and place designated, they shall then have all the powers given by the previous sections of this Canon to the House of Bishops: and should a number less than a majority assemble, they shall have power to adjourn from time to time until they can secure the attendance of a majority of all the said Bishops. Should a proposed resignation of a Bishop be accepted at any meeting of the Bishops for that purpose held during a recess, then it shall be the duty of the senior Bishop to pronounce such resignation complete, and to communicate to the Ecclesiastical Authority of each Diocese, who shall cause the same to be communicated to the several Clergymen in charge of Congregations therein. And it shall be the further duty of the Presiding Bishop to cause such resignation to be formally recorded on the Journal of the House of Bishops that may meet in General Convention next thereafter. If the Bishop desirous of resigning should be the Presiding Bishop, then all the duties directed in this Canon to be performed by the Presiding Bishop, shall devolve upon the Bishop next in seniority.

Sec. 4. No Bishop whose resignation of the Episcopal jurisdiction of a Diocese has been consummated pursuant to this Canon, shall, under any circumstances, be eligible to any Diocese now in union, or which may hereafter be admitted into union with this Church: nor shall he have a seat in the House of Bishops: but he may perform Episcopal acts at the request of any Bishop of this Church having Ecclesiastical jurisdiction, within the limits of his Diocese.

Sec. 5. A Bishop who ceases to have the Episcopal charge of a Diocese shall still be subject in all matters to the Canons and authority of the General Convention.

This canon differed very materially from the former canon on the subject. The mind of the Church on the subject of episcopal resignations had evidently undergone a very decided change. The former canon prescribed so many restrictions, and made the assent of so many different bodies necessary, as to make it almost impossible for a bishop to resign his jurisdiction. The Canon of 1844 made a complete change in the mode of procedure. The diocese of the bishop desiring to resign had no voice whatever in the matter, nor had the standing committees or the House of Deputies. It was left entirely to the House of Bishops to say whether a bishop might resign his jurisdiction or not.

The argument put forth by Dr. Hawks (*Constitution and Canons*, p. 305) that "it is not the Bishops who are primarily interested in the resignation of one of their own body. It is the Church over which that

member of the Episcopate rules," seemed to meet with no favor in the General Convention. On the contrary, the Convention declared, by the enactment of this canon, that it was the bishops who were primarily interested in the resignation of one of their own body, and that their body was the only body to have any say in the matter. Not only was the diocese of the bishop desiring to resign to have no voice in deciding on the resignation of its bishop, but it was not even to be specially notified that his resignation had been accepted. In case the resignation was presented to the House of Bishops during a session of the General Convention, the only notice given was to be to the House of Deputies. No provision is made to notify the diocese. In case the resignation was to be considered at a special session of the House of Bishops, notice was to be sent to the standing committee of the diocese of such bishop, and if the resignation was accepted by the House of Bishops, then notice thereof was to be sent to the ecclesiastical authority of each diocese.

Under Section 6 of the former canon, any bishop whose resignation had been accepted was assured of dire punishment should he presume to perform any episcopal act, unless by request of the constituted authority of some diocese. This section was also radically amended. He was no longer inhibited from performing episcopal acts, nor threatened with punishment should he presume so to act; it simply stated that he might perform episcopal acts at the request of any bishop having ecclesiastical jurisdiction. The principal purpose of the new Section 4 would seem to be to forbid the election of a resigned bishop to another diocese. This provision might have been suggested by the election of Bishop Chase, whose resignation as Bishop of Ohio had caused as much discussion as had that of the Bishop of Illinois a few years before. When the question of admitting the Diocese of Illinois, with Bishop Chase as its diocesan, came before the House of Bishops in the Convention of 1835, the committee, to which the application was referred, reported that "there were some circumstances in regard to his appointments, which may be thought not entirely in consonance with the regulations of the Church.... The Committee feel disposed to regard them with the more indulgence, as the case was unprovided for by the Canons of the Church."

It is quite possible that the Convention felt that, in amending the canon, such cases would be thereafter provided for.

Convention of 1847

Canon 3 of 1838 was renumbered as Canon 4 by this Convention, and amended as follows:

In Section 1, these words were added after the words “where there is no Bishop:”

or where the Bishop is, for the time, under a disability to perform the Episcopal offices, by reason of a judicial sentence.

Section 2 was amended to read as follows:

A Diocese without a Bishop, or of which the Bishop is for the time under a disability, by reason of a Judicial Sentence, may by its Convention, be placed under the full Episcopal charge and authority of the Bishop of another Diocese, or of a Missionary Bishop, who shall by that act be authorized to perform all the duties and offices of the Bishop of the Diocese so vacant, or having the Bishop disabled, until, in the case of a vacant Diocese, a Bishop is duly elected and consecrated for the same, and in the case of a Diocese, whose Bishop is disqualified as aforesaid, until the disqualification be removed, or until, in either case, the said act of the Convention be revoked.

These amendments were made to meet the case of the Diocese of New York, whose bishop had been suspended in January, 1845.

Convention of 1850

Canon 4 of 1844, concerning episcopal resignations, was amended by this Convention by the addition of a new section, which read as follows:

Sec. 6. In case a suspended Bishop of this Church should desire to resign at any period not within six calendar months before a meeting of a General Convention, he shall make known by letter to the Presiding Bishop, such desire, whereupon the Presiding Bishop shall communicate a copy of the same to each Bishop of this Church having jurisdiction, and in case a majority of such Bishops shall return to the Presiding Bishop their written assent to such resignation, the same shall be deemed valid and final, and written information of the said resignation shall at once be communicated by the Presiding Bishop, to the Bishop and Diocese concerned, and to each Bishop of this Church.

It is probable that this amendment was induced by the case of Bishop Onderdonk of New York, who had been indefinitely suspended in January 1845, and whose suspension, by reason of its being indefinite as to duration, had occasioned serious controversy and doubt in the matter of providing episcopal supervision for that diocese. The resignation of his jurisdiction by Bishop Onderdonk would have removed all difficulty in the matter, and left the diocese free to choose his successor. As his resignation was greatly desired by many of the bishops, it may well have been that this view of the matter induced the Convention to enact the amendment, making it a very simple matter for a suspended bishop to resign his jurisdiction.

Canon 25 of 1832 was amended by this Convention by the insertion of the following words in the first section after the words “behaviour of this Clergy:”

ministering the Word, and, if he think fit, the Sacrament of the Lord's Supper to the people committed to his charge.

This amendment was caused by a case that occurred in Maryland in 1847, known as the Trapnall case, as well as to one or two similar cases which occurred just before the Convention of 1850.

The principal charge made against the Rev. Mr. Trapnall, as related by Judge Hoffman (*Law of the Church*, p. 306 *et seq.*), was for insubordination, in refusing to permit the bishop to administer the Holy Communion at his annual visitation to the parish. The charge was framed under a Maryland canon, which enumerated among canonical offenses, "conduct incompatible with the character of a minister of Christ." One objection to the presentment was that the offense charged was not one of those enumerated in Canon 37 of the General Convention, that no presentment could be made except under that canon, and that the canon of Maryland was void if it constituted a new triable offense.

This point was overruled, and a part of the argument of the church advocate was, "that the Canon did not contain the full penal code of the Church—that its title was Of Offences for which a Clergyman may be tried, not of *the* offences; that no exclusive legislation was designed. It was only meant to specify some of the offences for which a clergyman must be tried, leaving the code to be filled up as the separate conventions might think proper."

The other leading points of the argument of the church advocate, as summed up by Judge Hoffman, were—

"1. That the Bishop is a Minister of the Word and Sacrament; in other words a Priest.

"2. That he has jurisdiction throughout his Diocese.

"3. That visitation is an exercise of his jurisdiction."

Having established these positions in an argument of marked ability and learning, he drew the conclusion that the bishops, being originally clearly endowed with the power of preaching and ministering in every part of their dioceses, had not parted with that right, although they had circumscribed its exercise to the periods of visitation. And he then proceeded to a critical examination of those portions of the rubrics and canons which were relied upon as settling the non-existence of the right.

The determination of the court was, "that even in the absence of canonical legislation on the subject, the Bishop, in order to the discharge of his Episcopal functions, possesses the right to administer the Holy Communion on occasions of canonical visitations."

The same question came up in Maryland again in 1850, in the case of Christ Church, Baltimore, and was brought before the diocesan convention. The convention sustained the judgment of the court in the Trapnall case.

The report of the committee of the diocesan convention to which the matter was referred was, in part, as follows:

Your Committee is of opinion that the true solution of these questions does not rest on any mere verbal criticism of Canons and Rubrics, although entirely consistent with the results of such criticism, when rightly employed. Their true solution rests on principles, much deeper and more vital principles, which lie at the foundation of the Church itself. In reasoning with Churchmen it is lawful, it is indeed only respectful to them, to take as axioms those truths which the Church clearly maintains, however they may be doubted or denied by those out of her pale. Among such truths are the following: 1st, that Bishops are successors to the Apostles in the ordinary powers of their office, though not in the extraordinary qualification and endowments of those first Ministers of Christ. 2ndly, that as such the apostolic commission embraces them, and they too, are enjoined and authorized to go into the world and teach or disciple all nations, baptizing them in the Name of the Father and of the Son and of the Holy Ghost. 3rdly, that consequently Bishops as such have the right to preach and administer the Sacraments, as well as rule in the Church. 4thly, that these Episcopal rights are to be exercised in their Dioceses, these being their appointed fields of labor. 5thly, that consequently every Bishop has a right to preach and administer the Sacraments in his Diocese, independently of any parochial cure; and in every part of his Diocese, for if there be any part of his Diocese in which he cannot exercise episcopal rights, then in that part he is not Bishop.... They consequently regard the Bishop as fully authorized to issue his notice of visitation to Christ Church, Baltimore, in the form used by him, and when he had received notice in reply from the Rector, that he could not consent to his exercising these rights, the Committee consider that the Bishop acted wisely, gently, and properly, in revoking his notice; the alternative being his sacrifice of what he believed, and what the judicial authority of his Diocese had decided to be his right, or by attempting to enforce it, involving one of his Presbyters in an ecclesiastical offence, and exposing him to a presentment. In all times, but especially in troublous times like these, the Committee approve of that course, which, without sacrificing principle, will most probably avoid strife and scandal.

In conclusion, the committee recommend the adoption by the convention of the following resolutions, viz.:

The first resolution, which was the important one and the only one we need to consider, was as follows:

“Resolved, that a Bishop, in order to the exercise of his Episcopal functions, possesses the right, on occasion of canonical visitations, to control the services, and to take to himself such portions of them as he may think proper.”

This resolution was adopted by a very large majority of both the clergy and laity.

Another case with reference to the visitation of a bishop occurred in Ohio in 1848. In his address to the convention of that year the bishop said: "If there be anything which the discipline of the Church must be considered as designed to secure, it is that the Bishop of a Diocese in his visitation of parishes shall have his official acts therein recognized and respected by the parishes as official, and not treated directly and purely as being a mere private affair, which the parish might notice or not, respect or not, at its pleasure." This statement of the bishop was due to a pamphlet having been placed upon the records of a certain parish which, it was alleged, reflected very severely upon the bishop. The bishop pointed out the improper use thus made of the records of the parish. On his next visitation to the parish, the bishop stated that he would not visit the parish again until the relation between him and the parish was rectified.

These facts were stated to the convention, which, by resolution, decided that the conduct of the parish met with its decided and emphatic condemnation. It also approved of the determination of the bishop not to visit the parish again until it had made proper reparation to the bishop.

A memorial was presented to the General Convention of 1850, signed by certain clergymen and laymen of the Diocese of Maryland, who were opposed to the decision of the ecclesiastical court, and of the convention of the Diocese of Maryland, upholding the right of the bishop to administer the Holy Communion on the occasion of his canonical visitation to a parish, praying for "such a modification of the 25th Canon as shall expressly exclude the alleged right of a Bishop on occasions of canonical visitation; or by the establishment of some judicial tribunal to which an appeal could be made by those who have been tried and convicted, in any Diocese, for resistance to an alleged Episcopal prerogative." This memorial was referred to a joint committee of both houses to consider and report thereon. The committee presented as part of their report a "Canon of Episcopal Visitations," being the former canon on the same subject, amended by the addition of the words, "ministering the Word, and if he think fit, the Sacrament of the Lord's Supper, to the people committed to his charge." The canon, thus amended, was adopted by both houses of Convention by a large majority in each case. The canon was not enacted for the purpose of giving to the bishop the right of administering the Holy Communion on the occasion of his canonical visitations, but to give recognition to certain rights of a bishop, which were inherent in his office. The action of the General Convention confirmed the action of the ecclesiastical court and of the convention of the Diocese of Maryland in their decisions in the Trapnall case, as well as in the case of Christ Church, Baltimore.

Convention of 1853

This Convention adopted a new canon, Canon 3 of that year, providing for the administration of a diocese during the absence of the diocesan, and reading as follows:

It shall be lawful for any Bishop of a Diocese, who is about to leave, or has left his Diocese, with the intention of going out of the limits of the United States, or of remaining out of his Diocese for the space of three calendar months, although without leaving the United States, to authorize by writing under his hand and seal, the Assistant Bishop, or should there be none, the Standing Committee of such Diocese, to act as the Ecclesiastical authority thereof. The Assistant Bishop or Standing Committee so authorized, shall thereupon become the Ecclesiastical authority of such Diocese, to all intents and purposes until such writing shall be revoked or the Bishop shall return within the Diocese: *Provided*, that nothing in this Canon shall be so construed, as to prevent any Bishop who may have signed such writing from exercising his jurisdiction himself, so far as the same may be practicable, during his absence from his Diocese, or from permitting and authorizing any other Bishop to perform Episcopal Offices for him.

Convention of 1856

This Convention repealed Canon 25 of 1832, concerning episcopal visitations, and enacted Canon 2 in place thereof, which read as follows:

Sec. 1. Every Bishop in this Church shall visit the churches within his Diocese, at least once in three years, for the purpose of examining the State of his Church, inspecting the behavior of his clergy, administering the apostolic rite of Confirmation, ministering the Word, and if he think fit, administering the Sacrament of the Lord's Supper to the people committed to his charge. And if a Bishop shall decline for more than three years to visit a Parish or Congregation for reasons which to him shall seem sufficient, it shall be the duty of the Rector, or Minister and Vestry, or of one of them, to apply to the Presiding Bishop to appoint the five Bishops, in charge of Dioceses, who live nearest to the Diocese in which such Church or Congregation may be situated, to act as a Council of Conciliation, who shall amicably determine all matters of difference between the parties, and each party shall conform to the decision of the Council in the premises. If the Presiding Bishop shall be the party within whose jurisdiction the Parish or Congregation above named may be, then the application shall be made to the Bishop next in seniority. And in any such case as is above mentioned, the Bishop within whose jurisdiction the Parish or Congregation may be, may at any time, if he pleases, apply himself to the Presiding Bishop for a Council of Conciliation. *Provided*, that if, by the action of the General Convention, any Canon shall hereafter be made for the establishment of a Council, or Councils of Conciliation, for the general purpose of amicably reconciling differences of this or any other kind, then, such a case as is above named shall be referred to such general Council of Conciliation, and the parties shall abide by its decision.

Sec. 2. To enable the Bishop, who may be Rector of a Church, to make his official visitation, it shall be the duty of the Clergy in such reasonable rotation as may be devised, to officiate for him in the performance of his parochial duties, provision being made for the payment of their expenses.

Sec. 3. It is left to each Diocese to make provision in such way as it may deem proper, for defraying the necessary expenses of the Bishop's visitation.

Sec. 4. The bishop shall keep a register of his proceedings at every visitation of his Diocese.

The enactment of this canon was occasioned by a memorial from the Church of the Advent in Boston, Massachusetts.

The bishop of the diocese had, for several years, refused to visit the Church of the Advent because he considered certain arrangements adopted, and certain forms observed in the services within the chancel, as of evil tendency and injurious to the Church. The controversy between the bishop and the Church of the Advent remained unsettled; the Church of the Advent presented a memorial to the General Convention of 1856, praying for the enactment of "such a general Canon upon the subject of Episcopal Visitations ... as shall seem meet and proper to you, and as may incidentally afford relief to this Parish from the position in which, as appears by that correspondence, it is now placed."

This memorial was referred in the House of Deputies to the committee on canons, which later reported, in part, as follows:

That, in their opinion, the said Canon [referring to the then present Canon] is sufficiently explicit as to the rights and duties of the Bishops and Parishes as to Visitations, and that it is the duty of every Bishop to visit every congregation in his Diocese. It seems, however, to them, that circumstances may be imagined which would justify or excuse a Bishop in delaying the performance of that duty beyond the three years which ancient usage in the Church of England, and the Canon of our own Church have settled as the proper interval between his visitations. They also think that the Canon is defective in not providing some mode of adjusting differences of opinion between the Bishops and parishes, relating to the causes which may properly delay visitations beyond the canonical three years. The Committee present herewith a Canon designed to remedy the defects which they have mentioned.

The canon thus reported was not favorably received by the house, and a number of radical amendments having been offered thereto, it was re-committed to the committee. The committee then presented another proposed canon, differing from the then present canon only in making mandatory upon the bishop, unless prevented by physical inability, to visit each church within his diocese at least once in three years. This canon was adopted by the House of Deputies, but the House of Bishops refused concurrence, on the grounds that the present canon "is deemed sufficient for securing the proper Visitation of Parishes by the several Bishops." The House of Deputies refused to concur in the action of the House of Bishops, and requested a Committee of Conference. The Committee of Conference then presented a proposed canon which was adopted by both houses.

This canon made it mandatory upon a bishop to visit every church in his diocese once in three years, and provided that if, for any reason,

a bishop failed to so visit a parish, the authorities of the parish, or the bishop himself, might ask for a council of conciliation as provided in the canon. The proviso at the end of the first section would seem to indicate the possible establishment later of a permanent council of conciliation. This possibility, however, has not yet become an accomplished fact.

The Convention of 1856 also enacted Canon 1 of that year, which read as follows:

It shall be the duty of every Bishop of this Church to reside within his Diocese.

This canon was adopted by the House of Deputies and sent to the House of Bishops, which house failed to act upon it within the "three days" as then required by Article III of the Constitution, and therefore, under the provisions of that article, it had the operation of law. That is one of the very few canons that have become operative through the failure of the House of Bishops to signify their approbation or disapprobation within the three days as prescribed.

Convention of 1859

This Convention made a thorough revision of the Digest of Canons, grouping them under titles, and placing in one canon, as different sections thereof, all former canons on any one subject. All canons of former Conventions relating to the election and consecration of bishops, both diocesan and missionary, and including foreign missionary bishops, as well as to their duties, were made sections of Title I, Canon 13, "of Bishops."

Canon 27 of 1832, "Of Episcopal Charges and Letters," became Section 10.

Canon 2 of 1856 became Section 11, the former Sections 1, 2, 3, and 4 of this section being made clauses (i), (ii), (iii), and (iv).

Canon 1 of 1856, "Of Episcopal Residence," was made Section 12.

Canon 3 of 1853, "Of Bishops Absent from their Dioceses," was made Section 13.

Canon 4 of 1847, "Of the Performance of Episcopal Duties in vacant Dioceses, etc.," was made Section 15 (i), (ii), and (iii).

Canon 2 of 1850, "Of Episcopal Resignations," was made Section 16 (i), (ii), (iii), (iv), and (vi).

No amendments were made to these sections.

Convention of 1883

Title I, Canon 13, Section 15 of the Canons of 1859, renumbered as Canon 15 in 1874, was amended by the insertion of the words “or Assistant Bishop” after the word “Bishop” and before the words “of another Diocese” in clause (ii).

Clause (iii) of the same section was amended to read as follows:

No Diocese, while under the provisional charge of a Bishop, shall invite any other Bishop to perform any Episcopal duty or exercise authority.

Section 16 (iv), of the same canon, was amended by striking the words “No Bishop whose resignation of the Episcopal jurisdiction of a Diocese has been consummated,” at the beginning of said clause (iv), and inserting these words in place thereof: “No Diocesan or Assistant Bishop, whose resignation has been consummated.”

Also, by adding at the end of said clause the following words:

Any Bishop whose resignation, by reason of advanced age and bodily infirmity arising therefrom, has been consummated pursuant to this Section, shall retain his seat in the House of Bishops, with all the rights and precedences therein to which he would otherwise be entitled.

Convention of 1886

This Convention repealed Section 6 of Canon 15, Title I, and the remaining sections were renumbered accordingly.

Convention of 1895

Section 12 (formerly Section 13) of former Canon 15, renumbered as Canon 16 in 1889, and Canon 19 in 1892, was amended by striking the words “Assistant Bishop” in two places, and inserting in place thereof the words “Bishop Coadjutor.”

Section 14 (i) was amended by striking the words “Assistant Bishop” and inserting in place thereof the words “Bishop Coadjutor.”

Clause (ii) of the same section was amended by inserting after the words “authority of the Bishop” the words “or Bishop Coadjutor.”

Section 15 (iv) of the same canon was amended by striking the words “Assistant Bishop” and inserting in place thereof the words “Bishop Coadjutor.”

Convention of 1901

This Convention adopted a new Section 8, and the succeeding sections were renumbered. It also amended Section 11 (i) to read as follows:

Every Bishop shall visit the Churches within his Diocese or Missionary District at least once in three years, for the purpose of examining their condition, inspecting the behavior of the Clergy, administering Confirmation, preaching the Word, and, at his discretion, celebrating the Sacrament of the Lord's Supper.

If a Bishop shall for three years have declined to visit a Parish or Congregation, the Minister and Vestry (or the Corporation), or the Bishop, may apply to the Presiding Bishop to appoint the five Bishops in charge of Dioceses who live nearest to the Diocese in which such Church or Congregation may be situated, as a Council of Conciliation, who shall amicably determine all matters of difference between the parties, and each party shall conform to the decision of the Council in the premises; *Provided*, that in any case, the Bishop may at any time apply for such Council of Conciliation. If the Presiding Bishop shall be the party within whose jurisdiction the Parish or Congregation may be, then the application shall be made to the Bishop next in seniority.

Section 16 (i), (ii), and (iii) of the same Canon 19 was amended to read as follows:

(i) If a Bishop shall desire to resign his jurisdiction, he shall send, in writing, to the Presiding Bishop his resignation, with the reasons therefor.

(ii) If the House of Bishops be in session, the Presiding Officer of the House of Bishops shall lay before the House the said communication. If the House of Bishops be not in session, the Presiding Bishop shall without delay send a copy of the communication to every Bishop of this Church having Ecclesiastical Jurisdiction, and also to the Standing Committee of the Diocese or the Council of Advice of the Missionary District of the Bishop desiring to resign; and he shall at the same time, if it be more than six months before the House of Bishops is to meet, call a meeting of the House, to be held not less than ninety days from the date of his summons; and should there be no quorum present the House shall adjourn from time to time until a quorum be secured. A quorum being present, the Presiding Officer of the House of Bishops shall lay before the House the said communication, whereupon the House shall investigate the whole case, and, by a vote of a majority of those present, accept or refuse to accept the resignation.

(iii) In all cases of a proposed resignation, the House of Bishops shall cause their proceedings to be recorded in their journal; and the resignation shall be complete when the vote of the House of Bishops, accepting the same, shall be so recorded. It shall then be the duty of the Presiding Officer of the House of Bishops to pronounce such resignation complete, and to communicate the fact to the House of Deputies, if in session, and to the Ecclesiastical Authority of each Diocese and Missionary District.

The purpose of this amendment to former Section 15, as stated by the committee on canons in the House of Bishops, was "to make it clear that the House of Bishops is to meet as such to act in the case of a Bishop desiring to resign his jurisdiction."

Convention of 1904

This Convention, in its revision of the whole Digest of Canons, reversed the action of the Convention of 1859, of grouping all former canons concerning bishops, their election, consecration, and duties, into one canon, by dividing Title I, Canon 19, "Of Bishops," into four separate

canons, one “Of Ordination and Consecration of Bishops,” one “Of Missionary Bishops,” one “Of Duties of Bishops,” and one “Of Duties of Missionary Bishops.”

The canon “Of Duties of Bishops,” which we are now considering, was made Canon 12, and included the provisions of Sections 9, 10, 11, 12, 13, 15, and 16 of former Title I, Canon 19.

Section 12 of the former canon was made Section 1, and amended to read as follows:

Sec. 1. It shall be the duty of every Bishop of this Church to reside within the limits of his jurisdiction; nor shall he absent himself therefrom for more than three months without the consent of the Convention or the Standing Committee of the Diocese, or, in the case of a Missionary Bishop, without the consent of the Presiding Bishop.

Section 11 was made Section 2, and amended to read as follows:

Sec. 2. (i) Every Bishop shall visit the Congregations within his Diocese or Missionary District at least once in three years, for the purposes of examining their condition, inspecting the behavior of the Clergy, administering Confirmation, preaching the Word, and at his discretion celebrating the Sacrament of the Lord's Supper.

(ii) If a Bishop shall for three years have declined to visit a Parish or Congregation, the Minister and Vestry (or the Corporation) or the Bishop, may apply to the Presiding Bishop to appoint the five Bishops in charge of Dioceses who live nearest to the Diocese in which such Church or Congregation may be situated as a Council of Conciliation, who shall amicably determine all matters of difference between the parties, and each party shall conform to the decision of the Council in the premises; *Provided*, that in case of any subsequent trial of either party for failure to conform to such decision, any constitutional or canonical right of the defendant in the premises may be pleaded and established as a sufficient defense, notwithstanding such former decision; and *Provided, further*, that in any case the Bishop may at any time apply for such Council of Conciliation. If the Presiding Bishop shall be the party within whose jurisdiction the Parish or Congregation may be, then the application shall be made to the Bishop next in seniority.

(iii) Every Bishop shall keep a record of all his official acts, which record shall be the property of the Diocese, and shall be transmitted to his successor.

The former clauses (ii) and (iii), providing that the clergy were to supply the bishop's parish when he was absent on his visitations, and to make provision for the necessary expenses of the bishop's visitation, were stricken as being no longer necessary.

Former Section 10 was made Section 3, and amended to read as follows:

Sec. 3. Every Bishop shall deliver, at least once in three years, a Charge to the Clergy of his Diocese or Missionary District, unless prevented by reasonable cause; and may, from time to time, address to the people of his Diocese or Missionary District Pastoral Letters on Points of Christian doctrine, worship, or manners, which he may require the Clergy to read to their congregations.

Section 4 was a new section, reading as follows:

Sec. 4. At every Annual Convention or Convocation the Bishop shall make a statement of the affairs of the Diocese or Missionary District since the last meeting of the Convention or Convocation; the names of the Churches which he has visited; the number of persons confirmed; the names of those who have been received as Candidates for Holy Orders, and of those who have been ordained, and of those who have been by him suspended or deposed from the Ministry; the changes by death, removal, or otherwise, which have taken place among the Clergy; and all matters tending to throw light upon the affairs of the Diocese or Missionary District; which statement shall be inserted in the Journal.

Former Section 13 was made Section 5, and amended to read as follows:

Sec. 5. It shall be the duty of a Bishop, whenever leaving his Diocese or District for the space of six calendar months, to authorize, by writing, under his hand and seal, the Bishop Coadjutor, or, should there be none, the Standing Committee of the Diocese, or the Council of Advice of the District, to act as the Ecclesiastical Authority thereof during his absence. The Bishop Coadjutor, or, should there be none, the Standing Committee, may become at any time the Ecclesiastical Authority upon the written request of the Bishop, and continue to act as such until the request be revoked by him in writing.

Former Section 15 was made Section 6, and amended to read as follows:

Sec. 6. (i) Any Bishop of this Church may, on the invitation of the Convention or of the Standing Committee of any Diocese where there is no Bishop, or where the Bishop is for the time under a disability to perform Episcopal offices by reason of a judicial sentence, visit and perform Episcopal offices in that Diocese, or in any part thereof; and this invitation may be for a stated period, and may be at any time revoked.

(ii) A Diocese without a Bishop, or of which the Bishop is for the time under a disability by reason of a judicial sentence, may, by its Conventions, be placed under the provisional charge and authority of the Bishop or Bishop Coadjutor of another Diocese, who shall by that act be authorized to perform all the duties and offices of the Bishop of the Diocese so vacant or whose Bishop is under disability, until, in the case of a vacant Diocese a Bishop be duly elected and consecrated for the same; or in the case of a Diocese, whose Bishop is disabled, until the disqualification be removed; or, until, in either case, the said act of the Convention be revoked.

(iii) A Diocese, while under the provisional charge of a Bishop, shall not invite any other Bishop to perform any Episcopal duty or exercise authority.

Former Section 16 was made Section 7, and amended to read as follows:

Sec. 7 (i) If a Bishop shall desire to resign his jurisdiction, he shall send, in writing, to the Presiding Bishop his resignation, with the reasons therefor.

(ii) If the House of Bishops be in session, the Presiding Officer of the House of Bishops shall lay before the House the said communication. If the House of Bishops be not in session, the Presiding Bishop shall, without delay, send a copy of the communication

to every Bishop of this Church having ecclesiastical jurisdiction, and also to the Standing Committee of the Diocese or the Council of Advice of the Missionary District of the Bishop desiring to resign; and he shall at the same time, if it be more than six months before the House of Bishops is to meet, call a meeting of the House, to be held not less than ninety days from the date of his summons; and should there be no quorum present the House shall adjourn from time to time until a quorum be secured. A quorum being present, the Presiding officer of the House of Bishops shall lay before the House the said communication, whereupon the House shall investigate the whole case, and, by a vote of a majority of those present, accept or refuse to accept the resignation.

(iii) In all cases of a proposed resignation, the House of Bishops shall cause their proceedings to be recorded in their Journal; and the resignation shall be completed when the vote of the House of Bishops, accepting the same, shall be so recorded. It shall then be the duty of the Presiding Officer of the House of Bishops to pronounce such resignation complete, and to communicate the fact to the House of Deputies, if in session, and to the Ecclesiastical Authority of each Diocese and Missionary District.

(iv) A Bishop whose resignation has been accepted may perform Episcopal acts at the request of any Bishop of this Church, having ecclesiastical jurisdiction, within the limits of his jurisdiction.

(v) A Bishop who ceases to have Episcopal charge shall still be subject in all matters to the Canons and authority of the General Convention.

Section 8 was a new section, reading as follows:

Sec. 8. In the event of the disability of the Presiding Bishop, the Bishop who, according to the rules of the House of Bishops, becomes its presiding Officer, shall be substituted for the Presiding Bishop for all the purposes of these Canons.

This section was enacted to provide for the possible disability of the Presiding Bishop. The necessity of such a provision had been evidenced by the disability of the two former Presiding Bishops, rendering them incapable of performing the duties of the office.

Convention of 1910

Canon 12 was renumbered as Canon 13, and Section 7 was amended by the insertion of a new clause to be numbered (iv), and to read as follows:

In case of the acceptance of the resignation of a Missionary Bishop for cause of age or disability, he shall receive from the Board of Missions a pension not less than one-half of his previous salary.

The remaining clauses were renumbered accordingly.

Convention of 1916

Clause (i) of Section 7 was amended to read exactly as the present Section 8 (a).

Clauses (ii) and (iii) of the same section were amended to read as follows:

(ii) In case the resignation be sent to the Presiding Bishop at a time when no regular or special meeting of the House is about to be held, he shall exercise his direction as to calling a special meeting.

(iii) The House of Bishops may accept the resignation of a Missionary Bishop at any session of the House by a vote of not less than two-thirds of those present.

By mistake, former clause (ii) was retained as clause (iv).

Convention of 1919

Clause (iv) of Section 7 was deleted as not needed, its provisions having been recast in the three preceding clauses.

Convention of 1928

Clause (v) of Section 7 [clause (iv) in 1910] was amended by replacing the words "Board of Missions" with the words "National Council."

A new clause (viii), reading as follows, was added to the section:

A Bishop who has resigned his jurisdiction with the consent of the House of Bishops, may, at the discretion of the Bishop of the Diocese (or Missionary District) in which he chooses to reside, be enrolled among the clergy of that Diocese (or Missionary District), being transferred thereto from his former Diocese, and becoming subject to its Canons and regulations; and if he accept any pastoral charge or ministerial appointment within the Diocese (or Missionary District) he may be accorded a seat and vote in the Diocesan Convention (or Convocation) according to its canonical provisions for the qualification of Presbyters. The same shall apply to a resigned Bishop who continues to reside within the jurisdiction in which he formerly served as Bishop: *Provided* that, the Bishop seeking to be counted among the clergy of a Diocese and to sit in its Diocesan Convention is not at the same time exercising his right (under Article I, Section 2) to vote in the House of Bishops.

Convention of 1931

The concluding words of Section 2 (ii) were amended to read:

the application shall be made to the President of his province.

Clause (v) of Section 7 was expanded to read as follows:

In case of the acceptance of the resignation of a Missionary Bishop for cause of age or disability, he shall receive from the National Council a retiring allowance not less than one-half of his salary at the date of his resignation, less whatever allowance such Bishop may receive, from time to time, from the Church Pension Fund. Such retiring allowance may be revised whenever such retired Bishop shall receive a regular stipend from any ecclesiastical employment.

Convention of 1937

Section 3, providing for charges and pastoral letters, was amended by substituting the words “from time to time in his discretion” for the words “at least once in three years,” and by deleting the words “unless prevented by reasonable cause.” A mandatory provision for such action in each three years was thus removed.

Convention of 1940

The canon was renumbered Canon 19.

Section 8, covering disability of the Presiding Bishop, was transferred to then Canon 17, “Of the Presiding Bishop,” as Section 6 of that canon.

Section 7 (vi) [clause (iv) in 1904] was amended to read as follows:

A Bishop whose resignation has been accepted may perform Episcopal acts at the request of any Bishop of this Church, having ecclesiastical jurisdiction, within the limits of his jurisdiction. He may also be given an honorary seat in the Convention of the Diocese, with voice, but without vote, and an honorary seat in the Cathedral of the Diocese, if there be one, or such honorary appointment as may be designated by the Convention of the Diocese with the consent of the Bishop. He shall report all ministerial acts to the Bishop and to the Diocese in which such acts are performed.

The occasion for this amendment was a memorial from the Diocese of New Jersey, quoting a letter from its retired bishop, who had objected to reporting to the diocesan convention, and asked that his status be defined. The memorial asked General Convention to define the status of a retired bishop by legislation. Proposed amendments were introduced, and resulted in the provisions of the present canon. One question raised was whether a retired bishop should have a vote as well as voice in the diocesan convention. On this question, the committee on canons of the House of Deputies reported its opinion that such a convention had power under existing canons to confer the right to vote on a retired bishop.

Dr. Dykman, in the previous edition of this annotation, commented as follows:

It would appear [that] the express language of the canon, “with voice, but without vote,” took from the dioceses any power which they had to confer the right to vote on a retired bishop. It is difficult to find any provision of the Constitution justifying such a provision, and it would seem as if General Convention might well have kept its hands off the subject. This is a regulation of dioceses, not bishops.

The canon was renumbered Canon 42 in 1943.

Convention of 1946

The canon was renumbered Canon 43, and was amended by adding, at the end of Section 2 (a), the sentence:

At every visitation it shall be the duty of the Bishop to examine the records required by Canon 45, Sec. 3.

Section 2 (b) was amended by striking the last sentence as no longer needed:

If the Presiding Bishop shall be the party within whose jurisdiction the Parish or Congregation may be, then the application shall be made to the President of his Province.

A new Section 7 was added, providing for the resignation of diocesan, coadjutor, and missionary bishops at age seventy-two, and reading as follows:

(a). Every Bishop and every Bishop Coadjutor and every Missionary Bishop, upon attaining the age of seventy-two years, shall forthwith tender his resignation from his jurisdiction, as required by Section 7 of Article II. of the Constitution, by sending it to the Presiding Bishop, who shall submit it to the House of Bishops at the first meeting held by the House of Bishops after its receipt, and said resignation shall be accepted by the House of Bishops during that session to take effect at a designated date not later than three months from the date of the acceptance of such resignation.

(b). The House of Bishops shall cause its acceptance of such resignation, effective as of the date fixed, to be recorded in its Journal. It shall then be the duty of the Presiding Officer of the House of Bishops to communicate to the House of Deputies, if in session, and to the Ecclesiastical Authority of each Diocese and Missionary District, the fact of the acceptance of such resignation and the termination of the said Bishop's jurisdiction, effective as of the date fixed.

(c). If any Bishop should for any reason fail to submit his resignation upon attaining the age of seventy-two years, as provided in Clause (a) above, the Presiding Bishop shall certify that fact to the House of Bishops. The House of Bishops shall then declare the said Bishop's jurisdiction terminated, effective at a date not later than three months from the date of declaration; and shall order the Presiding Bishop's certificate and its own declaration and action to be recorded in its Journal. It shall then be the duty of the Presiding Officer of the House of Bishops to pronounce such jurisdiction terminated, effective as of the date fixed, and to communicate the fact to the House of Deputies, if in session, and to the Ecclesiastical Authority of each Diocese and Missionary District.

This same Convention, later in its session, made provision for a retiring allowance for such bishops in the following words, which it intended as an addition to new Section 7:

Such retired Bishop shall receive from the Treasurer of the General Convention a retiring allowance of twenty-five hundred dollars per annum, less whatever allowance such Bishop may receive from The Church Pension Fund and from his former Diocese. Such retiring allowance may be revised whenever such Bishop shall receive a regular stipend from ecclesiastical employment.

In the printing of the canons after this Convention, however, these words appeared as the second paragraph of clause (d) of former Section 7, which had been made Sections 8 and 9 by this Convention.

Convention of 1949

The provision for a retiring allowance, quoted above, was made clause (c) of Section 7, and former clause (c) was made clause (d).

Clauses (a) and (b) were amended to read as at present, except that only bishops “having jurisdiction in the United States” were to be notified.

The effect of the amendment was to empower the Presiding Bishop to accept the resignations of bishops instead of, as formerly, submitting them to the House of Bishops for acceptance.

Clause (b) of Section 8 was amended to read as at present, except that only bishops having jurisdiction in the United States were to be notified.

Clauses (c) and (d) of Section 8 were amended to read as at present.

Clause (e) was amended to read as follows:

Every Missionary Bishop whose resignation for cause of age or disability has been accepted, shall receive from the National Council a retiring allowance of twenty-five hundred dollars per annum, less whatever allowance such Bishop may receive from The Church Pension Fund. Such retiring allowance may be revised whenever such retired Bishop shall receive a regular stipend from any ecclesiastical employment.

Clause (c) of Section 9 [clause (viii) of Section 7 in 1928] was amended by omitting the words “being transferred thereto from his former Diocese.”

Convention of 1958

Section 7 (c) and Section 8 (e) were amended to raise the retiring allowance for bishops from twenty-five hundred dollars to four thousand dollars per annum.

Convention of 1964

Section 7 (c), providing for a supplemental retiring allowance for diocesan and coadjutor bishops, was repealed by this Convention.

A new clause (f) was added to Section 8, specifying a retirement allowance for certain bishops in particular circumstances, but without fixing the amount.

Convention of 1970

Section 8 (e) was amended to raise the retiring allowance for missionary bishops to six thousand dollars per annum.

The canon was renumbered Title III, Canon 18.

Convention of 1973

Section 1 was amended to its present form, and, pursuant to the adoption of Canon V.2.1, the various references to missionary districts were deleted as no longer needed.

The references to the United States, whereby notices of, and consents to, the retirement of bishops were limited to those holding domestic jurisdiction, were also deleted.

Convention of 1976

Section 4 was amended by inserting the words "Postulants and" before the words "Candidates for Holy Orders."

Section 9 of the canon, which regulates the regulation of a resigned bishop to his former diocese or to a diocese to which he removes, was amended to read as at present, except for clause (b) which remained the same.

Clause (g) of the section, it will be noted, specifically recognizes the right of a diocesan convention to provide, by canon, that the former bishop of the diocese may be granted the right to vote in the convention.

Convention of 1979

Section 8 (e) was amended to read as at present.

Section 10, specifying the procedure to be followed when a diocesan is incapable of acting, was added by this Convention.

EXPOSITION OF CANON III.18

While the title of this canon would indicate that the provisions thereof referred to the duties that devolve upon a bishop, the major portion of the canon is concerned with matters which cannot properly be called duties, as for instance the extended provisions concerning the resignation of a bishop.

Only six "duties" are prescribed in the canon as necessary for the bishop to perform. The first duty prescribed is the duty of the bishop to reside in his diocese. This provision was first enacted by the Convention of 1856 at the instance of the Diocese of Illinois, whose bishop at

the time preferred to live in New York City, where he had been rector of a parish before being elected bishop of that diocese. It was represented to the Convention that the diocese was suffering from lack of episcopal supervision due to the prolonged absences of the bishop from the diocese. The House of Deputies passed a canon practically in the same words as the first two lines of Section 1 of the present canon. As before noted, the House of Bishops failed to act on this canon within the constitutional three days, so that it became a law without the positive action of the House of Bishops.

While the first part of Section 1 would not seem to make it mandatory upon the bishop to reside within the limits of his jurisdiction, the remainder of the section is more positive in its provisions, requiring the consent of the Convention or standing committee in case he desires to be absent for a longer time than three months.

The second duty laid upon the bishop by the canon is the visitation of the congregations in his diocese, and which he must make at least once in three years. This provision was incorporated in the first canons enacted by General Convention in 1789. When first enacted, it contained a provision requiring the parish or congregation to be visited to make provision for his expenses, and the bishop was not bound to make such visitation unless his expenses were defrayed. This seems to have been conformable to the practice of the early English Church, when *procurations* were assigned for the reception of the bishop on his visitation. In the early days of the American Church, there were few, if any, dioceses that were able to support their bishops, who were usually rectors of parishes and dependent upon their salaries, as such, for support. Later on, when the dioceses became stronger, and were able to support their bishops by diocesan funds, the provision regarding their expenses was repealed.

We have already commented on the cases that gave rise to certain amendments made to the canon regarding the bishop's visitation, especially the provisions relating to the right of the bishop to celebrate the Holy Eucharist on the occasion of his visitation, and the appointment of a council of conciliation in case a bishop declines to visit a parish or congregation within three years.

Another duty laid upon the bishop by the canon is the keeping of a record of all his official acts, which was first prescribed by the Convention of 1808. The canon, as first enacted, prescribed particularly that he was to record the names and ages of the persons confirmed. At the time this canon was first enacted, the clergy were not required to keep a list of the persons presented by them for Confirmation. As the names

of these persons were not placed upon the parochial register, it was deemed advisable to provide that the bishop should keep a list thereof, to be preserved among the records of the General Convention.

The next duty laid upon the bishop is the delivery, from time to time, of a charge to the clergy of his diocese; with the added provision that he may, from time to time, issue a pastoral letter to the laity of the diocese, which letter, if he so require, it is made the duty of the clergy to read to their congregations.

This provision was first enacted as a canon in 1808. This is the only spiritual duty laid upon the bishop by the canon, and, when first enacted, it was merely advisory, as if the Church hesitated to make mandatory a spiritual duty.

Another responsibility laid upon the bishop is that he shall deliver a statement at every annual convention which is to be published in the journal of the diocesan convention.

This provision is comparatively new so far as the canons are concerned. While it had long been the custom of the bishops to make such a statement to their diocesan conventions, it was not incorporated into the canons until 1904.

The last duty laid upon the bishop is that, in case he is to be absent from the diocese for six months, he must authorize the bishop coadjutor, if there be one, or the standing committee, to act as the ecclesiastical authority during his absence. He may also, if he sees fit, make the same authorization for any less length of time.

The provision that any bishop may perform episcopal offices in a vacant diocese when invited thereto by the convention or standing committee of such diocese was first made the subject of canonical enactment in 1795. In the early days of the American Church, the ability of many of the dioceses, especially the newer ones, was so limited that they could not afford to have bishops, so the expedient of having bishops from other dioceses come in and perform the necessary episcopal functions was adopted.

In 1832, an amendment to this provision was enacted, forbidding a diocese, while under the provisional charge of a bishop, to invite any other bishop to perform any episcopal function therein. This amendment was due, as we have already stated, to the Diocese of Connecticut having first invited Bishop Griswold of the Eastern Diocese to make episcopal visitations therein, and then later, without revoking the invitation to Bishop Griswold, inviting Bishop Hobart of New York to "visit and perform the Episcopal offices in the Diocese."

The first provision relating to the resignation of a bishop was enacted by the Convention of 1832, and from the language of the canon enacted by that Convention, it might well be called a canon to prevent the resignation of bishops. It was enacted because of the resignation of Bishop Chase of Ohio in 1831, who resigned to his convention "the charge of the Diocese," and left the state. This case, occurring only a year before the meeting of the General Convention, was brought before that body, and was the cause of a discussion that lasted several days. Dr. Hawks (*Constitution and Canons*, p. 298) tells us, "That no doubtful point that has arisen in our Church since its organization, has been more thoroughly sifted than was this. It was examined on grounds of principle and precedent, and policy." It will be noted that the present sections make a distinction between jurisdiction and office. It is the jurisdiction, that is, the right to exercise episcopal authority and perform episcopal functions within a certain portion of territory, which a bishop may resign. The office, that is, the episcopal prerogative, without reference to any particular place of exercise, is not considered in the canon as a thing to be resigned. The canon expressly declares that a bishop who has resigned his jurisdiction may perform episcopal acts at the request of any bishop having jurisdiction. This provision of the canon is simply declaratory of the inherent right of a bishop, and even with this declaration the resigned bishop would have a perfect right to perform any episcopal function when duly requested by the proper authorities. While the canon specifies that the request for the services of a resigned bishop must be made by a bishop having ecclesiastical jurisdiction, we believe the standing committee, acting as the ecclesiastical authority of a diocese, would have the same right to invite a resigned bishop to perform episcopal acts in such diocese. Furthermore, should a resigned bishop perform any episcopal function, without being duly invited so to act, as for instance, should he ordain a person to the diaconate or to the priesthood on his own volition, the act of ordination would be valid although irregular. Once a bishop, always a bishop, is a well recognized principle of law.

Under Section 7 of the present canon, every bishop, whether a diocesan, coadjutor, or missionary bishop, must tender his resignation at age seventy-two. Should any fail to do so, the House of Bishops, upon notification by the Presiding Bishop, is to declare "the said Bishop's jurisdiction terminated."

Where a bishop less than seventy-two years of age desire to resign, opportunity must be given, under the provisions of Section 8, for the standing committee of the diocese to be heard in the matter.

Section 9, which governs resigned bishops, is clear and requires no exposition.

Section 10, added in 1979, provides for situations in which the bishop of the diocese is incapable of acting.



CANON 19. Of Duties of Missionary Bishops

Where a Missionary Bishop may exercise jurisdiction. Sec. 1. Missionary Bishops shall exercise jurisdiction in Missionary Dioceses and in Area Missions, in conformity with the Constitution and Canons of this Church, and under such conditions and agreements, not inconsistent therewith, as the House of Bishops, or the General Convention, may prescribe.

Missionary Bishops to report. Sec. 2. Every such Bishop shall report annually to the Presiding Bishop his proceedings, and the state and condition of the Church within his jurisdiction, such report to be transmitted by the Presiding Bishop to the Executive Council.



This canon was part of Title I, Canon 13, in 1859. It became Canon 13 in 1904, Canon 43 in 1943, and Title III, Canon 19, in 1970.

The first legislation on the subject of missionary bishops was Canon 2 of 1835.

Convention of 1835

Canon 2, enacted by this Convention, contained the provisions for the election and consecration of missionary bishops, as well as prescribing their duties. The only sections of the canon that related to the subject of their duties were the second and seventh, which read as follows:

Sec. 2. The Bishop or Bishops so elected and consecrated, shall exercise Episcopal functions in such States and Territories, in conformity with the Constitution and Canons of the Church, and under such regulations and instructions, not inconsistent therewith, as the House of Bishops may prescribe.

Sec. 7. Every such Bishop shall report to each General Convention his proceedings, and the state and condition of the Church in said States and Territories, and place or places out of the Territory of the United States, and at least once a year make a report to the Board of Missions.

This same Convention amended the constitution of the Domestic and Foreign Missionary Society so as to provide for a Board of Missions, which fact had much to do with the enactment of a canon providing for missionary bishops.

Convention of 1844

Up to this time, the only provisions for missionary bishops were contained in Canon 2 of 1835, "Of Missionary Bishops." This Convention enacted a separate canon, Canon 7, "Of Foreign Missionary Bishops." Sections 2 and 7, which are the only sections relating to the subject we are considering, read as follows:

Sec. 2. Any Bishop elected and consecrated under this Canon to exercise Episcopal functions in any place or country which may have been thus designated shall have no jurisdiction except in the place or country for which he has been elected and consecrated. He shall not be entitled to a seat in the House of Bishops, nor shall he be eligible to the office of Diocesan Bishop in any organized Diocese within the United States.

Sec. 7. Every Bishop elected and consecrated under this Canon, shall report to each General Convention his proceedings and acts, and the state of the Mission under his supervision. He shall also make a similar report, at least once every year, to the Board of Missions of this Church.

Section 7 of Canon 2 of 1835 was made Section 5, and amended to read as follows:

Every such Bishop shall report to each General Convention his proceedings, and the state and condition of the Church in said States and Territories of the United States, and at least once a year make a report to the Board of Missions.

The principal change made by the amendment was the striking of the words "and place or places out of the territory of the United States," which were no longer necessary, as the provision of the section, so far as it related to such places, was contained in the canon on foreign missionary bishops.

Canon 2 of 1835 was renumbered as Canon 8.

Convention of 1850

Canon 7 of 1844, "Of Foreign Missionary Bishops," was renumbered as Canon 1, and Section 2 thereof was amended to read as follows:

Any Bishop elected and consecrated under this Canon, or any Foreign Missionary Bishop heretofore consecrated to exercise Episcopal functions in any place or country which may have been thus designated, shall have no jurisdiction except in the place or

country for which he has been elected and consecrated. He shall not be entitled to a seat in the House of Bishops, nor shall he become a Diocesan Bishop in any organized Diocese within the United States, unless with the consent of three-fourths of all the Bishops entitled to seats in the House of Bishops, and also of three-fourths of the Clerical and Lay Deputies present at the Session of the General Convention; or, in the recess of the General Convention, with the consent of the standing Committee of three-fourths of the Dioceses.

Section 7 of the same canon was amended by the insertion of the words “or Foreign Missionary Bishop heretofore consecrated” after the word “Canon.”

The principal changes made by these amendments were, first, making the provisions of the canon apply to foreign missionary bishops who had been consecrated before the enactment of the canon in 1844, and second, a relaxation in the rule that no foreign missionary bishop could become a diocesan bishop in the United States, by providing that he might so become by a three-fourths vote of all the bishops, and of all the clerical and lay deputies, in attendance at the session of the General Convention, or, during the recess of the Convention, by a three-fourths vote of all the bishops, and of all the standing committees.

Convention of 1853

This Convention renumbered Canon 8 of 1844 as Canon 10, “Of Missionary Bishops within the United States,” and amended the canon by the addition of a new section, numbered 5, which read as follows:

Every such Bishop may yearly appoint two Presbyters and two Laymen, Communicants of this Church, resident within his Missionary jurisdiction, to perform the duties of a Standing Committee for such jurisdiction; provided that no Standing Committee constituted under this Canon shall be the Ecclesiastical Authority of the jurisdiction of said Missionary Bishop during the vacancy of the Episcopate thereof, or shall have power to give or refuse assent to the Consecration of a Bishop.

This is the first provision made for a standing committee in a mission-district.

Convention of 1856

This Convention amended Section 5 of Canon 10, by striking the words:

shall be the Ecclesiastical authority of the jurisdiction of said Missionary Bishop during the vacancy of the Episcopate thereof, or

Convention of 1859

In the revision of the Digest of Canons by this Convention, all the former canons relating to bishops, both diocesan and missionary, were made sections of one canon, numbered as Title I, Canon 13. Canon 10 of 1856, “Of Missionary Bishops within the United States,” was made

Section 7, and Section 2 of said canon was made clause (ii), and amended by the addition of the following words at the end thereof:

and the House of Bishops may at any time increase or diminish the number of States or Territories over which the said Bishop or Bishops shall exercise Episcopal functions.

Section 5 of said canon was made clause (vi), but without amendment.

Section 6 of said canon became clause (vii), but without amendment.

Canon 1 of 1850, "Of Foreign Missionary Bishops," became a part of Section 8 of Canon 13.

A new clause (vii) was added to the section, reading as follows:

Every such Bishop may yearly appoint not less than two nor more than five Presbyters, resident within his missionary jurisdiction and acting under the appointment of the Board of Missions, to act as a Standing Committee in such missionary jurisdiction, upon all questions pertaining to the interests of such missionary jurisdiction; and in case of the absence of the Bishop from his jurisdiction, or of a vacancy in the Episcopate, said Standing Committee shall be the ecclesiastical authority of such missionary jurisdiction.

It will be noted that, unlike the provisions made for domestic missionary districts, the membership of a standing committee in a foreign district is to consist of presbyters only. In neither case is the appointment of such a committee mandatory.

Section 7 of Canon 1 was made clause (xi), without amendment.

Convention of 1868

Title I, Canon 13, Section 8, relating to foreign missionary bishops, was amended by striking, at the beginning of the second sentence, the words "He shall not be entitled to a seat in the House of Bishops, nor shall he," and inserting in place thereof the words "He shall be entitled to a seat in the House of Bishops, but shall not."

Under this amendment, a foreign missionary bishop was now entitled to a seat in the House of Bishops.

Convention of 1871

This Convention amended Title I, Canon 13, Section 7 (vii), by striking the words "in said States and Territories of the United States," and inserting in place thereof the words "within his missionary jurisdiction."

Convention of 1877

This Convention renumbered Canon 13 as Canon 15, and amended Section 7 (vi) by striking the word “may” in the first line, and inserting in place thereof the word “shall,” thus making it mandatory upon a missionary bishop to appoint a standing committee, instead of giving him permission so to do as formerly.

The same clause was amended still further by the insertion of these words immediately before the proviso: “who shall continue in office till their successors are appointed.”

Convention of 1883

Title I, Canon 15, Section 7 (iv) was amended by striking all after the words “in the district assigned him,” and by adding thereto former clause (vi), concerning the appointment of a standing committee. A new clause (v) was added to this section, reading as follows:

He shall, for the due administration of his jurisdiction, select the Constitution and Canons of one of the Dioceses of this Church, which shall remain in force, so far as applicable to the circumstances of such Missionary Jurisdiction, until it shall be erected into a Diocese and shall have adopted its own Constitution and Canons.

Former clause (vii) was renumbered as clause (viii).

Section 8 (vii) of the canon was amended to read as follows:

Every such Bishop shall yearly appoint a Standing Committee consisting of not less than two or more than five Presbyters, resident within his jurisdiction; and if he shall find it practicable and advisable, of an equal number of Lay Communicants; which Standing Committee shall have, so far as the circumstances of the jurisdiction permit, the powers and duties provided for by the Constitution and Canons that have been adopted for the government of such jurisdiction. In case of the absence of the Bishop from his jurisdiction, or of a vacancy in the Episcopate, said Standing Committee shall be the Ecclesiastical Authority of such Missionary Jurisdiction.

Under this last amendment, the bishop of a foreign missionary district was given the power to appoint a number of laymen, equal to the number of clergymen, as members of the standing committee of his district. Some of the foreign missionary districts, at this time, had laymen who were qualified, in the opinion of the bishops of such districts, to become members of a standing committee, and as it was the mind of the Church that standing committees should be composed of laymen as well as of clergymen, it was thought best to give a foreign missionary bishop the power to appoint laymen on that committee if he had men in his district whom he thought qualified for the position.

Convention of 1886

By the repeal of Section 6 of Title I, Canon 15 by this Convention, Sections 7 and 8 were renumbered as Sections 6 and 7, respectively.

Convention of 1892

Title I, Canon 15 was renumbered by this Convention as Canon 19, of the same title, and Section 7 (vii) was amended by striking the word “which” after the words “Lay Communicants,” and inserting in place thereof the word “this.”

Also, by striking the last sentence of said clause and inserting in place thereof the following:

It shall be lawful for any foreign Missionary Bishop about to be absent from his jurisdiction for more than three months to authorize by writing under his hand and seal the Standing Committee to act as the Ecclesiastical Authority of such Missionary Jurisdiction. In case of the death or resignation of a Foreign Missionary Bishop, or of vacancy by other cause, the vacant Missionary Jurisdiction shall devolve on the Senior Bishop of this Church, with the power of appointing some other Bishop as his substitute in said charge.

While under this amendment a foreign missionary bishop might still authorize the standing committee of his district to act as the ecclesiastical authority of the district during his absence, such committee was not permitted to act as such authority in case of the death or resignation of the bishop, but the district then came under the authority of the Presiding Bishop.

Convention of 1898

Section 6 (viii), of Title I, Canon 19 was amended by this Convention to read as follows:

Every such Bishop shall report annually to the Presiding Bishop his proceedings, and the state and condition of the Church within his Missionary District; such report to be transmitted by the Presiding Bishop to the Board of Managers.

Before this amendment was made, each missionary bishop was obliged to make two reports, one to each General Convention, and one each year to the Board of Missions. Under this amendment he was obliged to make only one report, and that to the Presiding Bishop each year. The Presiding Bishop was then to transmit such report to the Board of Managers, which had replaced the former Board of Missions.

Convention of 1901

This Convention amended Section 6 (vi) of Title I, Canon 19 to read as follows:

On the formation of a Missionary District the Bishop consecrated or assigned thereto shall, for the administration of his jurisdiction, select the Constitution and Canons of one of the Dioceses of this Church, which shall remain in force, so far as applicable to the circumstances of such Missionary District, except so far as altered by the Bishop and Convocation from time to time with the approbation of the House of Bishops.

Convention of 1904

This Convention, in its revision of the whole Digest of Canons, combined all the provisions of former Canon 19, relating to the duties of both domestic and foreign missionary bishops, in one canon, numbered Canon 13, "Of Duties of Missionary Bishops." Many of the former provisions were repealed, and new provisions added. The canon, as enacted by this Convention, read as follows:

Sec. 1. Missionary Bishops shall exercise jurisdiction in States and Territories, or parts thereof, not organized into Dioceses, or in any Missionary District of this Church, beyond the limits of the United States, in conformity with the Constitution and Canons of this Church, and under such regulations and instructions, not inconsistent therewith, as the House of Bishops may prescribe.

Sec. 2. Notice shall be sent to all Archbishops and Metropolitans, and all Presiding Bishops of Churches in communion with this Church, of the designation of any Foreign Missionary District, and of the consecration of any Foreign Missionary Bishop. Such Bishop, either already consecrated or to be consecrated, shall exercise his mission within his defined District, and it is hereby declared as the judgment of this Church, that no two Bishops of Churches in communion with each other should exercise jurisdiction in the same place.

Sec. 3. Every such Bishop shall report annually to the Presiding Bishop his proceedings, and the state and condition of the Church, within his Missionary District, such report to be transmitted by the Presiding Bishop to the Board of Missions. Every such report shall state the amount contributed in each year by the said District for Episcopal support.

Sec. 4. (i) On the formation of a Missionary District the Bishop consecrated or assigned thereto shall, for the administration of his jurisdiction, select the Constitution and Canons of one of the Dioceses of this Church, which shall remain in force, so far as applicable to the circumstances of such Missionary District, except so far as altered by the Bishop and Convocation from time to time with the approbation of the House of Bishops.

(ii) Every Missionary Bishop shall appoint annually a Council of Advice, to be composed of not less than two or more than four Presbyters, and an equal number of laymen, communicants of this Church, resident within his Missionary District, who shall perform the duties of a Standing Committee for such District, except in so far as these Canons otherwise provide, and who shall continue in office until their successors are appointed, and shall, so far as the circumstances of the District permit, be governed by the Constitution and Canons that have been adopted for such District.

Section 1 contained the substance of former Section 6 (ii) and Section 7 (ii).

Section 2 was a new section.

Section 3 contained the substance of former Section 6 (ix) and Section 7 (xi).

Section 4 (i) contained the substance of former Section 6 (vi) and a part of former Section 7 (viii).

Section 4 (ii) contained the substance of the last sentence of former Section 6 (v) and former Section 7 (vii).

Convention of 1907

This Convention amended Canon 13, Section 1 by the insertion of the words “or in territory beyond the United States” after the words “or parts thereof.”

This amendment was made to meet the case of the newly acquired possessions of the United States, which had not yet been organized into territories.

Convention of 1910

This Convention amended Canon 13, now renumbered as Canon 14, by striking all of the first part of Section 4 (i) as far as, and ending with, the words “one of the Dioceses of this Church,” and inserting in place thereof the following:

On the formation of a Missionary District the Bishop consecrated therefor, or assigned thereto, shall, for the administration of his jurisdiction, adopt the Canons approved by the House of Bishops for Missionary Districts, or he may select the Constitution and Canons of one of the Dioceses of this Church.

This amendment was made because of the setting forth, by the House of Bishops in this Convention, of a code of canons for the government of missionary districts.

Convention of 1922

This Convention amended Section 3 of this canon, now Canon 18, by striking the words “Board of Missions,” and inserting in place thereof the words “National Council.”

This amendment was necessary as the Board of Missions had been abolished, and the National Council substituted in its place.

Section 4 (i) was also amended by striking the last three words of said clause and inserting in place thereof the words “Presiding Bishop of the Church.”

This clause provided that the canons which a missionary district adopted at the time of its formation must remain in force, except so far as altered by the bishop and convocation from time to time with the approbation of the House of Bishops. As this consent of the House of Bishops was a mere formality, and owing to the infrequent meeting of the House of Bishops such consent could not always be readily obtained, causing, sometimes, a hardship to the missionary district, it was thought best to substitute the consent of the Presiding Bishop for that of the House of Bishops, and the canon was amended accordingly.

The canon was renumbered Canon 43 in 1943.

Convention of 1964

Section 3 of the canon, now Canon 44, was amended by substituting the words "Executive Council" in place of the words "National Council."

Convention of 1973

Pursuant to the amendment of Article VI, Section 1, of the Constitution in 1970, this Convention radically amended the canonical provisions respecting missionary jurisdictions.

Section 1 of this canon, now Canon III.19, was amended to read as at present, deleting the reference to missionary districts, and substituting a reference to the two kinds of missionary jurisdictions provided for in new Canon I.10: Missionary Dioceses and Area Missions.

The substance of Section 2, requiring notification of the primates of other Churches in communion with this Church of the establishment of, or changes in, the status of missionary jurisdictions, was made Section 4 of Canon I.10.

Former Section 3 was made Section 2 and was amended to read as at present.

Former Section 4, providing for the selection, by the missionary bishop, of a constitution and canons, and for a council of advice appointed by him, was repealed. Instead, provision was made in Section 3 of new Canon I.10 for the adoption of a constitution and canons by the missionary diocese itself, and for a standing committee elected by the convention of the diocese. Only in the case of an area mission may the bishop appoint a standing committee (Canon I.10.2).

EXPOSITION OF CANON III.19

As its history indicates, this canon was substantially amended by the Convention of 1973.

In that year, the missionary dioceses of the Church, which had formerly been known as missionary districts, were given the right to elect their own bishops (see Canon III.15 above) and to adopt their own constitutions and canons (see Canon I.10). As a consequence, the duties of the bishops of such jurisdictions, for all practical purposes, became identical with those of other diocesans (see Canon III.18).

The only additional duties imposed on such bishops are those set forth in this canon.

The provisions of this canon also apply to bishops of area missions, a new and unprecedented type of missionary jurisdiction established in 1973 (see Canon I.10 above).

It is interesting to note that the two sections of the present canon are concerned with the same matters as the two sections of the original canon on the subject, adopted in 1835.



CANON 20. Of Assistant Bishops

Diocesan Convention to approve position. Sec. 1. Whenever any Diocese shall, in the opinion of its Bishop, require additional episcopal services, the said Bishop may, with the consent of the Standing Committee of the Diocese, in lieu of requesting the election of a Coadjutor or Suffragan Bishop, ask the Diocesan Convention to approve the creation of the position of Assistant Bishop, and to authorize the Bishop to appoint a Bishop for such position, with the consent of the Standing Committee of the Diocese, and under such conditions as the Bishop may determine.

Eligibility. Sec. 2. Such Assistant Bishop may be appointed from among the following:

(a) Bishops now exercising jurisdiction, or serving as Suffragan Bishop, who under the Constitution and Canons, and subject to their provisions, would be eligible for election in that Diocese; *Provided*, that before accepting any such appointment a Bishop exercising jurisdiction as the Ordinary or as the Bishop Coadjutor shall resign that jurisdiction, or the right of succession, as the case may be;

(b) Bishops who, having previously resigned their previous responsibilities, are qualified to perform episcopal acts in this Church; and

(c) Bishops of a Church in communion with this Church, in good standing, who, having previously resigned their former responsibilities, their appointment to the position of Assistant Bishop being subject to the approval of competent authority within that Church.

Subject to Sec. 3. An Assistant Bishop so appointed shall serve at
Bishop. the discretion of, and be under the control and direction
of, the Bishop having jurisdiction.

Sec. 4. No person may serve as an Assistant Bishop beyond the termination of the jurisdiction of the appointing Bishop or after attaining the age of 72 years.



This canon was adopted in 1979 as Title III, Canon 20.

EXPOSITION OF CANON III.20

Over the years, many diocesan bishops have obtained episcopal assistance within their dioceses under the authority established in Canon III.18.9 (a) and (e). This permits a resigned bishop to perform any episcopal act, at the request of any bishop of this Church and within that bishop's jurisdiction, and, with the consent of the diocesan, to accept the position of "Assistant Bishop" under the authority of the diocesan convention. Practice varied widely both as to usage and formality, depending upon the needs of the several bishops and their dioceses. The provisions of that canon are precatory, in that they give permission for resigned bishops to perform episcopal acts and to accept such positions, but make no attempt to define the canonical and working relationships between the parties. Further, that canon infers that a bishop must be a resigned bishop before he can perform episcopal acts or accept such a position.

In recent years, the position of "Assistant Bishop" has been created in several dioceses as an alternative to electing a coadjutor or suffragan. Without necessarily promoting this alternative at the expense of the other two, there seemed to be a need to regularize and clarify further the nature of this position in the national Canons, not only to provide for uniformity of practice, but also to establish criteria that would facilitate the use of this option. A persistent advocate of this alternative, Bishop Scott Field Bailey of West Texas, urged the General Convention, on numerous occasions, to establish canonically the position of Assistant Bishop in a form that would be conducive not only to providing episcopal assistance in the form of episcopal acts, but which would facilitate the effective deployment and employment of bishops who might be willing to resign their jurisdiction so as to assist a diocesan in a particular role in the life of that diocese.

To this end, a number of resolutions were introduced at the Convention of 1976, which resulted in the matter being referred to the Joint Commission on Constitution and Canons for further study, and with the request that a proposal be presented to the Convention of 1979. The present canon essentially represents the proposal of that commission.

Section 1 places the initiative for creating the position on the diocesan, acting with the consent of the standing committee, who must seek and receive the approval of the diocesan convention. The convention itself must create the position of Assistant Bishop and authorize the bishop, with the consent of the standing committee, to appoint a bishop to that position. The action of the diocesan convention may be by any method that follows its customs and practices and need not be by canon. Thus, a simple resolution of the diocesan convention would be sufficient to implement the canon in that diocese. However, it is suggested that the adoption of a diocesan canon might be preferable. Inasmuch as the diocesan convention will be implementing a canon of the General Convention and creating a formal ecclesiastical office, the formality of a diocesan canon would bring the whole process into the legislative structure of the diocese, and would be subject to provisions for repeal, amendment, etc. An *ad hoc* resolution, in too simple a form, might be subject to misunderstanding at a later date.

Canon III.20 appears to meet the needs of the political dynamics of a diocese where there might exist a difference of opinion, between the bishop and the convention, as to whether formal episcopal assistance is to be obtained by election or appointment. It is to be noted that, once the position is created, the bishop need not seek further action from the convention, and need only obtain the consent of the standing committee for any such appointments subsequent to the adoption of the enabling canon. While a diocesan convention could not terminate the term of an assistant bishop by repealing the enabling canon, a repeal prior to the appointment of a subsequent assistant bishop would effectively terminate the existence of the position and bar a subsequent appointment.

Of particular importance is the fact that the canon permits the appointment of a bishop who currently holds jurisdiction as well as one who has resigned. Thus, a potential assistant bishop need not be a resigned bishop to qualify, as was formerly the case. The practical nuances and aspects of creating a much larger pool of possible qualified appointees available for recruitment for special ministries, and exercising particular gifts complementary to those of the diocesan, are readily apparent.

Sections 3 and 4 expressly set forth the relationship between the diocesan and an assistant bishop, so as to leave no doubt about the source of the assistant's appointment, authority, and duties, as well as the outside limits of the term of the assistant bishop. Such limitations are consistent with the contractual nature of the appointment, and with the desire of General Convention to provide formally for episcopal assistance without establishing a nonelected functioning episcopal presence in a diocese. However, the fact that the service of the assistant is coterminous with the jurisdiction of the diocesan may have a chilling effect upon the willingness of a bishop holding jurisdiction to resign, at an age well before normal retirement, to serve as an assistant bishop, when the term of the new position will rest not only upon the conditions established in the appointment but upon the vagaries of the continuance in jurisdiction of the bishop appointing.



CANON 21. Of Ministers and Their Duties

Control of the worship and spiritual jurisdiction. Sec. 1 (a). The control of the worship and the spiritual jurisdiction of the Parish, are vested in the Rector, subject to the Rubrics of the Book of Common Prayer, the Canons of the Church, and the godly counsel of the Bishop. All other Ministers of the Parish, by whatever name they may be designated, are to be regarded as under the authority of the Rector.

Control of Church and Parish buildings. (b). For the purposes of his office and for the full and free discharge of all functions and duties pertaining thereto, the Rector shall, at all times, be entitled to the use and control of the Church and Parish buildings with the appurtenances and furniture thereof.

Assistant Ministers. (c). In case of the election of an Assistant Minister the name of the Clergyman whom it is proposed to elect shall be made known to the Bishop and sufficient time, not exceeding thirty days, shall be given him to communicate with the Rector and Vestry thereon.

Priest in charge to have control in a Missionary Cure. (d). In a Missionary Cure the control and responsibility belong to the Priest who has been duly appointed to the charge thereof, subject to the authority of the Bishop.

Duties of Ministers in charge of Parishes or Cures. Sec. 2 (a). It shall be the duty of Ministers of this Church who have charge of Parishes or Cures to be diligent in instructing the children in the Catechism, and from time to time to examine them in the same publicly before the Congregation. They shall also, by stated catechetical lectures and instruction, inform the youth and others in the Holy Scriptures and the Doctrines, Polity, History, and

Liturgy of the Church. They shall also instruct all persons in their Parishes and Cures concerning all the missionary work of the Church at home and abroad, and give suitable opportunities for offerings to maintain that work.

Duty at Baptisms of infants and children. (b). It shall be the duty of Ministers before baptizing infants or children to prepare the sponsors by instructing both the parents and the Godparents concerning the significance of Holy Baptism, the responsibilities of parents and Godparents for the Christian training of the baptized child, and how these obligations may properly be discharged.

Duty in reference to Bishop's visitation. (c). It shall be the duty of Ministers to prepare young persons and others for Confirmation; and on notice being received from the Bishop of his intention to visit any Church, which notice shall be at least one month before the intended visitation, the Minister shall announce the fact to the Congregation on the first Sunday after the receipt of such notice; and he shall be ready to present for Confirmation such persons as he shall judge to be qualified, and shall deliver to the Bishop a list of the names of those to be confirmed.

At Bishop's visitation to give information of the state of the Congregation. (d). At every visitation it shall be the duty of the Minister, and of the Churchwardens, or Vestrymen, or of some other officer, to exhibit to the Bishop the Parish Register and to give information to him of the state of the Congregation, spiritual and temporal, under such heads as shall have been previously signified to them, in writing, by the Bishop.

Alms and offerings to the poor. (e). The Alms and Contributions, not otherwise specifically designated, at the Administration of the Holy Communion on one Sunday in each calendar month, and other offerings for the poor, shall be deposited with the Minister of the Parish or with such Church officer as shall be appointed by him, to be applied by the Minister, or under his superintendence, to such pious and charitable uses as shall by him be thought fit. During a vacancy the Vestry shall appoint a responsible person to serve as Almoner.

Pastoral Letters. (f). Whenever the House of Bishops shall put forth a Pastoral Letter, it shall be the duty of every Minister having a pastoral charge to read it to his Congregation on some

occasion of public worship on a Lord's Day, or to cause copies of the same to be distributed to the members of his Parish or Congregation, not later than one month after the receipt of the same.

Position Papers. (g). Whenever the House of Bishops shall adopt a Position Paper, it may by its own vote require the same procedure for communication of the contents of the Paper to the membership of the Church as is required in the case of a Pastoral Letter as provided in Clause (f) above.

To keep a register of official acts. Sec. 3 (a). It shall be the duty of every Minister of this Church to record in the Parish Register all Baptisms, Confirmations, Marriages, Burials, and the names of all Communicants within his Cure.

Register of baptisms to be signed by officiant. (b). The registry of every Baptism shall be signed by the officiating Minister.

Data to be recorded in Parish Register. (c). Every Minister of this Church in charge of a congregation shall have recorded in the Parish Register a list of all persons who have received Holy Baptism; and a list of all persons who have received Confirmation. He shall indicate upon the Parish Register each year the names of those who have died in the past year or whose names have been removed by letter of transfer. He shall also indicate (1) those whose domicile is unknown, and (2) those whose domicile is known but are inactive. He shall maintain as far as practicable a list of all families and persons within his Cure, which list shall remain in the Parish for the use of his successor.

Procedure for leaving ecclesiastical employment, but retaining Ministry. Sec. 4 (a). A Minister of this Church desiring to enter other than ecclesiastical employment, without relinquishing his Ministry, shall make his desire known to the Bishop or the Ecclesiastical Authority of the Diocese in which he is canonically resident. The Bishop, with the advice and consent of the Standing Committee, after satisfying himself and them that the applicant will have and use, opportunities for the exercise of Christian Ministry, may give his approval, on the following condition: the Minister shall report annually, in writing, in a manner prescribed by the Bishop, his occasional services, as provided in Canon I.5, Sec. 1.

Condition. Sec. 1.

Penalty for omitting reporting. (b). Any such Minister who omits, for a period of two years, to comply with the above provision, may be removed by the Bishop from the roll of clergy canonically resident in the said Bishop's Diocese and transferred to the Special List maintained by the Secretary of the House of Bishops, as provided in Canon IV.11, Section 2, on the following conditions:

Grace period. 1. The Bishop shall give the Minister sixty day's written notice by registered or certified mail of his intention.
2. If, within the sixty-day period, the Minister shall report to the Bishop as provided in Section 4 (a) of this Canon, the Minister shall be retained on the roll of clergy canonically resident in the said Bishop's Diocese.

Procedure on moving to other jurisdiction. (c). Any such Minister, removing to another jurisdiction, shall present himself to the Bishop of that jurisdiction within two months of his arrival in the jurisdiction. The Minister shall fulfill the following conditions:

1. He shall officiate or preach in that jurisdiction only under the terms of Sec. 7 of this Canon.
2. He shall in writing notify the Bishop of the Diocese of his canonical residence, within sixty days of removal.

Penalty. If the Minister fails to comply with these conditions, the Bishop of the Diocese of his canonical residence may, upon sixty days' written notice, transfer the Minister to the Special List of the Secretary of the House of Bishops.

Options for Minister removing to different jurisdiction. (d). Any such Minister, removing to another jurisdiction, shall notify both the Bishop of the Diocese of his canonical residence and the Bishop of the jurisdiction in which he resides, as to which of the following options he prefers:

1) *Retain canonical residence.* 1. The Minister may request to remain canonically resident in his present Diocese. In such case, the Bishop of that Diocese shall retain the Minister on his roll of clergy as long as the Minister fulfills the requirements of Sec. 4 (a) of this Canon.

2) *Request Letters Dimissory.* 2. The Minister may request to have his canonical residence transferred to the jurisdiction of his civil residence. In such case, the Minister shall, before requesting Letters Dimissory, secure a statement, in writing, from the Bishop of such jurisdiction (who may consult with his Council of Advice in the matter) that he is willing

- to receive such a Minister and to enroll him among the clergy of his Diocese; and note that the provisions of Sec. 6 (d) of this Canon shall not apply in such a case.
- 3) Request removal to Special List.* 3. The Minister may request the Bishop of the Diocese of his canonical residence that his name be placed on the Special List maintained by the Secretary of the House of Bishops. If the Minister complies with the requirements of Sec. 4 (a). of this Canon by reporting annually to the Presiding Bishop, he shall continue to be held as a Minister in good standing in this Church.
- Not to officiate in another's Cure without consent.* Sec. 5 (a). No Minister of this Church shall officiate, either by preaching, reading prayers in public worship, or by performing any other priestly or ministerial function, in the Parish, or within the Cure, of another Minister, without the consent of the Minister of that Parish or Cure, or of one of its Churchwardens if, in his absence or disability, the Minister fail to provide for the stated services of such Parish or Cure.
- In case there are two or more Congregations or churches in one Cure.* If there be two or more Congregations or Churches in one Cure, as provided by Canon I.12, Sec. 3 (b), the consent of the majority of the Ministers of such Congregations or Churches, or of the Bishop, shall be sufficient; *Provided*, that nothing in this Section shall be construed to prevent any Clergyman of this Church from officiating, with the consent of a Minister, in the Church or place of public worship used by the Congregation of such Minister, or in private for members of his Congregation; or, in his absence, with the consent of the Churchwardens or Trustees of such Congregation; and *Provided, moreover*, that the license of the Ecclesiastical Authority required in Sec. 7 be first obtained when necessary.
- Exception.* This rule shall not apply to any Church, Chapel, or Oratory, which is part of the premises of an incorporated institution, created by legislative authority, provided that such a place of worship is designed and set apart for the convenience and uses of such institution, and not as a place for public or parochial worship.
- Neglecting to perform services of the Church.* (b). If any Minister of this Church, from disability or any other cause, neglect to perform the regular services in his Congregation, and refuse, without good cause, his consent to any other duly qualified Minister of this Church to

officiate within his Cure, the Churchwardens, Vestrymen, or Trustees of the Congregation shall, on proof before the Ecclesiastical Authority of the Diocese of such neglect or refusal, have power, with the written consent of the said Authority, to permit any duly qualified Minister of this Church to officiate.

To present a testimonial to Ecclesiastical Authority. Sec. 6 (a). A Minister of this Church removing into a Diocese shall, in order to gain canonical residence within the same, present to the Ecclesiastical Authority thereof a testimonial from the Ecclesiastical Authority of the Diocese in which he last had canonical residence, which testimonial shall set forth his true standing and character. The said testimonial shall be given by the Ecclesiastical Authority to the applicant, and a duplicate thereof may be sent to the Ecclesiastical Authority of the Diocese to which he proposes to remove. The testimonial may be in the following words:

I hereby certify that the Reverend A.B., who has signified to me his desire to be transferred to the Ecclesiastical Authority of _____, is a Presbyter [or Deacon] of _____ in good standing, and has not, so far as I know or believe, been justly liable to evil report, for error in religion or for viciousness of life, for three years last past.

(Signed) _____

Date when transfer shall take effect. (b). Such testimonial shall be called Letter Dimissory. The canonical residence of the Minister so transferred shall date from the acceptance of his Letters Dimissory, of which prompt notice shall be given both to the applicant and to the Ecclesiastical Authority from which it came.

When Letters Dimissory void. (c). Letters Dimissory not presented within six months from the date of their transmission to the applicant shall become wholly void.

When Letters Dimissory need not be accepted. (d). If a Minister, removing into another Diocese, has been called to a Cure in a Parish or Congregation therein, he Shall present Letters Dimissory in the form above given. It shall be the duty of the Ecclesiastical Authority of the Diocese to which he has removed, to accept them within three months unless the Bishop or Standing Committee

shall have heard rumors, which he or they believe to be well founded, against the character of the Minister concerned, which would form a proper ground of canonical inquiry and presentment, in which case the Ecclesiastical Authority shall communicate the same to the Bishop or Standing Committee of the Diocese to whose jurisdiction the said Minister belongs; and in such case, it shall not be the duty of the Ecclesiastical Authority to accept the Letters Dimissory unless and until the Minister shall be exculpated from the said charge.

Before removing into a Diocese, to obtain certificate.

(e). No Minister, removing from one Diocese to another, shall officiate as Rector or Minister of any Parish or Congregation of the Diocese to which he removes, until he shall have obtained from the Ecclesiastical Authority thereof a certificate in the words following:

No person refused ordination in any Diocese to be afterwards transferred thereto without consent of Bishop.

I hereby certify that the Reverend A.B. has been canonically transferred to my jurisdiction and is a Minister in good standing.

(Signed) _____

Limitation of transfer.

(f). No person who has been refused ordination or reception as a Candidate in any Diocese, and who has afterwards been ordained in another Diocese, shall be transferred to the Diocese in which such refusal has taken place without the consent of its Bishop or Ecclesiastical Authority.

(g). No person who has been ordained under the provision of Canon III.8 shall be transferred to another Diocese, save as provided in the said Canon.

License required to officiate.

Sec. 7. No Minister of this Church shall officiate more than two months by preaching, ministering the Sacraments, or holding any public service, within the limits of any Diocese other than that in which he is canonically resident, without a license from the Ecclesiastical Authority.

To obtain testimonial when desiring to officiate abroad.

Sec. 8 (a). Any Minister of this Church desiring to officiate temporarily without the confines of this Church shall, in order so to do, obtain from the Ecclesiastical Authority of the Diocese in which he has canonical residence, a testimonial which shall set forth his true standing and character, and may be in the following words:

*Form of
testimonial.*

I hereby certify that the Reverend A.B. who has signified to me his desire to be permitted to officiate temporarily in churches not under the jurisdiction of the Protestant Episcopal Church, yet in communion with this Church, is a Presbyter [or Deacon] of _____ in good standing, and as such is entitled to the rights and privileges of his Order.

This testimonial is valid for one year from date of issuance and is to be returned to the Ecclesiastical Authority at the end of that period.

*Record to be
kept.*

(b). The Ecclesiastical Authority giving such testimonial shall keep a record of issuance of such, in which the date of issuance and of return shall be recorded, together with the name of the Minister to whom the testimonial has been issued.

*Chaplaincy
duty.*

Sec. 9 (a). Any Priest of this Church desiring to serve as a Chaplain in the Armed Forces of the United States of America or as Chaplain for the Veterans' Administration, with the approval of the Ecclesiastical Authority of the Diocese in which he is canonically resident, may be given ecclesiastical endorsement for such service by the Armed Forces Division of the Executive Council of the Church.

*Canonical
residence of
Chaplains.*

(b). Such Ministers serving on active duty with the Armed Forces shall retain canonical residence in a Diocese of this Church, and shall be under the ecclesiastical jurisdiction of the Bishop of said Diocese, even though his work as a Chaplain shall be under the general supervision of the Armed Forces Division, or such Bishop of the Church as the Presiding Bishop may designate.

*Exceptions
to canonical
observances.*

(c). Any such Minister serving on a military installation or at a Veterans' Administration facility shall not be subject to either Sec. 5 (a), or Sec. 7, of this Canon. When serving outside of military installations or of Veterans' Administration facilities, such Chaplains shall be subject to said Sections.

*To resign
position at
age
seventy-two.*

Sec. 10. Upon attaining the age of seventy-two years, every Minister of this Church occupying any position in this Church shall resign the same and retire from active service, and his resignation shall be accepted. Thereafter, he may accept any position in this Church, except the posi-

tion or positions from which he has resigned pursuant to this Section; *Provided*, that (a) the tenure in such position shall be for a period of not more than one year, which period may be renewed from time to time, and (b) service in such position shall have the express approval of the Bishop and Standing Committee of the Diocese in which such service is to be performed, acting in consultation with the Ecclesiastical Authority of such Minister's canonical residence. (c) A Minister who has served in a nonstipendiary capacity in a position before his retirement may, at the Bishop's request, serve in the same position for six months thereafter, and this period may be renewed from time to time.

Sec. 11. There shall accompany Letters Dimissory a statement of the record of the payments to The Church Pension Fund of the Minister concerned.



This canon was Title I, Canons 12 and 19, in 1859. It became Canon 15 in 1904, Canon 44 in 1943, and Title III, Canon 20, in 1970.

SECTION 1

Convention of 1904

This section was enacted by this Convention, and consisted of the present clauses (a), (b), and (d).

Convention of 1979

This Convention transferred Section 5 of Canon III.22 [now Canon III.23] to Section 1 of this canon as clause (c).

Former clause (c) was made clause (d).

SECTION 2

Convention of 1789

This first legislation by General Convention on the subject of duties of ministers in their parishes, as set forth in Section 2, was by the Convention of 1789, which enacted Canon 11 of that year, "Of the Duty of Ministers in regard to Episcopal Visitation," as follows:

It shall be the duty of ministers to prepare children and others for the holy ordinance of Confirmation. And on notice being received from the Bishop of his intention to visit any Church, which notice shall be at least one month before the intended visitation, the minister shall be ready to present for Confirmation those who shall have been

previously instructed for the same, and shall have delivered to the Bishop a list of the names of those presented.

At every visitation it shall be the duty of the minister and of the church wardens, to give information to the Bishop of the state of the congregation, under such heads as shall have been committed to them in the notice given as aforesaid.

And further, the ministers and church wardens of such congregations as cannot be conveniently visited in any year, shall bring or send to the Bishop, at the stated meeting of the Convention of the diocese or district, information of the state of the congregation, under such heads as shall have been committed to them at least one month before the meeting of the Convention.

Convention of 1808

A slight amendment was made by this Convention to the above canon by inserting the words “or vestry,” after the words “church wardens,” in the second paragraph.

This Convention also enacted Canon 22 of that year, setting forth the duty of ministers to instruct the children of their parishes in the catechism, and in the doctrines, polity, history, and liturgy of the Church, corresponding to the first clause of the section we are considering. This canon read as follows:

The Ministers of this Church who have charge of parishes or cures, shall not only be diligent in instructing the children in the catechism, but shall also, by stated catechetical lectures and instruction, be diligent in informing the youth and others in the doctrines, constitution, and liturgy of the Church.

Convention of 1814

The subject of clause (e), concerning the alms and offerings for the poor, was first made the subject of canonical enactment by the Convention of 1814, which enacted Canon 1, reading as follows:

Whereas it appears that no direction has been made, as to the mode in which the alms and contributions at the administration of the Holy Communion are to be applied, it is hereby declared, that they shall be deposited with the minister of the parish, or with such Church officer as shall be appointed by him, to be applied by the minister, or under his superintendence, to such pious and charitable uses as shall be thought fit.

This canon was enacted to carry out the provisions of the offertory rubric in the Book of Common Prayer, which at that time read:

The Deacons, Church-wardens, or other fit persons appointed for that purpose, shall receive the Alms for the Poor, and other Offerings of the People, in a decent Basin to be provided by the Parish; and reverently bring it to the Priest, who shall humbly present and place it upon the Holy Table.

Convention of 1820

Canon 3, enacted by this Convention, related to the subject matter now contained in clause (f) of Section 2, and was as follows:

Whereas there is reason to fear that the Pastoral Letters issued, from time to time, by the House of Bishops, and addressed to the members of the Episcopal Church, fail of their intended effect for want of sufficient publicity: It is hereby made the duty of every clergyman having a pastoral charge, when any such letter is published, to read the same to his congregation on some occasion of public worship.

Under Canon 45 of 1808, the parochial reports of each parish in the United States, together with the several bishops' addresses and charges to their conventions, were required to be read in the House of Deputies. A report on the state of the Church then was drawn up by a committee appointed for that purpose, and sent to the House of Bishops, with a request that they draw up a pastoral letter to the members of the Church. No provision, however, was made to place these letters within reach of the people for whom they were intended. It was soon found that these parochial reports were so numerous as to make it exceedingly inconvenient to read them in the House of Deputies. The Canon of 1808 was amended by the Convention of 1814, so as to provide that these parochial reports should not be read in the House of Deputies. Then in 1820, the above canon was set forth, for the reasons stated in the canon.

Convention of 1832

In the revision of the canons by this Convention, the first paragraph of Canon 11, of the Canons of 1789, relating to the duty of preparing young persons for Confirmation, was made Section 1 of Canon 26, and amended to read as follows:

It shall be the duty of Ministers to prepare young persons and others for the holy ordinance of Confirmation. And on notice being received from the Bishop, of his intention to visit any Church, which notice shall be at least one month before the intended visitation, the Minister shall give immediate notice to his parishioners individually as opportunity may offer, and also to the congregation on the first occasion of public worship after the receipt of said notice. And he shall be ready to present, for Confirmation, such persons as he shall think properly qualified; and shall deliver to the Bishop a list of the names of those confirmed.

The principal changes made by the amendment were as follows:

First, the word "children" was changed to "young persons," in the first sentence thereof, but the most important change made, was requiring the minister to give immediate notice of the bishop's intended visitation to his parishioners, individually, as opportunity might offer, and also to the congregation, on the first occasion of public worship after the notice had been received. Another change made was that the minis-

ter was to present “such persons as he shall think properly qualified,” instead of “those who shall have been previously instructed for the same.”

The names of those confirmed were to be given to the bishop, for the reason that, when these canons were first enacted, the bishop was required, under another canon, to send these names to the General Convention.

The second paragraph of Canon 11 of 1789, as amended by the Convention of 1808, was made Section 2 of Canon 26, without further amendment.

The third paragraph of Canon 11 of 1789, was made Section 3 of Canon 26, without amendment.

The Convention of 1832 re-enacted Canon 22, of the Canons of 1808, regarding the duty of parochial instruction, as Canon 28, and without amendment.

The same Convention amended the first canon of 1814, regarding the alms and contributions at the Holy Communion, by striking the descriptive matter at the beginning of the canon, giving the reasons for its enactment, but making no change in the meaning of the canon. This canon became Canon 52.

The same Convention amended Canon 3 of 1821, relating to pastoral letters, by striking the first sentence thereof, explanatory of the reason why the canon was enacted, and made it the last sentence of Canon 51, Section 3.

Convention of 1859

In the revision of the Digest of Canons by this Convention, Canon 26, of the Canons of 1832, became Title I, Canon 12, Section 4 (i), (ii), and (iii), without amendment.

The same Convention re-enacted Canon 28, of the Canons of 1832, as Title I, Canon 19, “Of Parochial Instruction,” without amendment.

Canon 52, of the Canons of 1832, regarding the alms at the Holy Communion, became Title I, Canon 12, Section 3, also without amendment.

The last sentence of Canon 51, Section 3, relating to pastoral letters, became the last sentence of Title I, Canon 15, Section 3, unamended.

Convention of 1886

This Convention renumbered Title I, Canon 19 of the Canons of 1859, "Of Parochial Instruction," making it Section 3 (i) of Canon 14 [formerly Canon 12], "General Regulations of Ministers and their Duties," and amended the same by inserting the word "History" after the word "Constitution" in the first sentence, thereby requiring the clergy to instruct their people in the history of the Church, as well as in its doctrine, constitution, and liturgy.

A further amendment was made by adding at the end thereof the following:

They shall also diligently instruct all in their cures concerning the missionary work of the Church at home and abroad, and offer suitable opportunities for contributions from time to time for the maintenance of that work.

This amendment was made at the request of the Board of Missions, in order that an opportunity might be given, in times of divine service, for the people to make offerings for missions.

Section 3 of Title I, Canon 12, of the Canons of 1859, relating to the alms and contributions for the poor, was renumbered as clause (ii) of Section 3, Canon 14, Title I, without amendment.

Section 4 of said Canon 12, was made Section 4 of Canon 14, also without amendment.

Convention of 1904

In the revision of the Digest of Canons made by the Convention of this year, the several canons, heretofore noted, were combined into one section of the same canon, Canon 15.

The first clause of Section 3, concerning parochial instruction, was made Section 2 (i) of Canon 15, "Of Ministers and their Duties," and amended to read as at present constituted, except for an addition made in 1955.

The principal changes made by the amendment of 1904 were as follows:

First, the clergy were not only to instruct the children in their parishes in the catechism, but also, "from time to time examine them in the same publicly before the Congregation." Second, the word "Polity" was substituted for the word "Constitution," as one of the subjects concerning which the clergy were to instruct their people. Third, the last sentence was amended to read as follows:

They shall also instruct all persons in their Parishes and Cures concerning the missionary work of the Church at home and abroad, and give suitable opportunities for offerings to maintain that work.

Section 4 (i), regarding the duty of the clergy on episcopal visitations, was made clause (ii) of Section 2 of Canon 15, and amended to read as the present clause (c). The former canon made it the duty of the clergy to prepare their people for “the holy ordinance of Confirmation;” this was amended by striking out all except the word “Confirmation.”

The next amendment was the striking of the words

the Minister shall give immediate notice to his parishioners, individually, as opportunity may offer, and also to the Congregation on the first occasion of public worship after the receipt of said notice,

and inserting in place thereof the following words:

the Minister shall announce the fact to the Congregation on the first Sunday after the receipt of such notice.

Another amendment made was the substitution of the words “a list of the names of those to be confirmed,” for the words, “a list of the names of those confirmed.”

Formerly, the clergyman was required to give a list of those confirmed to the bishop *after* the service of Confirmation was completed. Under this canon, the clergyman was required to give to the bishop, *before* the service, a list of the names of the persons to be confirmed.

Clause (ii) of former Section 4, relating to the duty of giving information to the bishop of the state of the congregation, was made clause (iii) of Section 2, and amended to read as the present clause (d).

The amendment was as follows:

After the words “or Vestrymen,” were added the words “or of some other officer, to exhibit to the Bishop the Parish Register.”

Clause (ii) of former Section 3, relating to the alms and contributions, was made clause (iv) of Section 2, and amended to read as the present clause (e). The changes made in this clause by the amendment were as follows:

The former provision of the canon on this subject directed that all the alms and contributions of every administration of the Holy Communion were to be applied to such charitable objects as the minister might designate; it was now provided that only such alms and contributions “not otherwise specifically designated,” and only on one Sunday in each month, should be so applied.

When this provision was first enacted as a canon, it was the custom in most of the parishes to have only one celebration of the Holy Communion in each month. As time went on, celebrations of the Holy Eucharist became more frequent until it was the custom, in most of the parishes, to have at least one celebration every Sunday, and two celebrations on the first Sunday in each month. Under the former canon, the minister had the right to claim all the offerings at all of those services, with the result that, when this was done, the parishes were deprived of a large part of the offerings for use in meeting current expenses. Also, under the former canon, no offerings could be otherwise specifically designated at any service when there was a celebration of the Holy Communion. This led to much dissatisfaction with the canon as it then stood, and was the cause of its being amended. These words were also added at the end of the clause: "During a vacancy the Vestry shall appoint a responsible person to serve as Almoner."

The last sentence of Section 3 of former Canon 20 [Title I, Canon 15, of the Canons of 1859], relating to pastoral letters, was made clause (v) of Section 2, and amended to read as follows:

Every Minister having a pastoral charge shall read to his Congregation on some occasion of public worship on a Lord's Day, not later than one month after the receipt of the same, the Pastoral Letter of the House of Bishops in accordance with the Canons.

The principal change made in this clause was the requiring of the minister to read the pastoral letter "within one month after the receipt of the same."

Convention of 1910

This Convention amended clause (v) to read as follows:

Whenever the House of Bishops shall put forth a Pastoral Letter, it shall be the duty of every Minister having a pastoral charge to read it to his congregation on some occasion of public worship on a Lord's Day, not later than one month after the receipt of the same.

Owing to certain circumstances which happened at the previous Convention, and which, in the opinion of the House of Bishops, made it inadvisable to issue the pastoral letter which had been prepared, the provision relating to such letters was amended so as to provide that, *whenever* such a letter was issued, it was then to be read as before provided.

Convention of 1949

Section 2 was amended by inserting a new clause (b), prescribing the duty at baptisms of infants and children to prepare and instruct sponsors.

The succeeding clauses were relettered.

Convention of 1955

Clause (a) of Section 2 was amended by inserting the words “Holy Scriptures and” at the beginning of the list of subjects on which stated catechesis is to be given.

Convention of 1967

Clause (f) was amended to read as at present and clause (g) was added.

By these amendments, an alternative method of communicating pastoral letters was provided and, for the first time, provision made for position papers, adopted by the House of Bishops, to be communicated to congregations.

SECTION 3

Convention of 1789

The first canon enacted by General Convention on the subject matter contained in this section was Canon 15 of 1789, which read as follows:

Every minister of this Church shall keep a register of baptisms, marriages, and funerals within his cure, agreeably to such rules as may be provided by the ecclesiastical authority where his cure lies; and if none such be provided, then in such a manner as in his discretion he shall think best suited to the uses of such a register.

And the intention of the register of baptisms is hereby declared to be, as for other good uses, so especially for the proving of the right of church membership of those who have been admitted into this Church by the holy ordinance of Baptism.

And further, every minister of this Church shall, within a reasonable time after the publication of this Canon, make out and continue a list of all adult persons within his cure, to remain for the use of his successor, to be continued by him and by every future minister in the same parish.

And no minister shall place on the said list the names of any persons except of those who, on due enquiry, he shall find to have been baptized in this Church; or, who, having been otherwise baptized, shall have been received into this Church, either by the holy rite of Confirmation, or by receiving the Holy Communion, or by some other joint act of the parties and of a minister of this Church, whereby such persons shall have attached themselves to the same.

Convention of 1808

In the revision of the canons by this Convention, this canon was reenacted without amendment as Canon 40 of that year.

Convention of 1832

In the revision of the canons by this Convention, Canon 40 of the Canons of 1808 was made Canon 29, and amended as follows:

After the word “baptisms” in the first paragraph, now made Section 1, were added the words, “confirmations, communicants,” which the minister was now to record.

In the third paragraph, the words “within a reasonable time after the publication of this canon,” were stricken out as no longer necessary, their use obviously being confined to the time immediately after the canon was first enacted.

The final paragraph was stricken as no longer needed. When the canon was first enacted in 1789, the great majority of the persons connected with the Church and receiving the Holy Communion had never been confirmed, owing to the fact that, for so many years previous, there were no bishops in this country to administer Confirmation. This condition of affairs, of course, no longer existed when this canon was amended in 1832.

Convention of 1859

In the revision of the Digest of Canons by this Convention, Canon 29, of the Canons of 1832, was made Title I, Canon 12, Section 5, “General Regulations Of Ministers and their Duties.” No amendments were made thereto by this Convention.

Convention of 1904

In the revision of the canons by the Convention of 1904, the section we are considering was made Section 3 of Canon 15, “Of Ministers and their Duties,” and amended to read as at present constituted, except for the changes made in 1949 in clause (c), hereafter noted.

Clause (i) was changed by striking all after the words “within his Cure.” The wording of the first paragraph was changed to read “It shall be the duty of every Minister in this Church to record in the Parish Register,” instead of the words “Every minister of this Church shall keep a register...”

Clause (ii) of the former section was stricken, and the present clause inserted in its place, which simply declares that the registry of every baptism should be signed by the officiating minister.

It no longer seemed necessary to state the purpose of the register of baptisms, but it did seem wise to provide that the officiating minister should sign the registry of a baptism performed by him, as this registry of baptisms in a parish register is often required to prove questions of age, and in many courts, it is held as the best evidence in cases involving questions of relationships, especially where property interests are involved.

Clause (iii) was amended by striking the words “to be continued by him and by every future Minister in the same Parish.”

Provision is made in another canon that the minister shall sign the record of every marriage performed by him.

Convention of 1949

Section 3 (c) was amended to its present form.

SECTION 4

Special Convention of 1969

This Convention adopted a new Section 4, providing for a self-supporting ministry, and reading as follows:

(a). A Minister of this Church desiring to enter other than ecclesiastical employment, without relinquishing his Ministry, shall make his desire known to the Bishop or the Ecclesiastical Authority of the Diocese in which he is canonically resident. The Bishop, with the advice and consent of the Standing Committee or Council of Advice, after satisfying himself and them that the applicant will have, and use, opportunities for the exercise both of the sacramental and pastoral functions of the Ministry, may give his approval, on the following conditions:

(1). The Minister shall report annually, in writing, in a manner prescribed by the Bishop, his occasional services, as provided in Canon 5, Section 1.

(2). The Minister shall, on his own initiative, present himself to the Bishop semi-annually, at a time to be mutually agreed upon, to receive the Holy Communion with his Bishop and to satisfy the said Bishop concerning his ministerial activities.

(b). Any such Minister who omits, for a period of two years, to comply with the above provisions may be removed by the Bishop from the roll of clergy canonically resident in the said Bishop's Diocese and transferred to the Special List maintained by the Secretary of the House of Bishops, as provided in Canon 63, Section 2.

(c). Any such Minister, removing to another jurisdiction, shall, before requesting Letters Dimissory, secure a statement, in writing, from the Bishop of such jurisdiction (who may consult with his Council of Advice in the matter) that he is willing to receive such a Minister and to enroll him among the clergy of his Diocese; and *Note*, that the provisions of Section 5 (d) of this Canon shall not apply in such a case. If the said Bishop be unwilling to receive Letters Dimissory in respect of such a Minister, the said Minister shall so notify the Bishop of the Diocese of his canonical residence. It shall be competent for the said Bishop, at his discretion, either to retain the said Minister on his roll of clergy, or, after one year, to transfer him to the Special List of the Secretary of the House of Bishops. If the Bishop chooses to retain oversight of a Minister so removed geographically from the Diocese, the provisions of paragraph (a) (2), above, may be modified as the circumstance may require.

The remaining sections of the canon were renumbered.

Convention of 1970

The section was amended to read as at present, specifying more fully the procedures to be followed, and providing certain options.

Paragraph (2) of clause (a) was deleted, it having been found impractical in some jurisdictions.

SECTION 5

Convention of 1792

The subject of this section was first legislated upon by the Convention of 1792, which enacted Canon 6, reading as follows:

No clergyman belonging to this Church shall officiate, either by preaching or by reading prayers, in the parish, or within the parochial cure of another clergyman, unless he has received express permission for that purpose from the minister of the parish or cure, or, in his absence, from the churchwardens, vestrymen, or trustees of the congregation.

This canon was enacted, no doubt, from knowledge of its necessity, based on experience. Dr. Hawks tells us (*Constitution and Canons*, p. 288) that

In the infancy of our Church, when parishes were not very numerous, and their boundaries not very well defined; and when, besides, livings were for the most part very small, clergymen sometimes intruded into the cures of their brethren; and the early history of more than one of our dioceses, shows that the irregularity was a fruitful cause of dissension. The evil was one which could be thoroughly corrected only by legislation of the whole Church, and hence the canon before us. This law, however, continued in force but three years. It was perceived (perhaps experience had made it plain), that as the canon stood, a great abuse might creep in: a worthless minister might refuse to do duty himself, and might also prevent another from performing it within his cure.

This occasioned the fifth canon of 1795.

Convention of 1795

This Convention reenacted the Canon of 1792 as Canon 5 of that year, and added to it the following:

But, if any minister of a Church shall, from inability, or any other cause, neglect to perform the regular services to his congregation, and shall refuse his consent to any other minister of this Church to officiate within his cure, the churchwardens, vestrymen, or trustees of such congregation shall, on proof of such neglect and refusal before the Bishop of the diocese, or, if there be no Bishop, before the Standing Committee, or before such persons as may be deputed by him or them, by the regulations of this Church, in any State, vested with the power of hearing and deciding on complaints against clergymen, have power to open the doors of their churches to any regular minister of the Protestant Episcopal Church.

But even this canon did not solve the whole difficulty, because boundaries were not always clearly defined between contiguous parishes.

There might, for instance, be two or more parishes in the same city. To meet this difficulty, the Convention enacted another canon, Canon 7, on the subject as follows:

Whereas, there is no provision made in the sixth Canon of 1792, for the case of such a vicinity of two or more churches, as that there can be no local boundaries drawn between their respective cures, it is hereby ordained that, in every such case, no minister of this Church, other than the parochial clergy of the said cures, shall preach within the common limits of the same, in any other place than in one of the churches thereof, without the consent of the major number of the parochial clergy of the said churches.

Convention of 1808

This Convention combined these three canons into one canon, Canon 33 of that year, without material amendment, except in the phraseology thereof.

Convention of 1829

This Convention made an addition to Canon 33, of the Canons of 1808, by the enactment of Canon 7, of that year, as follows:

Where parish boundaries are not defined by law or otherwise, each city, borough, village, town, or township, in which there is one Protestant Episcopal Church or congregation, or more than one such Church or congregation, shall be held, for all the purposes of the 33rd Canon of 1808, to be the parish or parishes of the Protestant Episcopal clergyman or clergymen having charge of said Church or Churches, congregation or congregations.

This amendment was occasioned by the following circumstance, as related by Dr. Hawks (*Constitution and Canons*, p. 291).

In a city containing one Episcopal Church only, and several Congregational or Presbyterian meeting-houses, the Episcopal clergyman was informed by a letter, from one of his brethren, whose cure was in another State, that on a certain day he would be in the city, and that having accepted an agency for the "American Sunday School Union," he purposed addressing the children of such schools as belonged to the "Union," and would also, if it was agreeable, address the children of the Episcopal school, at the same time and place. An answer was returned, stating that the Episcopal school belonged to the "Protestant Episcopal Sunday School Union," and adding that it would be agreeable to have an address delivered to them in the church. On the arrival of the expected clergyman, he was waited upon, and it was discovered that he intended to address the schools connected particularly with his agency, in one of the Presbyterian churches which stood immediately contiguous to the Episcopal Church. The true state of the parish and its Sunday School was then respectfully laid before the visiting brother, accompanied with the statement, that such was the hostility shown by the other denominations to the Episcopal Church and schools, that there was reason to fear the proposed plan would not strengthen the hands of the Episcopal clergyman; and it was suggested to the visitor, that he should deliver his address in the Episcopal Church, to *all* the schools; the church being sufficiently spacious to accommodate all, and all being invited.

He was assured (and such was ascertained to be the fact) that the other schools would attend to hear him; and it was intimated, that being an Episcopal clergyman, he might, undesignedly (not being aware of the real condition of the parish), do harm to the Episcopal school by officiating in a place of worship belonging to another denomination adjacent to the church. The visiting clergyman, however, notwithstanding these representations, persisted in his original purpose. The rector of the parish then told him that he objected to his officiating within his cure, and referred him to the Canon of 1808, which we have just laid before the reader. The answer given was that the intention was to address *Presbyterians and Congregationalists*, and that the rector could not claim them, as belonging to his "parochial cure." Accordingly, the visitor, without any portion of the clerical dress worn by Episcopal clergymen when discharging public official duties, did address the schools of the "American Union," from the pulpit of the meeting-house immediately adjacent to the church.

Even this canon failed to fully meet the question raised by the foregoing circumstance, as was shown by another similar incident which occurred some years later, and to which reference will be made in the consideration of this canon as amended in 1868.

Convention of 1832

In the revision of the canons by this Convention, the Canon of 1829 was incorporated with Canon 33 of 1808 as Canon 31, and without amendment.

Convention of 1853

The canon was very materially amended by this Convention, and made Canon 9 of that year.

The first sentence of Canon 31, of the Canons of 1832, was made Section 1, and amended by substituting the word "Minister" for the word "Clergyman" in the first line, and at the end of the section were added the words "or a majority thereof," thus providing that the permission of a majority of the vestry or trustees should suffice.

The second sentence of the said Canon 31 was made Section 2 of the same canon, with a very minute setting forth of the boundaries of a parish, but as this section was practically repealed by the Convention of 1859, further consideration thereof would not seem to be necessary.

The third sentence of said Canon 31, relating to the neglect of a minister to perform the services of the Church, was made Section 3, but without material amendment, except that before the doors of the church could be opened to another minister, there must be had the written consent of the bishop or of the standing committee, as the case might be, or of the persons deputed by them.

A new section was added, relating to the establishment of a new parish within the limits of another parish, but as this section was repealed by the Convention of 1859, no discussion thereof is necessary.

Convention of 1859

In the revision of the canons by this Convention, Canon 9, of the canons of 1853, was made Section 6, of Title I, Canon 12, "Of the General Regulations for Ministers and their Duties," and amended as follows:

Former Section 1 of the said Canon 9, relating to the officiating of ministers within the cures of others, was made clause (i), without amendment.

The remainder of the former Canon 9 was made clause (ii), and amended to read as follows:

Where parish boundaries are not defined by law, or settled by Diocesan authority under the second Section of Canon V, of Title III, of this Digest, or are not otherwise settled, they shall, for the purposes of this Section, be defined by the civil divisions of the State as follows: Parochial boundaries shall be the limits, as now fixed by law, of any village, town, township, incorporated borough, city, or the limits of some division thereof which may have been recognized by the Bishop, acting with the advice and consent of the Standing Committee, as constituting the boundaries of a parish.

If there be but one church or congregation within the limits of such village, town, township, borough, city, or such division of a city or town, as herein provided, the same shall be deemed the cure of the Minister having charge thereof. If there be two or more congregations or churches therein, it shall be deemed the cure of the Ministers thereof; and the assent of a majority of such Ministers shall be necessary.

When, under Diocesan authority, a new parish is constituted, and its boundaries defined, this Section shall be applicable to the same as so established.

The third section of former Canon 9, relating to the neglect of a minister to perform the services of the church in his parish, was made clause (iii), without amendment.

A new clause was added, numbered (iv), to read as follows:

This Canon shall not affect any legal rights of property of any parish.

Convention of 1868

This Convention amended clause (ii) of Section 6 of Canon 12, Title I of the Canons of 1859, by inserting, after the words "and the assent of a majority of such Ministers shall be necessary," the following:

but nothing in this Canon shall be construed to prevent any Clergyman of this Church from officiating in any Parish Church or in any place of public worship used by any Congregation of this Church, or elsewhere within the parochial Cure of the Minister of the said Congregation, with the consent of the Clergyman in charge of such Congre-

gation; or, in his absence, of the Churchwardens and Vestrymen or Trustees of such Congregations or of a majority of them.

This amendment was occasioned by a memorial presented to the Convention, signed by 133 clergymen and 969 laymen, in which they stated that according to a construction that had been put upon this section,

A Minister of our Church is forbidden to officiate, within such territorial limits, even in places of worship belonging to other Christian bodies, without such permission. He is forbidden to officiate, even for his own parishioners, within such limits, without such permission. And he is forbidden, although he may be an agent of some missionary or other society, and without a parish of his own, to officiate within such limits even at the invitation of the Minister of the Church in which he is requested to officiate, if there be more than one settled Minister of the Church in the city or town, until he shall have received the "express permission" of a majority of such Ministers.

As to the question whether this is the true construction of the Canon, your petitioners would here express no opinion, but simply stating their conviction that the Canon, as thus interpreted, is inconsistent, at least in some of its applications, with the reasonable liberties of the Clergy and Laity of our Church, would respectfully ask that it may be repealed, or so modified as to apply only to unauthorized attempts at the formation of new Parishes, or to the intrusions upon the actual acknowledged, and enrolled parishioners of other Ministers of this Church.

This memorial was occasioned by the celebrated Tyng case, which occurred a short time before the Convention of 1869 met.

The facts of the case were as follows:

The Rev. Dr. Stephen H. Tyng, Jr., was the rector of the Church of the Holy Trinity, New York City. A member of Dr. Tyng's parish had a summer home in New Brunswick, N.J. This parishioner desired to have Dr. Tyng officiate at some service in New Brunswick, and learning that the pastor of one of the Methodist churches in that city desired a supply for the month of August, suggested Dr. Tyng to him as possibly being willing to act as such supply. The minister in question wrote to the bishop of the diocese, asking his permission for Dr. Tyng to officiate in the said Methodist church. The bishop referred him to the Rev. Dr. Stubbs, the rector of Christ Church in the city of New Brunswick, who declined to give his permission for Dr. Tyng to officiate in the said Methodist church, pointing out that the said church, where Dr. Tyng was asked to officiate, was close to a small mission of the Episcopal Church, which would suffer should Dr. Tyng officiate in the nearby Methodist church. The Methodist minister, Rev. Dr. McClintock, replied that under the circumstances, Dr. Tyng would not be asked to officiate as intended. Dr. Tyng, however, accepted an invitation to preach in the Methodist church of which Dr. McClintock was pastor, on a certain Sunday in July of that year. The consent of the Rev. Dr.

Stubbs and the Rev. Dr. Boggs, the two rectors in New Brunswick, was expressly refused to Dr. Tyng's so officiating, and a letter of protest sent to Dr. Tyng on the Friday preceding the Sunday on which he was to officiate, and containing the statement that the bishop of the diocese also joined in the protest. Dr. Tyng made no reply to the letter of protest, but proceeded to officiate in the Methodist church on the following Sunday, both morning and evening. The next day, Dr. Stubbs and Dr. Boggs sent to the Bishop of New Jersey a formal complaint, presenting Dr. Tyng for having violated the law of the Church, and the bishop forwarded the papers to the ecclesiastical authority of the Diocese of New York, to which Dr. Tyng belonged.

The ecclesiastical authority of the Diocese of New York, on receiving the papers, issued a Commission of Inquiry, which, after examination, recommended the presentment of Dr. Tyng for a violation of Canon 12. The court found Dr. Tyng guilty of a violation of Canon 12, and adjudged his sentence as admonition.

The Bishop of New York, pursuant to the canon, then proceeded, on March 14, 1868, to pronounce the sentence of admonition on Dr. Tyng.

The case excited the greatest interest and caused much controversy throughout the whole Church because of the principle that was involved therein. That Dr. Tyng did not look upon the charges preferred against him as merely personal to himself, appears from his own statement, that "the question at issue is one of principle, which concerns all evangelical men in the Episcopal Church as well as myself."

In the trial of the case, Dr. Tyng contended that the words, "Parish" and "Parochial Cure," in Section 6 of Canon 12, could not properly be interpreted as meaning a territorial division, or locality defined by territorial boundaries or limits, but they were to be taken as simply designating the people who actually attend the ministrations of a clergyman in his church edifice, or whose names the minister of such church shall have put on the list of families and adult persons, according to the requirements of the canon.

The court refused to take this view of the canon for the reason, as stated by the court, "that the Canon itself plainly forbids it, by going on to define its own meaning in the following clear and positive language (after citing Title I, Canon 12, Section 5, the court continues): It would be impossible to find language that could more clearly and distinctly declare that a Minister's 'Parish' signifies, not the *people* merely who worship in his Church, but the *division of territory* within which, as fixed by law, or recognized by the Bishop as above recited, his Church or congregation is situated."

The court also stated that whatever doubt might have existed on this point was certainly intended to be set at rest by the enactment of Canon 7 of 1829, which enactment was occasioned by a similar circumstance to the one under consideration, and which has already been recited under the discussion of Canon 7 of 1829. After referring to this case and the Canon of 1829, the court declared, "It undoubtedly follows that no presence of a Minister's parishioners within the Parish or Parochial Cure of another, can give to that Minister a canonical right to officiate therein, even for them, without the permission of the Minister of that Parish."

It was also contended by Dr. Tyng "that the object sought by the legislation of the Church, which led to the enactment of this Canon, was solely to guard a Clergyman in his charge from efforts to supplant him in the affections and respect of his people, through a spirit of injurious rivalry and unholy competition." In reply to this contention, the court stated, "so far as it has any bearing of this sort it is not so much to *remedy* the mischief which flows from an unholy spirit of rivalry, as to *prevent* it.... The evident purpose of the Canon is to *prevent* the gaining of any such possession or foothold as would afford an *opportunity for rivalry*. The surest way to prevent rivalry would be to forbid *intrusion*." The court then stated that this was precisely the point to which the law of the Church is directed. After a review of the legislation of the Church on this question, the court further stated, "Every revision of the Canon from that day to this time has simply aimed to declare and give effect to its original purpose, by such further provisions as experience and the expansion of the Church seemed to demand." Regarding the propriety of this legislation, the court stated that with this question, "they had nothing to do.... They may remark however, that such legislation and such regulations are as old as the Church itself, based upon the principle of order and propriety, which we find so distinctly enunciated by the great Apostle St. Paul, in the 15th chapter of his Epistle to the Romans, 20th and 21st verses: 'Yea, so have I strived to preach the Gospel, not where Christ was named, lest I should build upon another man's foundation: But, as it is written, To whom he was not spoken of, they shall see; and they that have not heard shall understand.'"

In the trial of the case, many of the most eminent clergymen in the Church testified that "in their own Ministry and in that of other Clergymen, so far as their observation has extended, the requirements of this Canon have not been complied with, nor sought to be enforced." In reply to this, the court stated that such testimony could not help to determine either the meaning or the obligation of the canon. "Surely

the habitual or general ignorance or disregard of a law is not to be taken as settling its true interpretation. Nor can the number or respectability of those who set its requirements aside, render the breach of it less certain.”

The Tyng case, as it was known, was one of the most celebrated cases that ever engaged the attention of an ecclesiastical court of the Church. It was a test case of a certain principle contended for by Dr. Tyng, and the evangelical party, which Dr. Tyng represented, that a clergyman had the right to go and preach wherever he might be invited to do so, and that Canon 12, prohibiting him from so doing, was practically null and void. The decision of the ecclesiastical court, that the canon in question was not null and void, that its provisions governed the official conduct of every clergyman in the Church, and that a clergyman who had violated its provisions was guilty of a breach of the canon law of the Church, occasioned the memorial to the General Convention of 1868, meeting only a few months after the decision of the court had been rendered, signed by a large number of those who were in sympathy with the principle contended for Dr. Tyng, praying for a repeal of Canon 12, Section 6, or some modification thereof. The General Convention refused to repeal or modify the canon, except to enact an amendment thereto, as above recited, making it clear that in a town or city where there were two or more parishes or congregations, a clergyman in charge of a parish or congregation may invite another clergyman to officiate therein without procuring the consent of any other clergyman in such town or city.

Convention of 1904

No further amendment was made to this section until the revision of the canons by the Convention of 1904, when the section was made Section 4 of Canon 15, and amended to read as at present constituted, except for a reference to missionary districts in clause (b) which was deleted as no longer needed in 1973.

Section 1 was amended by adding to the words “reading Prayers,” the words “in public worship;” also, substituting for the words “or otherwise” the phrase “or by performing any other priestly or ministerial function,” making the prohibition of the canon more stringent in its provisions.

In the former canon, the consent of the churchwardens and vestrymen, or trustees of the congregation, or a majority of them, was required, in the absence of the minister of the parish, for a minister to officiate in the parish of another minister; this was changed so as to

require the consent of one of the churchwardens, if the minister, in his absence or disability, failed to provide for the stated services of the parish or cure.

Clause (ii) of the former section, relating to parish boundaries, and the case of two or more congregations in one municipality, was very materially altered. All matter concerning parish boundaries was stricken out, and in place of requiring the consent of a majority of the ministers in charge of parishes or congregations, where there are two or more in one cure, the consent of the bishop of the diocese would be sufficient. The former provision, that a minister may invite another minister to officiate in his parish, without requiring the consent of the other ministers in that cure, was retained, but amended so as to require the consent of the churchwardens or trustees, in case of the absence of the minister of the parish, instead of the churchwarden, and vestrymen, or trustees, or a majority of them. A proviso was also added, requiring the license of the ecclesiastical authority, when necessary (see Section 7).

A new paragraph was also added, providing that the above rule should not apply to any church, chapel, or oratory of an incorporated institution, if such place of worship was designed and set apart for such institution, and not used as a place for public or parochial worship.

Clause (iii) was retained in part without material amendment, save that the last part thereof, providing that proof of a minister neglecting to perform the regular services in his congregation might be laid, not only before the ecclesiastical authority of the diocese, but also before such persons as might be deputed by such authority, was stricken.

Clause (iv), providing that property rights should not be affected by this section, was stricken as being unnecessary.

SECTION 6

Convention of 1804

The first legislation by General Convention on the subject of clergymen removing from one diocese to another was by the Convention of 1804, which enacted Canon 3 of that year, reading as follows:

No minister, removing from one diocese to another, or coming from any state which may not have acceded to the Constitution of this Church, shall be received as a minister by any congregation of this Church, until he shall have presented to the Vestry thereof a certificate from the ecclesiastical authority of the diocese or state to which he is about to remove, that he has produced to them satisfactory testimonials that he has not been justly liable to evil report, for error in religion or viciousness of life, during the three years last past; which testimonials shall be signed by the bishop or bishops, or, where there is no bishop, by the majority of the clerical members of the standing committee or committees of the diocese or dioceses where he has resided; which committee or

committees shall, in all cases, be duly convened; or, in case he comes from a state not in connection with this Church, and having no Convention, by three clergymen of this Church. Nor shall any minister so removing, be received by any Vestry, or acknowledged by any bishop or Convention, as a minister of the Church to which he removes, until he shall have produced the aforesaid testimonials.

Every minister shall be amenable for any offenses committed by him, in any diocese, to the ecclesiastical authority of the diocese in which he resides.

It will be noted that the canon made necessary letters dimissory, not by declaring that the clergyman removing should ask for and obtain them, but providing that a clergyman cannot settle in another diocese without them. Nor did the canon, except by implication, require the minister removing to present them to the ecclesiastical authority of the diocese to which he removed; nor was any time limit set in which they were to be delivered.

Convention of 1808

Only a slight amendment to the canon was made by this Convention. The words "or district" were inserted after the word "state" in the opening clause thereof.

Convention of 1829

This Convention amended Canon 3 of 1804 as follows:

The former canon provided that a minister removing should not be received as "a minister." This was amended to read that he should not be "received as a stated or officiating minister."

After the words "during the three years last past" were inserted the words:

or in case the party has been subjected to proceedings or to inquiry, in consequence of any charges subjecting him to censure, the fact of acquittal or exoneration from such charges may be stated in lieu of testimonials in the preceding terms.

The canon, as thus amended, was made Section 1 of Canon 4. The last sentence of Canon 3, of the Canons of 1804, was made Section 2 of Canon 4.

Convention of 1832

In the revision of the canons by this Convention, Section 1 of Canon 4, of the Canons of 1829, was made Section 1 of Canon 35, but without amendment.

A new section was added to the canon, as Section 2, and reading as follows:

The above testimonial, or letter of dismissal, shall not affect the canonical residence of the Minister receiving it, until he shall be received into some other Diocese by the Bishop or ecclesiastical authority thereof.

Former Section 2 was made Section 3, and a new Section 4 was added, but as neither section relates to matters included in the present Section 5 of Canon 2, they call for no consideration at present.

Convention of 1835

This Convention repealed Canon 35 of the Canons of 1832, and enacted Canon 4 in its place, to read as follows:

Sec. 1. No minister removing from one Diocese to another, or coming from any State or Territory which may not have acceded to the Constitution of this Church, shall be received as a stated officiating minister by any parish of this Church, until he shall have presented to the vestry thereof a certificate from the ecclesiastical authority of the Diocese to which said parish belongs, approving him as a clergyman in regular standing. And in order to obtain such certificate, every minister desiring to change his canonical residence, shall lay before the ecclesiastical authority of the Diocese in which he designs to reside, a testimonial from the ecclesiastical authority of the Diocese in which he has last resided, in the following form, viz.:

I hereby certify, that A.B., who has signified to me his desire to be transferred to the Diocese of _____, is a Presbyter (or Deacon) of this Diocese in regular standing, and has not, so far as I know or believe, been justly liable to evil report for error in religion or viciousness of life during the three years last past.

When the ecclesiastical authority think proper, further statements may be added to the above letter.

Sec. 2. But in case the Minister desiring to be transferred, has been subjected to inquiry or presentment on any charge or charges of misconduct, thereby rendering the terms of the aforesaid testimonial inadmissible, he may nevertheless be transferred, if the charges have been withdrawn with the approbation of the ecclesiastical authority, or if he has been acquitted upon trial, or if he has been censured or suspended, and the sentence has had its course, so that he has been restored to the regular discharge of his official duties. And in all such cases the ecclesiastical authority of the Diocese concerned, shall, instead of the foregoing testimonial, certify to a statement of the facts, with as much detail as may be necessary to inform the ecclesiastical authority to which he desires to be transferred, of the true standing of the party.

Sec. 3. The ecclesiastical authority, in all cases under this Canon, is to be understood to refer to the Bishop of the Diocese, or in case there be no Bishop, to the majority of the Clerical Members of the Standing Committee, duly convened. And if the Clergymen desiring to be received, come from a State or Territory not in connection with this Church, and having no Convention, then the above testimonial or statement shall be signed by at least three Presbyters of this Church. Nor shall any Minister so removing, be acknowledged by any Bishop or Convention as a Minister of the Church to which he removes, until he shall have produced the aforesaid testimonial or statement.

Sec. 4. The above testimonial, or letter of dismissal, shall not affect the canonical residence of the Minister receiving it, until he shall be received into some other Diocese by the Bishop or ecclesiastical authority thereof.

Sec. 5. Whenever any Bishop of this Church, or where there is no Bishop, the Clerical members of the Standing Committee, shall give letters of dismission to any Clergyman of the Diocese proposing to remove into another, the Bishop, or where there is no Bishop, the Clerical Members of the Standing Committee, shall give notice of the same to the Bishop, or ecclesiastical authority to whom the letters of dismission are directed, and if the Clergyman to whom the letters of dismission are given, shall not present them to the Bishop, or ecclesiastical authority to whom they are directed, within three months after he shall have taken up his abode in the Diocese to which he has removed, the letters of dismission shall be null and void.

This canon provided the form of the letter dimissory which must be used by the bishop transferring, except in cases where there had been charges made, and the accused had been exonerated, or, if convicted, had served his sentence. We are told that these provisions, regarding clergymen against whom charges had been made, were necessary by the occurrence of such actual cases.

While provision was made that the bishop transferring was to give notice to the bishop to whom the transfer was made, that he had made such transfer, there was no provision that the bishop receiving the transfer was to notify the bishop giving it that he received it. Without such notice of reception, it is doubtful if the bishop would have had any right to remove such minister's name from the list of his clergy.

The provision, that the minister receiving letters dimissory must present them within three months after he has taken up his abode in a diocese, was not a satisfactory provision. A minister might delay for years before taking up his abode in the diocese to which the letters were granted, yet, under the canon, if he delivered them within three months after he has taken up his abode therein, they would still be valid.

Convention of 1841

This Convention amended Canon 4 of 1835 by the addition of a new section, as follows:

Sec. 3. No Clergyman, canonically under the jurisdiction of any Diocese of this Church, shall be considered as having passed from under said jurisdiction, to that of any foreign Bishop, or in any way ceased to be amenable to the laws of this Church, until he shall have taken from the Bishop, with whose Diocese he was last connected in this Church, or from the Standing Committee of such Diocese, if it have no Bishop, the letter provided for in the 1st Section of this Canon, and until the same shall have been accepted by some other Bishop, either of this or some other Church.

We are told that the provisions of this section were made necessary by actual experience.

Sections 3, 4, and 5 of the former canon were renumbered as Sections 4, 5, and 6, respectively, and the canon made Canon 7.

Convention of 1844

This Convention reenacted Canon 7, of the Canons of 1841, as Canon 5, and amended the same by combining Sections 5 and 6 into Section 5, to read as follows:

The above testimonial or letter of dismissal shall not affect the canonical residence of the Minister receiving it, until he shall be received into some other Diocese by the Bishop or Ecclesiastical authority thereof. And if the Clergyman to whom the letters of dismissal are given shall not present them to the Bishop or Ecclesiastical authority to whom they are directed, within three months from the date thereof, if designed for the United States, and within six months from the date thereof if designed for the Church in a foreign country, the letters may be considered null and void by the said Bishop or Ecclesiastical authority, and *shall be* null and void if not presented as above, in six months after date, if intended for this country, and in twelve months after date if intended for a foreign country.

The canon, as thus amended, was a great improvement over former canons on this subject, in that it provided that letters of dimission must be presented within three months to the bishop of the diocese to whom they were issued, and if not delivered within six months, they should become, *ipso facto*, null and void.

A longer time was wisely allowed to those taking letters to foreign bishops.

Convention of 1850

This Convention repealed Canon 5 of the Canons of 1844, and enacted Canon 7 in its place, which read as follows:

Sec. 1. Clergymen of this Church removing within the jurisdiction of any Bishop or other Ecclesiastical authority, shall, in order to gain full Canonical residence in the same, present to said Ecclesiastical authority a Testimonial from the Ecclesiastical authority of the Diocese or Missionary District in which they last resided, which Testimonial shall be to the following effect, viz.:

“I hereby certify that A.B., who has signified to me his desire to be transferred to the Ecclesiastial authority of _____, is a Presbyter (or Deacon) of _____, in regular standing and has not, so far as I know or believe, been justly liable to evil report for error in religion or viciousness of life for three years last past.”

And if the Clergyman remove to another Diocese, and has been called to take charge of a Parish or Congregation within such Diocese, and present the Testimonial aforesaid, it shall be the duty of the Ecclesiastical authority of the Diocese to which he has removed to accept it, unless the Bishop or Standing Committee should have heard rumors, that he or they believe to be well founded, against the character of the Clergyman concerned, which would form a proper ground of Canonical inquiry and presentment, in which case the Ecclesiastical authority shall communicate the same to the Bishop or Standing Committee of the Diocese to whose jurisdiction the said Clergyman belongs; and in such case it shall not be the duty of the Ecclesiastical authority to accept the Testimonial unless and until the Clergyman shall be exculpated from the said charges.

Sec. 2. In case anything shall have occurred to render the language of this Testimonial inapplicable to the Clergyman who proposes to remove, the Ecclesiastical authority shall give such a statement of facts as shall set forth his true standing and character.

Sec. 3. This letter shall not affect a Clergyman's Canonical residence, until, after having been presented according to its address, it shall have been accepted, and notification of such acceptance given to the authority whence it proceeded. The residence of the Clergyman so transferred shall date from the acceptance of his letter of transfer. If not presented within three months after its date, it may be considered as void, by the authority whence it proceeded: and shall be so considered, unless it be presented within six months.

Sec. 4. No Clergyman removing from one Diocese or Missionary district to another, shall officiate as the Rector, stated Minister, or Assistant Minister of any Parish or Congregation of the Diocese or district to which he removes, until he shall have presented to the Ecclesiastical authority of the same, a Testimonial as above described, and shall have obtained from said Ecclesiastical authority a certificate in the words following:

"I hereby certify that the Rev. A.B. has been canonically transferred to my jurisdiction, and is a Clergyman in regular standing."

Sec. 5. It shall be the duty of all Clergymen, except Professors in the General Theological Seminary, Officers of the Board of Missions, and Chaplains in the Army and Navy, to obtain and present letters of transfer, as above described, whenever they remove from one Diocese or Missionary district to another, and remain therein for the space of six months.

Sec. 6. No Clergyman shall officiate transiently in a vacant Parish, or in one the Rector or Minister of which is sick or absent, unless the Wardens or Vestry are satisfied he is at the time a Clergyman in good and regular standing. When from another Diocese, letters commendatory from the Ecclesiastical authority thereof may be required.

This canon was approved by the House of Deputies in the Convention of 1850, and sent to the House of Bishops, which house failed to act upon it within the three days then prescribed by the Constitution, and therefore, it became law by reason of the failure of the House of Bishops to notify the House of Deputies what action they had taken in the matter. The secretary of the House of Deputies failed to notice this fact, and the canon was not included among the canons enacted by the Convention of 1850. This neglect was corrected by the Convention of 1853.

This canon was a great improvement over the previous canons on the subject of clerical removals, and many of its provisions are similar to those in force today. The provisions of the former canons were condensed, made plainer as to their meaning, and much useless detail omitted.

One of the provisions of the new canon was that no clergyman from another diocese should act as rector or assistant minister in a diocese unless he had obtained from the ecclesiastical authority thereof a

certificate stating that he had been transferred to that jurisdiction, and for the first time, the form of such certificate was prescribed. The requirement that all clergymen, except those exempted therefrom by the canon itself, must obtain letters of transfer was a new provision, as well as the exemptions therein allowed.

Convention of 1856

Canon 7 of 1850 was repealed by this Convention, and Canon 6 enacted in its place.

Most of the changes made in the new canon were in the nature of a rearrangement of the several sections of the canon, and a slight change in the wording thereof.

The first paragraph of the former canon was made Section 1, with the addition at the end thereof of the following words: "which testimonial shall set forth his true standing and character."

Section 2 consisted of the form of the testimonial, with the provision that such testimonial might be in the form prescribed, making the use of the form permissory, instead of mandatory, as before.

Former Section 3 was made Section 3, with this statement at the beginning thereof: "All such testimonials shall be called Letters Dimissory."

This is the first time that such testimonials were termed "Letters Dimissory."

Former Section 2, providing for a statement of facts from the ecclesiastical authority of the diocese from which a clergyman was removing, where the facts in the case were such that the canonical letter dimissory could not be given, was stricken and no provision made for the transfer of a clergyman who could not obtain clean letters dimissory.

The third paragraph of former Section 1 was made Section 4, and former Section 5 remained as Section 5.

Former Sections 4 and 6 were stricken out of this canon, and made Sections 4 and 5 of Canon 7, "Of the Election and Institution of Ministers into Parishes or Churches."

Convention of 1859

In the revision of the Digest of Canons by the Convention of 1859, Canon 6, of the Canons of 1856, was made Title I, Canon 12, Section 7, "General Regulations of Ministers and their Duties."

Sections 1 and 2 became clause (i) without material change.

Sections 3, 4, and 5 became clauses (ii), (iii), and (iv), respectively, without amendment.

Section 4 of Canon 7 of the Canons of 1850, which was made Section 4 of Canon 7 of the Canons of 1856, relating to the certificate of transfer, was made Section 2 of this canon, without amendment.

Convention of 1874

Canon 12 of Title I, of the Canons of 1859, was renumbered by this Convention as Canon 14, Title I, and Section 7 (iv) was amended by inserting, after the words "General Theological Seminary," these words:

Professors and Tutors in any University or College which is maintained and governed by two or more Dioceses, associated for that purpose;

and at the end of said clause were added the following words:

But when a Diocese is divided into two or more Dioceses, any Professor in a Theological Seminary therein, which is governed by Trustees from every part of such original Diocese, may select to which of said Dioceses he shall belong, and shall not be obliged to obtain and present the above mentioned letter of transfer.

This amendment was occasioned by the division of the Diocese of Ohio into two dioceses. Bexley Hall, a theological seminary, was situated in the old Diocese of Ohio, and provision was now made that the professors therein might choose which of the two dioceses they desired to be canonically connected with, and without the necessity of obtaining letters of transfer as required by the section.

Convention of 1892

Title I, Canon 14, of the Canons of 1874, was renumbered by this Convention as Title I, Canon 18, and Section 7 of said canon was amended as follows:

In the first line of clause (i), the word "within" was stricken out, and the word "into" inserted in its place.

At the end of the first sentence were added these words:

the said testimonial shall be given by the Bishop to the applicant, and duplicate thereof may be sent directly to the Bishop of the Diocese or Missionary Jurisdiction to which said Minister proposes to remove.

Clause (ii) was amended to read as follows:

All such testimonials shall be called Letters Dimissory. The canonical residence of the Minister so transferred shall date from the acceptance of his Letter Dimissory, of which the accepting Bishop shall give prompt notice both to the applicant and to the Bishop

from whom it came. If not presented to the Bishop within six months from the date of its transmission to the applicant, it shall become thereby wholly void.

Clause (iv) was amended to read as follows:

It shall be the duty of all Ministers to obtain and present letters of transfer as above described, whenever they remove from one Diocese or Missionary District to any other Diocese or Missionary District, whether Domestic or Foreign, and remain there for the space of six months. This provision shall not apply to Professors in any institution of learning, Officers of the Board of Missions, and Chaplains of the Army and Navy of the United States. But no Minister, who shall have taken up his residence in a Diocese to which he has not been canonically transferred, shall be competent to minister therein without the license of the Bishop.

Some of the principal changes made by these amendments were as follows:

Clause (i) made it mandatory upon the bishop to give the testimonial referred to in this clause to the applicant, and provided that a duplicate might be sent to the bishop of the jurisdiction to which the applicant intended to remove.

Clause (ii) provided that the bishop receiving the testimonial should notify the applicant, as well as the bishop issuing it, that the letter dimissory had been accepted. The former provision, that the bishop issuing the letter dimissory might consider the same void if not delivered in three months, was stricken.

The former provision in clause (iv), that theological professors might select the diocese to which they desired to belong in case of a division of the diocese, which was added in 1874, was stricken.

Convention of 1898

This Convention amended Section 7 (iii) of Canon 18, Title I, by adding thereto two provisos, as follows:

Provided, that no Deacon who shall have not passed all the Examinations for Priest's Orders, shall be transferred to another Diocese or Missionary Jurisdiction without the written request of the Ecclesiastical Authority of the said Diocese or Jurisdiction. *Provided*, also, that no person who has been refused ordination or reception as a candidate in any Diocese or Missionary Jurisdiction, and who has afterwards been ordained in another Diocese or Missionary Jurisdiction, shall be transferred to the Diocese or Missionary Jurisdiction in which such refusal has taken place, without the consent of its Bishop or Ecclesiastical Authority.

The first proviso was enacted to prevent a deacon, who had failed in his examinations for priest's orders, being transferred to another diocese without the consent of the ecclesiastical authority thereof.

The second proviso was enacted with special reference to the protection of a diocese from the return thereto, without the permission of the ecclesiastical authority, of one who had been refused ordination or admission as a candidate therein.

Convention of 1904

In the revision of the Digest of Canons by this Convention, Section 7 of Canon 18, Title I, became Section 5 of Canon 15, "Of Ministers and their Duties."

Except for references to missionary districts in clauses (i), (v), and (vi), deleted as no longer needed in 1973, the canon was constituted as follows:

Clause (i) was former clause (i), unamended, and reading as the present clause (a).

Clause (ii) consisted of the first two sentences of former clause (ii), and was identical to the present clause (b).

Clause (iii) consisted of the last sentence of former clause (ii), to which was added a second sentence. The clause read as follows:

Letters Dimissory not presented within six months from the date of their transmission to the applicant shall become wholly void. No Minister shall officiate more than two months in any Diocese or Missionary District other than that in which he is canonically resident, without a license from the Ecclesiastical Authority.

Clause (iv) was the same as former (iii), except that it was amended by changing the time, in which a bishop must accept the letter dimissory of a minister called to a parish in his diocese, from six months to three months, and by striking out the two provisos added by the Convention of 1898. Its wording was identical to the present clause (d).

Clause (v) was former Section 2 of the canon, slightly amended, and was identical to present clause (e).

Clause (vi) was composed of the second proviso in former clause (iii), and was the same as present clause (f).

Convention of 1907

This Convention amended the second sentence of clause (iii) by adding, after the words "two months," the words:

by preaching, ministering the Sacraments, or holding any public service within the limits of,

The purpose was to define the meaning of the word "officiate," concerning which there had been some question.

Convention of 1919

This Convention renumbered Canon 15, of the Canons of 1904, making it Canon 20, and amended Section 5 thereof, by adding a new clause thereto, as clause (vii) and reading as follows:

No person who has been ordained under the provisions of Canon 5, shall be transferred to another Diocese or Missionary District, save as provided in the said Canon.

This amendment was made necessary by the enactment of Canon 5 by this same Convention, which provided for the modification of the normal standard of learning required of certain men desiring to be ordained deacons and priests, and that deacons and priests ordained thereunder shall not be granted letters dimissory to another diocese without the request, in writing, of the bishop of such diocese, or unless they shall have passed the full examination required in the canon "Of the Normal Standard of Learning."

Convention of 1943

Clause (iii) was amended by removing the second sentence thereof, which was then reenacted as a separate Section 6.

SECTION 7

As noted above, this section was formerly part of the preceding section.

Convention of 1961

The section was amended to its present form by adding the words "of this Church" after the words "No Minister."

SECTION 8

Convention of 1940

This section was enacted by this Convention as Section 7.

It was renumbered as Section 8 in 1969.

SECTION 9

Convention of 1961

This section was enacted by this Convention as Section 8. It read as at present, except for the words "National Council," which were changed to "Executive Council" in 1964.

Though priests of this Church had long served as chaplains to the Armed Forces, this was the first canonical provision on the subject.

SECTION 10

Convention of 1949

This section was added by this Convention as Section 8, to take effect on January 1, 1957:

Upon attaining the age of seventy-two years every Minister of this Church occupying any parochial or administrative position in the Church, shall resign the same and retire from active service. Thereafter he may engage in remunerative employment in the Church only as the Rules and Regulations of the Church Pension Fund may permit.

Convention of 1955

Acting upon the report of a study by The Church Pension Fund, requested by the Convention of 1952, this Convention amended the section to read as follows:

Upon attaining the age of seventy-two years, every Minister of this Church occupying any remunerative position in this Church shall resign the same and retire from active service, and his resignation shall be accepted. Thereafter, he may accept any position in this Church except the position or positions from which he has resigned pursuant to this Section, *provided*, that (a) the tenure in such position shall be for a period of not more than one year, which period may be renewed from time to time, and (b) service in such position shall have the express approval of the Bishop and Standing Committee or Council of Advice of the Diocese or Missionary District in which such service is to be performed, acting in consultation with the Ecclesiastical Authority of such Minister's canonical residence.

Convention of 1973

The reference to missionary districts was deleted as no longer needed.

Convention of 1976

This Convention, in order to provide that non-stipendiary clergy might serve after retirement, removed the word "remunerative" in the first sentence and added the present item (c) at the end of the section.

SECTION 11

Convention of 1952

This section was adopted by this Convention as Section 9.

It became Section 10 in 1961, and Section 11 in 1969.

EXPOSITION OF CANON III.21

The first section of this canon, which declares that the control of the worship and spiritual jurisdiction of the parish, and the use and control of the church and parish buildings, shall be vested in the rector, is simply declaratory of the tradition of the Church.

The law of the English Church as stated by Blunt (*Book of Church Law*, p. 330) is as follows:

The arrangements for Divine service are under the absolute control of the incumbent, subject, of course, to the laws laid down in the Prayer Book and elsewhere. It is for him to decide whether there shall be any services beyond the morning and evening, and whether the Holy Communion shall be celebrated at the same time when Morning Prayer is said, or whether they shall form separate services. The hours of Divine service are also to be fixed by the incumbent. But, above all, it rests with the incumbent to control all those parts of Divine service which are not actually performed by the Clergy.

At no time, and by no law, has there ever been given to the wardens and members of the vestry of a parish, expressly, or by implication, the slightest right to interfere in any manner with a priest-rector in the due and lawful exercise of office. A rector is responsible only to the bishop for the proper discharge of such official duties.

The spiritual and canonical rights of a rector are not, however, bestowed arbitrarily, but are commensurate with the responsibilities of the office. Thus, in the exercise of the control of worship, the rector is to be guided not only by the rubrics of the Prayer Book and the canons of the Church, but by the solemn obligation stated in the rite for the ordination of a priest “to nourish Christ’s people from the riches of his grace, and strengthen them to glorify God in this life and the life to come.”

The fact that the rector is given control, moreover, does not mean that it is inappropriate to consult with parishioners or others in the planning of worship. In recent years such consultation has become increasingly widespread, and the Convention of 1979, in its “Guidelines for Congregational Worship,” specifically recommended that all congregations “develop a worship committee to work with and advise the Rector or Vicar” (*Journal*, p. C-11). In the selection of music to be used at services, the rector is obligated by canon to “seek assistance from persons skilled in music” (Canon II.6).

All other ministers connected with the parish, whatever their titles may be, are assistants, and are under the rector’s authority. There is no warrant whatever for a position called “associate rector,” regardless of its widespread use. There can be only one head to a parish, and that is the rector.

Guilds and societies formed or existing within the parish are also subject to the rector’s control.

The rector is, at all times, entitled to the use and control of the church and parish buildings, and all things belonging thereto. Prior to the

revision of the Prayer Book in 1979, this right was symbolized by the delivery of the keys of the church to a new rector in the course of the Office of Institution. This delivery, in itself, conferred no powers but, rather, served as a formal recognition of the rector's right, *virtute officii*, to the exclusive control of the parish buildings (see Canon III.23 below).

Judge Hoffman (*Ecclesiastical Law*, p. 86) states, "that the call, acceptance, and entering upon the duties of a Rector, without any special restraints agreed upon, as fully establishes the relation between a Rector and the Parish, as the Institution Office."

The courts have uniformly adopted this view. (But see *Fiske v. Beatty*, cited in the exposition of Canon III.23.)

In the important case of *Lynd v. Menzies, et al.* (33 N.J. L. Rep. 162) where the rector of a church was forcibly prevented from preaching in the church and occupying the parochial schoolhouse by reason of the doors of both buildings being locked against him, it being proven on the trial of the case that such expulsion was the act of the wardens and vestrymen of the parish, the rector recovered damages against the wardens and vestrymen, as individuals, in the sum of one thousand dollars. The case came before the Supreme Court of New Jersey on a motion for a new trial. The chief justice, in delivering the opinion of the Court, said, in part:

What, then, is the agreement into which a congregation of this denomination of Christians enters upon the call of a Rector? So far as it touches the matter in controversy, it plainly appears to be this; they offer to the Minister receiving the call such rights in their temporalities as, by the Ecclesiastical Law of their sect, belong to the office which is tendered, one of such rights being that of preaching on Sundays in the church provided by the congregation. Such an offer, therefore, can have nothing to do with the title to the church edifice...

I think it clear that, in the right of his office, a Rector, by force of the law of this Church, has either the possession of the church edifice, or has the privilege which enables him to enter into it—such privilege being in the nature of an easement.

If then we adopt this theory, and I perceive no reason for rejecting it, that for the purpose of the exercise of his sacerdotal functions, the Rector becomes possessed of the church buildings and grounds, it will be difficult to devise any pretext in denial of the right of such officer to a civil remedy if such possession be invaded.

The conclusion deducible from these authorities seems clear: that the possession and control of the church edifice, and other parish buildings, appertain exclusively to the rector for all ecclesiastical purposes.

The extent of the "possession and control of the church edifice" by the rector, or the priest in charge of a missionary cure, was construed

in *Carter v. Papineau* (222 Mass. 464, 111 N.E. 358). The Rev. Mr. Papineau was the priest in charge of a missionary cure in the Diocese of Massachusetts. Because of the peculiar actions during the services of church, as it was claimed, of a certain member of the congregation, tending to disturb the devotions of the other members thereof, her continued attendance upon the services was deemed undesirable. The Rev. Mr. Papineau, therefore, stationed a constable at the door of the church with instructions to prevent the plaintiff from entering the church should she attempt to do so. The constable, obeying his instructions, did prevent the plaintiff from entering the church. The plaintiff then brought suit against the Rev. Mr. Papineau for damages because of unlawful exclusion. The suit came on before a judge and jury, and was decided in favor of the Rev. Mr. Papineau. The plaintiff then appealed the case. The Appellate Court, in rendering its opinion, said in part:

The action for exclusion also must fail. It appears that upon being informed by the constable employed for the purpose that she could not enter, the plaintiff made no attempt to pass, but acquiesced and obeyed the order. The elements of an assault are absent. No intimidation was used, or unjustifiable coercion exercised. By Canon 16 [now Canon III.21] to which the plaintiff subjected herself, control of the worship and spiritual jurisdiction of the mission, including the use of the building for religious services, was in Papineau as the minister in charge, "subject to the authority of the Bishop." ...It is not shown that she had any rights of property in the building, the furnishings, or in any contract relating thereto, or that he was actuated by malice or ill will. The manner, and time of admission having been within his control primarily; the acts of temporary exclusion are not reviewable at law or in equity.

It would seem from this decision, as well as from the decisions of the courts above cited, as well as from the language of the canon, that the rector of a parish, or the priest in charge of a missionary cure, has the right to refuse entrance to the church building to a person whose presence therein in time of service is, for any reason, deemed undesirable.

Clause (c) of Section 1 presents a difficulty because of its use of the word "election." Since the assistant minister is not to be a corporate officer, there is no reason for an election, and it is probable that the term "elect" is used here as a synonym for "select" or "choose." It is believed that the only power vested in the bishop by this clause is an opportunity to reason with a rector and vestry during thirty days concerning the member of the clergy it is proposed to elect.

The second and third sections of this canon relate to the duties of a rector, or of a minister in charge of a parish or congregation.

The first duty enjoined is that of instructing the children in the catechism, and examining them publicly in the same before the congregation. Also, to inform the youth and others in the Holy Scriptures and the doctrines, polity, history, and liturgy of the Church, and instruct all the members of their congregations in the missionary work of the Church, giving them suitable opportunities for offerings for that work.

In recent decades, the instruction of children in the fundamentals of the faith has been carried out primarily through Sunday schools and other programs of learning led by lay people, and the Prayer Book (p. 844) specifically provides for lay catechists. The responsibility for what is taught, however, rests firmly on the rector of the parish, and it is therefore the rector's prerogative to select both the teachers and the curriculum materials to be used.

The delivery of catechetical lectures by the clergy is a venerable tradition of the Church, and was originally connected with the preparation of adults for Baptism and first Communion. They also served as "refresher courses" for those already baptized. In Anglicanism, such lectures were frequently delivered at Sunday Evening Prayer, in place of a sermon; and, in this Church, the custom continued until regular attendance at Evensong became rare. In 1979, the General Convention adopted new forms for the "Preparation of Adults for Holy Baptism" (*Book of Occasional Services*, p. 112), which include provision for such lectures in the ancient manner.

The next duty laid upon the clergy is the preparation of persons for Confirmation, and it is a most important duty, giving an opportunity to the clergy to so ground the candidates in the things relating to the Church, its doctrines, polity, history, and liturgy, that in all the after years they will be able to give a reason for the faith that is in them. Priests who fail to use this opportunity to its utmost are recreant to their duty.

The canon prescribes that the minister is to deliver to the bishop a list of the names of those to be confirmed, which means that this list is to be delivered to the bishop *before* the service of Confirmation, and not afterwards. By the delivery of the list, the minister certifies to the bishop that, in his or her judgment, the persons named are qualified as well as instructed. The presence of a name on the list does not, however, obligate the bishop to confirm the person, and if he deems that there is good reason to refuse, he may do so.

The next duty laid upon a minister is, with one of the churchwardens or some other officer of the church, to exhibit to the bishop, on the

occasion of his official visitation, the parish register; and, if the bishop should have signified to them in writing that he would desire information on certain points regarding the state of the congregation, to give him such information. This is a provision that we fear is observed in the breach more than in the observance. It is almost criminal, the way in which too many parish registers are kept, rendering them wholly useless for the purposes for which they were intended. Much could be done by the bishops to correct this unfortunate condition of affairs if they would but insist upon the officers of the parish performing this duty which is enjoined upon them by the canon.

Clause (e) of Section 2 provides that the alms and contributions, not otherwise specifically designated, at the celebration of the Holy Eucharist on one Sunday in the month is to be deposited with the minister for charitable purposes. These offerings may be used for the relief of the poor, or for any other charitable or pious purpose, whether inside the parish or outside it, and the minister is not obligated to render to anyone an account of their use.

The third section of the canon makes it the duty of every minister to keep a record of official acts. We have already remarked on the careless way in which many parish registers are kept, and the urgent need of reform therein. The record of every baptism must be signed by the minister performing the same. This is most important, as the record of baptism is often required as a matter of proof in the courts, and is accepted by them as the best evidence concerning the facts covered thereby. The failure of a minister to keep an accurate record of baptisms may often work a great injustice.

The fourth section of the canon provides for clergy who desire to support themselves by secular employment, while remaining ministers in good standing. The terms of the section are clear and require no exposition.

The history of the fifth section, so far as it relates to a minister officiating in the cure of another without permission, and the decisions of the ecclesiastical courts in the cases that have come before them for violations of the provisions of the section, would seem to leave no doubt as to the meaning thereof. That the word parish signifies not merely the people who worship in the church of that parish, but the division of territory, fixed by law, and recognized by the bishop, as belonging to such parish. And that no minister can officiate within the territorial limits of such parish, in any priestly or ministerial way, without the consent of the rector of such parish, or, in his absence or disability, if he shall have failed to provide for the regular services of the church, then of one of the churchwardens.

We have already noted under the history of this section a few of the most important cases that have arisen under it.

One exception should be noted to the law as laid down herein. If a public cemetery be located within the territorial limits of a parish then, unquestionably, a minister would have the right to perform the burial service therein.

Another exception to the rule is found in the case of a place of worship which is a part of an incorporated institution, created by legislative authority, provided it is not used for public or parochial worship. Such places of worship would include the chapels of religious communities.

In a city or town where there are two or more congregations within such civil division, the section provides that the consent of a majority of the ministers of such congregations, or of the bishop, shall be sufficient. In large cities, where there are several congregations and parishes, it is somewhat inconvenient to obtain the consent of a majority of such ministers, and the usual custom is to obtain only the consent of one of said ministers, preferably of the minister whose parish church is nearest to the place where the ministerial function is to be performed.

Section 6 of the canon relates to the removal of a minister from one diocese to another, and the requirements necessary to gain canonical residence in the diocese to which he removes.

In the ancient canons, letters dimissory strictly referred only to the instrument by which one bishop sanctioned the ordination of a minister under his jurisdiction by another bishop. Our letters dimissory more closely resemble the letters commendatory of the canon law, and are mentioned in the Provincial Constitutions of Walter and Arundel. The latter says, "It is provided that no one not born or ordained in the province should be admitted to officiate, unless he brought with him his letters of orders, and letters commendatory of his diocesan."

Bingham tells us (*Ecclesiastical Antiquities*, Lib. II, Chap. IV, Sec. 5)

that according to the rules and practices of the ancient Church, no Christian could travel without taking letters of credence with him from his own Bishop, if he meant to communicate with the Church in a foreign country. These letters were usually of three kinds, commendatory, communicatory and dimissory. The third kind were given only to the Clergy when they were removing from one Church to settle in another, and they were to testify that the bearers had their Bishop's leave to depart, whence they were called dimissory, and sometimes pacifical. All these went under the name of *formed* letters, because they were written in a particular form, with some particular marks and characters which served as special signatures to distinguish them from

counterfeits. Respecting all of these it is to be observed that it was the Bishop's prerogative to grant them, and no other person might presume to do so, at least without his authority and permission.

In order to gain a canonical residence in another diocese, a minister must present to the ecclesiastical authority of such diocese a letter dimissory from the ecclesiastical authority of the former diocese, setting forth his or her true standing and character. Canonical residence dates from the acceptance of the letter dimissory, which acceptance must be at once communicated to the applicant and to the ecclesiastical authority who gave it. While the minister thus gains a canonical residence in the diocese, he cannot officiate as rector or minister of a parish therein until he receives a certificate from the ecclesiastical authority thereof, stating that he has been canonically transferred to his jurisdiction. This provision applies to a minister called as an assistant minister.

If letters dimissory are not presented within six months from the date thereof, they become wholly void.

No minister can officiate in a diocese in which he is not canonically resident, for a longer period than two months, without a license from the ecclesiastical authority thereof. The term "officiate" means preaching, ministering the sacraments, or holding any public service.

The section provides that if a minister, removing into another diocese, who has been *called* to a cure in a parish or congregation, presents letters dimissory, in the form prescribed, it is made the duty of the ecclesiastical authority of the diocese to accept them within three months, unless there are rumors as to his character. It will be noted that it is only the letters dimissory of a minister who has been *called* to a parish that must be accepted, not of a minister who has simply been elected thereto. When a minister is elected to a parish, notice of such election must be sent to the bishop, who has a right to be satisfied that the minister so elected is a duly qualified minister; then, if the bishop gives his consent to such election, or the time has elapsed during which he may refuse it, the parish may proceed to give the elected minister a call. This section simply provides that after a bishop has given his consent to the election, or failed to act, and the vestry, acting thereon, has issued a call to the elected minister, the bishop cannot refuse to receive the minister, whom he has already consented to receive, or failed to refuse to receive, unless there are rumors regarding the minister's character which were not known to the bishop when he gave his consent or failed to refuse consent to the election.

A discussion of the difference between an election and a call to a minister, and the right of a bishop to refuse his consent to an election of a rector and a call being issued to such elected minister, will be found in the consideration of Canon III.23, to which reference may be had.

The remaining sections of the canon are clear and require no exposition.



CANON 22. Of the Dissolution of the Pastoral Relation

Rector not to resign without consent of Vestry, nor to be removed against his will.

Mode of settling differences.

Sec. 1. Except as provided in Canon III.21, Sec. 10, a Rector may not resign his Parish without the consent of the said Parish, or its Trustees, whichever may be authorized to act in the premises, nor may any Rector canonically or lawfully elected and in charge of any Parish be removed therefrom by said Parish, Vestry, or Trustees, against his will, except as hereinafter provided.

Sec. 2. If for any urgent reason a Rector or Minister as aforesaid, or the body authorized to elect a Rector in the Parish committed to his charge, shall desire a separation and dissolution of the pastoral relation, and the parties be not agreed respecting a separation and dissolution, notice in writing may be given by either party to the Ecclesiastical Authority of the diocese. The Bishop, in case the difference be not settled by his godly judgment, shall ask the advice and consent of the Standing Committee of the Diocese, and proceeding with its aid and counsel, shall be the ultimate arbiter and judge. If the Diocese be vacant, the Ecclesiastical Authority shall select a Bishop of an adjacent Diocese to act as the Bishop, and with like force and effect. The judgment shall be either that the pastoral relation between the parties shall cease and determine at a time and upon terms therein specified, or that the said relation shall not be terminated; and such judgment shall be binding upon both parties. In the event of the failure or refusal of either party to comply with the terms of such judgment, the Bishop may inflict such penalties as may be provided by the Constitution and Canons of the Diocese; and in default of any provisions for such penalties therein,

the Bishop may (1) in the case of a Rector or Minister, suspend such Rector or Minister from the exercise of his priestly office until he shall comply with said judgment; (2) in the case of a Vestry or Trustees, recommend to Diocesan Convention that the union of the Parish or Mission with Convention shall cease until they have complied with his judgment.

Dissolution of pastoral relation to be recorded. Sec. 3. In case of the regular and canonical dissolution of the connection between a Rector or Minister and his Parish, under this Canon, the Ecclesiastical Authority shall direct the Secretary of the Convention to record the same.

This Canon not to apply where other provision is made. Sec. 4. This Canon shall not apply in any Diocese which has made, or shall hereafter make, provision by Canon upon this subject, nor in contravention of any right of any Rector, Minister, Parish, Congregation, or Vestry under the law of the Civil Authority.



This canon was Title II, Canon 4, in 1859. It became Canon 37 in 1904, Canon 45 in 1943, and Title III, Canon 21, in 1970.

Convention of 1804

The first legislation by General Convention on the subject of the dissolution of the pastoral relation was by the Convention of 1804, which enacted Canon 2, "Of the Dissolution of all Pastoral Connection between Ministers and their Congregations," and Canon 4, "Of Differences between Ministers and their Congregations." This fourth canon was enacted to meet a special case which will be considered below. While Canon 2 had no bearing on this special case mentioned, its enactment was due, in all probability, to the need manifested by that case for some legal method whereby the dissolution of the pastoral relation might be accomplished. Canon 2 was as follows:

When any minister has been regularly inducted or settled in a parish or church, he shall not be dismissed without the concurrence of the ecclesiastical authority of the diocese or state; and in case of his dismissal without such concurrence, the Vestry or congregation of such parish or Church shall have no right to a representation in the Convention of the state, until they have made such satisfaction as the Convention may require. Nor shall any minister leave his congregation against their will, without the concurrence of the ecclesiastical authority aforesaid; and if he shall leave them without such concurrence, he shall not be allowed to take a seat in any Convention of this Church, or be eligible into any Church or parish within the states which have acceded to the Constitution of this Church, until he shall have made such satisfaction as the ecclesiastical authority of the diocese or state may require.

In the case of the regular and canonical dissolution of the connection between a minister and his congregation, the bishop, or if there be no bishop, the standing committee shall direct the secretary of the Convention to record the same. But if the dissolution of the connection between any minister and his congregation be not regular or canonical, the bishop or standing committee shall lay the same before the Convention of the diocese or state, in order that the above penalties may take effect.

This canon was evidently intended to apply only to the case of a desire for separation, where there was no particular disagreement between a rector and his congregation. When there was such a disagreement, and a separation became expedient, it was provided for in Canon 4 of 1804, which read as follows:

In cases of controversy between ministers who now, or may hereafter hold the rectorship of churches or parishes, and the vestry or congregation of such churches or parishes, which controversies are of such a nature as cannot be settled by themselves, the parties, or either of them, shall make application to the bishop of the diocese, or, in case there be no bishop, to the Convention of the state. And if it appear to the bishop and his presbyters, or, if there be no bishop, to the Convention, or the standing committee of the diocese or state, if the authority should be committed to them by the Convention, that the controversy has proceeded to such lengths, as to preclude all hope of its favorable termination, and that a dissolution of the connection which exists between them is indispensably necessary to restore the peace and promote the prosperity of the Church: the bishop and his presbyters, or, if there be no bishop, the Convention, or the standing committee of the diocese or state, if the authority should be committed to them by the Convention, shall recommend to such ministers to relinquish their titles to their rectorships, on such conditions as may appear reasonable and proper to the bishop and his presbyters, or, if there be no bishop, to the Convention, or the standing committee of the diocese or state, if the authority should be committed to them by the Convention, shall recommend to such ministers to relinquish their titles to their rectorships, on such conditions as may appear reasonable and proper to the bishop and his presbyters, or, if there be no bishop, the Convention or the standing committee of the diocese or state, if the authority should be committed to them by the Convention, with the aid and consent of a bishop, may, at their discretion, proceed according to the Canons of the Church, to suspend the former from the exercise of any ministerial duties within the diocese or state, and prohibit the latter from a seat in the Convention, until they retract such refusal, and submit to the terms of the recommendation; and any minister so suspended shall not be permitted, during his suspension, to exercise any ministerial duties in any other diocese or state. This Canon shall apply also to the cases of associated rectors and assistant ministers and their congregations.

This canon was enacted to meet the necessities of a case actually existing at the time. In the Journal of the House of Deputies at the session of the General Convention of 1804 (p. 297), may be found the record of a memorial presented from Trinity Church, Newark, New Jersey, stating that unhappy differences existed between the rector and the vestry and the congregation of that parish, and requesting the Convention to devise some means to put an end to such divisions, which threatened the very existence of the church. According to the narrative of Bishop White, as contained in his *Memoirs* (p. 247), the minister of Trinity Church, the Rev. Dr. Ogden, while a most zealous and upright

man, had manifested a leaning to practices decidedly foreign to those of the Church, and, in fact, did join another religious body as soon as, under this canon, he was separated from the Church. He was also accused of overbearing the vestry, and taking all authority to himself in temporal matters, in consequence of which the congregation had very much diminished.

A committee of the convention of New Jersey appointed to investigate the matter had previously recommended, as the only means of restoring peace in the parish, that the Rev. Dr. Ogden resign his rectorship and surrender the property belonging thereto, and that two hundred and fifty dollars be allowed and secured to him from the funds of the parish during his life. The vestry of Trinity Church assented to these terms, but the Rev. Dr. Ogden refused to accept them. The vestry then presented the memorial to the General Convention of 1804, which enacted the canon to meet this particular case, as well as to provide a remedy for similar cases in the future.

Immediately after the enactment of this canon by the General Convention, a special convention of the Diocese of New Jersey was held, at which the Rev. Dr. Ogden read a paper, declaring that he withdrew himself from the Protestant Episcopal Church, but that he would still continue to discharge his duties as rector of Trinity Church, conformably to his letters of orders from the Bishop of London. He then withdrew from the convention. The convention then resolved that the Rev. Dr. Ogden be requested to resign the rectorship of Trinity Church within thirty days, and that the congregation, upon receipt of such resignation, secure to him the sum of two hundred and fifty dollars per annum during his life. The convention further resolved, that in case the Rev. Dr. Ogden failed to comply with these terms, authority was thereby given to the standing committee, with the aid and consent of a bishop (the diocese being without a bishop at that time), to proceed, according to the canons, to suspend the Rev. Dr. Ogden from the exercise of any ministerial functions within the state. In May of the following year, the Rev. Dr. Ogden was suspended from the ministry of the Church.

Bishop White tells us (*Memoirs*, p. 248) that this canon was enacted with much misgiving. He says, "the Canon deserves the name of a necessary, but it is hoped, only a temporary evil." He questioned its principle on the ground that there should be no severance from a pastoral charge except as the result of a trial for alleged misconduct. But there was a most pressing need to be met, and there seemed to be no other way of meeting it except by the enactment of the canon.

Convention of 1808

This Convention amended Canon 2 of 1804 by changing the word “inducted” to “instituted,” owing to the fact that the former office of induction in the Prayer Book had been changed to the office of institution. The canon was further amended by the addition of a new clause at the end thereof, as follows:

This Canon shall not be obligatory upon those States and Diocese with whose usages, laws, or charters it interferes.

This amendment was due to the opposition of some of the states with whose laws the canon seemed to conflict. In Maryland, the canon was in direct conflict with the vestry law of that state, and from South Carolina there came a memorial desiring an alteration in the law.

The same Convention amended Canon 4 of 1804 by adding a new sentence at the end thereof, as follows:

This Canon shall not be obligatory upon the Church in those States or dioceses with whose usages, laws or charters, it interferes.

In this connection, it may be well to note the concluding paragraph of Canon 29 of 1808, which read as follows:

But it is understood that this Church designs not to express any approbation of any laws or usages which make the station of a minister dependent on anything else than his own soundness in the faith, or worthy conduct. On the contrary, the Church trusts that every regulation in contrariety to this, will in due time be reconsidered and that there will be removed all hindrances to such reasonable discipline as appears to have belonged to the Churches of the most acknowledged orthodoxy and respectability.

Convention of 1832

This Convention renumbered Canon 2 of 1804 as Canon 33, and amended it by striking the words “or state” wherever they occurred therein, and substituted the word “diocese” for the word “state.”

The Convention also struck the words, “within the states which have acceded to the Constitution of this Church,” as being unnecessary.

The Convention also renumbered Canon 4 of 1804 as Canon 34, and amended it by striking the final clause added by the Convention of 1808, and also by striking the words “And if it appear to the Bishop and his Presbyters” at the beginning of the second sentence, and inserting in place thereof the words:

And if it appear to the Bishop and a majority of the Presbyters, convened after a summons of the whole belonging to the Diocese.

Under the provisions of this amendment, the bishop must summon

all the presbyters belonging to the diocese, and a majority thereof might, with the bishop, decree a separation and prescribe the terms. The purpose of the amendment would seem to be to make it more difficult to effect a dissolution of the pastoral relation, as the securing of the attendance of a majority of the clergy at any one place, even for a diocesan convention, was exceedingly difficult in those days, owing to the great distances and the slow and inadequate means of transportation.

Dr. Hawks remarks (*Constitution and Canons*, p. 318),

This is an instance remarkable in the legislation of our Church, for one feature; it allows to the clergy as a class, the privilege of determining as against the Laity, when a brother clergyman been unjustly or harshly dealt with by his congregation; and they have, in fixing the terms of separation, the power, which, in some cases they have exercised, of decreeing that the congregation shall pay to the clergyman a sum of money, as a compensation to him, for the pecuniary loss he sustains in being driven to a separation by their conduct. The law is, however, little better than a dead letter; for, if the congregation should refuse to pay the money thus awarded, they are visited with no other penalty than that of being refused a representation in convention; and to many, this is no penalty at all.

In the Convention of 1847, the committee on canons recommended the enactment of a canon in place of Canon 34, providing for a board of arbitrators to be appointed to settle any differences that might arise between a rector and his parish or congregation, and decreeing that the award prescribed should be binding upon the parties. The proposition, however, was not acted upon by the Convention.

Convention of 1859

In the revision of the canons by this Convention, a substitute for Canon 34 of 1832 was recommended by the joint committee on canons, but was indefinitely postponed by both houses. The Convention then proceeded to repeal said Canon 34. This canon had never been satisfactory to the clergy. If a rector of a parish refused to abide by the decision made that he should resign his parish, his refusal would subject him to the severest punishment, while on the other hand, the refusal of the parish or congregation to abide by the decision carried with it no adequate punishment.

With the repeal of this canon there was left only Canon 33 of 1832, now renumbered as Title II, Canon 4, "Of the Dissolution of a Pastoral Connection," to provide for the termination of the rectorship of a parish when both parties were not agreed thereto.

No change was made by the Convention of 1859 in this canon, except that the word "any" was changed to "a," so that the first sentence read "When a Minister," instead of "When any Minister."

Convention of 1865

This Convention amended Title II, Canon 4, Section 1 to read as follows:

In case a Minister who has been regularly instituted or settled in a Parish or Church be dismissed by such Parish or Church without the concurrence of the Ecclesiastical Authority of the Diocese, the Vestry or Congregation of such Parish or Church shall have no right to a representation in the Convention of the Diocese, until they have made such satisfaction as the Convention may require; but the Minister thus dismissed shall retain his right to a seat in the Convention, subject to the approval of the Ecclesiastical Authority of the Diocese. And no Minister shall leave his Congregation against their will, without the concurrence of the Ecclesiastical Authority aforesaid; and if he shall leave them without such concurrence, he shall not be allowed to take his seat in any Convention of this Church, or be eligible into any Church or Parish, until he shall have made such satisfaction as the Ecclesiastical Authority of the Diocese may require; but the Vestry or Congregation of such Parish or Church shall not be thereby deprived of its right to a representation in the Convention of the Diocese.

Section 2 was also amended by making the last sentence thereof to read as follows:

This Canon shall not be obligatory in those Dioceses with whose Canons, laws, or charters, it may interfere.

The amended Section 1 provided that a minister dismissed from his parish without the consent of the ecclesiastical authority might, with the consent of such authority, retain his seat in the convention of the diocese; also, if the minister left his parish or congregation against their will, and without the consent of the ecclesiastical authority, such parish or congregation should not thereby be deprived of its representation in the convention. It would seem as if the convention endeavored to equalize the punishment to be inflicted upon a minister, and upon a parish, for violation of the canon.

Convention of 1871

In this Convention, a resolution was referred to the committee on canons in the House of Deputies, requesting that committee to consider and report such modifications of Title II, Canon 4, "as may remove any apparent ambiguity in its terms, and also to inquire whether there be any conflict between the Office of Institution and the Canon above referred to." The committee reported recommending the adoption of very material amendments to the canon.

The title of the new canon was to be "Of Differences between Ministers and their Congregations, and of the Dissolution of a Pastoral Relation." As the title indicates, the new canon was to be a combination of the then present canon, "Of the Dissolution of a Pastoral Relation," and the former canon, repealed in 1859, "Of Differences between Ministers

and their Congregations.” Singularly enough, the old repealed canon was named first in the title, and forms the first part of the canon. The House of Deputies approved the canon and its action was concurred in by the House of Bishops. The canon, as enacted, read as follows:

Sec. 1. In case of a controversy between any Rector or Assistant Minister of any Church or Parish and the Vestry or Congregation of such Church or Parish, which cannot be settled by themselves, the parties, or either of them, may make application to the Bishop of the Diocese, who shall thereupon notify each of the contesting parties to furnish him with the names of three Presbyters of the Diocese. The Bishop shall add to them the names of three other Presbyters, and the whole number shall then be reduced to five, by striking off the names alternately by each of the contesting parties. Should either party refuse or neglect to name three Presbyters, or to strike from the list as aforesaid, the Bishop shall act for the parties so refusing or neglecting. And in all the proceedings aforesaid the Vestry or Congregation, as the case may be, shall be represented by some Layman of their number, duly selected by them for the purpose: *Provided*, that the party or parties applying as above shall have first given the Bishop satisfactory assurance of compliance with whatever may be required of them as the final issue of such proceedings.

Sec. 2. The five Presbyters thus designated shall constitute a Board of Reference to consider such controversy; and if, after hearing such allegations and proofs as the parties may submit, a majority of the Presbyters shall be of opinion that there is no hope of a favorable termination of such controversy, and that a dissolution of the connection between such Rector or Assistant Minister and his Parish or Congregation is necessary to restore the peace of the Church and promote its prosperity, such Presbyters shall recommend to the Bishop that such Minister shall be required to relinquish his connection with such Church or Parish, on such conditions as may appear to them proper and reasonable.

Sec. 3. If any Rector or Assistant Minister shall refuse to comply with the recommendation of the Bishop and Presbyters, the Bishop shall proceed to forbid him the exercise of any ministerial functions within the Diocese, until he shall retract his refusal; or if the Vestry or Congregation shall refuse to comply with any such recommendation, they shall not be allowed any representation in the Diocesan Convention until they shall have retracted their refusal.

Sec. 4. When there is no Bishop, the President of the Standing Committee of the Diocese shall perform all the duties herein allotted to the Bishop: *Provided*, that he shall not exercise any power under the preceding third Section without the aid and consent of some Bishop of the Church.

Sec. 5. The preceding Sections of this Canon shall not be obligatory upon any Diocese which has made, or shall hereafter make, provision by Canon upon this subject.

The three remaining sections of the canon are the sections of Title II, Canon 4, unamended.

We have not far to look to find the reason why a canon that had been repealed only a few years previous should now be reenacted and made more drastic than it was before. The General Convention of 1871 was a convention of ritual agitation. The president of the House of Deputies,

on the last day of the session, delivered an address to the house in which he spoke of how, in the six months preceding the meeting of the Convention, “the storm seemed to be gathering, how the waves rose and roared, portending to timid friends, and to innumerable foes, that this good old ship would go to pieces in that storm.... There had been a great deal of anxiety that some of the evils which seem to afflict the Church and which do afflict her, should be met by strong coercive legislation.” It was in that spirit that the General Convention of 1871 met, and with the intention on the part of many of the deputies to enact a vigorous canon on ritual uniformity, one that would put down what they deemed to be vicious extravagances or meager defects of ritual foreign to the spirit and genius of the Church. If such a canon should be enacted, it was felt that further legislation would be needed to enforce it. That the bishops, under the then present canons, had little or no power to settle a controversy between a rector and his congregation over matters of ritual, was recognized. The old canon “On Differences between Ministers and their Congregations” was reenacted, we are told, for the sole reason of putting power into the hands of the bishops to enforce the canon on ritual uniformity which, it was expected, would be enacted. Singularly enough, while this canon was enacted, the proposed canon on ritual uniformity, so called, failed of enactment by a nonconcurrence of orders in the House of Deputies, and that by only one vote in the clerical order.

Convention of 1874

The House of Bishops, in this Convention, adopted an amendment to Title II, Canon 4, Section 3, by adding the words “and if he persist in his refusal, it shall be the duty of the Bishop to dissolve the connection between the said Rector and Vestry or Congregation” after the words “until he shall retract his refusal.” The committee on canons in the House of Deputies recommended concurrence with the House of Bishops in this amendment, but the house, evidently deeming the proposed amendment too drastic, referred the matter to the next Convention.

Convention of 1877

The committee on canons of the House of Deputies in this Convention reported in favor of repealing Title II, Canon 4, for the reason that it had failed to accomplish the desired end, and that it was expedient to leave the matter to diocesan action. The House of Deputies voted to adopt the report of the committee and to repeal said Canon 4. The House of Bishops refused to concur in the repeal of the canon, and sent down to the House of Deputies an amended canon on the subject, omitting the first five sections, which were deemed objectionable. The

House of Deputies at first refused to concur with the House of Bishops in adopting the amended canon, and the matter went to a Committee of Conference. The chairman of that committee, on the part of the House of Deputies in reporting the action of that committee recommending the adoption of the canon proposed by the House of Bishops, stated, "In the opinion of the House at the last Convention, the first five Sections of the Canon were very injurious and offensive. The essential difference between this proposed Canon and the others is, that in case of dispute between Clergymen and their Congregations, the Bishop (with the Standing Committee) is made the arbiter and judge." In the debate on the question, he further remarked, "The old Canon which we have, I consider the very worst provision ever made, the most capable of abuse against the Clergy of the Church. If we do not adopt this, we have that old Canon perhaps for the next three years upon us. I would say, therefore, that I hope for the sake of getting clear of the first five Sections of that Canon, which was enacted in 1871, that this Canon will now be adopted." The argument prevailed, and the proposed canon was enacted.

The canon, as amended, read as follows:

Sec. 1. A Rector, canonically elected and in charge, or an Instituted Minister, may not resign his Parish without consent of the said Parish or its Vestry (if the Vestry be authorized to act in the premises); nor may such Rector or Minister be removed therefrom by said Parish or Vestry against his will, except as hereinafter provided.

Sec. 2. In case any urgent reason or reasons shall occasion a wish in a Rector or Minister as aforesaid, or in the Parish committed to his charge, to bring about a separation and a dissolution of all pastoral relation between such Minister and Parish, and the parties be not agreed in respect of such separation and dissolution, notice of such desire and disagreement may be given by either party to the Ecclesiastical Authority of the Diocese or Missionary Jurisdiction, in writing. And in case of any difference between the Minister and Parish or Vestry as aforesaid, which may not be satisfactorily settled by the godly judgment of the Bishop alone, or which he may decline to consider without counsel, the Bishop (or if the Diocese be vacant, any Bishop selected by the Ecclesiastical Authority), acting with the advice and consent of the Standing Committee of the Diocese or Missionary Jurisdiction, or with that of the Presbyters only of said Standing Committee (if both parties shall assent to such limitation in writing), shall be the ultimate arbiter and judge; and refusal to accept and comply with the arbitration and judgment on the part of the Minister aforesaid, shall not work a continuance of lawful and canonical Rectorship or settlement beyond the date fixed, conditionally or otherwise, for its termination by such arbitration and judgment, should such termination be recommended and required; but such pastoral connection shall, unless otherwise agreed by the parties, cease and terminate as therein required. But such refusal shall subject the Minister so refusing to inhibition by the Bishop aforesaid from all ministerial offices and functions within the Diocese or Missionary Jurisdiction; and such refusal on the part of a Parish shall disqualify it from representation in the Convention of the Diocese until it shall have been declared by the Ecclesiastical Authority to have given satisfactory guaranties for the acceptance of and compliance with the arbitration and judgment.

Sec. 3. In case of the regular and canonical dissolution of the connection between a Minister and his congregation, the Bishop, or if there be no Bishop, the Standing Committee, shall direct the Secretary of the Convention to record the same. But if the dissolution of the connection between a Minister and his Congregation be not regular or canonical, the Bishop or Standing Committee shall lay the same before the Convention of the Diocese, in order that the above mentioned penalties may take effect.

Sec. 4. This Canon shall not be in force in any Diocese which has made, or shall hereafter make, provision by Canon upon this subject, nor in any Diocese with whose laws or charters it may interfere.

This canon made the bishop the “ultimate arbiter and judge” in the matter of a dissolution of a pastoral connection, and provided that refusal on the part of the minister to abide by the bishop’s judgment should not work a continuance of the pastoral relation beyond the date fixed for its termination. The penalties imposed upon the minister and the parish for refusal to abide by the bishop’s judgment were practically the same as in the former canon.

Unquestionably, the fourth section of the canon had much influence in the acceptance of the canon by the House of Deputies. During the debate on the subject, many deputies asserted that “if we do not like the Canon we can easily make a new one in our own Diocese, and so overcome all difficulty. It provides for that.”

Convention of 1904

In the revision of the canons by this Convention, Title II, Canon 4 was renumbered as Canon 37, with the title changed to read “Of the Dissolution of the Pastoral Relation,” and was amended to read as follows:

Sec. 1. A Rector may not resign his Parish without the consent of the said Parish, or its Vestry, or its Trustees, whichever may be authorized to act in the premises, nor may any Rector or Minister canonically or lawfully elected and in charge of any Parish be removed therefrom by said Parish, Vestry, or Trustees, against his will, except as hereinafter provided.

Sec. 2. If for any urgent reason a Rector or Minister as aforesaid, or the Parish committed to his charge, its Vestry or Trustees, shall desire a separation and dissolution of the pastoral relation, and the parties be not agreed respecting such separation and dissolution, notice in writing may be given by either party to the Ecclesiastical Authority of the Diocese or Missionary District. The Bishop, in case the difference be not settled by his godly judgment, or if he decline to consider the case without counsel, may ask the advice and consent of the Standing Committee of the Diocese or of the Council of Advice of the Missionary District, and, proceeding with its aid and counsel, shall be the ultimate arbiter and judge. If the Diocese or Missionary District be vacant, the Ecclesiastical Authority shall select a Bishop of an adjacent Diocese or Missionary District to act as the Bishop, and with like force and effect. The judgment shall be either that the pastoral relation between the parties shall cease and determine at a time and upon terms therein specified, or that the said relation shall not be terminated; and it shall be the duty of both parties to submit to and abide by such judgment. In the event of either

party refusing to abide by such judgment, the penalty for such refusal and the further proceedings in the case shall be those provided by the Constitution and Canons of the Diocese or Missionary District in which such Parish is situated.

Sec. 3. In case of the regular and canonical dissolution of the connection between a Rector or Minister and his Parish, under this Canon, the Ecclesiastical Authority shall direct the Secretary of the Convention to record the same.

Sec. 4. This Canon shall not apply in any Diocese or Missionary District which has made, or shall hereafter make, provision by Canon upon this subject, nor in contravention of any right of any Rector, Minister, Parish, Congregation or Vestry under the civil law.

The principal changes were in Section 2, and were as follows:

(1) The omission of the provision that the bishop might act “with the advice and consent of the Presbyters only of said Standing Committee (if both parties shall assent to such limitation in writing).” (2) The provision that the bishop, acting with the advice and consent of the standing committee, was changed from the positive form to a permissive one, to read as follows: “The Bishop may ask the advice and consent of the Standing Committee.” (3) Penalties for refusal to abide by the judgment were to be fixed by diocesan legislation.

Convention of 1907

This Convention renumbered Canon 37 as Canon 38, and amended Section 4 by changing the last two words thereof, “civil law,” to “law of the civil authority.”

Convention of 1934

The canon, now Canon 40, was amended by striking the concluding words of Section 2, “in which such parish is situated,” and inserting in their place the following provisions for penalties:

and in default of any provisions for such penalties therein, the Bishop may (1) in the case of a Rector or Minister, suspend such Rector or Minister from the exercise of his priestly office until he shall comply with said judgment; (2) in the case of a Vestry or Trustees, recommend to Diocesan Convention or Missionary Convocation that the union of the Parish or Mission with Convention or Convocation shall cease until they have complied with his judgment.

Convention of 1949

Section 1 of the canon, now Canon 46, was amended to read: “Section 1. Except as provided in Canon 45, Section 8, etc.”

The reference was to the provision for mandatory retirement at age seventy-two, which, like this amendment, was to go into effect on January 1, 1957.

As a result of the case of Rector vs. Melish, *infra*, then pending on appeal, efforts were made to pass resolutions construing this canon, and Canon 13, in accordance with the contentions of the defendant.

In the course of the proceedings, the committee on canons of the House of Bishops reported as follows:

The Committee is of the opinion that it is not a proper function of General Convention to attempt to interpret Canons; and it is of the further opinion that neither Canon 13 nor Canon 46 is ambiguous. Any member who holds that the said Canons are ambiguous should propose such amendments as in his judgment would remove the ambiguity.

The House of Deputies echoed this same sentiment in a resolution passed later in the session.

Convention of 1952

The first sentence of Section 2 was amended to read as follows:

If for any urgent reason a Rector or Minister as aforesaid, or the body authorized to elect a Rector in the Parish committed to his charge, shall desire a separation and dissolution of the pastoral relation, and the parties be not agreed respecting a separation and dissolution, notice in writing may be given by either party to the Ecclesiastical Authority of the Diocese or Missionary District.

The former wording could have been construed to mean that either the parish, or its vestry or trustees, might seek a dissolution of its relationship with its rector. Under the amendment it is made clear that only the body authorized to elect a rector may seek such a dissolution.

Convention of 1973

The references to missionary districts were deleted as no longer needed.

EXPOSITION OF CANON III.22

The first section of this canon, decreeing that the pastoral relation cannot be dissolved by the parish or vestry on the one hand, or by the rector on the other, is simply an affirmation of the traditional law of the Church. It has ever been the universal rule of the Church that there should be no severance of the pastoral relation except by mutual consent, or by the due intervention of the bishop of the diocese. It seems to have been felt that there was a nearness and sacredness of tie between such parties as admitted not of severance, but for legal offenses, or with the intervention of lawful authority. The beautiful language of Lord Stowell as to another relation may well be applied to this:

When people understand that they must live together, except for very few reasons known to the law, they learn to soften by mutual accommodation, that yoke, which they know they cannot shake off. They become good husbands and good wives from the

necessity of remaining husbands and wives; for necessity is a powerful master in teaching the duties it imposes.

The question was very thoroughly discussed in an early New York case, that of *Young v. Ransom* (31 *Barb.* 49) in which the court held as follows:

I think it very clear that when a Minister is called or settled in an Episcopal Parish, he can only be dismissed or sever the connection by mutual consent, or by superior Ecclesiastical Authority, on the application of one of the parties.... I have no hesitation in the conclusion that when a Minister is called to and settled in the charge of a Parish, unless something to the contrary is distinctly expressed in the call and settlement, he can only be dismissed without his consent by the Bishop of the Diocese (p. 59).

In a Massachusetts' case, *Avery v. Tyringham* (3 *Mass. Rep.*, 160), the court declared, that

It has been the uniform opinion of all the judges of the higher courts, that when no tenure was annexed to the office of Minister by the terms of settlement, he did not hold his office at will, but for life, determinable for some good and sufficient cause, or by the consent of both parties.

An important case was that of *Lynd v. Menzies* (33 *N. J. L. Rep.*, 162). This was an action on the case for forcibly preventing the Rev. Mr. Lynd, Rector of St. Barnabas' Church in the City of Newark, New Jersey, from preaching in the church and occupying the parochial schoolhouse.

The two wardens of the church notified the Rev. Mr. Lynd that, by action of the vestry, his connection as rector of the church had ceased on Easter, which was then past. On the next day, which was Sunday, when he went to the church to officiate, he found the church closed, and the doors so fastened as to prevent his entering. A few days later he was in a similar manner excluded from the schoolhouse. It was proven, on the trial of the case, that such expulsions were the acts of the wardens and vestrymen of the church. The jury returned a verdict in favor of the rector, and against the wardens and vestrymen, of one thousand dollars. The case came before the Supreme Court on a motion for a new trial. The chief justice, in delivering the opinion of the court, said:

What, then, is the agreement into which a congregation of this denomination of Christians enters upon the call of a Rector? So far as touches the matter in controversy, it plainly appears to be this: They offer to the Minister receiving the call such rights in their temporalities as, by the Ecclesiastical Law of their sect, belong to the office which is tendered, one of such rights being that of preaching on Sundays in the church provided by the congregation.... If, then, we adopt the theory—and I perceive no reason for rejecting it—that for the purposes of the exercise of his sacerdotal functions, the Rector becomes possessed of the church buildings and grounds, it will be difficult

to devise any pretext in denial of the right of such officer to a civil remedy if such possession be invaded.

The rector's right of action was sustained, and the appeal of the wardens and vestrymen dismissed.

This case, which has been cited with approval by the courts of other states, clearly establishes the right of a rector to a civil action for damages in cases where contractual and property rights are denied by a vestry.

A civil court will come to the aid of a rector, whom the vestry is closing out of the church building, on a showing that the vestry has not complied with the canonical procedure for the dissolution of the pastoral relationship (*Ackley v. Irwin*, 69 Misc. 56, 125 N.Y.S. 672; see also *Providence Baptist Church v. Superior Court*, 40 Cal. 2d 55, 251 P.2d 10).

A vestry cannot indirectly force a dissolution of the pastoral relation by a reduction of a rector's salary. This point was expressly decided in the case of *Bird v. St. Mark's Church, Waterloo, Iowa* (62 Iowa Rep., 567).

In the statement of the case, it appears that the vestry had endeavored by a resolution to reduce the rector's salary, in order to compel him to resign the rectorship. On the refusal of the vestry to pay him the salary promised when he became rector, the Rev. Mr. Bird brought an action to recover the salary so promised him, and the court held that

It was not competent for the Vestry of the Parish, in violation of the Canons of the Church, to dissolve the pastoral relation against the plaintiff's will. These Canons become as much a part of the contract of employment of plaintiff as if they had been specifically referred to, or written out in full therein.

The salary upon which the plaintiff was employed constitutes an essential part of the contract. If the defendant could be permitted to reduce the plaintiff's salary without his consent, it could force him to agree to a dissolution of the pastoral relation, and thus accomplish indirectly what it could not do directly.

The courts are uniform in their decisions that the livelihood of one who withdraws from all secular pursuits, and devotes his life to the sacred work of the ministry, "needs special protection, and ought not to be dependent for a livelihood on the whims and prejudices of his congregation."

While the bishop is the ultimate arbiter and judge in all cases of disagreement between a rector and a vestry or parish, and can issue an order terminating the pastoral relation between the parties, he cannot issue such an order or subject such rector to a penalty upon any *ex parte*

statements, or without affording the rector an opportunity to be heard in his own behalf. The right to be heard is a common law right, and must be observed before any penalty can lawfully be inflicted. (Although the canon makes no express provision for a public hearing before the standing committee, such a provision has been made by diocesan canon in some dioceses, e.g., New Jersey and Long Island, and has been ardently advocated by clergy associations.)

This right of a rector to be heard in his own defense was strongly affirmed by the Supreme Court of New Jersey, in the case of *Jennings v. Scarborough, et. al.* (56 *N. J. Law Rep.*, 401). New Jersey is one of the dioceses that has enacted a canon on the dissolution of the pastoral relation.

Dissensions having arisen in the parish of which the Rev. Mr. Jennings was rector, the vestry presented a petition to the bishop asking for a dissolution of the pastoral relation. Upon the presentation of this petition, the bishop, without notice, or hearing the said Jennings on his proofs, and without convening the standing committee, made an order containing his decision that the Rev. Mr. Jennings should cease to be rector on a certain date. "This order," which, the court declared, "is properly referable to the second Section of the Canon as an effort to obtain an amicable conclusion of the differences between the parties," was transmitted to the Rev. Mr. Jennings.

Mr. Jennings declined to accede to the bishop's order, and asked that if the case must go to the standing committee, to let it be done in accordance with the canon.

The bishop then called a meeting of the standing committee, not for a plenary hearing on the merits (sections 3 and 4 of the New Jersey canon), but for a review of the matter after judgment had been rendered (section 5 of the canon).

At the meeting thus called, Mr. Jennings was present, but no proofs were presented. After hearing the statement of the vestry of the church, and the statement of Mr. Jennings, the bishop made an order that Mr. Jennings should cease to be rector on March 15, 1893. The case came before the Supreme Court on a writ of *certiorari*.

The Court gave its opinion, in part, as follows:

The Bishop's order not having resulted in an agreement between the parties, the procedure to dissolve the pastoral relation, *in invito*, should have been under Sections 3 and 4, and not under Section 5.

There is a distinction of great importance between the procedure prescribed by Section 3, and proceeding under Section 5.... The provision under Section 5 is by way of an appeal from an order made under some one of the preceding Sections.... We think the prosecutor [Jennings] was entitled as of right to a hearing before the Committee, pursuant to Sections 3 and 4 of the Canon, especially as the result of the deliberations of that tribunal might deprive him of property rights, which, under the general Canons of the Church, inured to him by virtue of his rectorship.... Courts of law will not interfere to control the proceedings of Ecclesiastical bodies in spiritual matters which do not affect the civil rights of individuals, nor will they interfere with the action of the duly constituted authorities of religious societies in matters purely discretionary. But where, as in the present case, the civil rights of an individual are involved, jurisdiction is committed to the courts of law to protect those rights, which the court cannot discard.... With respect to the judgment that shall be pronounced by the Bishop with the concurrence of the committee, after a hearing, the authority of the Bishop is discretionary and supreme. The Prosecutor is an ordained Minister of the Church, is subject to the laws of the Church and to its constituted authorities, but at the same time he is entitled to a hearing in compliance with the laws of the Church before judgment is pronounced. The proceedings on which the order in question was made are not in compliance with the Canons of the Church, and for this reason the order should be set aside.

This decision clearly establishes the right of a rector to be heard in his own defense, before he can be subjected to any penalty or deprived of any contractual right.

Section 2 of the canon bestows upon the bishop enormous authority in the matter of settling differences. As the ultimate arbiter and judge, the bishop's judgment that a pastoral relationship shall cease and determine is upon such terms as he may specify, and is binding upon all parties.

Thus, a bishop's judgment could include provisions for the financial well being of the rector (*Rector etc. of Church of Holy Trinity v. Melish*, 194 Misc. 1006, at 1013) or a requirement that the wardens and vestrymen resign their offices as a condition precedent to the pastoral dissolution (*Fiske v. Beaty*, 206 App. Div. 349). It would appear that the bishop properly has such great discretion because the question to be resolved is not one of corporate office, but of the proper ministry of the Episcopal Church at that place, through one ordained by the Church and found qualified, and serving by approval of the bishop.

The last sentence of Section 2, providing the penalty for either party refusing to abide by the bishop's judgment, in default of provisions in the constitution and canons of the diocese, leaves the prescription of penalties to the local law if the diocesan convention so elects.

One of the ordination vows, made by those ordained to the priesthood under the provisions of earlier Prayer Books, was that the priest would reverently obey his bishop, submitting himself to the bishop's "godly

judgments.” While the phrase “godly judgment” may not be easy of exact definition, yet it would seem that when a bishop gives judgment by the advice of his standing committee, and which the canon expressly says it is the duty of the minister in question to submit to and abide by, that such a judgment might well be considered as coming within the definition of a “godly judgment.” If this be true, then a minister, refusing to abide by and submit to the judgment of the bishop decreeing the dissolution of the pastoral relation, would render himself liable to presentment and trial under the provisions of Canon IV.1 (6), “Any act which involves a violation of his Ordination vows.”

(The ordination rites of the 1979 Prayer Book do not contain the expression “godly judgments,” but specifically require ordinands to answer affirmatively the question, “will you, in accordance with the canons of this Church, obey your bishop and other ministers who may have authority over you and your work?” [BCP, p. 526].)

Another course has been employed by the bishops, viz., an appeal to the civil courts for an order to enforce his judgment in decreeing a dissolution of the pastoral relation.

The vestry of a certain parish in the Diocese of Pennsylvania applied to the bishop for a dissolution of the pastoral relation between said parish and its rector, under the provisions of what is now Canon III.22. The bishop convened the standing committee of the diocese and, after a full hearing had been granted to both parties, and having the unanimous advice and consent of the standing committee, gave, as his judgment in the case, that the pastoral relation between the said rector and the said parish cease and determine on a certain date. The rector, the Rev. Mr. Ballentine, refused to obey the judgment of the bishop and consent to a dissolution of the pastoral relation. The bishop then appointed a Rev. Mr. Huff to take charge of the parish and conduct the services of the church therein. The Rev. Mr. Ballentine refused to allow the bishop’s appointee, the Rev. Mr. Huff, to take charge of the parish or to perform any duty whatever in the parish. The bishop then applied to the district court of the county in which the said parish was situated for a Bill of Injunction to restrain the Rev. Mr. Ballentine from hindering or interfering with the Rev. Mr. Huff in “officiating as Minister in the Church of St. James, Perkiomen, as aforesaid, and to restrain the Rev. F. S. Ballentine from in any way officiating or assisting in the conduct of the services in a ministerial capacity in the said St. James’ Church, or from exercising any pastoral relations in said Parish.”

When the case came on for trial, the Rev. Mr. Ballentine alleged in his defense, that the canon made no provision for a compliance with

the decision of a bishop, but that further proceedings in the case shall be those provided by the constitution and canons of the diocese and that, as the Diocese of Pennsylvania had made no provision for such further proceedings, no penalty could be inflicted upon him for non-compliance with the bishop's judgment and decree. (It was not until many years later that the canon was amended to provide penalties in such instances.)

In the report of the case, *Rhineland v. Ballentine, et. al.* (23 Pa. Dist. Rep. 1093), the court held, in part, as follows:

The defendant contends that there is no power in the Common Law Courts to compel obedience to the decision of the Bishop of the Diocese; that notwithstanding the command to allow the Bishop's appointee to conduct services in St. James Church, Perkiomen, he, the defendant, can simply refuse to obey such command because under Canon 38, there is no penalty attached to such refusal nor any way of enforcing the Bishop's order.

If such be the law, a contumacious priest, after due hearing, trial and sentence, can fold his arms and bid defiance to his superiors, And what would be the condition of the parish in the meantime? With the congregation divided, a lack of harmony amongst the members of the parish, a scandal and disgrace to the Church. It must be remembered that action under Canon 38 is not for either the deposition of the Clergyman from his clerical office, or suspension from the Ministry, and is not founded upon dereliction of any sort on the part of the defendant. He is not charged with any crime or offense whatsoever, either civil or ecclesiastical—it is simply that the Bishop, in the exercise of his discretion, decreed it for the best interests of both the Minister and the Parish that their relation should be severed; his judgment casts no imputation on the defendant; the fault may be entirely on the side of the Parish. The wisdom of such a proceeding is purely a question of ecclesiastical discipline.... *Stack v. O'Hara* (98 Pa. 213) throws light upon the question. The Court said, "Removal is the exercise of Episcopal authority according to the Bishop's judgment. It may be without supposition of wrong, and it leaves the priest in the same position as all other priests who are without employment."

As we find the proceedings relating to the dissolution by the Bishop in all respects regular, we now come to the authority of this court to enforce compliance therewith. If we have not such power, then none exists. The very foundation of equity is the absence of any other adequate remedy.... In the *Batterson* case, (8 Phil. Rep. 251), the Court said: "The rights and obligations arising out of the relations of a Rector of an Episcopal Church to his parishioners are properly cognizable in a court of equity." In that case it was said: "It may be further declared that no provision is made for the case of a Minister who refuses to consent to a dissolution. If a Parish or Church act without ecclesiastical sanction, or if the Minister shall leave without the same, a penalty follows and may be inflicted; but what is to be done with a Church law which, in a case like the present, prescribes no duty to be performed, creates no offence, and affixes no penalty?" Yet the Court assumed jurisdiction to preserve the rights of both parties, the action of the Vestry and Bishop in deposing the plaintiff being illegal, be not having been given a trial.

It would be a remarkable condition of affairs if there is no authority to carry out the decision of the Bishop simply because no penalty can be inflicted. In the case we are

considering the defendant is usurping the duties conferred on another. His relationship with his parish has been dissolved in a regular and orderly manner by the authority of his Bishop, on whom is cast the duty in cases of difference between a priest and his vestry. There being no other way of enforcing obedience, it would seem to be a case where a court of equity should act in order to do that for which there is no proper Church law to govern the case.

In *Bonocum v. Harrington* (91 *N.W. Rep.*, 886), it was ruled: that when the governing authority of a religious denomination has deprived one of its clergymen of his authority to officiate as such, he may be enjoined from making use of Church property in that capacity or under color of the functions of which he has been deprived. No other remedy is adequate or practicable in such cases.

The principle thus stated guides us in our decision. In addition to the cases already cited, there are many others in this and other States in which the courts have assumed jurisdiction in similar cases. When the action of the Vestry or the Bishop has been illegal, the proceedings were reversed and the Ministers restored to their rights. Here the action of the defendant is the illegal act complained of. The only defense is that Canon 38 makes no provision for a compliance with the decision of the Bishop; but when we find that the action of the Bishop was in all respects regular, a court of equity will come to his relief and enforce obedience.... In his answer the defendant contends, "That there is no provision in the charter and by-laws of St. James' Church, Perkiomen, which would entitle the Vestry to dismiss him without his consent, nor could he be dismissed by virtue of any canonical law now in force in the Diocese of Pennsylvania without a full and fair trial, and only upon charges of misconduct in office, heresy or immorality, made and sustained."

We cannot sustain this contention. Defendant had a fair trial, and Canon 38, in our opinion, was intended to apply to cases other than those above specified, and particularly when the question is one of separation and dissolution of the pastoral relation.... The position of the defendant is that the Canon provides that in case of refusal to obey, the penalty and further proceedings in the case shall be those provided by the Constitution and Canons of the Diocese or Missionary District in which such Parish is situated, and that as there has been no legislation to provide for further proceedings, none exists, and the command of the Bishop is simply ineffective. What a commentary on the Church if such is the law.

We are of the opinion that where in cases like the present a manifold wrong is done by a contumacious priest, in wilful and arbitrary disobedience of his ordination vow and lawful command of his superior, equity will act.

When ordained and asked the question, "Will you reverently obey your Bishop.... following with a glad mind and will their godly admonitions, and submitting yourselves to their godly judgments?" he answered. "I will do so, the Lord being my helper."

Our decree is merely enforcing his solemn promise.

A year later a similar case occurred in the same diocese, when the Rev. George C. Richmond refused to obey the judgment and decree of the bishop dissolving the pastoral relations between the said Richmond and the parish of which he was rector. The bishop then made application to the court of common pleas of the county of Philadelphia for an order enforcing his judgment and decree. The court, following the decision of the court in the Ballentine case, upheld the action of the

bishop, and compelled the surrender to the vestry of possession and control of the church and other property of the corporation.

We have cited at some length the findings and opinions of the court in the Ballentine case because, so far as we have been able to find, it was the first case on record where a civil court has sought to enforce the judgment and decree of a bishop dissolving the pastoral relation between a rector and his parish. Most of the cases cited by the court to substantiate its decision are cases where the minister was the complainant and in which the action of the vestry or the bishop was alleged to be illegal. There is no question but that in such cases the civil courts will interfere, especially where property or civil rights are involved. When the court stated that the defendant was usurping the duties conferred upon another, it was standing upon somewhat firmer ground. The pastoral relation between Ballentine and his parish had been dissolved and, under the canon, he was no longer *de jure* rector thereof. The fact that the canon then gave the bishop no power to enforce his authority does not alter the law in the case. Under the canons, the bishop has the right after the parish authorities shall for thirty days have failed to make provision for the services, to take such measures as he may deem expedient for the temporary maintenance of divine services in the parish. This would naturally include the right to appoint a minister in temporary charge. The duties thus conferred upon the minister appointed by the bishop he was unable to perform because of the interference of one whose relationship with the parish had been terminated, but who still remained in actual possession of the church property. There is considerable authority for the right of a civil court to intervene in such a case and restore the property to those who were legally entitled to its possession.

Dr. White, in the 1924 edition of this annotation, concluded his comments on these two cases with the following words:

The right of a civil court to enforce the decree of a bishop certainly marks a new departure in the jurisprudence of the American Church, and will probably be viewed with disfavor by some who deprecate any union between the Church and State.

Section 3 simply provides that the dissolution of the pastoral relation is to be recorded by the secretary of the diocesan convention. The record of the fact of dissolution makes complete the action in the matter.

Section 4 provides that the canon shall not apply in any diocese that has provided by canon for the dissolution of the pastoral relation, nor in contravention of the rights of the parties concerned, which are secured by the law of the civil authority. This section gives each diocese

the right to make provision as it sees fit for the dissolution of the pastoral relation, and when it has made such provision, then the canon of the General Convention no longer applies to such diocese.

The last part of the section was made necessary by the fact that the relation between a minister and his people involved a civil contract, that such contract was subject to the *lex loci*, and the Church, of course, had no power to interfere with that law. When the canon was first enacted in 1804, this provision was not included therein. It was found, however, that the canon interfered with the vestry law of the state of Maryland, and a memorial was also presented to the Convention of 1808 from South Carolina desiring an alteration in the canon. This led to the modification of the canon by the General Convention of 1808, declaring that the canon should not be obligatory in those states with whose usages, laws or charters, it interfered.

The law of Maryland is found in the decision of its Court of Appeals in *Bartlett v. Hipkins* (76 Md. 5; 23 Atl. 1089; 24 Atl. 532) decided in 1892.

The Rev. Mr. Hipkins had been elected rector by the vestry of a parish in Maryland, which subsequently asked for his resignation. Upon his refusal to resign, the vestry adopted a resolution of dismissal, of which notice was served upon him. Mr. Hipkins, relying on the canon, then Title II, Canon 4, now Canon III.22, appealed to the bishop who ruled that the canon applied and that the rector could not be removed except in accordance with it.

The action was then brought. The court discussed the canons of General Convention, noting that the diocesan canons contained no provision on the subject. Citing and relying upon a Maryland statute of 1798, enacted after the disestablishment of the Church of England in Maryland, the court held that, under it, the vestry had not only power of election, but also a power to terminate the pastoral relationship at will, and that the canon of General Convention did not apply, and the vestry was within its rights in dismissing the rector.

The Vestry Act has since been repealed by the State of Maryland.

In 1947 the vestry of Holy Trinity Church in Brooklyn, New York, gave written notice to the Bishop of Long Island of its desire for dissolution of the pastoral relation between it and the rector, the Rev. John Howard Melish, D.D., LL.D.

Canon 27 of the canons of the diocese governed such proceedings by reason of Section 4 of Canon 46, now Canon III.22, of General Convention.

The rector then read a notice of a special meeting of the parish, to be held the following day, for the purpose of removing the members of the vestry who had signed the notice from office.

The members of the vestry then instituted an action in the Supreme Court to restrain the rector and his supporters from taking any action to remove them, and joined the bishop as a party defendant by reason of his office without asking any relief against him.

Dr. Melish, in his answer, pleaded a counter claim and cross action against the bishop, in which he prayed judgment restraining him from acting upon the notice filed by the vestry.

The bishop, in his reply to this counter claim, then sought judgment against Dr. Melish, restraining him from exercising any functions as rector.

Meanwhile, the petition of the vestry had been referred to the standing committee, a hearing had been held, and the committee had reported recommending dissolution of the pastoral relation, and the bishop had given judgment of dissolution.

(The basis of the petition of the vestry was that the Rev. William Howard Melish, son of the rector, who was assistant minister of the parish, had, by his association with certain allegedly subversive organizations, created dissension in the parish, harmful to the parish and the Church, and that these activities had been approved by the rector, who refused to remove his son as assistant rector.)

The case came on for trial before Mr. Justice Steinbrink who, at the close of the trial, delivered an oral opinion and directed judgment sustaining the action of the bishop and decreeing that the pastoral relation between the church and Dr. Melish had been effectively terminated. (*Rector etc. of Church of Holy Trinity v. Melish*, 194 Misc. 1006, aff'd 276 App. Div. 1088, 1v to app denied 277 App. Div. 7831, motion to app denied 301 N.Y. 679, cert. denied 340 U.S. 936).

The controversy between the Melishes and the Church of the Holy Trinity was, however, not yet at an end. Subsequent litigation by the clergymen involved questions of the validity of the vestry's election of a new rector, the Rev. Herman S. Sidener, of the termination of the Rev. William Howard Melish's status as assistant rector, and of the termination of an earlier grant of use of the rectory to the senior Mr. Melish. These were resolved only after the Court of Appeals affirmed (3 NY2d 476) an order of the Appellate Division upholding Dr. Sidener's election and the discharge of the younger Mr. Melish (4 AD2d 256), and the

New York Supreme Court directed the sheriff to remove the Melishes from the rectory in implementation of a communication to them from the bishop of the diocese stating the effect of the vestry's election of Dr. Sidener (12 Misc2d 321).

The case is reviewed at length in *Church and State in the United States* by the Right Rev. Anson Phelps Stokes, D.D., LL.D. (pp. 395 *et seq.*) who closes his discussion with this statement:

It appears to an outsider reading both sides of the controversy that in principle the stand of the Melishes is the one most in keeping with the general American tradition of freedom, but that the specific wording of the Canons of the Episcopal Church and of the Diocese of Long Island may support the old Vestry and the lower court; and that if the Episcopal Church wants to insure greater protection for its clergy and its congregations, when their views differ from those of diocesan authority, the Canons may need to be modified. But the General Convention of the Church in San Francisco in October, 1949, decided not to take the action urged by supporters of the Melishes to add to the Canons provision for the review by higher ecclesiastical courts of diocesan action in such cases (p. 402).



CANON 23. Of the Filling of Vacant Cures

Wardens to give notice to Bishop when Parish or congregation becomes vacant.

Sec. 1. When a Parish or Congregation becomes vacant, the Churchwardens or other proper officers shall notify the fact to the Bishop. If the authorities of the Parish shall for thirty days have failed to make provision for the services, it shall be the duty of the Bishop to take such measures as he may deem expedient for the temporary maintenance of Divine services therein.

Bishop may communicate with vestry.

Sec. 2. No election of a Rector shall be had until the name of the Member of the Clergy whom it is proposed to elect has been made known to the Bishop, if there be one, and sufficient time, not exceeding thirty days, has been given to him to communicate with the Vestry thereon, nor until such communication, if made within that period, has been considered by the Parish or Vestry at a meeting duly called and held for that purpose.

Certificate to Ecclesiastical Authority.

Sec. 3. Written notice of the election, signed by the Churchwardens, shall be sent to the Ecclesiastical Authority of the Diocese. If the Ecclesiastical Authority be satisfied that the person so chosen is a duly qualified Minister, and that he has accepted the office, the notice shall be sent to the Secretary of the Convention, who shall record it. And such record shall be sufficient evidence of the relation between the Minister and the Parish.

Ministers settled when engaged for at least one year.

Sec. 4. A Minister is settled, for all purposes here or elsewhere mentioned in these Canons, who has been engaged permanently, or for any term not less than one year, by any Parish, according to the rules of the Diocese in which such Parish is located.



This canon was Title I, Canon 12, in 1859. It became Canon 14 in 1904, Canon 46 in 1943, and Title III, Canon 22, in 1970.

Convention of 1789

At the very beginning of its national existence, this Church enacted a canon requiring the notification to the bishop of the choice by a parish of its rector. The Convention enacted, as the seventeenth canon, the following:

Notice to be Given of the Induction and Dismission of Ministers

It is hereby required on the induction of a minister into any Church or parish, the parties shall deliver, or cause to be delivered to the Bishop, or to the Standing Committee of the Diocese or district, notice of the same in the following form, or to this effect:

We, the church wardens (or in case of an Assistant Minister, We, the rector and church wardens) do certify to the Right Rev. (naming the Bishop) that (naming the person) has been duly chosen Rector (or Assistant Minister as the case may be) of (naming the church or churches). Which certificate shall be signed with the names of those who certify.

And if the Bishop, or the Standing Committee, be satisfied that the person so chosen is a qualified minister of this Church, he shall transmit the said certificate to the Secretary of the Convention, who shall record it in a book to be kept by him for that purpose.

But if the Bishop, or the Standing Committee, be not satisfied as above, he or they shall, at the instance of the parties, proceed to enquire into the sufficiency of the person so chosen, according to such rules as may be made in the States respectively, and shall confirm or reject the appointment, as the issue of that enquiry may be.

It will be noted that the induction of a minister seems to have been considered as a matter of course, if, indeed, it was not required by the canon. The meaning of induction and its bearing on the present canon will be more fully considered in the exposition of the canon.

Convention of 1799

A canon, explanatory of Canon 17 of 1789 and Canon 1 of 1795, was enacted by the Convention of 1799, as follows:

No clergyman employed by the year, or for any limited time, shall be considered as a regularly officiating and resident Minister of the Church in any State, for the purpose expressed in the two concluding sentences of the 1st Canon of 1795, entitled, "A Canon concerning Episcopal Visitation."

The sentence alluded to referred to the number of resident and officiating clergymen in a state or diocese necessary to the election of a bishop.

Convention of 1804

This Convention repealed Canon 17 of 1789 and Canon 3 of 1799, and enacted Canon 1 in place thereof.

The first paragraph was amended by substituting the word “election” for the word “induction,” and the word “Vestry” for the word “parties.”

The form of notice remained without material change, except that the words “associated rector” were inserted before the words “assistant minister” in each case where they appear.

In the third paragraph, in place of the word “he” were substituted the words “the bishop, or the president of the standing committee.”

At the end of the paragraph was added the following:

And if the minister elect be a presbyter, the bishop, or the president of the standing committee, shall proceed to have him inducted according to the Office established by this Church. But if he be a deacon, the act of induction shall not take place till after he shall have received priest’s orders, when it shall be the duty of the bishop or president to have it performed.

Paragraph four remained the same, except that, in place of the words “in the States respectively,” were substituted the following: “in the respective dioceses.”

A new paragraph was added at the end of the canon, reading as follows:

No minister, who may be hereafter elected into any parish or church, shall be considered as a regularly admitted and settled parochial minister in any diocese or state, or shall, as such, have any vote in the choice of a bishop, until he shall have been inducted, according to the Office prescribed by this Church.

This last paragraph now made the office of induction a part of the canon.

(The office of induction referred to was adopted by this Convention. It began with a statement by the bishop or his deputy, after which opportunity was given for any parishioner to show cause why the person should not be inducted. No objection being offered, the bishop’s Letter of Institution was read.

The ceremonies of induction followed, the chief features of which were the presentation of the keys of the church by the senior warden to the new incumbent, who received them as a token and pledge of “your parochial recognition;” the solemn receiving of the incumbent within the rails of the altar; and the celebration of the Holy Eucharist by the new rector, concluding with his blessing.)

Convention of 1808

The next legislation on the subject was by the Convention of 1808, which enacted Canon 29 in place of Canon 1 of 1804.

The only changes made by this Convention in the canon were as follows:

In the fourth paragraph, the words "shall proceed to have him inducted" were stricken, and these words inserted in place thereof: "may, at the instance of the Vestry, proceed to have him instituted." Also, the word "induction," in the last sentence thereof, was changed to "institution."

In the sixth paragraph, the word "inducted" was changed to "instituted."

Two new paragraphs were added at the end of the canon, reading as follows:

This canon shall not be obligatory on the Church in those dioceses or States with whose usages, laws, or charters it interferes. Nor shall anything in this canon, or in any other canon, or in any service of the Church relative to the office of associated rector, apply to the Church in those States or dioceses where this office is not recognized by the constitution, laws, or canons thereof.

But it is to be understood that this Church designs not to express any approbation of any laws or usages which make the station of a minister dependent on anything else than his own soundness in the faith, or worthy conduct. On the contrary, the Church trusts that every regulation in contrariety to this, will in due time be reconsidered; and that there will be removed all hindrances to such reasonable discipline as appears to have belonged to the churches of the most acknowledged orthodoxy and respectability.

It will be noted that this canon refers to the office of *Institution*, "established by this Church." In the former canons, the reference was to the office of *Induction*. This would seem to clearly indicate that the technical difference between the two offices was not clearly understood. Bishop White tells us in his *Memoirs* (2nd Ed., p. 34) that the office of induction was changed in name to the office of institution, but the thing remained unaltered. He further says that resting the office upon recommendation, instead of requisition as before, was not because of any objection to the office, but because it interfered with the vestry law of the state of Maryland, and with usages in one or two other states.

It is evident that whatever, in the intentions of the Convention of 1804, was meant by the solemnities in the office of induction, must here have been meant by retaining the very same ceremonies in the office of institution. The Convention described what it meant by "institution," by referring to an office which prescribed something very different from the English office of institution, and agreeing exactly with what

had before been called "induction." The conclusion follows that the Convention did not clearly recognize the difference between the two offices as used in the English Church.

Convention of 1814

This Convention enacted the following as Canon 2 of that year:

So much of the twenty-ninth Canon of 1808, as requires the institution of an assistant minister, in order to his being considered as a regularly admitted and settled parochial minister in any Diocese or State, and his having a voice in the choice of a Bishop, in consequence of his not having been instituted, and as excludes a Deacon from a seat and vote in any Convention where he is not excluded by the constitution and Canons of the Church in any Diocese, is hereby repealed. It is also declared, in explanation of the said Canon, that the provision concerning the use of the office of institution, is not to be considered as applying to any congregation destitute of a house of worship.

Convention of 1832

The Convention of this year repealed all former canons on this subject, and enacted a new canon, Canon 30. The following amendments were included in the new canon:

In the notice to be sent to the bishop, the words "associated Rector or," in both places where they occur therein, were omitted.

In the fourth paragraph, the last two sentences, which were added by the Convention of 1804, and beginning with the words "And if the minister elect be a presbyter," were made Section 4, and amended by striking the words, "when the Bishop or President may have it performed," at the end thereof.

The sixth paragraph, beginning with the words, "No minister who may hereafter be elected," was stricken.

A new sentence, taken from the amendment made by the Convention of 1814, was added to the fourth section, reading as follows:

This provision concerning the use of the office of institution, is not to be considered as applying to any congregation destitute of a house of worship.

By the striking out of the sixth section of the Canon of 1808, the canons no longer required institution in order that a minister be considered a regular admitted settled parochial minister, and to have a vote in the choice of a bishop. The election of a minister by a vestry, such election certified to the bishop by the churchwardens, and said certificate transmitted to the secretary of the Convention by the bishop, if he be satisfied as to the qualifications of such minister, together with the acceptance by said minister of the call to be rector of the parish, and his occupation of the parish, gave to such rector the same rights to all

the emoluments of the cure, and the use of, and power over the church buildings, that were formerly conferred upon him by the office of institution.

(No change, however, was made in the text of the office of institution, which continued to imply that it did confer possession and the perquisites attending thereto. Though made optional by this Convention—and in some periods and in some dioceses it was rarely used—the rite was periodically appealed to, in both civil and ecclesiastical courts, as declaratory of the Church’s teaching. Finally, in 1979, the office was replaced with a rite which, though using the traditional words “institution” and “induction,” carefully avoids any implication of legal intent and is not restricted to rectors.)

Convention of 1853

This Convention amended the canon by the addition of a new section, numbered Section 2, but as it relates to a subject not contained in the present canon, it need not be considered here.

Convention of 1856

This Convention amended Canon 14, of the Canons of 1853, making it Canon 7 of that year, and amending it by striking Section 2, the section added by the Convention of 1853,

Section 4 of the former canon was also stricken and a new Section 4 added, but as this section relates to a subject now included in another canon, it need not be considered under this canon.

A new Section 5 was also added, but need not be considered here for the same reason.

Convention of 1859

In the revision of the Digest of Canons by this Convention, Canon 7 of 1856 was made Title I, Canon 12, and was radically amended, but as the larger part of such amendments are now contained in another canon that is discussed elsewhere, we need not consider them here. The only part of this canon requiring our consideration at this time is Section 1, which included the first three sections of the former canon. The only amendment made thereto by the Convention of 1859 was the striking of the words, “or Churches,” at the end of the certificate to be sent by the churchwardens to the bishop.

No further amendment was made to this section until the revision of the canons made by the Convention of 1904.

Convention of 1904

In the revision of the Digest of Canons by this Convention, a new canon, Canon 14, "Of the Filling of Vacant Cures," was enacted, which contained some of the provisions of Section 1 of the former canon and which read as follows:

Sec. 1. When a Parish or Congregation becomes vacant the Churchwardens or other proper officers shall notify the fact to the Bishop. If the authorities of the Parish shall for thirty days have failed to make provision for the services, it shall be the duty of the Bishop to take such measures as he may deem expedient for the temporary maintenance of Divine services therein.

Sec. 2. No election of a Rector shall be had until the name of the Clergyman whom it is proposed to elect has been made known to the Bishop, if there be one, and sufficient time, not exceeding thirty days, has been given to him to communicate with the Vestry thereon.

Sec. 3. Written notice of the election, signed by the Churchwardens, shall be sent to the Ecclesiastical Authority of the Diocese. If the Ecclesiastical Authority be satisfied that the person so chosen is a duly qualified Minister, and that he has accepted the office, the notice shall be sent to the Secretary of the Convention, who shall record it. And such record shall be sufficient evidence of the relation between the Minister and the Parish.

Sec. 4. A Minister is settled, for all purposes here or elsewhere mentioned in these Canons, who has been engaged permanently by any Parish, according to the rules of said Diocese, or for any term not less than one year.

Convention of 1910

The canon was renumbered as Canon 15, and amended by the addition of a new Section 5, reading as follows:

In case of the election of an Assistant Minister, a certificate from the Rector and Wardens shall be sent to the Bishop.

Convention of 1934

Section 5 of the canon was amended to read as follows:

In case of the election of an Assistant Minister the name of the clergyman whom it is proposed to elect, shall be made known to the Bishop and sufficient time, not exceeding thirty days, shall be given him to communicate with the Rector and Vestry thereon.

Convention of 1943

The canon was renumbered Canon 46.

Section 4 was amended to read as at present.

Convention of 1952

At this Convention, Section 2 of this canon was amended by adding the following at the end thereof:

nor until such communication, if made within that period, has been considered by the Parish or Vestry at a meeting duly called and held for that purpose.

Convention of 1979

Section 2 of the canon, now Title III, Canon 23, was amended by substituting the words "Member of the Clergy" for the word "Clergyman."

Section 5 of the canon was transferred to Canon III.21.1 as clause (c).

EXPOSITION OF CANON III.23

The first section of the canon makes it the duty of the proper officers of the parish to notify the bishop when a vacancy in the rectorship thereof occurs, and provides that the bishop shall take such measures as he may deem expedient for the temporary maintenance of the services of the church, should the parish fail to provide therefor for a period of thirty days.

This section is based upon the theory of the common law ecclesiastical that, during a vacancy in the rectorship of a parish, the bishop is rector, *ex officio*. This theory is clearly set forth both in the former office of institution and in the present form for the celebration of a new ministry, and was affirmed by the Supreme Court and the Court of Appeals of the state of New York in the case of *Charles Fiske, Bishop, etc., vs. Arthur H. Beatty, et al.* (206 App. Div. 349; *affd.* 238 N. Y. 598), wherein the court held:

The exercise of that right (i.e., the right to interfere in cases where the Vestry is not administering the affairs of the Parish in accordance with the laws of the State and the Canons of the Church), is vested in the governing body of the Church, which, in this case, is delegated to and vested in the Bishop. He is, as claimed by the plaintiff, *ex officio*, the Rector in case of a vacancy (*White's Church Law*, p. 185).

This was an action by the bishop to restrain the defendant Beatty from exercising control as rector of the worship and spiritual jurisdiction of a parish, and use and control of the church and parish buildings with the appurtenances and furniture thereof, and against defendant laymen from acting as wardens and vestrymen.

The trial court granted an injunction against all the defendants. On appeal, the Appellate Division in the third judicial department modified the judgment by reversing it as against the lay defendants on the ground that title to their corporate offices could only be determined on a writ of *quo warranto*, instituted by the attorney general and affirming as to defendant Beatty.

In its opinion, the divisional court held that in an incorporated parish there are two bodies: the corporate body, created by the state, composed of the persons qualified to vote at annual elections of wardens and vestrymen; and the spiritual body, composed of those who come to worship according to the doctrine and discipline of the Church.

Distinguishing between the rector, who is a member of the corporate body, and the vestry, the court held that he received his office in the corporate body by virtue of his appointment by the bishop as head of the spiritual body, in effect *ex officio*.

Quoting Dr. White, who appeared as an expert witness for the plaintiff, the court said:

In the Church, power does not *ascend* from the Congregation or Vestry to the Rector; it *descends* from above to the Bishops, and through the Bishop to the subordinate Ministry.

The Court of Appeals affirmed the judgment of the Appellate Division.

The second section makes it the duty of officers of the parish to send to the bishop the name of the member of the clergy whom it is proposed to elect as the rector thereof, before the election itself takes place. The bishop is given thirty days in which to communicate with the vestry in the matter. While it is not so specifically prescribed, there is but little doubt that the canon intends that such notification to the bishop shall be a corporate act, determined upon at a vestry meeting duly called and held, and communicated to him by the secretary thereof, unless some other member of the vestry be authorized to act in place of the secretary.

A communication from a member of the vestry to the bishop that they were considering calling a certain priest to be their rector, if made without the authorization of the vestry, and before the vestry as a body had agreed upon the calling of such person, would not be a compliance with the intent of the canon. It is a well settled principle of law that a member of the vestry has no separate or individual power, and can only act in vestry meeting assembled. He or she has no individual power to bind the corporation, even though the majority of the vestry, acting singly and not collectively as a corporate body, should assent to some particular action. As the courts have said:

The Vestry of a Church as the representatives of a corporate body must meet in order to take official action. They cannot act singly upon the streets, or wherever they may be found. This is because they are required to be deliberate. It is the right of the minority to meet the majority, and, by discussion and deliberation, to bring them over if possible to their own views (*Appeal of Ritenhouse* 21 *Atlantic Reporter*, 254).

In the case before cited, *Fiske vs. Beatty*, the Supreme Court of New York held that the notice required by Section 2 was necessary to constitute a valid election. The trial court in its opinion said:

Such notice was not given. It is claimed that the notice was not necessary because the Bishop already knew of the vacancy and that the only result of the failure to give such notice was to prevent the Bishop from submitting a list of names for consideration before the election. This provision is independent of that contained in General Canon 19 where it is stated that no election shall be had until the name of the proposed Clergyman shall be submitted to the Bishop. Failure to comply with the latter provision makes the election absolutely void. There is no logic in the argument that the service of notice was not necessary in this case.

Section 3 provides that written notice of the election of a rector shall be sent to the ecclesiastical authority of the diocese, and that this notice must be signed by the churchwardens.

Until the revision of the Digest of Canons by the Convention of 1904, the form of the notice to be sent to the bishop was prescribed by the canon, and was so prescribed by the first General Convention of the Church in 1789. This notice cannot be signed by the secretary of the vestry, or any other member or members of the vestry, even though they be authorized so to do by the vestry. The wardens are the ecclesiastical officers of the parish in a different sense from the vestrymembers, and the sending of the notice to the bishop is an ecclesiastical duty to be performed by the ecclesiastical officers of the parish. From the very beginning of the Church's national life, the churchwardens have been the only officers authorized by the canons to certify to the bishop the election of a rector of a parish. The notice or certificate prescribed by the canon to be sent to the bishop is intended to be much more than a mere notification to the bishop that a parish has elected a certain priest as its rector. It is, in a certain sense, a canonical document, to be sent to the secretary of the convention to be recorded, and when so recorded, is to be the sufficient evidence of the relation between the parish and its rector.

While it is unquestionably the duty of the churchwardens, after a member of the clergy has been duly elected rector of a parish, to send the written notice of the election to the bishop, as required by the canon, the courts will not grant a mandamus against the churchwardens to compel them to certify such election to the bishop, nor will a suit in equity lie to compel a bishop to send such certificate of election to the secretary of the convention for record, as both of these duties are ecclesiastical duties and the secular courts have no jurisdiction to intrude into purely ecclesiastical arrangements. The courts afford no remedy for the nonperformance of an ecclesiastical duty.

In some states and dioceses, a call to a member of the clergy to become rector of a parish, in order to be a valid call, must state therein the salary or compensation which the rector is to receive.

In the 1924 edition of this annotation, it was stated that in a then recent case, action for damages was commenced against a church by a clergyman who claimed that he had been called as rector, and prevented from assuming the duties of that office by reason of the failure of the churchwardens to send the canonically required certificate of election to the bishop. He claimed his election on a statement in the minutes of the vestry of that church which read as follows:

A number of letters were read in regard to the Mr. (A. B.), and some discussion after which a motion was made and seconded that the Vestry take an official vote on Mr. (A. B.) being called as Rector: 8 votes cast, 6 in favor, 2 against. The Clerk was instructed to write the Bishop of the action of the Vestry.

When the case came on for trial in the Supreme Court of the state of New York, after the plaintiff had presented his case, the judge granted a motion of non-suit, on the ground that he had not shown that there was any contract made with him to become rector of the parish, and if there was no contract, there could, of course, be no damages on contract.

Search has failed to disclose the case in the published reports.

The bishop is not required to send this canonical certificate, signed by the churchwardens, to the secretary of the convention, unless and until he is satisfied as to two things: first, that the person is a duly qualified minister, and second, that he or she has accepted the office of rector. The second requirement needs no special consideration, but the first requirement, that the bishop is to be satisfied as to the qualifications of the minister who has been elected as rector of the parish, is a most important one, and its real meaning not always clearly understood.

Canon III.21.6(d) makes it the duty of the bishop to accept, within three months after it is presented, the letters dimissory of a minister removing from another diocese who has been called to take charge of a parish in the diocese of the bishop to whom the letter is addressed, unless there are rumors affecting the minister's character. The acceptance of such letter by the bishop might be made mandatory by this canon. But the section of the canon we are considering would seem to give to the bishop discretion in the matter, and to permit him to be satisfied that the person chosen as rector of a parish in his diocese was a duly qualified minister, before receiving him into his jurisdiction. Are these two canons in conflict with each other, or can they be construed to be in harmony, one with the other?

That the General Convention, in enacting these canons, intended that the various provisions thereof should be in harmony with each other, is, of course, beyond question.

It is also a well established rule of interpretation that the different parts of a statute must be so construed as to make the statute a consistent whole, and that the construction which produces the greatest harmony and the least inconsistency is the one which ought to prevail.

The paragraphs that follow are reprinted from the original edition of this annotation. Certain reservations of Dr. Dykman from the second edition appear thereafter.

While the English ecclesiastical law is superseded by the canons enacted by General Convention, in so far as they provide, yet, when any question arises as to the interpretation of a canon or rubric, such interpretation must be had in the light of the English law. The canons under consideration are manifestly founded on some of the provisions of the English Canons of 1603, the thirty-ninth canon of which, entitled, "Cautions for Institution of Ministers into Benefices," read as follows:

No Bishop shall institute any to a benefice, who hath been ordained by any other Bishop, except he first show unto him his letters of orders, and bring him a sufficient testimony of his former good life and behavior, if the Bishop, shall require it; and lastly, shall appear, upon due examination, to be worthy of his Ministry.

This canon was exhaustively considered in the celebrated "Gorham case" (*Gorham v. The Bishop of Exeter*; 2 *Rob. Eccl* 1; on appeal to the Privy Council (1850) *Moore's Special Rep.* 462; 14 *L.T. (O.S.)* 521), and the right of the Bishop of Exeter to examine into the orthodoxy of the Rev. Mr. Gorham, before instituting him into a benefice, was sustained.

The provision of Section 3 of Canon III.23, that the bishop is to be satisfied that the person elected as rector of a parish by the vestry thereof is a qualified minister of the church, before he shall be required to receive him into his diocese, manifestly intends something more than that the bishop is merely to be satisfied that such minister has been ordained.

The term "qualified" must, as Judge Hoffman maintains, receive a more comprehensive interpretation than merely that he has been ordained; it must be taken to mean that the bishop is to be satisfied of the general fitness of the minister elected, before he can be compelled to transmit the certificate of the wardens notifying him of the election of such minister to the secretary of the convention for record, and thus complete such election to the rectorship of a parish in his jurisdiction.

Judge Hoffman, in considering the term “qualified,” as used in the canon, says:

The power which thus resides in the Bishop, and which the Canon recognizes, is amply supported by English authority. Indeed, there is no point more clearly settled, and as to which the interference of the civil tribunals is more restricted (*Law of the Church*, p. 283).

This section of the canon is also in complete harmony with the first rubric in the [former] office of institution which provides that the bishop, having received due notice of the election of a minister into a parish or church, and “being satisfied that the person chosen is a duly qualified minister of this Church, may proceed to institute him into the parish.” (It is also in harmony with the introductory affirmation made by the wardens to the bishop on page 559 of the 1979 Prayer Book.)

It was formerly provided by canon that no minister was to be considered as a regularly admitted and settled parochial minister until he had been inducted or instituted. As before noted, the General Convention of 1814 repealed the section of the canon requiring a rector of a parish to be instituted, and provided that a minister, elected by a vestry, such election certified to the bishop by the churchwardens, and such certificate transmitted to the secretary of the diocesan convention for record, gives to such minister, as rector, the same rights formerly conferred by institution.

In order to understand what these rights were, and also the meaning attached to the word “qualified” by the office of institution, it will be necessary briefly to review the history of the office, and its relation to the English offices of institution and induction.

While the independence of the United States dissolved the dependence of the American Church upon the English Church, it did not destroy the prevailing opinions among churchmen as to matters and usages concerning the Church. As it has well been said,

Our branch of the Catholic Church, in establishing her system of polity, must have commenced her career with opinions, feelings, and habits, all derived from her former association with the Church of England. To the Common and Canon Law of England, we must therefore look, if we would fully understand the origin of much of the law of our own Church (*Hawks’ Constitution and Canons*, p. 265).

In England, most of the older churches were built by private individuals, many of them by those who were the “lords of the manor,” and the right of a clergyman to minister in those churches was on nomination of the founder, or maintainer, which right was called an advowson, defined by Blackstone as “the right of presentation to a church or ecclesiastical benefice.” This right, however, was always subject to one

limitation: the person nominated must be canonically qualified. Then, if the bishop was satisfied that the person nominated was a duly qualified minister, he admitted him. The next step of the bishop was institution. This act conferred upon the person instituted certain ecclesiastical power, but conveyed no temporal right. It gave to him the *jus ad rem*, but not the *jus in re*, which was conferred upon him by the ceremony called induction, and which put the clergyman in possession of the church to which he had been presented, and in which he had been instituted. It also gave to him the control of the church buildings, "with all the rights, profits, and appurtenances, thereto belonging."

Such were the laws of England during the colonial period, and also at the time when our own Church formulated her Prayer Book, Constitution, and Canons.

While, of course, the patronage and the presentation of the English Church are unknown in this country, it would seem most reasonable to presume that the Church designed by her legislation to provide the best possible substitute for the English acts of presentation, institution, and induction, and by them to secure to the rectors of churches in this country, such rights as were possible under the changed conditions existing here.

As there were no patrons in whom the legal estate was vested, and such estate must be vested somewhere, the expedient of trustees, called, "The Rector, Wardens, and Vestrymen," was resorted to, in whom the title to the church property was vested.

Dr. Hawks, in his *Constitution and Canons* (p. 285, *et seq.*), very clearly sets forth the resemblances between the usages and laws of the English Church and our own Church, as follows:

In England, the patron selects the incumbent; here, the wardens and vestry invite whomsoever of the clergy they please.

In England, the patron presents; here, the wardens and vestry, by the law of the Church, are required to do the same thing.

In England, the presentation is to the bishop, that he may ascertain if the person is "canonically qualified." Here, the wardens and vestry are required to present to the bishop the minister whom they elect, in order that he may be satisfied that "he is a qualified minister of this Church."

In England, the bishop being satisfied, sends to a proper person his mandate for induction; here the bishop may do the same thing.

In England, the ceremony of induction consists of corporal investiture, a solemn delivery of the church edifice to the incumbent, by the significant token of placing his hand on the key of the door; here, the ceremony of institution is marked by the equally significant act of the public delivery of the keys of the church, by one of the corporation, in the name, and on behalf of the whole Church.

These resemblances surely are not the result of accident. They were designed, and as the ceremony of induction in England was known to give two things to the clergyman, viz.: a right to the revenues of the living; and an uncontrolled ownership over the building for the time being; is it an unreasonable opinion that the Church here, by its legislation, meant to do as much of the same things as the circumstances of the country would permit; and that as she could grant no revenues, she meant by conferring the control of the edifice, to do the only other act which gave any significance to the ceremony she had framed as analogous to an English induction? We cannot, therefore, but believe that the Church meant by the delivery of the keys, to confer the exclusive control of the church, as to its uses, upon the minister.

Having noted the requirements of the English office of institution and induction, and the rights secured thereby to the minister instituted and inducted, and also the resemblances between these offices and the office of institution as set forth by our own Church, let us consider briefly one of the requirements of the English Church before a minister thereof can be instituted and inducted, viz.: that the bishop shall be satisfied that the minister present is canonically qualified.

“The general rule,” says Bishop Stillingfleet (1 Burn’s *Ecclesiastical Law*, p. 157), “is, and it was so resolved by the judges, that all such as are sufficient causes of deprivation of an incumbent are sufficient causes to refuse a presentee. But by the canon law more are allowed—*Multa impediunt promomendum quae non deficiunt.*”

In the constitutions of Othobon, the bishop is required to inquire particularly into the life and conversation [i.e., conduct] of him that is presented.

It is laid down by the highest English authorities that the bishop is not accountable to any temporal court for the measures he takes, or the rules by which he proceeds in examining and judging; only he must examine in convenient time, and refuse in convenient time.

By the ancient laws of the Church, and particularly of the Church of England, the four things in which the Bishop was to have full satisfaction in order to institution were: 1. Age. 2. Learning. 3. Behaviour. 4. Orders (Cripps’ *Law of the Church and Clergy*, p. 566).

By Canon 39, of the Canons of 1603,

No Bishop shall institute any to a benefice who has been ordained by any other Bishop, except he first show unto him his letters of orders, and bring him a sufficient testimony of his former good life and behaviour, if the Bishop require it, and lastly, shall appear upon due examination to be worthy of the ministry.

These citations from the English authorities would seem to be sufficient to show that the right of the bishop in the English Church to be satisfied of the qualifications of a minister presented to him for institution, means something more than that he is to be satisfied that the person has

been ordained; that it must receive a more comprehensive meaning, and that the bishop has a right to be satisfied of the general fitness of the party presented to him.

When the General Convention of 1789 set forth the office of institution, or induction as it was then termed, and enacted a canon requiring induction before a minister could be regularly settled in a parish, and providing that the bishop had a right to be satisfied that such minister was a “qualified Minister,” it intended that the word “qualified” should be used in the same sense, and have the same meaning, that it had in the English Church.

The United States Supreme Court has decided that,

Whenever a legislature uses a term without defining, which is well known in the English law, it must be understood in that sense (*McCoal v. Smith*, 1 *Black, U.S. Rep.*, 459).

Therefore, as the term “qualified Minister” had a well defined and universally understood meaning in the English law, and as the General Convention adopted that term without defining it, the term must be understood in the same sense in which it was used in the English law, and that sense, as we have shown, was the “general fitness” of the minister in question.

If the bishop has the right to make such inquiry as shall satisfy him that the minister is a qualified minister, before instituting him as rector of a parish, it is obvious that he must have the same right to make such inquiries and be satisfied that the minister elected to a parish is a qualified minister, before it can be made his duty to receive him, and consent to his election as rector of a parish within his jurisdiction.

No other construction of this section of the canon we are considering is consistent with “the tenet of an Apostolic Episcopacy, or with the cardinal principles of the Catholic Church,” recognized as such by the Church of England, and the Church in America, that the bishop, *virtute officii*, is the source of diocesan authority.

The question next arises, is this authority and right of a bishop to be satisfied of the general fitness of the minister elected to a parish in his diocese, recognized by Canon III.23.3, restricted or taken away by Canon III.21, Section 6 (d), which makes it the duty of the bishop to whom letters dimissory are presented by a minister from another diocese, elected to the rectorship of a parish within his diocese, to accept such letters within three months, unless the bishop should have heard rumors against the character of the minister concerned?

We think not. The two canons do not refer to the same question, nor do we think it was the intention of the Church that they should. Canon III.23 refers to the consent of the bishop to the election of a minister as rector of a parish, and recognizes his right to be satisfied of the qualifications of such minister before giving his consent thereto. When his consent has been given to such election, the election is completed, and a legal call may then be transmitted by the vestry to the minister elected.

Canon III.21 has no relation to the election of a minister; it clearly refers to a minister who already has been duly elected to the rectorship of a parish, and to the proceedings after the election of a minister, and such election consented to by the bishop. It does not make it the duty of a bishop to accept the letters dimissory of every minister who may present such letters, only of a minister "who has been duly called to a Cure in a Parish."

Section 6 (d) of Canon III.21 is clearly supplemental to Section 3 of Canon III.23, and declaratory of the rights of a minister who has been duly elected, and his election consented to by the bishop in accordance with the provisions of the canon.

Canon III.23, Section 3 is declaratory of the right of the bishop, after he has received notice of the election of a minister to a parish within his jurisdiction, to be satisfied of the qualifications of such minister before giving his consent to such election. Canon III.21.6(d) is declaratory of the right of such minister, called with the consent of the bishop, to the rectorship of a parish, and having accepted such call, to have his letters dimissory accepted by the bishop.

This would seem to be the logical interpretation of the two sections of Canons III.21 and 23 under consideration, because:

First: It is the only interpretation that will bring the two canons into harmony with each other.

The universal rule of construction recognized by our courts has been well declared by the United States Supreme Court, as follows:

That construction is favored which gives effect to every clause and every part of the Statute, thus producing a consistent and harmonious whole. A construction which would leave without effect any part of the language used should be rejected if an interpretation can be found which will give it effect (*The Elizabeth*, 1 *Paine*, U.S. 10).

Second: It is the only interpretation that is consistent with the general principles of ecclesiastical law, and the polity of the Church, which, it is to be presumed, the General Convention did not intend to disregard or change.

Probably it will not be seriously controverted that originally, under the common law of the Church, the bishop possessed the right to be satisfied of the qualifications of a minister before receiving him into his diocese, that it was a right inherent in his office, and therefore a right which he still possesses unless it has been taken away by some enactment of the Church. Is Canon III.21.6(d) such an enactment? We doubt if it will seriously be contended that this enactment of the General Convention expressly takes from him this common law and inherent right of the bishop. It may be said that, in enacting Canon III.21.6(d), the General Convention intended to take it away, and to restrict the meaning of the words “qualified Minister” to an “ordained Minister,” but implication, and the supposed intention of a legislative body, are not sufficient to abrogate or restrict a common law right. It is a well established rule of construction that statutes passed in derogation of the common law must be strictly construed, and that they cannot be extended by implication beyond the clear import of the words used. The rule is well stated in the *American and English Encyclopedia of Law* (Vol. XXIII, p. 387):

The common law will be held to be no further abrogated than is expressly declared, or the clear import of the language used absolutely requires.

Furthermore, this right of a bishop to be satisfied of the general fitness of a minister before receiving him into his diocese, is a right inherent in his office. This inherent right cannot well be questioned. The courts have universally ruled that a statute ought never to be so constructed as to divest an officer of a right inherent in his office, if it be susceptible of any reasonable construction. This rule is well stated by the United States Supreme Court in the case of *United States v. Bassett* (2 *Story’s Rep.* 389):

Where an act is restrictive of the right of an officer, the general rule of interpretation is to give effect to the restriction and limitation, only so far as the legislature has clearly and positively spoken, since it is in derogation of private rights otherwise vested in the incumbent in office.

The interpretation of the canons herein contended for, that Section 6(d) of Canon III.21 in no way restricts the right, recognized in Canon III.23.3, of the bishop to be satisfied of the qualifications of a minister elected to the rectorship of a parish in his jurisdiction, before giving his consent to such election; that such consent is necessary to complete the said election, before a valid “call” can be issued by a vestry to such minister; and that the provisions of Section 6(d) of Canon III.21, making it the duty of the bishop to accept the letters dimissory of a minister “called to a Cure in a Parish or Congregation” in his diocese, do not apply to the case of a minister presenting such letters who has been

“called” by a vestry without the consent of the bishop to the issuing of such call, is fully sustained by the decisions of the Supreme Court of the State of New York in the case of *The Rector et al. of St. James’ Church, etc., v. Huntington, etc.* (82 Hun., 125).

From the statement of the case, it appears that a Rev. Mr. Brockaway, canonically connected with another diocese, was elected Rector of St. James’ Church, Syracuse, in the Diocese of Central New York, by the vestry thereof, and a call to the rectorship of that parish transmitted to him by the vestry. This “call” was accepted by the Rev. Mr. Brockaway three days later. On the same day that the “call” was accepted by Mr. Brockaway, the vestry notified the bishop of the said election. The Rev. Mr. Brockaway then procured a letter dimissory from his bishop, dated three days after his said acceptance, and delivered the same to the Bishop of Central New York the next day. The bishop declined to accept the said letter dimissory, and returned it to the bishop issuing it. So far as the case shows, there were no rumors affecting the character of the Rev. Mr. Brockaway, nor did the bishop allege that there were any, when he returned the letter to the bishop who issued it.

At the end of six months, as then provided by canon, the Bishop of Central New York was requested to give to the Rev. Mr. Brockaway the certificate of transfer provided for in Canon III.21, Section 6(e), which request was refused.

Later, the Bishop of Central New York caused an order to be issued on the Rev. Mr. Brockaway, inhibiting him from officiating in that diocese.

The case also shows that the bishop objected to the election of Mr. Brockaway as Rector of St. James’ Church, and so notified the vestry of that church, refusing to give his consent thereto.

The relief asked for by the complainants was, substantially, that the bishop be compelled to accept his letter dimissory, and to give Mr. Brockaway a certificate of transfer; also, that the order of inhibition be set aside as null and void, and that the bishop be restrained from interfering with the carrying out of the contract between the Rev. Mr. Brockaway and the vestry of St. James’ Church.

The answer of the bishop denied most of the material allegations of the complaint, and in substance alleged that the acts and conduct of the bishop had been in entire conformity and in accordance with the rules and canons of the Church.

The court, in delivering its opinion, said, in part, as follows:

The plaintiffs claim that the defendant should be compelled to give a certificate of transfer in accordance with the Canon on the subject, and that the order of inhibition should be set aside as not justified by the canonical provision. So that, in effect, the action is to compel the observance by defendant of the Canons of the Church, so far as they may affect the right or power of the plaintiff Brockaway to carry out his contract with other plaintiffs....

The theory of the action is that the plaintiffs need something more than they now have in order to make and consummate a complete and operative contract.... The right of Brockaway to be transferred to the Diocese of Central New York was simply an Ecclesiastical right, based on no contract, but on the Canons of the Church.

Have we any right to order the specific performance of the Canon or supervise the action of the proper officer under it? The weight of authority is, I think, against it. But, assuming that the plaintiffs have a civil right that may be considered here, the order of inhibition is in their way. This order was issued by the officer who, under the Canon applicable thereto, had the right and power to issue such an order. He had, as Bishop, jurisdiction of the subject matter, and Brockaway, the person to whom it was directed, was within his Diocese seeking from him recognition. Brockaway had submitted to him his "Letter Dimissory," and this had been returned to the Bishop who gave it, and the defendant had refused to give him a certificate of transfer....

It seems to me very clear that the defendant had jurisdiction to make the order, and if so, under the law as laid down in the *Connitt and Walker* cases, we have no right to consider the merits and determine whether there was just cause for the order. It being valid and binding on the parties and not reviewable here, the plaintiffs are not in a position here to ask the Court for relief. They cannot ask this Court to aid them in completing their contract, when one of the parties to it is not qualified to enter into it, according to Canons and rules that bind both parties.

The plaintiff Brockaway voluntarily entered the ministry of the Episcopal Church and thereby became subject to the rules and Canons of that Church. In case of any dissatisfaction with the manner in which the Ecclesiastical affairs of the Church were administered, he took the benefit or burden of whatever remedies were provided within the Church.

The words "duly qualified Minister" were construed by the Court of Appeals of New York, in the case before cited, *Fiske vs. Beatty*, in which it had been stated at special term:

The defendants claim that the words "duly qualified Minister" refer only to one who has been ordained. If this were the true construction, then it would not be necessary for the Bishop to act. It would be necessary only to file the certificate of election with the Secretary, who would have the record of the ordained Ministers and by reference to such record, he could at once determine the due qualifications of the Minister. The transmission of the notice to the Bishop and by the Bishop to the Secretary would be a useless ministerial procedure. The words "duly qualified" mean more than "duly ordained." They imply *qualifications to preside over the worship and spiritual jurisdiction of the parish*....

Beatty was not duly qualified to administer this particular Parish. It must be held, therefore, that the Bishop had it within his power to pass upon such qualifications and

record or not record such election, hence the necessity of complying with the provisions of General Canon 19, Sec. 3, by securing the approval of the Bishop to the election of a Rector.

This case was appealed to the Appellate Division, third department, of the Supreme Court, and that court, in its decision rendered in September, 1923, affirmed the opinion of the court below as follows:

White, in his book on Church Law, says: "The term *qualified*, must, as Judge Hoffman maintains, receive a more comprehensive meaning than merely that he has been ordained; it must be taken to mean that the Bishop is to be satisfied of the *general fitness* of the Minister elected, both morally and intellectually, before he can be compelled to transmit the certificate of the Wardens, as to the election of such Minister, to the Secretary of the Convention for record, and thus complete such election to a Parish under his jurisdiction." This construction finds support in that Office of the Church entitled "Office of Institution of a Minister into a Parish or Church." The first Rubric of the Office provided "The Bishop having received due notice of the election of a Minister into a Parish or Church as prescribed by the Canon concerning the 'Election and Institution of Ministers,' and being satisfied that the 'person chosen is a qualified Minister of this Church,' may proceed to institute him into the Parish." The Letter of Institution is then set forth in the Office. It is in this Letter that the Bishop gives "Our License and Authority to perform the Office of Priest in the Parish of _____." It will also be noted that the License and Authority conferred is the Authority and License of the Bishop and not an Authority expressed to be derived from an election by a Vestry. It would seem to follow that the election of a Rector is not complete until ratified by the Bishop of the Diocese.

The same court further declared:

It is the Bishop of a Diocese who commissions a Priest to a rectorship therein with these words: "We do by these presents give and grant unto you, in whose Learning, Diligence, Sound Doctrine, and Prudence, we do fully confide, our License and Authority to perform the Office of Priest in the Parish of _____." The true doctrine of the Protestant Episcopal Church in America, in relation to the sources of power of a Priest or Rector, as we understand it, is correctly expressed as follows: "In the Church, power does not *ascend* from the congregation or the vestry to the Rector; it *descends* from above to the Bishop and through the Bishop to the subordinate ministry" (White's *Church Law*, ed. 1898, p. 185).

In brief, the construction of Canons III.21 and 23 would seem to be as follows: a vestry, having decided upon the person whom they wish to call as rector of the parish, sends the name of that person to the bishop, who is given not more than thirty days in which to communicate with the vestry in the matter. At the end of thirty days, or as soon as a communication has been received from the bishop, the vestry may proceed to an election. Written notice of such election shall then be sent to the bishop, signed by the churchwardens. If the bishop be satisfied that the person so elected is a duly qualified minister, the vestry may then, but not until then, proceed to issue a call to such minister to become rector of the parish, but if the bishop refuses to give his consent

to such election, no valid call can be made to the minister so elected. Should the vestry persist in issuing a call after the bishop has refused to give consent thereto, the bishop may refuse to receive the letter dimissory of the minister so called.

The foregoing text has been reprinted from the first edition in order to preserve that author's basis for his construction of the canon.

In the second edition, Dr. Dykman agreed completely with Dr. White's conclusion as regards the meaning of "duly qualified." He did not, however, believe that the basis for it was to be found in English ecclesiastical law, from which, in his view, it appeared to be a departure, and evidence that the Convention of 1789 considered that legislation was necessary to repeal what would otherwise have been part of our inherited discipline. In his words:

The American Church took the earliest opportunity to return to older and sounder rules.

Efforts to amend the canon, by substituting a nominating committee of which the bishop would be a member, and reversing the process of presentation inherited in its modified form from the Church of England, have so far failed. A process in existence since the beginning of this Church as a province of the Anglican Communion should not be lightly changed because in some instances it may not have *pro hac vice* achieved satisfactory results.

In several dioceses, bishops have taken the position, from time to time, that if the member of the clergy whom it is proposed to elect is a duly ordained minister against whose character no fault is found, the election must be approved. Such bishops have submitted their canonical authority to the judgment of the vestry's election.



CANON 24. Of Deacons

*Subject to
Ecclesiastical
Authority.*

Sec. 1. Every Deacon shall be subject to the direction of the Bishop of the jurisdiction for which he has been ordained, or, if there be no Bishop, to that of the Clerical members of the Standing Committee, acting by their President, until he is canonically transferred to some other jurisdiction. He shall officiate in such places only as the Bishop, or the Clerical members of the Standing Committee, as the case may be, may designate. He shall not accept any appointment for work outside the jurisdiction to which he canonically belongs without the written consent both of his own Bishop and of the Bishop in whose jurisdiction he desires to minister.

*Not to be
Rector of a
Parish or
Chaplain in
Armed
Forces.*

Sec. 2 (a). No Deacon shall be a Rector of a Parish or Congregation, nor be permitted to accept a Chaplaincy in the Armed Forces of the United States.

*To act under
direction of
the Rector.*

(b). A Deacon ministering in a Parish or Congregation under the charge of a Priest, shall act under the direction of such Priest in all his ministrations.

*If there is no
Rector, to
act under
direction of
a Priest.*

(c). A Deacon ministering in a Parish or Congregation not under the charge of a Priest, shall, if not under the immediate direction of the Bishop, be placed under the authority of some neighboring Priest, by whose direction, in Subordination to the Bishop, he shall in all things be governed.

*Not to be
transferred
until
examination
be passed.*

Sec. 3. No Deacon who shall not have passed the examinations prescribed in Canon III.5, Sec. 1, shall be transferred to another jurisdiction without the written request of the Ecclesiastical Authority of the same.

Deacon transferring to another Diocese. Sec. 4. In case of a Deacon desiring to be transferred from one jurisdiction to another, the Ecclesiastical Authority of the former jurisdiction must state in the Letters Dimissory the exact standing of the Deacon as regards examinations passed or dispensations received; also the dates of his birth, admission as a Candidate, and ordination.



This canon was Title I, Canon 6, in 1859. It became Canon 16 in 1904, Canon 47 in 1943, and Title III, Canon 23, in 1970.

While there had been deacons in the American Church from its beginning, no canon was enacted regarding them until 1808.

Convention of 1808

This Convention enacted Canon 13, reading as follows:

Every Deacon shall be subject to the regulation of the Bishop or ecclesiastical authority of the Diocese for which he was ordained, unless he receive letters dimissory therefrom to the Bishop or ecclesiastical authority of some other Diocese; and he shall officiate in such places as the Bishop or ecclesiastical authority to which he is subject may direct.

Dr. Hawks tells us (*Constitution and Canons*, p. 208) that a deacon, who had actually accepted an invitation to an important place outside of his diocese, and had made all preparations for going, was prevented by the refusal of his bishop to give him letters dimissory. He gave as one of his reasons for refusal to give him the letters, that he wanted the services of the deacon in his own diocese. As the canon sustained the bishop, the deacon submitted to his authority.

Convention of 1832

The next canon on this subject was Canon 17 of 1832, which amended the former canon by striking the words "or ecclesiastical authority" in the opening clause, and inserting in place thereof the words "or if there be no Bishop, of the Clerical Members of the Standing Committee." Also, by inserting after the word "diocese" the words, "and be thereupon received as a Clergyman of such other Diocese."

Convention of 1844

This Convention enacted Canon 6, "Of a Discretion to be allowed in the Calling, Trial, and Examination of Deacons in certain cases."

The first section of this canon related to the examination and admission of deacons who had not fulfilled the requirements contained in the

canons for ordination to the diaconate in ordinary cases, and has already been considered under Canon III.8.

Sections 2, 3, and 4 read as follows:

Sec. 2. A Deacon ordained under this Canon shall not be allowed to take charge of a Parish,

Sec. 3. In every Parish in which a Deacon, ordained under this Canon, shall officiate, he shall be subject to the direction of the Rector of the Parish, so long as therein resident, and officiating with the approbation of the Bishop.

Sec. 4. A Deacon ordained under this Canon shall not be transferable to another Diocese without the request of the Bishop to whom he is to be transferred, given in writing to the Bishop to whose jurisdiction he belongs.

This canon became Canon 5 in 1847.

Convention of 1853

This Convention repealed Canon 5 of 1847, and enacted in place thereof Sections 3 and 4 of Canon 5, of that year, reading as follows:

Sec. 3. No Deacon shall be settled over a Parish or Congregation until he shall have satisfactorily passed the three examinations prescribed in the Canon "Of the Preparatory Exercises of a Candidate for Priest's Orders"; he shall not officiate in any Parish or Congregation, without the express consent of the Rector for the time being, where there is a Rector; nor, in any case, without the assent of the Bishop: and when officiating in the Parish or Congregation of a Rector, he shall be entirely subject to the direction of such Rector in all his ministrations.

Sec. 4. No Deacon who shall not have passed the examination prescribed in the Canon "Of the Preparatory Exercises of a Candidate for Priest's Orders," shall be transferred to another Diocese, without the written request of the Bishop to whose jurisdiction he is to be transferred.

Under the former canon, no deacon could be placed in charge of a parish, but under this amended canon, a deacon who had passed his examinations for priest's orders might be placed in charge thereof before his ordination to the priesthood.

Convention of 1856

This Convention repealed Canon 17 of 1832 and Canon 5 of 1853, and enacted in place thereof Canon 4. Sections 3 and 4 of Canon 5, as above noted, were made Sections 9 and 10 of said Canon 4, and amended as follows:

Section 9 was amended by striking the words "prescribed in the Canon of the Preparatory Exercises of a Candidate for Priest's Orders," and inserting in place thereof the words "required for Priest's Orders." Section 10 was amended by striking the words "prescribed in the Canon

Of the Preparatory Exercises of a Candidate for Priest's Orders," and inserting in place thereof the words "required for Priest's Orders."

A new section, numbered 11, was added, which read as follows:

Every Deacon shall be subject to the regulations of the Bishop, or, if there be no Bishop, of the Clerical Members of the Standing Committee of the Diocese for which he is ordained, unless he receive letters of dimission therefrom to the Bishop, or Ecclesiastical authority of some other Diocese, and be thereupon received as a Clergyman of such other Diocese; and he shall officiate in such places as the Bishop or the said Clerical Members may direct.

It will be noted that this section was practically the same as former Canon 17 of 1832.

Convention of 1859

This Convention enacted Title I, Canon 6, "Of Deacons," and made Section 11 of former Canon 4, Section 1, and Sections 9 and 10, Sections 2 and 3, respectively, without amendment.

Convention of 1862

This Convention amended Title I, Canon 6, Section 2 (i) to read as follows:

No Deacon shall be settled over a Parish or Congregation, or permitted to accept of a Chaplaincy in the United States Army or Navy, until he shall have satisfactorily passed the three examinations required for Priest's Orders.

The change made in this clause by the amendment was in providing that a deacon who had not passed his canonicals for priest's orders might not serve as a chaplain in the Army or Navy. This amendment was caused by some deacons serving as such chaplains during the War between the States, which was going on while the Convention was in session.

Convention of 1892

Title I, Canon 6 of 1859 was renumbered Canon 8 by the Convention of 1892, and amended as follows:

Section 1 was made to read:

Every Deacon shall be subject to the regulation of the Bishop of the Diocese or Missionary Jurisdiction for which he has been ordained (or, if there be no Bishop, to that of the Clerical Members of the Standing Committee, acting by their President), until he receive letters dimissory therefrom to some other Diocese or Missionary Jurisdiction, and be thereupon accepted as a clergyman by such other Diocese or Missionary Jurisdiction. He shall officiate in such places only as the Bishop (or the Clerical Members of the Standing Committee, as the case may be) may direct.

Section 3 of said Canon 6 was made Section 2, and was amended to read as follows:

No Deacon who shall not have passed the Examinations for Priest's Orders, shall be transferred to another Diocese or Missionary Jurisdiction without the written request of the Ecclesiastical Authority of the said Diocese or Jurisdiction.

Section 2 of said Canon 6 was made Section 3, and amended to read as follows:

(i) No Deacon shall be settled as a Rector over a Parish or Congregation, or permitted, except in time of war, to accept a chaplaincy in the Army or Navy.

(ii) If appointed to minister in a Parish or Congregation of a Presbyter, he shall act under the direction of such Presbyter in all his ministrations.

(iii) If appointed to minister in a Parish or Congregation without a Rector, he shall, if not under the immediate direction of the Bishop, be placed under the authority of some neighboring Presbyter, by whose directions, subordinately to the Bishop, he shall in all things be governed.

Clause (iv) related to the ordination of a deacon, and has already been considered.

Convention of 1904

In the revision of the canons by this Convention, former Canon 8, of Title I, was made Canon 16, with the following amendments:

Section 1 was amended by striking the words

until he receive letters dimissory therefrom to some other Diocese or Missionary Jurisdiction, and be thereupon accepted as a clergyman by such other Diocese or Jurisdiction.

and inserting in place thereof the following:

until he is canonically transferred to some other jurisdiction.

The word "regulation" in the first line was changed to "direction"; also, the word "direct" at the end of the section was changed to "designate."

The words "Missionary Jurisdiction" were changed to "Missionary District" wherever they occur in the canon.

Section 2 was amended by striking the words "examinations for Priest's Orders," and inserting in place thereof the words "examinations prescribed in Canon 6." Also, by striking the words "of the said Diocese or Jurisdiction," at the end thereof, and inserting in their place the words "of the same."

Section 3 was amended to read as follows:

(i) No Deacon shall be Rector of a Parish or Congregation nor be permitted to accept a chaplaincy in the Army or Navy.

(ii) A Deacon ministering in a Parish or Congregation under the charge of a Priest, shall act under the direction of such Priest in all his ministrations.

(iii) A Deacon ministering in a Parish or Congregation not under the charge of a Priest, shall, if not under the immediate direction of the Bishop, be placed under the authority of some neighboring Priest, by whose directions in subordination to the Bishop, he shall in all things be governed.

Clause (iv) was stricken.

Convention of 1907

This Convention amended Section 1 of Canon 16, by adding at the end thereof the following:

He shall not accept any appointment for work outside the Diocese to which he canonically belongs, without the written consent both of his own Bishop and of the Bishop in whose Diocese he desires to minister.

Convention of 1943

In the rearrangement of canons at this Convention, Section 3 of the canon, then numbered Canon 47, became Section 2; Section 2 became Section 3. Section 6 of Canon 5, "Of Examinations for Admission to Holy Orders in Special Cases," was transferred to this canon as Section 4.

Convention of 1958

The canon, now Canon 48, was amended by replacing the words, "Army or Navy" in Section 2 (a), with the words, "Armed Forces of the United States."

Convention of 1970

This Convention enacted a new Canon 50, "Of Women in the Diaconate," the effect of which was to authorize the ordination of women to this order.

Section 5 of the canon, which was made Canon III.26 by this same Convention, provided that such deacons be subject to all the provisions of this canon.

Former Canon 50, "Of Deaconesses," was repealed.

The status of those who had been made deaconesses under the provisions of the repealed canon was then declared, by resolution, to be as follows:

That those made Deaconesses by the laying on of hands, with appropriate prayers, be declared to be within the Diaconate.

Convention of 1973

The present canon, now Canon III.23, was amended by replacing the words "Diocese" and "Missionary District" with the word "jurisdiction."

Convention of 1979

Consequent upon the adoption of new Canon V.2.2, the canon "Of Women in the Diaconate" was repealed as no longer needed, except for Section 7, which was made part of Canon I.7.

The present canon was renumbered Canon III.24.

EXPOSITION OF CANON III.24

Although this canon governs the Church's authority over all deacons, as though "permanent" and "transitional" deacons were the same, in actual practice the Church treats the two types in different ways. Transitional deacons tend to be placed by the bishop in diocesan training programs or in parish settings designed to prepare them for the practical exercise of priesthood in congregations. Their liturgical and pastoral functions cover a wide range of parochial experience. Permanent deacons tend to be deployed in two main areas: as parish deacons, often (but not always) assigned by the bishop to the parish which selected them, or as diocesan deacons, assigned by the bishop to a position within the diocese or to some special service. Permanent deacons function in three main areas: liturgical (service as proclaimers of the Word and ministers at the Lord's Table), pastoral (service to the Church's own people), and social (service to those outside the Church or to society at large). The principal emphasis in the modern diaconate is on social service, symbolized in liturgy.

Both types of deacon, however, share a special relationship with the bishop, that has its roots in ancient times, and which is expressed in the present canon. In the early centuries of the Church, deacons were termed the bishop's angels, or messengers, to convey the idea that deacons were the bishop's helpers in the work of the Church and subject to his direction and control. This has remained the rule of the Church. A deacon has always been subject to the bishop who ordained him or her, and to that bishop's successors; is assigned work by the bishop; and cannot accept work in another diocese without the consent of the bishops of both dioceses. In some dioceses, the bond between bishop and permanent deacon is expressed through a letter of agreement, revised

periodically after discussion and evaluation; and many of the dioceses which have diaconal programs hold conferences at which the deacons gather with their bishop. The bond between the two orders is symbolized liturgically when one or two deacons assist their bishop in the eucharist.

The canon sets forth a few basic lines of authority, stemming from the bishop's oversight of deacons.

A deacon cannot become the rector of a parish or a chaplain in the armed forces. In a parish or congregation under the charge of a priest, a deacon is to act under the direction of the priest. In a parish or congregation not under the charge of a priest, a deacon is to be placed under the authority of some neighboring priest, unless the deacon is under the immediate direction of the bishop. The practice in many dioceses is to place such a deacon under the direction of an archdeacon or a local dean.

A deacon who has not yet passed the examinations for the priesthood (Canon III.5.1) cannot be transferred to another diocese without the written consent of the ecclesiastical authority of the new diocese. This provision affects only a few transitional deacons and almost all permanent deacons. To transfer any deacon to another diocese, the ecclesiastical authority of the former diocese must state in the letters dimissory the deacon's examination results, and dates of birth, admission to candidacy, and ordination.



**CANON 25. Of Persons Not Ministers in this Church
Officiating in any Congregation Thereof**

*No person to
minister in
this Church
unless duly
authorized.*

No Minister in charge of any Congregation of this Church, or, in case of vacancy or absence, no Churchwardens, Vestrymen, or Trustees of the Congregation, shall permit any person to officiate therein, without sufficient evidence of his being duly licensed or ordained to minister in this Church; *Provided*, nothing herein shall be so construed as

(a). To forbid communicants of this Church to act as Lay Readers; or

(b). To prevent the Bishop of any Diocese from giving permission

i. To a Minister of this Church, to invite a Minister of another Church to assist in the Book of Common Prayer Offices of Holy Matrimony or of the Burial of the Dead, or to read Morning or Evening Prayer, in the manner specified in Canon III.26, Sec. 4; or

ii. To a minister of any other Church, to preach the Gospel; or

iii. To godly persons who are not Ministers of this Church, to make addresses in the Church on special occasions.



This canon was Title I, Canon 11, in 1859. It became Canon 19 in 1904, Canon 48 in 1943, and Title III, Canon 25, in 1970.

Convention of 1792

The first legislation of the Church on this subject was by the Convention of 1792, which enacted Canon 5 of that year, as follows:

No stranger shall be permitted to officiate in any congregation of this Church, without first producing the evidences of his being a minister thereof to the minister or, in case of vacancy or absence, to the church wardens, vestrymen, or trustees of the congregation. And in case any person not regularly ordained shall assume the ministerial office, and perform any of the duties thereof in this Church, the minister, or, in case of vacancy or absence, the church wardens, vestrymen, or trustees of the congregation where such offence may be committed, shall cause the name of such person, together with the offence, to be published in as many of the public papers as may be convenient.

While there is no record of such offenses having been committed when this canon was enacted, it is not improbable that they were, as, in the infancy of the Church, it was not possible to prevent the practice of irregularities.

Convention of 1808

Canon 5 of 1792 was made Canon 35 by this Convention, and amended by the substitution of the word "person" for the word "stranger" in the first line thereof.

Convention of 1832

Canon 35, of the Canons of 1808, was made Canon 36, and amended by striking out all of said canon after the words "trustees of the congregation" at the end of the first sentence.

There seemed no necessity to provide by canon that the officers of a parish should advertise a person, not regularly ordained, who attempted to minister in such parish, for in such a case it would be the duty of the bishop to advertise him.

Convention of 1856

This Convention enacted Canon 7, the fifth section of which read as follows:

No minister shall officiate transiently in a vacant Parish, or in one the Rector or Minister of which is sick or absent, unless the Wardens or Vestry are satisfied he is at the time a Minister in good and regular standing. When from another Diocese, letters commendatory from the Ecclesiastical Authority thereof may be required.

Convention of 1859

In the revision of the canons by this Convention, Canon 36, of the Canons of 1832, was made Section 1 of Title I, Canon 11; and Section 5 of Canon 7, of the Canons of 1856, was made Section 2 of the same Canon 11, and without amendment in either case.

Convention of 1868

A memorial was presented to this Convention asking for a repeal of Title I, Canon 11, of the Canons of 1859. The memorial stated that the canon was differently understood and interpreted in the Church. That on the one hand, "it is claimed that it was originally intended to apply only to those who falsely represented themselves as Ministers of this Church. On the other hand it is claimed that it is intended to apply, as well, to Ministers of other Christian bodies. In view of this diversity of interpretation; of the difficulty arising from its lateral application to Lay Readers; of the absence of any necessity, which may formerly have existed, of legislation in reference to those falsely claiming to be Ministers of this Church; of the fact that the Church has sufficiently expressed its mind on the subject of Episcopal Orders in the Preface to the Ordinal; and, finally of the inexpediency of any legislation which can be claimed to apply to a subject in regard to which it has been the wise policy of the Church to allow diversity of opinion, your petitioners would respectfully ask that it may be repealed; and that, thus, by common consent, the subject of the Canon, so far as it relates (if it relates at all) to the question of Episcopal Orders, may be left to the teaching and direction of the Preface to the Ordinal in the Book of Common Prayer."

It was to this same Convention that a memorial was presented from the wardens and vestryman of Holy Trinity Church, New York City, relating to the trial of, and sentence pronounced on, the Rev. Dr. Stephen H. Tyng, Jr., and also a memorial from a large number of the clergy and laity, asking for a construction of Section 6, Canon 12, Title I, which forbade the officiating of ministers of the Church in parishes not their own, without the consent of the minister of the parish.

The memorials all had the same object in view: permission for ministers of this Church to officiate wherever they desired to do so, without any let or hindrance, and particularly, in the memorial recited above, the allowing of ministers of other Christian bodies to preach in the pulpits of ministers of this Church. Both movements were fostered and advanced by what was known as the Evangelical party in the Church. It was for a free and open pulpit, the same object sought to be obtained in the Convention of 1907, and which gave rise to the celebrated "19th Canon controversy" of that day.

The memorial asking for the repeal of Canon 11 was referred to the committee of canons in the House of Deputies. That committee reported, in part, as follows:

The Memorial asks for the repeal of the Canon aforesaid, on the ground that the Canon is differently interpreted in our Church; that it is of difficult application to Lay Readers; and that it is unnecessary and inexpedient. The Committee on Canons are of the opinion that *some* Canon to prevent persons from officiating in this Church who are not Ministers or even members thereof, is highly necessary and expedient; and the necessity of some such prohibition being granted, they doubt whether any words could express it more clearly than those of the present Canon. As to Lay Readers, they have never been regarded as *officiating* in the sense of Canon 11, and their case is provided for in another Canon. The Committee therefore cannot recommend that the prayer of the Memorialists be granted.

The committee did recommend that the title of the canon be changed from "Of Persons not Ministers Officiating" to "Of Persons not Ministers of this Church Officiating in any Congregation Thereof."

Several amendments were offered to the canon, and the whole subject was again referred to the committee, which finally reported the canon as follows:

No Minister in charge of any Congregation of this Church, or, in case of vacancy or absence, no Churchwardens, Vestrymen, or Trustees of the Congregation, shall permit any person to officiate therein without sufficient evidence of his being duly licensed or ordained to minister in this Church.

Canon 11, Title I, Section 1 and 2 is hereby repealed; provided that such repeal shall not affect any case of a violation of said Canon committed before this date, but such case shall be governed by the same law as if no such repeal had taken place.

After a proviso had been added to the first sentence of the proposed canon, it was adopted by the House of Deputies and concurred in by the House of Bishops. The proviso read as follows:

Provided, that nothing herein shall be so construed as to forbid communicants of the Church to act as Lay Readers.

Convention of 1904

In the revision of the Digest of Canons by this Convention, Canon 11 of 1868, renumbered in the meantime as Canon 17, was made Canon 19, and without amendment.

Although the language of the canon seemed to be explicit enough to forbid the officiating in our churches of those who had not been ordained to minister in the Church, the spirit of the canon was being constantly violated, and the impression which seemed to generally prevail was that the canon could be broken with impunity.

In the Convention of 1868, one of the things contended for was the "open pulpit," the right of a minister of this Church to invite into his pulpit whomsoever he wished; nearly forty years later, in the Convention of 1907, the same question was again brought before the General Convention.

Convention of 1907

A resolution was introduced in the House of Deputies in this Convention which read as follows:

Resolved, The House of Bishops concurring, that Canon 19 be amended by adding after the words "Lay Readers," these words:

Or prevent the preaching of sermons or the delivery of addresses by Christian ministers or men who may be invited thereto by any priest in charge of any congregation, or, in his absence, by the Bishop of the Diocese who may license them for that purpose.

This was acknowledged to be a wide open pulpit measure, and its purpose the free exchange of pulpits with ministers of other Christian bodies.

This resolution was referred to the committee on canons, where it received extended consideration. Every member of the committee took part in the discussion of the proposed amendment, and many instances of the most flagrant violation of the canon were stated. While the proposed amendment had little support in the committee, it was felt by the majority of the members that the canon should be so amended as to prevent such violations as were known to the committee to exist, and at the same time to permit of certain liberty in the matter. The committee finally agreed to recommend unanimously the following amendment, to be added at the end of Canon 19, and to read as follows:

or to prevent the minister in charge of any congregation of this Church, when authorized by his Bishop, from permitting a sermon or address therein by any Christian person approved by the Bishop.

The committee on canons in the House of Bishops, to which the message of the House of Deputies containing the proposed amendment to Canon 19, as adopted by that house, was referred, reported in favor of concurrence with the House of Deputies, but amended it to read:

or to prevent the minister in charge of any congregation of this Church, when authorized by his Bishop, from permitting therein, but not as a part of any regular service of the Church, an address by any Christian man confessing the Nicene Creed, who may be approved by the Bishop.

When the report of the committee came before the House of Bishops for consideration, the Bishop of Tennessee moved, as a substitute, the following, which was adopted by the house:

Or to prevent the Bishop of a Diocese or Missionary District from giving permission to Christian men, who are not ministers of this Church, to make addresses in the church on special occasions.

This substitute made clearer the responsibility of the bishops in the matter, and confined the address to be made by persons not ministers

of this Church to men only, and to be made only on special occasions. The House of Deputies refused to concur in the amendment made by the House of Bishops, and the matter went to a committee of conference, which committee reported in favor of concurring with the action of the House of Bishops, and the House of Deputies then so concurred.

Convention of 1940

The canon was renumbered Canon 24, and amended by inserting after the words, "giving permission," the words "to a Minister of any Church with which this Church has entered into a declaration of purpose to achieve organic union to preach the Gospel or..."

This amendment had been proposed by the Joint Committee on Unity, and was related to a declaration of purpose to achieve organic union with the Presbyterian Church in the U.S.A.

The canon was renumbered Canon 48 in 1943.

Convention of 1967

This Convention amended the canon to read as follows:

No Minister in charge of any Congregation of this Church, or, in case of vacancy or absence, no Churchwardens, Vestrymen, or Trustees of the Congregation, shall permit any person to officiate therein, without sufficient evidence of his being duly licensed or ordained to minister in this Church; *Provided*, that nothing herein shall be so construed as to forbid communicants of this Church to act as Lay Readers; or to prevent the Bishop of any Diocese or Missionary District from giving permission to a Minister of this Church to invite a Minister of another Church to assist in the Prayer Book Offices of Holy Matrimony or of the Burial of the Dead; or from giving permission to a Minister of any other Church to preach the Gospel, or to godly persons, who are not Ministers of this Church, to make addresses in the Church, on special occasions.

The provision that the bishop might permit a minister of another Church to assist at weddings and funerals was new.

The permission to invite such a minister to preach the Gospel was extended to "any other Church," and the reference to purposing organic union was deleted.

Addresses in the church on special occasions, which formerly could be made only by "Christian men" could now be made by "godly persons."

Convention of 1969

The canon was amended to read as at present except for a reference to missionary districts which was removed in 1973.

The principal amendment was the addition of permission to invite a minister of another Church to read Morning or Evening Prayer.

EXPOSITION OF CANON III.25

Since 1907, this canon has placed the responsibility for permitting persons other than ministers ordained in this Church to speak in the pulpits of our churches upon the bishops of the Church.

In 1868, the excitement and contention in the Church regarding the "open pulpit" preceded the meeting of the General Convention of that year, and was the cause of the enactment of an amendment to the canon regarding the matter, while in 1907, the excitement and contention in the Church regarding an "open pulpit" followed the meeting of the General Convention of that year, and was the effect of the enactment of an amendment to the canon on the matter of an "open pulpit." Seldom has any action of the General Convention so disturbed the peace of the Church as did the enactment of the amendment to Canon 19 by the Convention of 1907. Professing to believe the Convention had violated the principles laid down in the preface to the Ordinal, and removed all restrictions requiring the Church's commission to teach in the Church's name, a number of the priests of the Church went over to the Church of Rome. The action of these priests, and the excitement in the whole Church regarding the matter, was largely due to an unfortunate misunderstanding of the real meaning and intent of the amendment.

The resolution first introduced into the House of Deputies was, as has been stated, an "open pulpit" resolution. When the House of Deputies adopted the substitute amendment recommended by its committee on canons, the newspapers of Richmond, Virginia, where the Convention was being held, failing to recognize the very material difference between the amendment proposed by the committee on canons, and the one first offered in the House, proclaimed in large headlines, that the Episcopal Church had "let down the bars," as it was expressed, and adopted a canon providing for an open pulpit. These misleading headlines were copied by newspapers all over the country, and the members of the Church thus gained an erroneous impression of what the Convention had done. So intense was the excitement in the Church, created by the misleading statements of the press, that it was not allayed even when the real meaning and purport of the amendment became known. A memorial, signed by over eleven hundred clergymen of the Church, was presented to the House of Bishops, praying the house to so interpret Canon 19 as to assure the Church that the canon did not assume to

permit men who had not received the Church's commission to teach in the Church's name.

The House of Bishops, in the Convention of 1910, unanimously adopted the following reply to the memorialists:

In reply to a Memorial signed by over eleven hundred clergymen, addressed to the House of Bishops, with regard to the amendment to Canon 19, adopted by the General Convention of 1907, the Bishops would assure the memorialists of their sympathy with the anxiety expressed lest the clause in question should be misinterpreted as making light of the importance either of sound teaching in our congregations, in accordance with the Church's received doctrine, or of a commission to teach in the Church's name.

The clause which restricts to the Bishops the right to give permission to those who are not Ministers of this Church to make addresses in any of our Churches on special occasions, was not intended to alter and cannot be fairly interpreted as in the least degree modifying the position of the Church as expressed in the Prayer Book and Ordinal, which restricts the ministry of the Word and Sacraments in our Congregations to men who have received Episcopal ordination.

The Bishops are disposed to regard this declaration as almost unnecessary except as a matter of courtesy and respect to the number and character of the memorialists; since the Canon, as first popularly misnamed and misunderstood as an "Open Pulpit Canon," and perhaps in a few instances misused, is now generally recognized as containing nothing to disturb the order or disquiet the peace of the Church.

This declaration of the bishops had the desired effect. Excitement was allayed, irritation dissipated, and, with few exceptions, the members of the Church were satisfied with the interpretation of the canon as made by the House of Bishops, that there was nothing in the canon "to disturb the order or disquiet the peace of the Church."

A careful reading of the provisions of the canon as amended by the Convention of 1907, and comparing them with the provisions of the former canon on the subject, causes one to wonder how the erroneous construction placed upon these provisions could have been seriously made.

In the 1924 edition of this annotation, Dr. White continued this exposition by comparing the former canon with the 1907 canon in these words:

Under the former canon the whole question of who should officiate in a congregation was in the hands of the minister thereof, or in his absence, or if the parish was vacant, then in the hands of the officers of the parish. The bishop had no voice in the matter whatever. As a result, Jewish rabbis, and even acknowledged agnostics had spoken from the Church's pulpits. It was recognized that a minister had the privilege of inviting whomsoever he pleased to speak from his pulpit.

Under the present canon the matter is taken out of the hands of the minister and the officers of the Church, and put into the hands of the bishops. If a minister desires a person to speak from his pulpit, who has not been episcopally ordained, he must first

secure the bishop's permission, who can only grant it for an address, not in the regular service of the church, but on some special occasion, and by Christian men. While there have been a few individual violations of both the spirit and the letter of the canon by men who are a law unto themselves, such violations have been comparatively few as compared with the number of such violations before the enactment of the amendment to the canon in 1907, and the effect of the canon has been to restrict the teaching from the pulpits of our Church to men who have received the Church's commission so to teach and preach.

Some forty years later, this same canon, the purpose of which was, indeed, "to restrict," began to be used, though in a modest way, as a canon of ecumenical cooperation.

The primary cause of this change was the Second Vatican Council, summoned by Pope John XXIII in 1961. One result of the decisions of this council was an unprecedented change in the climate existing between the Roman Catholic Church and those it began to refer to as "separated brethren."

The sudden willingness of Roman Catholic clergy to preach in Episcopal churches caused the canon to be viewed in a rather different light by the heirs of the Anglo-Catholic movement, who, until then, had long held it in suspicion as a potential device to "protestantize" the Church. Before long, some congregations established in that tradition began to find themselves comfortable with the idea of inviting Protestant ministers also to preach on occasion.

This same period also witnessed the participation of leading Anglican Evangelicals in dialogues with Roman Catholic leaders, and in ecumenical consultations preparing "agreed texts" of frequently used liturgical formularies.

The amendments to the canon made in 1967 are reflective of this new ecumenical spirit, and were concerned with two situations which had frequently presented formidable pastoral problems: weddings and funerals. As a result of the provisions then adopted, ministers of other Churches may now be invited to assist with those services in Episcopal churches. Such ministers may also, under the provision of 1969, officiate at Morning and Evening Prayer in the same manner as a lay reader. They may also be invited to preach the Gospel, and may do so at regular services.

By 1967, moreover, in the light of the Holocaust, it was no longer believable that a rabbi or other member of the Jewish community might not have something of importance to say to a Christian congregation. It is this fact that accounts for the replacement of the words "Christian men" with the words "godly persons" in the provision concerning addresses on special occasions.

The canon as presently constituted does not appear to have given rise to abuse, despite the fact that the bishop's permission is, perhaps, more often assumed than requested. At the same time, there appears to be no desire to return to the kind of situation that existed before 1907. The responsibility in such matters continues to rest where the Convention of 1907 placed it, on the bishops, where, as Dr. White firmly asserted, "it rightly belongs."



CANON 26. Of Lay Readers

License required. Sec. 1. A competent person, ready and desirous to serve the Church in the conduct of public worship stately as a Lay Reader, shall procure a written license from the Bishop or Ecclesiastical Authority of the Diocese of which he is a canonical resident. Where a Presbyter is in charge, his request and recommendation must have been previously signified to the Bishop or Ecclesiastical Authority. Permission shall not be granted a Lay Reader to conduct the service in a Congregation without an ordained Minister, which, in the judgment of the Bishop or Ecclesiastical Authority, is able and has had reasonable opportunity to secure one.

The foregoing shall not be construed as preventing Lay Persons not so licensed, when authorized by the Bishop, from assisting a Presbyter on special occasions in the conduct of public worship. A commissioned officer of the Church Army, by virtue of that commission, is considered as having the authority of a Lay Reader.

Qualifications and requirements. Sec. 2. An applicant for the office of Lay Reader must be regular in participating in the worship of the Church and in receiving the Holy Communion. He must be active in the support of his Mission or Parish. He shall submit to the Bishop or Ecclesiastical Authority a written application stating his age, his reason for seeking the office, evidence of his Baptism and Confirmation, and a statement from his immediate Pastor or, if he has none, from the Vestry of his parish or Committee of the Mission in which he is canonically resident, declaring his fitness for the office.

A Lay Reader assigned pastoral or administrative responsibility in a Congregation without an ordained Minister, other than for a specified event, shall be trained and examined and found competent in the following subjects:

- (a) The Holy Scriptures, contents and background.
- (b) The Book of Common Prayer and Hymnal.
- (c) Church History.
- (d) The Church's Doctrine as set forth in the Creeds and Offices of Instruction.
- (e) The Conduct of Public Worship.
- (f) Use of the voice.
- (g) Parish Administration.
- (h) Appropriate Canons.
- (i) Pastoral Care.

The Bishop may designate a representative or person or board with authority to act in the initial approval of applicants for licensing, and in their training, examination, and certification, for licensing by the Bishop.

*Time limit
and renewal
of license.*

Sec. 3. The license of a Lay Reader shall be granted for a definite period, not to exceed three years, and may be renewed or revoked at any time, at the discretion of the Bishop. Such renewal shall be determined on the basis of the Lay Reader's continuing interest and qualification, as evidenced in an annual written report made by him to the Bishop. Such report shall include comment and endorsement of the local ecclesiastical superior of the Lay Reader.

*Conduct of
services:
Directions
and
restrictions.*

Sec. 4. In all matters relating to the conduct of the service, to the Sermons or Homilies to be read, and to proper dress or attire, the Lay Reader shall conform to the directions of the Member of the Clergy in charge of the Parish, Congregation, or Mission in which he is serving, and, in all cases, to the direction of the Bishop. He shall read only the offices or parts thereof as provided for in the Book of Common Prayer.

He shall not deliver Sermons or addresses of his own composition, unless, after instruction and examination, he be specially licensed thereto by the Bishop.

Sec. 5. A Lay Reader may deliver the Cup at the Holy Communion; *Provided*, that he has been specially licensed thereto by the Bishop. Such special license shall be given

Adminis- only at the request, and upon the recommendation, of the
tration Member of the Clergy in charge of the parish, Congrega-
of Chalice by tion, or Mission in which the Lay Reader is serving. The
Lay Readers license to administer the Chalice shall be issued for a
under special period of time not to exceed one year, and shall be revoca-
license. ble at any time by the Bishop, or by the Minister at whose
request it was granted.

Chalice Provided further, that, under special circumstances, a lay
bearers. person other than a Lay Reader may deliver the cup at the
Holy Communion, with the permission of the Bishop.

Special cases. Sec. 6. A Lay Reader licensed in any Diocese may serve
in a Congregation of another jurisdiction at the invitation
of the Member of the Clergy in charge and with the
consent of the Bishop thereof.

A licensed Lay Reader may serve in a unit of the Armed
Forces with the permission of the Presiding Bishop or his
Episcopal representative.

The Presiding Bishop or his Episcopal representative may
grant a Lay Reader's license to a member of the Armed
Forces for use therein, in accordance with the provisions
of this Canon as they are applicable.



This canon was Title I, Canon 9, when it was adopted in 1871. It became Canon 21 in 1904, Canon 49 in 1943, and Title I, Canon 25, in 1970.

Convention of 1804

The first legislation by General Convention on the subject of lay readers was Canon 10 of 1804, entitled "Respecting Lay Readers," and reading as follows:

No candidate for Holy Orders shall take upon him to perform devotional service in any Church, but by the permission of the Bishop or ecclesiastical authority of the State in which said candidate may wish to perform such service. And it shall be the duty of the Bishop or ecclesiastical authority to limit and confine every such candidate to such part or parts of the Common Prayer Book, to such dress, and to such stations in the Church, as are appropriate only to lay readers: and also to point out what sermons or homilies he shall or may read to his congregation. And a nonconformity, on the part of the candidate to such restrictions, shall be deemed in all cases a disqualification for Holy Orders.

It will be noticed that the canon speaks only of candidates for orders as lay readers, probably for the reason that, at the time when this canon was enacted, only such persons were acting as lay readers in most cases.

The penalty imposed on any lay reader disobeying the provisions of the canon was exceedingly severe, being no less than total disqualification for Holy Orders.

Convention of 1808

This Convention renumbered Canon 10 of 1804 as Canon 19, and amended it to read as follows:

No candidate for Holy Orders shall take upon himself to perform the service of the Church, but by the license of the Bishop or ecclesiastical authority of the diocese or State in which such candidate may wish to perform the service. And such candidate shall submit to all regulations which the Bishop or ecclesiastical authority may prescribe; he shall not use the absolution nor benediction; he shall not use the dress nor the stations which are appropriate to clergymen ministering in the congregation; and shall officiate from the desk only; he shall conform to the directions of the Bishop or ecclesiastical authority, as to the sermons or homilies to be read, nor shall any lay reader deliver sermons of his own composition, nor, except in cases of extraordinary emergency, or very peculiar expediency, perform any part of the service, when a clergyman is present in the congregation.

A non-conformity to this Canon shall be deemed in all cases a disqualification for Holy Orders.

This canon differed from the former canon on the subject as follows:

A lay reader must now procure a license, presumably a written one, from the bishop to exercise his office.

The former canon left it to the bishop to impose such restrictions as he thought proper on the lay reader, while the present canon itself stated these restrictions. The object was to obtain uniformity, and was occasioned by the following case, as stated by Dr. Hawks (*Constitution and Canons*, p. 163).

An individual who had been an Unitarian Minister was desirous of being ordained in the Church, and while a Candidate, officiated in the surplice and gown, at the suggestion of a member of the Standing Committee who was desirous of being guided in the matter of signing the candidate's testimonials by the ability he might exhibit in the performance of public ministerial duty.

Convention of 1832

The Convention of 1832 renumbered Canon 19 of 1808 as Canon 11, and amended it by striking the first sentence and inserting, in place thereof, the following:

No candidate for Holy Orders shall take upon himself to perform the service of the Church, but by a license from the Bishop, or if there be no Bishop, the Clerical Members of the Standing Committee of the Diocese in which such candidate may wish to perform the service.

Also, by striking the words “or ecclesiastical authority” in the two other places where they occurred, and inserting in place thereof the words, “or said Clerical members.”

Also, by striking the last sentence thereof, which imposed the penalty of disqualification for Holy Orders in case of disobedience to the provisions of the canon.

Convention of 1856

This Convention made Canon 11 of 1832 Section 12 of Canon 3, “Of Candidates for Orders,” but without amendment.

Convention of 1859

In the revision of the canons by this Convention, Section 12 of Canon 3 of the Canons of 1856, was made Title I, Canon 3, Section 2, again without amendment.

Convention of 1871

In the revision of the canons or ordination by this Convention, Title I, Canon 3, Section 2 was made Section 4 of the same canon, and amended to read as follows:

- (i) A Candidate for Holy Orders may be licensed by the Bishop to perform the Service of the Church as a Lay Reader in his own Diocese, but in no other.
- (ii) Without such license a Candidate may not take upon himself such functions.
- (iii) With the consent of his own Bishop, a Candidate may receive such license as a Lay Reader, for temporary use, from any other Bishop, for the Diocese of such Bishop only.
- (iv) A Candidate so licensed shall submit to all the regulations which the Bishop licensing him may prescribe.
- (v) He shall be bound to conformity to all the other restrictions and regulations of the Canon “of Lay Readers.”

The provisions of this section clearly applied only to candidates for Holy Orders. It will be noted that, under this section, only a bishop could grant a license to such candidate to act as a lay reader. The power formerly possessed by the clerical members of the standing committee was now taken from them, and no provision seems to have been made for granting licenses as lay readers to candidates where there was no bishop.

This same Convention of 1871 enacted a new canon, to be known as Title I, Canon 9, "Of Lay Readers," to read as follows:

Sec. 1. A Lay Communicant of this Church may receive from the Bishop a written license to conduct the service of the Church in a Congregation convened for public worship, as a Lay Reader.

Sec. 2. (i) Such appointment may be made by the Bishop, of his own motion, for service in any vacant Parish, Congregation, or Mission.

(ii) But where a Rector is in charge, his request and recommendation must have been previously signified to the Bishop.

Sec. 3. (i) The Lay Reader so appointed shall be subject to any regulations prescribed by the Bishop or Ecclesiastical Authority of the Diocese.

(ii) He shall not use the Absolution, nor the Benediction, nor the Offices of the Church, except those for the Burial of the Dead, and for the Visitation of the Sick and of Prisoners; omitting in these last, the Absolution and Benedictions.

(iii) He shall not assume the dress appropriate to Clergymen ministering in the Congregation.

(iv) He shall conform to the direction of the Bishop as to Sermons or Homilies to be read; or, in the absence of such directions, if he is officiating in a Parish or Congregation having a Rector, then of such Rector.

(v) He shall not deliver Sermons of his own composition.

(vi) He shall not, except in case of emergency, or peculiar expediency, perform any part of the Service when a Clergyman is present.

Sec. 4. The license authorized by this Canon may be revoked at the discretion of the Ecclesiastical Authority.

(The "Offices of the Church" referred to in Section 3 (ii) are not the daily offices, which at this period in our history were usually referred to as "services," but the Pastoral Offices of Baptism, Confirmation, Marriage, etc., and the Order for Holy Communion, which was often referred to as the "Communion Office.")

Most of the provisions of former Section 2 of Canon 3, Title I, were retained in this canon, the exception being the striking of the provision giving the clerical members of the standing committee power to issue a lay reader's license where there was no bishop, and all reference to the clerical members of the standing committee.

The new provisions of the canon were as follows:

The lay reader was not to use the offices of the Church, except those for the burial of the dead, and the visitation of the sick and of prisoners. In the absence of any directions of the bishop as to sermons or homilies to be read, he was to follow the directions of the rector of the parish where he was officiating, if there was a rector. No provision was made

for such absence of direction of the bishop where there was no rector, and in such a case it would seem as if the lay reader was to be left to his own judgment in the matter. The ecclesiastical authority was given power to revoke the license of a lay reader at any time, and apparently without giving any reason therefor.

As before stated, under the former canons, only candidates for Holy Orders were apparently eligible to become lay readers, while under this Canon of 1871, any lay communicant of the Church might be licensed a lay reader.

Convention of 1883

This Convention amended former Canon 9, "Of Lay Readers," to read as follows:

Sec. 1. A Lay Communicant of this Church may receive from the Bishop a written license to conduct the services of the Church in a Congregation convened for public worship, as a Lay Reader; but such license shall not be granted for conducting the service in a Congregation without a Minister, which is able, and has had reasonable opportunity, to secure the services of an ordained Minister. Such license may be given by the Bishop, of his own motion, for service in any vacant Parish, Congregation, or Mission; but where a Rector is in charge, his request and recommendation must have been previously signified to the Bishop. Such license must be given for a definite period not longer than one year from its date; but it may be renewed from time to time by the Bishop's endorsement to that effect. The license of any Lay Reader may be revoked at the discretion of the Ecclesiastical Authority.

Sec. 2. A Lay Reader so licensed shall not act as such in any Diocese other than his own, unless he shall have received another license from the Bishop of the Diocese in which he desires to serve. If he be a student in any Theological Seminary, he shall also obtain the permission of the presiding officer of such institution.

Sec. 3. Every Lay Reader shall be subject to such regulations as may be prescribed by the Ecclesiastical Authority. In all matters relating to the conduct of the service, and to the Sermons or Homilies to be read, he shall conform to the directions of the Minister in charge of the Parish, Congregation, or Mission, in which he is serving, or, where there is no Minister in charge, to the directions of the Bishop. He shall not use the Absolution, nor the Benediction, nor the Offices of the Church, except those for the Burial of the Dead, and for Visitation of the Sick and of Prisoners, omitting in these last the Absolution and Benedictions. He shall not deliver Sermons of his own composition; but he may deliver addresses, instructions, and exhortations in vacant Parishes, Congregations, or Missions, if he be specially licensed thereto by the Bishop. He shall not assume the dress appropriate to Clergymen ministering in the Congregation. He shall not without urgent reason read any part of the service, except the Lessons, when a Clergyman is present. This Canon shall not prevent students in any college or seminary from reading such parts of the Chapel services as may be assigned to them from time to time by the Presiding Officer.

As will be noted, the new canon is materially different from the former canon on lay readers. No license was to be given for conducting

the service in a congregation that was able and had reasonable opportunity to secure an ordained minister.

The license to a lay reader must be for a definite time, not longer than one year, but it might be renewed from time to time.

Provision was made that a student in a theological seminary must obtain the permission of the presiding officer thereof before he could act as a lay reader.

While a lay reader might not deliver sermons of his own composition, the effect of this restriction was practically rendered null and void by the permission to deliver "addresses, instructions, and exhortations," with the special license of the bishop.

He also was now permitted to read the lessons in the service when a clergyman was present.

Convention of 1886

Memorials were presented from the Diocese of Kentucky, and from the Missionary Districts of Colorado, Oregon, and Washington, to this Convention, praying for such amendments to the canon "Of Lay Readers" as would revive the order of readers, "which was used in the early Church, and is being used with excellent results in many parts of the Anglican Communion." The general purport of the several memorials was to secure the removal of certain restrictions which the canon placed upon lay readers, so that use of their services might become more general.

In the House of Deputies, these memorials were referred to the committee on canons, which reported that, "The present Canon covers all the legislation at present expedient in the premises," and asked to be discharged from further consideration of the subject which was granted by the House.

In the House of Bishops, the same action was taken regarding the memorials, but the house adopted an amendment to Title I, Canon 9, Section 3, inserting the words "as a catechist" after the word "exhortations" in the fourth sentence, and striking out the sixth sentence.

These amendments were concurred in by the House of Deputies which also, however, struck out the last sentence; with which the House of Bishops concurred.

The sentences deleted related to the permission given a lay reader to read lessons in the presence of a clergyman and the provision allowing students in colleges and seminaries to read portions of the chapel service.

Convention of 1904

This Convention renumbered the canon as Canon 21, and amended it to read as follows:

A competent person ready and desirous to serve the Church in the public services statedly as a Lay Reader must procure from the Bishop or Ecclesiastical Authority of the Diocese or Missionary District a written license. Such license shall not be granted to any but a male communicant of this Church, and must be given for a definite period, not longer than one year, but may be renewed from time to time, or revoked at any time. Such license may be given for any vacant Parish or Mission, or for a Congregation without a Minister, but where a Presbyterian is in charge, his request and recommendation must have been previously signified to the Ecclesiastical Authority. A license shall not be granted for conducting the service in a Congregation without a Minister, which is able and has had reasonable opportunity to secure the services of an ordained Minister. If the Lay Reader be a student in any Theological Seminary, he shall also, before acting as such, obtain the permission of the presiding officer of such institution and of his own Bishop.

Sec. 2. A Lay Reader shall be subject to the regulations prescribed by the Ecclesiastical Authority, and shall not serve in any Diocese other than that in which he is licensed, unless he shall have received a license from the Bishop of the Diocese in which he desires to serve.

Sec. 3. In all matters relating to the conduct of the service, and to the Sermons or Homilies to be read, he shall conform to the directions of the Minister in charge of the Parish, Congregation, or Mission in which he is serving, and, in all cases, to the directions of the Bishop. He shall read only the Morning and Evening Prayer (omitting the Absolution), the Litany, and the Office for the Burial of the Dead. He shall not deliver sermons or addresses of his own composition, unless, after instruction and examination, he be specially licensed thereto for urgent needs by the Bishop. He shall not wear the dress appropriate to Clergymen ministering in the Congregation.

The principal changes made by this Convention were as follows:

It was provided that a lay reader's license should be granted only to a male communicant.

While formerly, only the bishop of a diocese could grant a license to a lay reader, the standing committee, when acting as the ecclesiastical authority, might now grant such a license.

If the lay reader be a student in a theological seminary, he must obtain the permission of his own bishop, as well as the permission of the presiding officer of that institution.

The former canon prescribed the offices of the Church which a lay reader was not to use; this canon prescribed the portions of the service of the Church which he might read.

He might now deliver sermons and addresses of his own composition, if, after instruction and examination, he be specially licensed thereto for urgent needs by the bishop.

The provisions of the former canon, that he might “deliver addresses, instructions, and exhortations as a catechist in vacant Parishes and Missions, if specially licensed thereto by the Bishop,” were stricken.

This Convention also struck Section 4 of Canon 3, Title I, providing for the licensing of candidates for Holy Orders as lay readers, thus combining all the provisions of the canons concerning lay readers in one canon.

Convention of 1925

The Joint Commission on the Licensing of Women as Lay Readers reported in favor of this step and proposed an addition to the canon as follows:

Sec. 4. Women who are communicants of this Church and are fitted by education, training and character, may be appointed as Readers by the Bishop of the Diocese or Missionary District, to act in his jurisdiction upon the request of the Rector of the Parish or of the officer or officers of the Diocese or District having charge of missionary work therein with authority, under their direction to read Prayers and give instruction on special occasions, or to form classes affiliated with the Diocese or Parish. In every case the Bishop shall determine the conditions and manner under which the work of such women in his jurisdiction shall be done.

In the House of Deputies, the report was referred to the committee on canons which reported favorably, and the amendment was adopted.

On receipt of the message informing it of the adoption of the resolution, the House of Bishops instructed its secretary to inform the House of Deputies that, having considered the subject prior to receipt of the message and acted adversely, it would take no action on the message.

Here, the House of Bishops was the conservative branch of the legislature.

Convention of 1931

An amendment was presented which would have added a new section reading as follows:

Sec. 4. At the request of a Parish Priest, acting with the advice of his Vestry, the Bishop may license a Lay Reader to pass the Chalice in the administration of the Holy Communion.

The resolution having been, referred to the committee on canons, the committee, at its request, was discharged from consideration.

Convention of 1934

In the House of Bishops, a committee of three, appointed at the special meeting of the house in 1933 to consider the advisability of amending

the canons so as to allow the licensing of lay readers to administer the cup at Holy Communion, reported that, in its opinion, the matter should receive much more general consideration before action by the Convention. The committee presented a resolution, in which both houses concurred, as follows:

Resolved, That the proposed amendment aforesaid be referred to the Synods of the various Provinces with the request that they give this whole subject serious consideration and report their findings at the next General Convention.

Convention of 1937

Memorials on the subject of lay administration of the cup at Holy Communion, some favorable and some in opposition, were presented. In each house the committee on canons was, at its request, discharged from further consideration after reference.

Convention of 1940

The canon was renumbered Canon 27.

A resolution was introduced in the House of Deputies, amending the canon to allow lay administration of the cup at Holy Communion. The committee on canons, having reported the amendment as inexpedient, was discharged from further consideration, and a motion to reconsider was lost.

Convention of 1946

The canon was renumbered Canon 50, and Section 3 was amended by inserting the words "the Offices of Instruction."

The Joint Commission on the Perpetual Diaconate and Ministry for Laymen recommended the creation of a permanent diaconate (see Title III, Canon 10, above), and presented an amendment allowing a properly qualified layman to administer the cup at Holy Communion.

In the House of Deputies, the committee on the Prayer Book reported the amendment favorably, but on a vote by orders the house did not concur.

A similar amendment was defeated in the Convention of 1949.

Convention of 1952

This Convention amended Section 3 by substituting, for the second sentence, the following:

He shall read only the following offices, or parts thereof, and shall observe the limitations mentioned:

- (1) Morning and Evening Prayer, omitting the Absolution, and making no substitution for it;
- (2) the Litany;
- (3) The Penitential Office;
- (4) The Offices of Instruction;
- (5) In the Order for Holy Communion, the Epistle only;
- (6) The Burial Offices; substituting for the priestly blessing the concluding prayer at the end of the Shorter Form for Family Prayer at Evening; substituting for the priestly blessing at the grave the final prayer at the end of the Shorter Form for Family Prayer at Morning; and substituting for the priestly blessing at the Burial of a Child the concluding prayer at the end of the Shorter Form for Family Prayer at Evening.

The following resolution was adopted in the House of Bishops:

Resolved, The House of Deputies concurring, That a new Section, to be numbered 4, be added to Canon 50, to read as follows:

“When additional assistance is required in the administration of the Holy Communion, a Rector or priest-in-charge of a Parish may request the Bishop, in writing, to license a mature, male communicant of the Parish to administer the Chalice. Before requesting such license the Minister shall certify to the Bishop that the person chosen has been duly instructed. The written consent of the Vestry specifically naming the communicant to be so licensed and commissioned must accompany the written request of the Priest. Before the layman may so serve, he must be commissioned by the Bishop in a service specifically designed for this purpose, The granting of such license and such commissioning by the Bishop shall be entirely at his discretion and shall always be in writing and for a specifically designated service or services.”

This resolution, like that introduced in 1946 and 1949, did not specify that the lay person to be so licensed must be a lay reader.

In the House of Deputies, the resolution was defeated in both orders.

The identical resolution was tabled by the Conventions of 1955 and 1958.

Convention of 1955

The first sentence of Section 1 was amended to read as follows:

A competent person ready and desirous to serve the Church in the public services statedly as a Lay Reader must procure a written license from the Bishop or Ecclesiastical Authority of the Diocese or Missionary District of which he is a canonical resident.

Convention of 1961

On the recommendation of the General Division of Laymen’s Work, the canon was substantively amended.

Section 1 read as follows:

A competent male person, ready and desirous to serve the Church in the conduct of public worship stately as a Lay Reader, shall procure a written license from the Bishop or Ecclesiastical Authority of the Diocese or Missionary District of which he is a canonical resident. Where a Presbyter is in charge, his request and recommendation must have been previously signified to the Bishop or Ecclesiastical Authority. Permission shall not be granted a Lay Reader to conduct the service in a congregation without an ordained Minister which, in the judgment of the Bishop or Ecclesiastical Authority, is able and has had reasonable opportunity to secure one.

The foregoing shall not be construed as preventing lay persons not so licensed, when authorized by the Bishop, from assisting a Presbyter on special occasions in the conduct of public worship in his own parish or mission. In isolated areas, when no ordained clergyman or male layreader is available, the Bishop may license a competent woman as layreader. A commissioned officer of the Church Army, by virtue of that commission, is considered as having the authority of a layreader.

Section 2 read as at present.

Sections 3 through 5 were as follows:

Sec. 3. The license of a Lay Reader shall be granted for a definite period, not to exceed one year, and may be renewed from time to time, at the discretion of the Bishop. Such renewal shall be determined on the basis of the Lay Reader's continuing interest and qualification as evidenced in an annual written report made by him to the Bishop. Such report shall include comment and endorsement of the local ecclesiastical superior of the Lay Reader.

The license of a Lay Reader may be revoked by the Bishop at any time.

Sec. 4. In all matters relating to the conduct of the service, to the Sermons or Homilies to be read, and to proper dress or attire, the Lay Reader shall conform to the directions of the Clergyman in Charge of the Parish, Congregation, or Mission in which he is serving, and, in all cases, to the direction of the Bishop. He shall read only the following offices, or parts thereof, and shall observe the limitations specified:

- (1) Morning and Evening Prayer, omitting the Absolution, and making no substitution for it;
- (2) The Litany;
- (3) The Penitential Office;
- (4) The Offices of Instruction;
- (5) In the Order for Holy Communion, The Epistle only;
- (6) The Burial Offices; substituting for the priestly blessing the concluding prayer at the end of the Shorter Form for Family Prayer at Evening; substituting for the priestly blessing at the grave the final prayer at the end of the Shorter Form for Family Prayer at Morning; and substituting for the priestly blessing at the Burial of a Child the concluding prayer at the end of the Shorter Form for Family Prayer at Evening.

He shall not deliver sermons or addresses of his own composition, unless, after instruction and examination, he be specially licensed thereto by the Bishop.

Sec. 5. A Lay Reader licensed in any Diocese or Missionary District may serve in a congregation of another jurisdiction at the invitation of the clergyman in charge and with the consent of the Bishop thereof.

A licensed Lay Reader may serve in a unit of the Armed Forces with the permission of the Presiding Bishop or his Episcopal representative.

The Presiding Bishop or his Episcopal representative may grant a Lay Reader's license to a member of the Armed Forces for use therein, in accordance with the provisions of this canon as they are applicable.

The principal changes made by this Convention were as follows:

For the first time, it was recognized that a person not a lay reader might assist at public worship on "special occasions."

Women might be admitted as lay readers, but only when a clergyman or a male lay reader was not available and only in "isolated areas."

Commissioned officers of the Church Army were recognized as having the authority of lay readers.

No mention is made of the licensing of theological students as lay readers.

The provisions of Section 2 were wholly new. In addition to setting standards and specifying procedures, the section introduced a distinction between lay readers whose function was entirely liturgical and those who, in addition, were to assume pastoral and administrative responsibility in a congregation without an ordained minister. The latter are to be trained and examined in specified subjects.

The requirement of an annual report in Section 3 was new.

Section 4 was substantially the same as former Section 3.

Section 5 was new.

This Convention also considered a memorial to permit lay administration of the chalice which, again, was defeated in both orders in the House of Deputies.

Convention of 1964

At this Convention, memorials to permit lay administration of the chalice got no further than the committees on the Prayer Book of the two houses, at whose request they were "dismissed from further consideration of the matter."

Convention of 1967

This Convention adopted a new Section 5, reading as follows:

A Lay Reader may deliver the Cup at the Holy Communion; *Provided*, that he has been specially licensed thereto by the Bishop. Such special license shall be given only at the request, and upon the recommendation, of the Clergyman in charge of the Parish,

Congregation, or Mission in which the Lay Reader is serving. The license to administer the Chalice shall be issued for a period of time not to exceed one year, and shall be revocable at any time by the Bishop, or by the Minister at whose request it was granted.

Former Section 5 was made Section 6.

Special Convention of 1969

Section 1 of the canon was amended by striking the word “male” in the first sentence and by amending the remainder of the section to read as at present.

The effect was to authorize the licensing of women as lay readers on the same basis as men.

Convention of 1973

The canon, now Canon III.25, was amended by deleting the references to missionary districts as no longer needed.

Convention of 1976

A second proviso was added to Section 5, permitting, under special circumstances, that a lay person other than a lay reader might administer the chalice.

Convention of 1979

Section 3 of the canon was amended to read as at present.

The effect was to raise the length of the period for which a lay reader’s license might be granted from one year to up to three years.

Section 4 was also amended to its present wording.

The purpose of this amendment was to bring the canon into conformity with the Book of Common Prayer as adopted by this Convention. Since this Prayer Book specifies, in its rubrics, the services and parts of services that may be led by a lay reader, the detailed list formerly included in the canon was no longer needed.

Throughout the canon, the word “clergyman” was replaced by the words “member of the clergy.”

EXPOSITION OF CANON III.26

This canon provides for the licensing of lay readers and, when appropriate, for the licensing of lay persons to preach, and to assist in the distribution of Holy Communion.

The office of lay reader, as it emerged in Anglicanism, is not the same as, nor should it be confused with, the office of *lector* (reader) as it existed in the early Church, as it has continued to exist in the Eastern Churches, or as it now exists in the Roman Catholic Church in consequence of its revival after the Second Vatican Council. Historically, the ministry of the *lector* was to read or chant the appointed lessons from Scripture—and, in some places, to lead the singing of the psalmody between the lessons—at a service presided over by a bishop or priest, and at which deacons, singers, and other ministers fulfilled various functions.

The historic duty of the Anglican lay reader, in contrast, was to lead public worship (primarily the offices of Morning and Evening Prayer) in congregations which lacked the services of an ordained minister.

During the Colonial period, lay reading was practiced from necessity, owing to the scarcity of clergymen, and while it was practiced without the express permission of the Bishop of London, who was the nominal diocesan for the Colonial Church, it would seem clear that he was cognizant of the fact, and there is no instance, so far as we can find, of its being forbidden by him.

If necessity called for it before the Revolution, that necessity was even greater after the Revolution, when the number of the clergy in the States was greatly diminished because of the departure of many of them to other countries during the war, on account of their professed allegiance to the English government.

There is no record of any flagrant abuses on the part of these lay readers, but it was recognized that the practice was liable to abuse, and hence the Canon of 1804 regulating the matter.

Under the early canons, the only persons who could be licensed to perform this function were candidates for Holy Orders. Not until 1871 could other communicants be so licensed, and, even then, it was specifically provided that “except in case of emergency, or peculiar expediency” no lay reader could perform any part of the service when an ordained minister was present.

The Convention of 1883 enacted the provision, still in effect, that no license may be granted for conducting services in a congregation which is able, and has had sufficient opportunity, to secure the services of an ordained minister.

This same Convention also authorized lay readers to read the lessons at Morning and Evening Prayer in the presence of a clergyman. Three

years later, however, faced with memorials requesting the revival of the ancient order of reader (*lector*), the Convention not only refused to revive that order, but withdrew the permission granted by the previous Convention. This remained the state of affairs until the Convention of 1904, at which the restriction against reading parts of the services in the presence of a clergyman was dropped.

From 1871 until 1904, at least as far as the canon was concerned, a woman could have been licensed as a lay reader. The canon as amended in 1904, however, provided that such license should not be granted to any but a male communicant. The first attempt to amend the canon to provide that women might be so licensed was made in 1925, but it was not until 1969 that the canon was amended to provide that women might be licensed on the same basis as men.

Prior to 1904, the canons were negative in their directions and restrictions regarding lay readers; they were told what they could not do. The Canon of 1904 replaced these with positive directions and restrictions. It is important to note that these did not include any part of the Communion service. The services that might be read were Morning and Evening Prayer (omitting the absolution), the Litany, and the Burial of the Dead.

In 1946 and 1952, additions were made to the list of services and parts of services that a lay reader might read, the most important of which was "In the Order for Holy Communion, the Epistle only." This provision was the first step in the recovery of the tradition that lessons other than the liturgical Gospel are properly read by persons who are not ordained.

The Book of Common Prayer adopted in 1979 consciously revived the practice of the early Church whereby various parts of the services are led by different orders of ministers. In its rubrics, certain parts, including those anciently assigned to the lector, are assigned to lay persons appointed by the celebrant. It is not required, or expected, that the persons so assigned be licensed lay readers, though, equally, there is nothing to prevent a lay reader from fulfilling one or more of these functions. (An amendment to the canon, intended to clarify this matter, is being proposed to the Convention of 1982.)

The rubrics of the 1979 Prayer Book also include, for the first time, specific directions for lay readers officiating at services.

The canon, as presently constituted, provides for the licensing of those who are to officiate as lay readers "statedly," that is, on a regular basis, whether at Sunday or weekday services. Such persons must be

“competent” and “ready” to serve the Church in this manner, by which is meant that they possess the skills and information needed to lead the services correctly and effectively.

In the case of lay readers whose functions are to be solely liturgical, no further training is required. All that is needed is that they fulfill the requirements of the first paragraph of Section 2 of the canon, make the annual report required in Section 3, and conform to the requirements of Section 4.

In a congregation without an ordained minister, however, where the lay reader is assigned pastoral and administrative—as well as liturgical—responsibilities, training and examination in specified subject areas is required.

The canon, it should be noted, is concerned only with public worship, and its provisions do not apply to private chapels, or in any way restrict the right of individuals or groups to recite the daily office privately.

The services and parts of services that may be led by a lay reader, which formerly were listed in this canon, are now specified in the Prayer Book. They fall into two groups: those that a lay reader may lead in the presence of ordained ministers, and those they may lead only in the absence of such a minister. In all cases, any limitations given in the rubrics of the services are to be observed.

The services that fall in the former category are the following:

Morning and Evening Prayer
 The Noontday Office and Compline
 An Order of Worship for the Evening
 The Great Litany

The services that a lay reader may lead only in the absence of a bishop, priest, or deacon are these:

The Special Liturgies of Ash Wednesday, Palm Sunday, Good Friday, and the Easter Vigil
 The Burial of the Dead
 The Liturgy of the Word from the Holy Eucharist

By custom, a lay reader presiding at these services does so from the place where he or she would lead Morning Prayer, and not from a special seat reserved for the clergy or from the altar. The lay reader does, however, announce and read the Gospel in the same manner as would a deacon.

Like other lay persons, a lay reader may, subject to the limitations given in the Prayer Book, officiate at the Reconciliation of a Penitent, the Ministration to the Sick, the Ministration at the Time of Death, and at services based on the Catechism.

In the conduct of public worship, and in the reading of sermons, lay readers are to conform to the directions given in Section 4 of the canon. Only if they are specially licensed to do so by the bishop may they deliver sermons of their own composition.

Earlier canons on this subject stated that lay readers “shall not wear the dress appropriate to Clergymen ministering in the Congregation.” The present provision is less specific, but it is clearly inappropriate for a lay reader to wear the stole, which is described in the Prayer Book (pp. 553-554) as a sign of the ordained ministry, or any other vestment which is exclusively identified with one of the three orders. In the eighteenth and nineteenth centuries, lay readers frequently wore a black academic gown. The present custom is that they vest in a cassock, with a surplice or alb, or in a cassock-alb.

Section 5 of the canon provides that, under certain circumstances, a lay reader may be licensed to deliver the Cup at Holy Communion. The second paragraph of the section provides that persons who are not lay readers may, under “special” circumstances, be permitted to do so.

As the history of this section of the canon indicates, there was considerable ambivalence in the Convention about whether those licensed to minister the Cup should also be required to be lay readers. In a small mission, where a lay reader is the usual leader of worship, and where the ministration of the sacraments is done by a visiting priest, it would seem natural that, on such occasions, the lay reader would assist with the Cup. In many larger churches, however, the Eucharist is the only regular public service. Persons licensed to assist with the Cup in these parishes frequently have no opportunity whatever to function as lay readers, and there does not appear to be any reason to require that they be licensed as such. It should further be pointed out that many persons, who by temperament, and by the esteem in which they are held, would make excellent ministers of communion, are not skilled in, or comfortable with, public reading.

The use of lay persons in this capacity is a modern development, brought about by the vast increase in the frequency of communion by lay people in the second half of the twentieth century. It does not represent a revival of ancient practice. While the early Church had no hesitation about the propriety of lay people (even children when neces-

sary) bringing communion to those shut-in or imprisoned, the distribution of the Elements in the course of the celebration was considered a normative duty and responsibility of the ordained ministry.

This same tradition—of the clergy as the ordinary ministers of the Sacrament—is reflected in the rubric of the Book of Common Prayer (p. 408), where it is stated: “In the absence of sufficient deacons and priests, lay persons licensed by the bishop according to the canon may administer the Chalice.”

In instances where lay ministers of communion also exercise a special ministry to others, especially to the needy and the shut-in, it would be appropriate for congregations to sponsor them for ordination to the diaconate under the provisions of Canon III.10.10.

The remaining sections of this canon are clear and require no exposition.



CANON 27. Of Religious Communities

Religious Community defined. Sec. 1. A Religious Community of this Church is a society of Christians (in communion with the see of Canterbury) who voluntarily commit themselves for life, or a term of years; to holding their possessions in common or in trust; to a celibate life in community; and obedience to their Rule and Constitution.

Official recognition. Sec. 2. To be officially recognized, a Religious Community must have at least six (6) professed members, and must be approved by the Standing Committee on Religious Orders of the House of Bishops and be registered with said Committee.

Bishop Visitor or Protector. Sec. 3. Each Community shall have a Bishop Visitor, or Protector, who shall not of necessity be the Bishop of the Diocese in which the Community is established. If, however, the Bishop Visitor or Protector, is not the Bishop of the Diocese in which the Mother House of the Community is situated, he shall not accept election without the consent of the Bishop of said Diocese. He shall be the guardian of the Constitution of the Community, and shall serve as an arbiter in matters which the Community or its members cannot resolve through its normal processes.

Dispensation from vows. Sec. 4. Any persons under vows in a Religious Order, having exhausted the normal processes of the Community, may petition the Bishop Visitor or Protector for dispensation from those vows. In the event the petitioner is not satisfied with the ruling of the Visitor or Protector on such petition, he may file a petition with the Presiding Bishop of this Church, who shall appoint a Board of three Bishops

to review the petition and the decision thereon, and to make recommendation to the Presiding Bishop, who shall have the highest dispensing power for Religious Communities, and his ruling on the petition shall be final.

Permission to establish a house. Sec. 5. A Religious Community may establish a house in a Diocese only with the permission of the Bishop of the Diocese. This permission once granted shall not be withdrawn by him or any succeeding Bishop.

Provision for legal ownership of property. Sec. 6. The Constitution of every Religious Community shall make provision for the legal ownership and administration of the temporal possessions of the Community and in the event of dissolution of the Community or should it otherwise cease to exist, to provide for the disposition of its assets according to the laws governing non-profit religious organizations in the State wherein the Community is incorporated.

Not regarded as a Parish or Institution of Diocese. Sec. 7. It is recognized that a Religious Community is not a Parish, Mission, Congregation or Institution of the Diocese within the meaning of Title I, Canon 6, Sec. 3, of these Canons, and the provisions thereof shall not apply to Religious Communities.



This canon was Canon 22 when it was adopted in 1913. It became Canon 51 in 1943, and Title III, Canon 27, in 1970.

The revival of religious communities in the Church of England was one of the results of the Oxford Movement in the first half of the nineteenth century. The movement also had its effect on the American Church, where the first such community, a community of women, was established in 1865.

The first attempt to secure canonical recognition for sisterhoods was in a canon proposed to the Convention of 1877, the primary purpose of which was to revive the order of deaconesses.

Convention of 1871

The first step taken in General Convention looking to legislation in regard to deaconesses was in 1871, when the Convention appointed a joint committee to report to the next Convention "on the expediency of reviving in this Church the primitive order of Deaconesses."

Convention of 1874

The joint committee reported a proposed canon to both houses of the Convention of 1874, which Convention referred the matter to another joint committee to report at the following Convention.

Convention of 1877

This joint committee reported to the Convention of 1877, that, in their opinion, it was expedient for the Church to legislate on the work of a deaconess, and submitted a proposed canon on the subject, entitled "Of Deaconesses or Sisters." This proposed canon was adopted by the House of Bishops with slight amendments thereto, but was not concurred in by the House of Deputies. The Convention once more appointed a Joint Committee on Deaconesses and Sisters, to report to the next Convention.

Convention of 1880

This committee reported to the Convention of 1880, that "having come to the conclusion that it is inexpedient, at the present time, to attempt any specific legislation on the subject of Sisterhoods, have confined themselves to the preparation of a Canon 'Of Deaconesses.'" With this report, the committee submitted a proposed canon on the subject, which the House of Deputies adopted. The House of Bishops refused to concur therein, on the ground that the house had sent to the House of Deputies a proposed canon amended by the addition of a section concerning sisterhoods, but which the House of Deputies apparently had not considered.

The subject was then referred to the Convention of 1883, which indefinitely postponed the whole matter.

Convention of 1889

This Convention adopted Canon 10, "Of Deaconesses," which, with amendments made from time to time, remained in effect until the Convention of 1970, which repealed it and enacted in its place a canon "Of Women in the Diaconate."

Commenting on the canon on deaconesses in the 1924 edition of this annotation, Dr. White wrote:

The existence of a canon on deaconesses is due very largely to the efforts of the late Dr. [William Reed] Huntington, who brought the matter before convention after convention until he secured the enactment of a canon on the subject by the Convention of 1889. The results have fully justified the wisdom of such a canon. Deaconesses are now working in various parishes and missions, both at home and abroad, and are of invaluable assistance to the clergy.

(For the text and history of this canon, see the 1954 edition of this annotation, pp. 257-267, the *Journal* of the Convention of 1961, pp. 491-495, and the *Journal* of 1964, pp. 247-248.)

At this same Convention, Bishop Grafton of Fond du Lac offered the following resolution, which was referred to the committee on canons:

Resolved, The House of Deputies concurring,

1. That a Joint Committee be appointed on Deaconesses, Sisterhoods, Societies of Mission Priests and Brotherhoods, consisting of five Bishops and three Presbyters.
2. All such Societies, in order to obtain recognition, shall submit their Constitution and Rules to said Committee for approval; and, without such approval no Presbyter has any authority to receive promises or vows of life-long service.
3. No society, though so approved, shall be allowed to work in any Diocese without the express authority in writing of the Bishop of that Diocese, neither shall work be undertaken in any parish without like authority from the Rector.
4. Before entering on its work of giving approval to any Society, the Committee shall lay before the House of Bishops for its approval, a statement of the principles which shall guide them in their action.

The committee reported as follows:

The Standing Committee on Canons to whom were referred certain resolutions offered by the Bishop of Fond du Lac on the subject of the appointment of a Joint Committee on Deaconesses, Sisterhoods, Societies of Mission Priests, and Brotherhoods, and proposing certain rules and restrictions relating thereto, beg leave to report that they, having already submitted a Canon on Deaconesses, and having received no request from Communities described as above for legislation by this Church, ask to be discharged from further consideration of the subject.

A special committee of five bishops was then appointed to consider the matter of a canon on the subject, and to report to the next Convention.

The committee, though continued by succeeding Conventions, does not appear ever to have reported, and disappears from the list of committees in 1901.

Convention of 1910

The Presiding Bishop presented to the House of Bishops a resolution of the Lambeth Conference on the relation of religious communities within the Church to the episcopate. This resolution was referred to a special committee of five bishops to consider and report.

The report of this committee was then referred to the committee on canons.

The committee on canons recommended the adoption of the canon on sisterhoods proposed by the special committee; this report, together with an amendment offered in the house to include religious brotherhoods within the scope of the canon, was recommitted to the committee on canons, which reported a canon applying to both religious brotherhoods and sisterhoods, and the canon as proposed was adopted by the house.

The canon as transmitted to the House of Deputies was substantially the same as that adopted in 1913 (except that it lacked Section 8). The committee on canons of the House of Deputies radically amended it, removing the provision about the holding of property and all mention of official recognition. Under its provisions, an existing community whose rule had not been approved by the bishop would not have been allowed to "be continued in any Diocese."

A minority of the committee having reported that, in their opinion, it was too late in the session to consider the matter, the house postponed consideration to the next Convention.

Convention of 1913

A memorial from certain representatives of religious communities was presented to the House of Bishops in this Convention, and referred to the committee on canons, which reported a proposed canon for adoption. This proposed canon was adopted by the House of Bishops, and communicated to the House of Deputies.

The message of the House of Bishops, containing the proposed canon, was referred to the committee on canons, which recommended concurrence with certain amendments. The House of Deputies adopted the report of the committee, and the House of Bishops concurred in the amendments made by the House of Deputies.

The canon as adopted read as follows:

Sec. 1. A religious community of men or of women desiring the official recognition of the Church shall submit for his approval its Rule and Constitution to the Bishop of the Diocese wherein the Mother-house of the community is situated; and no change in the Rule or Constitution shall be made without his approval.

Sec. 2. In such Constitution there shall be a distinct recognition of the Doctrine, Discipline, and Worship of this Church as of supreme authority.

Sec. 3. No religious community shall establish itself in another Diocese without permission of the Bishop of that Diocese.

Sec. 4. The community may elect a Chaplain, but if he be a Priest who is not canonically resident in the Diocese, he must be licensed by the Bishop. Any Priest ministering in a chapel of a religious community shall be responsible to the Bishop of the Diocese for his ministrations, in the same manner as a parochial Clergyman.

Sec. 5. In the administration of the Sacraments the Book of Common Prayer shall be used without alteration, save as it may be lawfully permitted by lawful authority.

Sec. 6. It shall be provided in the Constitution of a religious community that real estate and endowments belonging to the community shall be held in trust for the community as a body in communion with this Church.

Sec. 7. Members of a religious community who are in Holy Orders shall be subject to all canonical regulations concerning the Clergy.

Sec. 8. Provision shall be made in the Constitution for the appointment of a Visitor, with the approval of the Bishop of the Diocese in which the Mother-house is situated, if the Bishop is himself unwilling to serve in such capacity. It shall be the duty of the Visitor to see that the Constitution and Rule, as approved, are duly observed, and to receive and hear appeals either from the community or from individual members thereof as to transgressions of the Rule. No full member of a community shall be dismissed therefrom without appeal to the Visitor, nor shall any be released from his or her obligations thereto without the Visitor's sanction.

As stated before, this canon is substantially the same as that proposed in 1910, and had, as its primary purpose, the establishment of a canonical relationship between religious communities and the episcopate. This intent is clear in Sections 1, 3, and 8 of the canon, which provided standards for recognition and procedures for continuing relationship.

Section 5 of the canon, by limiting the requirement of the use of the Book of Common Prayer to the administration of the sacraments, made legitimate the substitution of the ancient monastic hours of prayer for the simpler morning and evening services of the contemporary Prayer Book. As stated in the earlier editions of this annotation, the exception at the end of the section, "save as it may be lawfully permitted by lawful authority," is a "most peculiar one, and not easy of construction." Whatever its original intent, it afterwards served to justify the use of additional collects, epistles, and gospels appropriate to the more elaborate calendars observed by such communities. Such additional texts had been in use in some places for decades, and since an attempt to forbid their use by canon had failed in 1871, some bishops not only "tolerated" but encouraged their use. (It was not until 1964 that the Church made official provision for the liturgical observance of lesser feasts and fasts.)

Taken as a whole, however, the canon is characterized by a certain harshness, and it was not destined to commend itself to communities whose legitimacy the Convention had declined to recognize for more than thirty years.

Under the second provision of Section 1, for example, even the smallest change in the rule required the express approval of the bishop, even though he might not be the visitor or have any interest in the day

to day life of the community. The provisions for the holding of property in Section 6 were more restrictive than those in effect at the time with respect to parish churches. And no less than half the provisions were concerned, in whole or in part, with insisting upon loyalty and submission to the formularies and discipline of the Church.

The cause of these demands, we are told, is to be found in events which followed the adoption of the "open pulpit" canon in 1907 (see Canon III.25 above). To many Anglo-Catholics of the period, the passage of this canon seemed a deliberate action on the part of the Church to disallow its Catholic heritage. Among those who left the Episcopal Church as a result were the superiors of two of the larger religious communities. One community, the Graymoor friars, seceded to the Roman Church *en bloc*, taking their property with them.

The situation was further complicated by rumors of a gigantic conspiracy, involving monastics, to lead the whole high church party into the arms of Rome.

One is not surprised, therefore, that a Church, the majority of whose members were, until many years later, disposed to consider the monastic movement as essentially alien to Anglicanism, responded as it did. In the Convention of 1913 it offered official recognition to religious orders in exchange for rigid control.

That the canon was not found satisfactory by those whose lives it was intended to govern may be judged by the fact that, of the religious communities then in existence, not a single one elected to seek recognition under its provisions.

Convention of 1919

This Convention renumbered Canon 22 as Canon 24, and amended the same by the addition of a new section, reading as follows:

Sec. 9. It shall not be within the power of a succeeding Bishop to withdraw the official recognition that has been given to a Religious Community, provided, that the conditions laid down in this Canon are observed.

This section was adopted by the House of Bishops in the Convention of 1916, but the message of the House of Bishops containing their action in the matter was lost in transmission.

Convention of 1937

At this Convention a resolution was introduced which, after reciting that the provisions of Section 1 were not being obeyed, and complaining that bishops of dioceses in which daughter houses were located were

deprived of control over the life and worship of such communities, proposed the appointment of a joint commission to study the canon.

No action was taken.

The canon was renumbered Canon 51 in 1943 and Title III, Canon 27, in 1970.

Convention of 1976

By 1976 it had long been clear that the canon of 1913 had proved to be unworkable. In the course of its history, very few communities had sought recognition under its provisions. At this Convention, therefore, a substitute canon, drafted after several years of discussion among the religious communities themselves, was submitted to the House of Bishops.

On the recommendation of its Committee on Religious Communities, the House of Bishops adopted the substitute canon. The House of Deputies concurred.

EXPOSITION OF CANON III.27

In this canon, a religious community is defined as a society living in community under the traditional three-fold vow. The former canon had no definition of what constituted a religious community. The phrase, "in communion with the See of Canterbury," was included because some communities have houses in more than one province of the Anglican Communion.

A minimum membership is established in order to secure the stability of a community before its recognition. This recognition is provided by a standing committee of the House of Bishops, since it is intended as a national recognition, rather than a solely diocesan one, though no community may establish a house in a diocese without the permission of the local bishop. The relationship of religious communities to the Church is through the episcopate, and it is provided by the episcopal visitor or protector. This bishop also guarantees the legitimacy of the community and the rights of its members.

Provision is made for dispensation from vows and for secularization where that need arises. This provides for good order and for the proper status of persons leaving a community. The Presiding Bishop is declared to have the highest dispensing power, since a question might arise where the constitution of a community does not provide for, or is unclear about, dispensations. This final power is exercised only after review and advice. The constitutions of most communities now provide in their statutes for methods of separation.

The constitution of each community must provide for the final disposition of assets, and this provision must have episcopal acceptance by the visitor or protector as guardian of the community's constitution. The purpose of this provision is to guarantee that the distribution of assets will be made in the best interests of the Church or of some charitable organization. Some communities hold funds in trust for specific charitable or educational work.

A religious community is not regarded as a parish, mission, congregation, or institution of the diocese, and is exempt from the provisions of the canon on business methods which govern these. Section 7 of this canon is intended to allow a community to borrow money or to sell property without the consent of the bishop and standing committee of the diocese. Houses belonging to religious communities are not only places of worship and places of religious work, but are also the homes and places of residence of the members. Their right over this private property is preserved.

The present canon, as has been noted, provides only for the recognition of religious orders living in community under the traditional three-fold vow. It does not provide for communities whose rule does not follow this traditional pattern. An amendment to the canon, to provide for such communities as well, is being proposed to the Convention of 1982.



CANON 28. Of Professional Church Workers

How certified.

Sec. 1. Any person, being a communicant of this Church, who is a salaried, professional, Church worker, who is employed or seeks to be employed, as a Christian Education, College, or Social, Worker, in the service of this Church in any Diocese, and who fulfills, in the opinion of the Bishop, the following qualifications:

(a). Completion of two years of graduate study in a Church Training School or Seminary; or

(b). Completion of a five-year combination of at least two of the following:

(1). Attendance at college;

(2). Attendance at a Church Training School or Seminary;

(3). Employment in the field of Christian Education; *Provided*, that at least 16 Semester hours have been earned in two or more of the following fields:

Religion,

Christian Education, or

Education,

may apply to the Bishop of that jurisdiction to be accepted as a Certified Worker.

Bishop to keep list.

Sec. 2. The Bishop shall keep a list of such Certified Workers. When such a Certified Worker moves to another jurisdiction, the Ecclesiastical Authority shall give the said worker a letter to the Bishop of the jurisdiction to which such Worker shall remove, certifying that the said Worker has been on the list of Certified Workers.

Removing to other jurisdiction.

To report annually. Sec. 3. All such Certified Workers shall report, either personally or by letter, to the Ecclesiastical Authority of the jurisdiction in which each such Worker is employed, annually, during Advent, as to the progress of their work. They shall also report at other times, if requested to do so by the Ecclesiastical Authority.



This canon was Canon 52 when it was adopted in 1964. It became Title III, Canon 28, in 1970.

Convention of 1964

This Convention adopted this canon under the title “Of Professional Women Church Workers,” and reading as follows:

Sec. 1. Any woman, being a communicant of this Church, who is a salaried, professional Church worker, who is employed or seeks to be employed, as a Christian Education, College, or Social Worker, in the service of this Church in any Diocese or Missionary District, and who fulfills, in the opinion of the Bishop, the following qualifications:

(The remainder of Section 1 read as at present.)

Sec. 2. The Bishop shall keep a list of such Certified Workers. When such a Certified Worker moves to another jurisdiction, the Ecclesiastical Authority shall give her a letter to the Bishop of the jurisdiction to which she shall remove, certifying that she has been on his list of Certified Workers.

Sec. 3. Each such Certified Worker shall report, either personally or by letter, to the Ecclesiastical Authority of the jurisdiction in which she is employed, annually, during Advent, as to the progress of her work. She shall also report at other times, if requested to do so by the Ecclesiastical Authority.

Special Convention of 1969

The canon was amended to read as at present, except for a reference to missionary districts in Section 1.

The purpose of the amendment was to provide for professional Church workers of both sexes.

Convention of 1973

The reference to missionary districts was deleted as no longer needed.

EXPOSITION OF CANON III.28

The background of this canon is intimately tied to the history of professional women working for the Church.

The Association of Professional Women Church Workers came into being in 1949, and was founded by people closely associated with Windham House in New York City. Windham House was opened in 1928 as a result of the concern and leadership of Grace Lindley, Executive Secretary of the Woman's Auxiliary, and many women across the country whom she involved. Its function was to provide appropriate training for women to give professional leadership in parishes, dioceses, and missionary districts in Christian Education, in social work, and in college work, which were major areas of need and development in the Church during that period. Before Windham House closed in 1967, the training had expanded to include training in other fields as well.

In 1958, as a result of being memorialized by Windham House, the General Convention established the Joint Commission on the Status and Training of Professional Women Church Workers. The Windham House board supported the work of this commission and financed one meeting of it in 1961. It was the report of this commission to the Convention of 1964 that led to the adoption of the original form of this canon.

In 1962, when the Division of Christian Ministries was established in the Executive Council, one of its staff members was assigned as liaison to the General Division of Women's Work, which came into being after the cessation of the Woman's Auxiliary in 1958. This staff member had particular relationships with the Professional Women Church Workers and the Women's Training Centers until they ceased in the late 1960s.

The present title and wording of the canon makes provision for men as well as women.

The canon is limiting in describing the areas in which men and women can be considered appropriately qualified to be regarded as professional workers in the Church. Other forms of expertise, such as work with the aging, work in the arts, and community work, are being employed by parishes and dioceses. These people, too, are professional Church workers. It would be appropriate for this canon to be amended to provide for the recognition of these professionals as well.



CANON 29. Of Lay Ministries

The Church in each Diocese shall make provision for the development, training, and utilization of lay ministries within this Church. Each Diocese may establish such structures as it shall deem fitting for the implementation of this Canon.



This canon, numbered as at present, was enacted by the Convention of 1973, and has not been amended.

EXPOSITION OF CANON III.29

The recognition of the laity as a distinct order of ministers in the Church is one of the products of the liturgical revival of the twentieth century.

This view finds its roots in the early Church's understanding of its lay membership, and it remained the Church's normative teaching until the early Middle Ages, when it began to be eroded by the idea that ministry and ordained ministry are synonymous terms.

As defined in the Book of Common Prayer, 1979 (p. 885):

The ministry of lay persons is to represent Christ and his Church; to bear witness to him wherever they may be; and, according to the gifts given them, to carry on Christ's work of reconciliation in the world; and to take their place in the life, worship, and governance of the Church.

The ministry of particular individuals will, of course, vary considerably in accordance with "the gifts given."

Under this canon, the task of providing structures for the enabling and strengthening of such ministries is made a responsibility of the local diocese. In some places, this might appropriately be assigned to the commission on ministry (see Canon III.1.3).

Title IV



ECCLESIASTICAL DISCIPLINE

CANON 1. Of Offenses for which Bishops, Presbyters, or Deacons May Be Tried

List of offenses. Sec. 1. A Bishop, Presbyter, or Deacon of this Church shall be liable to presentment and trial for the following offenses, viz.:

- (1). Crime or immorality.
- (2). Holding and teaching publicly or privately and advisedly, any doctrine contrary to that held by this Church.
- (3). Violation of the Rubrics of the Book of Common Prayer.
- (4). Violation of the Constitution or Canons of the General Convention.
- (5). Violation of the Constitution or Canons of the Diocese to which he belongs.
- (6). Any act which involves a violation of his Ordination vows.
- (7). Habitual neglect of the exercise of his Ministerial Office, without cause; or habitual neglect of Public Worship, and of the Holy Communion, according to the order and use of this Church.
- (8). Conduct unbecoming a Member of the Clergy; *Provided, however,* that in the case of a Presbyter or Deacon charged with this offense, before proceeding to a presentment, the consent of three-fourths of all the members of the standing committee of the Diocese in which the Presbyter or Deacon is canonically resident shall be required.

Consent required for presentment.

Upon a Presbyter or Deacon's being found guilty, such Presbyter or Deacon shall be admonished, or shall be sus-

pended or deposed from the Sacred Ministry, as shall be adjudged by the Trial Court, except as provided in Canon IV.12, Sec. 3.

Case of a Minister convicted of immorality in a Civil Court. Sec. 2. In the case of a Bishop, Presbyter, or Deacon convicted in a Court of Record of any crime or misdemeanor involving immorality, or against whom a judgment has been entered in a Court of Record in a cause involving immorality, it shall be the duty of the Presiding Bishop, in the case of a Bishop, and in the case of a Presbyter or Deacon, of the Standing Committee of the Diocese in which he is canonically resident, to institute an inquiry into the matter. If in the judgment of either there is sufficient reason for further proceedings, it shall be their duty to present him, or to cause that he be presented, for trial.

Time within which presentment must be made. Sec. 3. No presentment shall be made or conviction had for any offense, unless the offense shall have been committed within five years immediately preceding the time of presentment, except that in a case of a conviction in a Court of Record exercising criminal jurisdiction as aforesaid, a presentment may be made at any time within one year after such conviction notwithstanding five years may have elapsed since the commission of the offense.

Minister under presentment to be inhibited. Sec. 4. If presentment shall have been made against a Presbyter or Deacon, or in the case of a Presbyter or Deacon convicted of any crime or misdemeanor involving immorality, or against whom a judgment has been entered in a Court of Record in a cause involving immorality, or in the case of the abandonment of the communion of this Church by a Presbyter or Deacon, the Bishop in whose jurisdiction the Presbyter or Deacon is canonically resident may, upon probable cause, inhibit the Presbyter or Deacon from officiating in said jurisdiction until after the judgment of the Trial Court becomes final, or Sentence has been pronounced under Canon IV.8.



This canon was numbered Title II, Canon 2, in 1859. It became Canon 23 in 1904, Canon 27 in 1931, Canon 52 in 1943, and Title IV, Canon 1, in 1970.

At the first General Convention after the organization of the Church, the subject matter of this canon was made the subject of legislation, because, as we are told, the experiences of the past had shown its necessity.

Dr. Hawks tell us (*Constitution and Canons*, p. 334) that

One of the greatest obstacles to the increase of the Church, during our colonial existence, was found not only in the fact that there was no Bishop, to ordain and confirm, but that there was no Bishop to punish unworthy Clergymen. He who will turn over the documents illustrating our early Church History, will be struck with the frequency of the complaints made in the letters of the honest and faithful missionaries, against their profligate brethren. It must be confessed that some of those who were sent as missionaries were finished reprobates. Drunkenness, adultery, polygamy, fighting, profanity, lying, and swindling are among the crimes which their brethren did not hesitate to impute to them. It is not to be wondered at, then, that the subject of this Canon should have invited early attention.

Convention of 1789

This Convention enacted Canon 13, which read as follows:

No ecclesiastical persons shall, other than for their honest necessities, resort to taverns, or other places most liable to be abused to licentiousness. Further, they shall not give themselves to any base or servile labor, or to drinking or riot, or to the spending of their time idly. And if any offend in the above, they shall be liable to the ecclesiastical censure of admonition, or suspension, or degradation, as the nature of the case may require, and according to such rules or process as may be provided, either by the General Convention, or by the Conventions in the different States.

The reasons for the enactment of this canon have been mentioned above. The legislation itself, however, is not without precedent. Canonical enactments forbidding members of the clergy from entering taverns can be traced back as far as the Council of Laodicea in the fourth century. The wording of the Canon of 1789, moreover, is dependent on Canon 75 of the English Canons of 1603.

Convention of 1801

This Convention enacted Canon 1, adding other offenses to those enumerated in Canon 13 of 1789, which read as follows:

If any person, having been ordained in this Church, or having been otherwise regularly ordained and admitted a minister in this Church, shall discontinue all exercise of the ministerial office without lawful cause, or shall avow that he is no longer a minister of this Church, or shall live in the habitual disuse of the public worship, or of the Holy Eucharist, according to the offices of this Church—such person, on due proof of the same, or on his own confession, shall be liable to be degraded from the Ministry.

Convention of 1808

The Convention of this year incorporated Canon 13 of 1789 and Canon 3 of 1801 into one canon, Canon 26, and amended the same by striking the words “either by the General Convention, or,” thus leaving it to the several diocesan conventions to provide the rules and processes for ecclesiastical censure.

Convention of 1829

This Convention repealed Canon 26 of 1808, and enacted Canon 2 in place thereof, which read as follows:

If any Minister of this Church shall be accused, by public rumor, of discontinuing all exercise of the ministerial office without lawful cause, or of living in the habitual disuse of public worship, or of the Holy Eucharist, according to the offices of this Church, or of being guilty of scandalous, disorderly, or immoral conduct, or of violating the Canons, or preaching or inculcating heretical doctrine, it shall be the duty of the Bishop, or ecclesiastical authority, to see that an inquiry be instituted as to the truth of such public rumor. And in case of the individual being proceeded against and convicted, according to such rules or process as may be provided by the Conventions of the respective Dioceses, he shall be admonished, suspended, or degraded, as the nature of the case may require.

Convention of 1832

In the revision of the canons by this Convention, Canon 2 of 1829 was made Canon 37, and amended by the insertion of a new section, to read as follows:

Sec. 1. Every Minister shall be liable to presentment and trial, for any crime or gross immorality, for disorderly conduct, for drunkenness, for frequenting places most liable to be abused to licentiousness, and for violation of the Constitution or Canons of this Church or of the Diocese to which he belongs: and on being found guilty, he shall be admonished, suspended, or degraded, according to the Canons of the Diocese in which the trial takes place, until otherwise provided for by the General Convention.

The former canon was made Section 2 of this canon, and was amended by striking the words “ecclesiastical authority,” and inserting in place thereof the words “the Clerical Members of the Standing Committee.” Also, by adding at the end of said section the following: “in conformity with their respective constitutions or canons.”

The offenses enumerated in this canon would seem to include nearly every conceivable offense against religion and morals, and every violation of the law of the Church, with two exceptions: that of a violation of the rubrics of the Prayer Book, which was essentially covered by the canon “Of the Use of the Book of Common Prayer” (see Title II, Canon 3, above), and violation of a clergyman’s ordination vows.

Convention of 1859

No amendment to the canon was made by this Convention, but it was renumbered as Title II, Canon 2.

Convention of 1868

This Convention amended Title II, Canon 2, as follows:

Section 1 was amended to read:

Every minister of this Church shall be liable to presentment and trial for the following offences, viz.:

1. Crime or immorality.
2. Holding and teaching publicly or privately, and advisedly, any doctrine contrary to that held by the Protestant Episcopal Church in the United States of America.
3. Violation of the Constitution or Canons of the General Convention.
4. Violation of the Constitution or Canons of the Diocese to which he belongs.
5. Any act which involves a breach of his Ordination vows. And on being found guilty, he shall be admonished, suspended, or degraded, according to the Canons of the Diocese in which the trial takes place, until otherwise provided for by the General Convention.

Section 2 was amended by striking the words “or of being guilty of scandalous, immoral, or disorderly conduct, or of violating the Canons, or preaching or inculcating heretical doctrine,” and inserting in place thereof the following: “or of being guilty of any or either of the offences enumerated in the first section.”

This canon was a decided improvement over the former canon, in that it stated more specifically the offenses for which a minister might be presented and tried. An offense, not included in the former canon, was set forth in this canon, viz.: “Any act which involves a breach of his Ordination vows.”

Convention of 1883

At this Convention, the ancestor of the present Section 2 of the canon was adopted as Section 5 of Title II, Canon 1. It read as follows.

In the case of a Clergyman convicted in any court of record, of any crime or misdemeanor involving immorality, or against whom a judgment has been recorded in any court of record, in a cause involving immorality, it shall be the duty of the Standing Committee of the Diocese or Jurisdiction to which he canonically belongs, to institute an enquiry into the matter. If, in their judgment, there is sufficient reason for further proceedings, it shall be their duty to present him, or to see that he be presented, for trial.

Convention of 1892

This Convention amended Title II, Canon 2, by the addition of a new clause numbered (vi), and reading as follows:

And for conduct unbecoming a clergyman of this Church.

Convention of 1904

In the revision of the Digest of Canons by this Convention, Title II, Canon 2, was renumbered as Canon 23, "Of Offences for which Bishops, Priests, or Deacons may be Tried," and amended to read as follows:

Sec. 1. A Bishop, Priest, or Deacon of this Church shall be liable to presentment and trial for the following offences, viz.:

- (a) Crime or immorality.
- (b) Holding and teaching publicly or privately, and advisedly, any doctrine contrary to that held by this Church.
- (c) Violation of the Rubrics of the Book of Common Prayer.
- (d) Violation of the Constitution of the General Convention.
- (e) Violation of the Constitution or Canons of the Diocese or Missionary District to which he belongs.
- (f) Any act which involves a violation of his Ordination vows.
- (g) Habitual neglect of the exercise of his Ministerial Office, without cause; or habitual neglect of Public Worship, and of the Holy Communion, according to the order and use of this Church.

On being found guilty, he shall be admonished, suspended, or deposed from the Ministry, according to the law of this Church.

Sec. 2. No presentment shall be made or conviction had for any offence, unless the offence shall have been committed within five years immediately preceding the time of the presentment. But if the accused shall have been convicted of the alleged offence in any Court of Record exercising criminal jurisdiction, notwithstanding five years may have elapsed since its commission, a presentment may be made at any time within one year after such conviction.

No reference, it will be noted, is made to conduct unbecoming a clergyman.

Clause (c) of Section 1 was new. Its appearance here corresponds with the repeal of the canon "On the Use of the Book of Common Prayer," which had been the focus of intense partisan strife, and which was quietly dropped by this Convention (see Title II, Canon 3, above).

Convention of 1913

This Convention amended the first section of Canon 23 by the addition of a new clause, lettered (h), and reading as follows:

Conduct unbecoming a Clergyman, *Provided*, that, in case of a charge of conduct unbecoming a Clergyman, before proceeding to a presentment, the consent of three-fourths of all the members of the Standing Committee or Council of Advice shall be required.

Convention of 1916

In response to a memorial from the Diocese of New York, the Convention of 1916 amended Section 1 of the canon by the addition of a second proviso after the first proviso following clause (h), which read as follows:

And *Provided, further*, that in every such case the Standing Committee or Council of Advice shall first give to the accused Clergyman reasonable opportunity to appear and be heard, with or without counsel.

The same Convention further amended Section 1 of said canon by striking the words “according to the law of this Church,” at the end of said section, and inserting in place thereof the words “as shall be adjudged by the Trial Court, in accordance with the provisions of Canon 37, Section 3.”

The same Convention enacted another amendment to Section 1, to be added at the end thereof, as follows:

Provided, that it shall be lawful for the Bishop of the jurisdiction, in his discretion, to pronounce a lesser sentence than that adjudged by the Court.

In the preparation of the Digest of Canons of 1916, this last amendment was accidentally omitted.

This canon was renumbered as Canon 25.

Convention of 1919

This Convention amended Canon 25, Section 1, by striking the last ten words of the section, reading “in accordance with the provisions of Canon 37, Section 3,” and inserting in place thereof the following: “except as provided in Canon 39, Section 3.”

The House of Bishops again adopted the amendment at the end of Section 1 of the canon, which was enacted by the Convention of 1916, but omitted from the Digest of Canons as above noted. The House of Deputies refused concurrence on the ground that it had already adopted this precise amendment as an amendment to Canon 37, Section 3.

Convention of 1925

At this Convention, the publication of the first edition of *Annotated Constitution and Canons* was announced. In it, Dr. White (who died earlier in this same year) had stated that two things were urgently needed to complete our judicial system: first, a uniform code for the

constitution of trial courts, and, second, the establishment of the ultimate court of appeal permitted by Article IX of the Constitution.

This Convention appointed a joint commission “for the purpose of considering the procedure provided in the Canons for the trial and sentence of Bishops, Priests and Deacons, with a view to clarifying and simplifying the same, and of reporting to the next General Convention such changes and amendments to the Canons as they may deem desirable.”

Convention of 1928

The joint commission reported to this Convention but, because of its complexity, the report was referred back to the commission, with the request that it be printed and distributed three months before the next Convention.

Convention of 1931

The joint commission presented a new arrangement of the disciplinary canons, incorporating much of the previous legislation and regrouping it, but omitting repetitious provisions and making important changes.

A major proposal was a new canon establishing an ultimate court of appeal. This was rejected. The remainder of the report, however, was favorably received, and the canon “Of Offences” was renumbered Canon 27, and amended to read as follows:

Sec. 1. A Bishop, Presbyter, or Deacon of this Church shall be liable to presentment and trial for the following offenses, viz.:

- (1) Crime or immorality.
- (2) Holding and teaching publicly or privately and advisedly, any doctrine contrary to that held by this Church.
- (3) Violation of the Rubrics of the Book of Common Prayer.
- (4) Violation of the Constitution or Canons of the General Convention.
- (5) Violation of the Constitution or Canons of the Diocese or Missionary District to which he belongs.
- (6) Any act which involves a violation of his Ordination vows.
- (7) Habitual neglect of the exercise of his Ministerial Office, without cause; or habitual neglect of Public Worship, and of the Holy Communion, according to the order and use of this Church.
- (8) Conduct unbecoming a Clergyman;

Provided, however, that in the case of a Presbyter or Deacon charged with this offense, before proceeding to a presentment, the consent of three-fourths of all the members of the Standing Committee or Council of Advice of the Diocese or Missionary District in which the Presbyter or Deacon is canonically resident, shall be required.

Upon a Presbyter or Deacon being found guilty, such Presbyter or Deacon shall be admonished, or shall be suspended or deposed from the Sacred Ministry, as shall be adjudged by the Trial Court, except as provided in Canon 64, Section 3.

Sec. 2. In the case of a Bishop, Presbyter or Deacon convicted in a Court of Record of any crime or misdemeanor involving immorality, or against whom a judgment has been entered in a Court of Record in a cause involving immorality, it shall be the duty of the Presiding Bishop, in the case of a Bishop, and in the case of a Presbyter or Deacon, of the Standing Committee of the Diocese or of the Council of Advice of the Missionary District in which he is canonically resident, to institute an inquiry into the matter. If in the judgment of either, there is sufficient reason for further proceedings, it shall be their duty to present him, or to cause that he be presented, for trial.

Sec. 3. No presentment shall be made or conviction had for any offense, unless the offense shall have been committed within five years immediately preceding the time of the presentment, except that in a case of a conviction in a Court of Record exercising criminal jurisdiction as aforesaid, a presentment may be made at any time within one year after such conviction notwithstanding five years may have elapsed since the commission of the offense.

Special Convention of 1969

This Convention added a new Section 4 to the canon, reading as at present, except for two references to “Diocese or Missionary District” where the word “jurisdiction” now stands.

Convention of 1970

The canon was renumbered Title IV, Canon 1.

Convention of 1973

Pursuant to the adoption of Title V, Canon 2, the references to dioceses and missionary jurisdictions were simplified.

Convention of 1979

The term “Member of the Clergy” was substituted for “clergyman,” thus bringing the canon to its present form.

EXPOSITION OF CANON IV.1

This canon sets out the offenses for which a bishop, priest, or deacon is liable for presentment and trial. As noted in the history of the canon, the offenses specified were originally rather general and incomplete. The present complete specification of offenses is the result of gradual additions over a period of time. One would expect that the present list would be exclusive, and that presentment could not be had for an offense not included in the list. Early precedents, handed down at a time when the list was fragmentary, held to the contrary, permitting, in 1847, presentment for an offense under a canon of the Diocese of

Maryland not then an offense under the national canon. Also, in the trial of Bishop Smith of Kentucky, the court held that a charge of falsehood, though not specifically named in the national canon, was nevertheless liable for presentment and trial on the charge, as an offense against religion and morals. The holdings in these early cases do not appear to be consistent with the present attitude concerning specificity in definition of acts for which penalties are invoked, or any longer necessary in view of the completeness of the present list of offenses. It is doubtful whether these early precedents would or should now be followed.

The second specified offense, namely, holding and teaching publicly or privately and advisedly, any doctrine contrary to that held by this Church, has involved an interesting question concerning the scope of proof which may be offered on what is a doctrine held by the Church. In the trial of Bishop Brown (formerly Bishop of Arkansas) for this offense, he sought to offer evidence by expert witness who would testify what the doctrines of the Church were. The trial court ruled that expert witness testimony was not admissible, and the court of review sustained the trial court on the ground that the court takes judicial notice of the doctrine of the church, and that it is not a matter of fact to be ascertained by the opinion of witnesses.

A similar question arose in the trial of the Rev. L. Peter Beebe, who was charged, among other things, with violation of Canon IV.1(b) in that he violated his ordination vows by disregarding a "godly admonition" of his bishop.

Beebe sought to introduce evidence in the form of testimony of expert witnesses on the question of what is a "godly admonition" or a "godly judgment." The ecclesiastical court of the Diocese of Ohio ruled that expert testimony was not admissible. The court of review for the Fifth Province, in reversing the trial court, held that it was an error to exclude the evidence, and that the question of whether a particular admonition was a godly admonition was a matter of ultimate fact upon which expert testimony must be admitted. (The decision of the court of review is set forth at length at the conclusion of the exposition of Canon IV.3.)

The Beebe decision appears to be inconsistent with the decision in the Brown case, and also reached an opposite result from that reached in the case of the Rev. William Wendt in the Diocese of Washington. The alleged inconsistencies in decisions in different provinces have been cited by those who have, thus far, unsuccessfully advocated the creation of a national court of review.

It should be noted that it is the duty of the standing committee of a diocese to inquire into a case where a minister has been convicted in a court of record of any crime or misdemeanor involving immorality, or against whom a judgment has been entered in such a court for the same cause; and if, in their judgment, the facts are such as to warrant a trial, it is made their duty to present him, or cause him to be presented. In such a case it would seem as if a certified copy of the judgment of conviction, as the case may be, would be *prima facie* evidence of the guilt of the accused. No sentence, however, can be pronounced upon a minister, until after due trial, unless the accused confesses his guilt.



CANON 2. Of Amenability, Citation, and Attendance

Every Minister amenable to the Ecclesiastical Authority. Sec. 1. Bishops, Presbyters, and Deacons are amenable for offenses committed by them; a Bishop to a Court of Bishops, and a Presbyter or Deacon to the Ecclesiastical Authority of the jurisdiction in which he is canonically resident at the time the charge is made.

Mode of citation for trial. Sec. 2. A notice or citation required by any law of this Church to any Bishop, Presbyter, or Deacon to appear, at a certain time and place for the trial of an offense, shall be deemed to be duly served upon him if a copy thereof be given him personally or be left at his usual place of abode within the United States, sixty days before the day of appearance named therein; and in case such Bishop, Presbyter, or Deacon has departed from the United States, if a copy of such citation be also published once a week for six successive weeks in such newspaper printed in the jurisdiction in which the Bishop, Presbyter, or Deacon is cited to appear as the Ecclesiastical Authority shall designate, the last publication to be six months before the said day of appearance. Acceptance of service will render unnecessary any further process of citation.

Mode of serving other citations. Sec. 3. A notice or citation, other than those above mentioned, required by any law of this Church, when no other mode of service is provided, may be served personally, or by registered mail, addressed to the person to be served, at his last known place of residence, or by leaving a copy at his last usual place of abode within the United States.

Duty to give evidence. Sec. 4. It is hereby declared to be the duty of all members of this Church to attend and give evidence, when duly cited in any Ecclesiastical trial or investigation under the authority of this Church.



This canon was numbered Title II, Canon 1, in 1859. It became Canon 22 in 1904, Canon 28 in 1931, Canon 53 in 1943, and Title IV, Canon 2, in 1970.

Convention of 1804

The first legislation of General Convention on the subject of the amenability of ministers was enacted by the Convention of 1804, as a part of Canon 3, and read as follows:

Every minister shall be amenable for any offenses committed by him, in any diocese, to the ecclesiastical authority of the diocese in which he resides.

Thus, early was the principle established that a minister should be amenable only to the bishop, or, in case there was no bishop, then to the standing committee of the diocese in which he is canonically resident.

Convention of 1829

The Convention of 1829 amended the above cited clause of Canon 3 of the Canons of 1804 to read as follows:

Every minister shall be amenable for any offences committed by him to the ecclesiastical authority of the diocese in which he is canonically resident at the time of the charge.

Convention of 1832

This Convention renumbered Canon 3 of 1804 as Canon 35, and amended the said clause of Canon 3, by striking the words “ecclesiastical authority,” and inserting in place thereof the words “the Bishop, and if there be no Bishop, the clerical members of the Standing Committee.”

In commenting on the change in the canon, providing that, where there is no bishop, a clergyman shall be amenable for offenses committed by him to the clerical members of the standing committee, instead of the whole of said committee, lay as well as clerical, Judge Hoffman remarks (*Law of the Church*, p. 383), “that after a long struggle, commencing in colonial times, the question has finally been settled of the exclusive liability of a clergyman to a clerical tribunal.”

The same Convention also added a new section to the said canon, reading as follows:

Sec. 4. Unless a State Convention shall otherwise provide, a citation to any Minister to appear at a certain time and place, for the trial of an offence, shall be deemed to be duly served upon him, if a copy thereof is left at his last place of abode within the United States, sixty days before the day of appearance named therein; and, in case such Minister has departed from the United States, by also publishing a copy of such citation in some newspaper printed at the seat of government of the State in which the Minister is cited to appear, six months before the day of appearance.

Although there had been a canon on the ecclesiastical statute books since 1789, providing for the trial and punishment of clerical offenders, this is the first provision made for the serving of citations upon the accused to appear for trial.

Convention of 1835

This Convention amended Canon 35 of 1832 by striking Sections 3 and 4, and reenacted the same sections as Sections 1 and 2 of Canon 5, but without amendment.

These sections did not belong to the subject matter of Canon 35, and were properly made a separate canon.

Convention of 1859

In the revision of the canons by this Convention, Canon 5 of 1835 was made Title II, Canon 1, and a new section was added, reading as follows:

Sec. 3. A notice or citation required by any Canon of this Church, when no other mode of service is provided, may be served by leaving a copy with the party, or at his last place of abode within the United States; and if he shall have left the United States, by also publishing a copy thereof in some newspaper printed at the seat of government of the State or Territory where such party last resided.

Convention of 1880

This Convention amended Title II, Canon 1, by the addition of a new section, reading as follows:

Sec. 4. It is hereby declared to be the duty of all members of this Church to attend and give evidence, when duly summoned to do so, in any Ecclesiastical trial or investigation under the authority of this Church.

This amendment was reported by the committee on canons in the House of Deputies in response to instructions “to inquire whether some Canon cannot be framed and presented for the adoption of this Convention to compel the attendance of members of this Church, when summoned to appear as witnesses before an Ecclesiastical Court.”

Convention of 1904

In the revision of the canons by this Convention, Title II, Canon 1, was made Canon 22. The first four sections thereof were amended to read as follows:

Sec. 1. A Minister shall be amenable for offences committed by him, to the Bishop, and, if there be no Bishop, to the Standing Committee of the Diocese in which he is canonically resident at the time the charge is made.

Sec. 2. Unless a Diocesan Convention shall otherwise provide, and except in so far as otherwise ordered in the Canon relating to the trial of a Bishop, a notice or citation required by any law of this Church to any Minister to appear, at a certain time and place, for the trial of an offence, shall be deemed to be duly served upon him if a copy thereof be given him personally or be left at his last usual place of abode within the United States, sixty days before the day of appearance named therein; and in case such Minister has departed from the United States, if a copy of such citation be also published once a week for six successive weeks in such newspaper printed in the Diocese or Missionary District in which the Minister is cited to appear as the Ecclesiastical Authority shall designate, the last publication to be six months before the said day of appearance. Acceptance of service will render unnecessary any further process of citation.

Sec. 3. A notice or citation, other than the above mentioned, required by any law of this Church, when no other mode of service is provided, may be served by leaving a copy with the party, or at his last usual place of abode within the United States.

Sec. 4. It is hereby declared to be the duty of all members of this Church to attend and give evidence, when duly cited in any Ecclesiastical trial or investigation under the authority of this Church.

The fifth section, which was detached from this canon in 1931, has been discussed above under Title IV, Canon 1.

The amendment of Section 1, it should be noted, made a minister amenable, if there was no bishop, to the standing committee as a whole, and not only to the clerical members thereof.

The exception referred to at the beginning of Section 2 was to Canon 26, Section 4, which read as follows:

All notices and papers may be served by a summoner or summoners, to be appointed by the Court, or by any member thereof: and the certificate of any such summoner shall be evidence of the due service of a notice or paper. In case of service by any other person, the fact may be proved by the affidavit of such person. The delivery of a written notice or paper to the accused party, or to the Church Advocate, or the leaving of it, or a copy thereof, at the residence, or last known residence of either, shall be deemed sufficient service of such notice or paper on the Church Advocate and accused, respectively. If the person to be served with any notice or paper shall have left the United States, it shall be a sufficient service thereof to leave a copy of such notice or paper at his last place of abode within the United States, sixty days before the day in which the appearance, or other act required by the said notice or paper, is to be performed.

Section 3 of the canon under consideration, it will be noted, made no provision for service by registered mail. Canon 29, which concerned courts of review, did contain such a provision at the beginning of its Section 10:

Notices may be served personally or by registered mail addressed to the person to be served, at his last place of residence.

Convention of 1916

This Convention amended Section 3 by inserting this same provision after the words “may be served” in the said section.

Convention of 1931

This Convention combined into a single canon the provisions quoted above, renumbered the canon as Canon 28, and expanded the title from “Of Amenability and Citations” to its present wording.

The canon, as adopted, read as at present, except for two references to “Diocese or Missionary District” which were replaced by the term “jurisdiction” in 1973.

EXPOSITION OF CANON IV.2

This canon provides that a bishop is amenable to a court of bishops, and that presbyters and deacons are amenable for offenses committed to the ecclesiastical authority of the jurisdiction in which they are canonically resident. Ecclesiastical courts for the trial of presbyters and deacons are established by diocesan canon under the mandate of Canon 3 of this title.

Until 1832, in those states where there was no bishop, the standing committee constituted the ecclesiastical authority, and, in most of those states, laymen formed a part of this committee, and, in most cases, was the only body before which the trial of a clergyman might be had. In very few cases, the convention of the diocese was the tribunal for the trial of offenses. In 1832, the principle, abandoned in 1904, was established that a clergyman could be tried only by the clerical members of the standing committee. While in the English Church, ecclesiastical jurisdiction is administered generally by laymen, the theory of that Church is that they are simply the deputies of the bishop, and act by delegated authority.

As early as 1804, it was decided by canon that a clergyman, no matter where he may offend, can be tried only in the diocese to which he belongs.

The mode of service of notices of trial and citations is prescribed by the canon. This canon should probably be updated to take into account certified mail service, and also to require notice by mail if the address is known, even in cases where notice by publication is permitted.

The canon makes it the duty of all members of the Church, when duly cited, to attend and give evidence in any ecclesiastical trial or investigation under the authority of the Church. This is only a moral

injunction, and cannot legally be enforced. Difficulty had been found in securing the attendance of needed witnesses on the trial of ecclesiastical cases, and in the Convention of 1880, the committee on canons of the House of Deputies was instructed to present for adoption a canon that would compel the attendance of witnesses at such trials. The committee found, however, that the Church had no power to compel witnesses to attend and give evidence, and that the only thing to be done in the matter was to provide a canon making it the duty of members of the Church to attend and give evidence, and the canon, in almost the same language as the present Canon IV.2, Section 4, was enacted.



CANON 3. Of Courts, Their Membership and Procedure

(a) Diocesan Courts for the Trial of a Presbyter or Deacon

Ecclesiastical Court necessary. Sec. 1. In each Diocese there shall be an Ecclesiastical Court for the trial of any Presbyter or Deacon thereof, and it shall be the duty of each Diocese to provide by Canon for the establishment of such Court and the mode of conducting trials in the same.

(b) Courts of Review of the Trial of a Presbyter or Deacon

Stay of proceedings in Trial Court. Sec. 2. In case of conviction by the Trial Court, the Bishop shall not proceed to sentence the accused before the expiration of thirty days after he shall have been served with notice of the decision of the Court in the manner specified in Canon IV.2, Sec. 3, nor in case an appeal is taken shall sentence be pronounced pending the hearing and determination thereof.

Constitution of Court. Sec. 3. In each of the Provinces there shall be a Court of Review of the Trial of a Presbyter or Deacon, which shall be composed of a Bishop therein, three Presbyters canonically resident in one or other of the Dioceses within the Province, and three Lay communicants of the Church having domicile in the Province; two at least of said Lay communicants to be persons learned in the law.

Mode of Choosing Judges. Sec. 4. Each Provincial Synod shall at its first meeting after the regular meeting of the General Convention elect the judges of the Court of Review in the Province. The Synod

shall prescribe the manner in which such Judges shall be elected. The persons so elected, except in case of death, resignation, refusal, or inability to serve, shall continue to be members of the Court for such terms as the Synod may set and until their successors shall be elected. The Bishop elected by the Synod shall be the Presiding Officer of the Court.

Presiding Officer.

Sec. 5. The several Courts of Review are vested with jurisdiction to hear and determine appeals from decisions of Trial Courts in Dioceses on the trial of a Presbyter or Deacon.

Jurisdiction of Court.

Right of appeal.

Of appeal in questions of doctrine, etc.

Proviso.

Notice of appeal.

Sec. 6. An appeal to the Court of Review of the Province within which a trial was had may be taken by the accused from a decision of the Trial Court which sustains in whole or in part of a charge of any canonical offense. Upon the written request of at least two Bishops of other jurisdictions within the Province, the Bishop or the Standing Committee of the Diocese within which a trial was had shall appeal from a decision of the Trial Court acquitting the accused of a charge involving a question of Doctrine, Faith, or Worship; *Provided, however,* that such appeal shall be on the question of the Church's Doctrine, Faith, or Worship only, and that the decision shall not be held to reverse the acquittal of the accused on other charges than these. But such an appeal by the Standing Committee can be taken only when there is a vacancy in the office of Bishop or in case the Bishop is unable to act. The Bishop of the jurisdiction within which a trial was held, or (in case of his inability to act) the Standing Committee, shall cause to be served on the accused against whom an adverse decision has been made by the Trial Court, written notice thereof. Within thirty days after the service of such notice the accused may appeal to the Court of Review by serving a written notice of appeal on the Bishop or Standing Committee of said jurisdiction and a duplicate on the President of the Court. Such notice shall be subscribed by the appellant and shall briefly set forth the decision from which the appeal is taken and the grounds of the appeal. An appeal by the Bishop or Standing Committee may be taken by the service by the appellant of a written notice of appeal upon the accused, and also upon the President of the Court, within thirty days after the decision from which the appeal is taken.

- Appeal if Diocese is non-provincial.* If the trial was had in a Diocese not specified in Canon I. 8, Section 1, the appeal shall lie to the Court of the Province which is geographically closest to such Diocese.
- What may come before the Court.* Sec. 7. An appeal shall be heard upon the record of the Trial Court. When an appeal shall have been taken, the Bishop, or in case of his inability to act, the Standing Committee of the Diocese wherein the trial was had, within thirty days after receiving notice of the appeal, shall transmit to the President of the Court of Review of the Province, a full and correct transcript of the record, proceedings, and decision of the Trial Court, including all the evidence taken upon the trial, duly certified by the Presiding Officer or Clerk of such Court. Except for the purpose of correcting the record, if defective, no new evidence shall be taken by the Court of Review.
- Transcript of record to be sent to President of Court of Review.* Sec. 7. An appeal shall be heard upon the record of the Trial Court. When an appeal shall have been taken, the Bishop, or in case of his inability to act, the Standing Committee of the Diocese wherein the trial was had, within thirty days after receiving notice of the appeal, shall transmit to the President of the Court of Review of the Province, a full and correct transcript of the record, proceedings, and decision of the Trial Court, including all the evidence taken upon the trial, duly certified by the Presiding Officer or Clerk of such Court. Except for the purpose of correcting the record, if defective, no new evidence shall be taken by the Court of Review.
- Appointment of time and place for hearing appeal.* Sec. 8. The President of the Court of Review of the Province having jurisdiction, within ninety days after the record shall have been received by him, shall appoint a time and place within such Province for the hearing of the appeal. At least thirty days prior to the day appointed, written notice of such time and place shall be given by him to the other members of the Court, and also to the accused, and to the Bishop and Standing Committee of the Diocese in which the trial was had. When the appeal is from the decision of a Trial Court in any Missionary Diocese such notice shall be served at least three months prior to the day appointed for the hearing and the appellant shall have four months after the appeal is taken within which to serve and deliver copies of the record.
- Notice to Court and to parties.* Sec. 8. The President of the Court of Review of the Province having jurisdiction, within ninety days after the record shall have been received by him, shall appoint a time and place within such Province for the hearing of the appeal. At least thirty days prior to the day appointed, written notice of such time and place shall be given by him to the other members of the Court, and also to the accused, and to the Bishop and Standing Committee of the Diocese in which the trial was had. When the appeal is from the decision of a Trial Court in any Missionary Diocese such notice shall be served at least three months prior to the day appointed for the hearing and the appellant shall have four months after the appeal is taken within which to serve and deliver copies of the record.
- Appellant to have record of Trial Court printed.* Sec. 9. It shall be the duty of the appellant to procure a certified copy of the record of the trial, including the charges, evidence, decision, or judgment, together with the notice of appeal, to be printed. Within sixty days after the appeal shall have been taken he shall serve two printed copies of the record and notice of appeal upon the opposite party, and shall deliver seven printed copies to the President of the Court for the use of the Judges. For reasons by him deemed sufficient, the President may dispense with the printing of the record, or of any portion thereof.
- Church Advocate.* The Church Advocate shall be deemed to be the opposite party for the purpose of this and the succeeding Canons.

Organization of Court. Sec. 10. At the time and place appointed, the Court shall organize and proceed to hear the appeal; *Provided, however,* that at least six Judges, of whom the President of the Court shall be one, shall participate in the hearing. But the *Quorum.* members present, if less than that number, may adjourn the Court from time to time, until the attendance of the requisite number shall be secured.

Power of Court to dispose of case. Sec. 11. The Court may reverse or affirm, in whole or in part, the decision of the Trial Court, or, if in its opinion justice shall so require, it may grant a new trial. If after having been duly notified, the appellant fail to appear, and no sufficient excuse be shown, the Court, in its discretion, may dismiss the appeal for want of prosecution, or may proceed to hear and determine the appeal in his absence.

Concurrence of two-thirds of Court necessary to pronounce judgment. Sec. 12. The concurrence of two-thirds of the members of a Court present shall be necessary to pronounce a judgment. The judgment or decision of the Court shall be in writing, signed by the members of the Court uniting therein, and shall distinctly specify the grounds of the decision and shall be attached to the record. If the concurrence of two-thirds of the members cannot be obtained as provided,

Non-Concurrence of Court affirms decision of Trial Court. Records to be remitted to Ecclesiastical Authority of trial jurisdiction. that fact shall be stated in the record, and the decision of the Trial Court shall stand as affirmed. Immediately after the determination of the appeal the President of the Court shall give notice thereof in writing to the accused and to the Bishop and the Standing Committee of the Diocese in which the trial was had. Upon determination of the appeal, the original record upon which the appeal was heard, together with the record of the Court of Review, certified by the President and the Secretary or Clerk, shall be remitted to the Bishop or the Standing Committee of the jurisdiction in which the trial was had. All records remitted as herein provided shall be deposited and be preserved among the Archives of the jurisdiction to which they are sent.

Sentence. Sec. 13. The Court of Review for the Trial of a Presbyter or Deacon shall not pronounce sentence on the affirmation of a conviction. When the appeal is so determined, upon receipt of the record by the Bishop or Standing Committee of the jurisdiction of the Trial Court, the accused shall be

sentenced in accordance with Canon IV.12, the provisions of which shall be complied with.

(c) Court for the Trial of a Bishop

Mode of selecting Judges. Sec. 14 (a). There shall be a Court for the Trial of a Bishop, consisting of nine Bishops. As the terms of the incumbent members expire, three Bishops shall be elected by the House of Bishops at each regular meeting of General Convention, to serve until the adjournment of the third succeeding regular meeting of General Convention. All judges shall serve until their successors are elected and qualify; *Provided, however,* there shall be no change in composition of a court while a proceeding is pending, unresolved, before the Court.

Jurisdiction. (b). The Court is vested with jurisdiction to try a Bishop who is duly charged with any one or more of the offenses specified in Canon IV.1.

Quorum. (c). Not less than six of said judges shall constitute a quorum, but any less number may adjourn the Court from time to time.

(d) The Court of Review of the Trial of a Bishop

Court of Bishops only. Sec. 15. There shall be a Court of Review of the Trial of a Bishop, consisting of nine Bishops. As the terms of the incumbent members expire, three Bishops shall be elected by the House of Bishops at each regular meeting of General Convention, to serve until the adjournment of the third succeeding regular meeting of General Convention. All judges shall serve until their successors are elected and qualify; *Provided, however,* there shall be no change in composition of a Court while a proceeding is pending, unresolved, before the Court.

Jurisdiction of Court. Sec. 16. The said Court of Review is vested with jurisdiction to hear and determine appeals from the determination of the Court for the Trial of a Bishop.

Quorum. Sec. 17. Not less than six judges shall constitute a quorum and the concurrence of six judges shall be necessary to pronounce a judgment, but any less number may adjourn the Court from time to time.

(e) Of Membership in Courts

Relationships which disqualify a Judge. Sec. 18 (a). No person shall sit as a member of any Court who is a presenter of charges or is related to the accused or either of them by affinity or consanguinity nor shall any Bishop, nor any Presbyter, nor any Lay Member of the Diocese in which the trial was had be competent to sit on an appeal from the decision on such trial, nor shall any Bishop, Presbyter, or Lay Member who for any reason upon objection made by either party is deemed by the other members of the Court to be disqualified.

Vacancies, how created. (b). The death, permanent disability, resignation, or refusal to serve as a member of any Court or Board of Inquiry shall constitute a vacancy in the Court or Board of Inquiry.

Notices of resignations or refusals to serve shall be given as follows:

(1). By any Bishop chosen to serve as a member of the Court for the Trial of a Bishop or of the Court of Review of the Trial of a Bishop; written notice sent to the Presiding Bishop.

(2). By the President of the Court of Review of the Trial of a Presbyter or Deacon; written notice sent to the President of the Provincial Synod.

(3). By a Presbyter or Lay Member of such Court; written notice sent to the President of said Court.

(4). By a Presbyter or Lay Member appointed to a Board of Inquiry; written notice sent to the Presiding Bishop.

Disqualification of member of Board. (c). If any Presbyter appointed to a Board of Inquiry or to any of the Courts shall become a Bishop, or any Lay Member appointed to a Board of Inquiry or to any of the Courts shall become a Presbyter before the final disposition of the charge, he shall thereby vacate his place as a member of the Board or Court.

Vacancies, how filled. Sec. 19. Vacancies occurring in any of the Courts or Boards may be filled as follows:

(1) In the case of disqualification of any Judge of any Court, the remaining Judges of the said Court shall appoint a Judge to take the place of the one so disqualified in that particular case.

(2). In the case of a vacancy in the Court for the Trial of a Bishop or in the Court of Review of the Trial of a Bishop the remaining Judges thereafter shall have power to fill such vacancy until the next General Convention when the House of Bishops shall choose a Bishop to fill such vacancy. The Bishop so chosen shall serve during the remainder of the term.

(3). In the case of death, permanent disability, resignation, or refusal to serve, or the removal from the Province of the Bishop appointed as a member of the Court of Review of the Trial of a Presbyter or Deacon, the President of the Provincial Synod shall give written notice thereof to the Bishop with jurisdiction senior by consecration in the Province. Thereupon the Bishop so notified shall become a member of the Court until a new appointment shall be made. If in a particular case the Bishop so appointed is unable or unwilling to serve as a member of the Court he shall notify the President of the Provincial Synod of this fact, who shall thereupon appoint the Bishop with jurisdiction next senior by consecration in that Province.

(4). In case a vacancy shall exist in the membership of the Court of Review in any Province, among the clerical or lay members originally chosen, or in case any of them shall be disqualified or unable to sit in a particular case, the President of the Court shall appoint other Presbyters or Lay Members residing in the Province to fill such vacancy and to sit as members of said Court.

(5). In the case of a vacancy for any cause in the Board of Inquiry the Presiding Bishop shall appoint another Presbyter or another Lay Member, as the case may be, to act as a member of the Board, who, upon acceptance of appointment, shall become a member of the Board.

All of the provisions of the Canons relating to persons originally appointed as members of the several Courts or Boards of Inquiry or Commissions shall apply to those persons appointed in succession to the persons originally appointed, and all proceedings which may have been taken on any cause pending at or prior to such appointment shall have the same force and effect as if the appointee had been a member of the Court, Board, or Commission, when such cause was commenced, and such appointee may par-

ticipate in the continuing hearing and determination of the said cause. If the term for which a member of a Court, Board, or Commission was chosen shall have expired during the course of a hearing or trial, said member shall notwithstanding be competent to act in the cause until the termination of the trial or hearing.

(f) Of Procedure

- Diocesan Courts.* Sec. 20 (a). The procedure in Diocesan Courts shall be as provided by the Canons of the respective Dioceses.
- Presiding Judge.* (b). The Court for the Trial of a Bishop and the Court of Review of the Trial of a Bishop shall from time to time elect from its own membership a Presiding Judge who shall hold office until the expiration of the term for which he was chosen Judge. If in any proceeding before said Courts the Presiding Judge is disqualified or is for any cause unable to act, the Court shall elect a Bishop as Presiding Judge *pro tempore*.
- Who shall be Clerks.* (c). The several Courts shall appoint Clerks and if necessary Assistant Clerks, who shall be Presbyters of this Church, to serve during the pleasure of the Court.
- Lay Assessors.* The several Courts may appoint not less than two nor more than three lay communicants of this Church, learned in the law, as Assessors. They shall have no vote. It shall be their duty to give the Court an opinion on any question, not theological, upon which the Court or any member thereof, or either party, shall desire an opinion. If a question shall arise as to whether any question is theological, it shall be decided by the Court by a majority of the votes.
- Rules of Procedure.* The several Courts may adopt rules of procedure not inconsistent with the Constitution and Canons of this Church, with power to alter or rescind the same from time to time.
- Board of Inquiry.* Sec. 21. In the conduct of investigations preliminary to presentments, as well as in all trials, the laws of the civil jurisdiction in which such investigation or trial is had, so far as they relate to evidence, shall be adopted and taken as the rules by which said Board of Inquiry, Commission, or Court, shall be governed, and trials shall be conducted according to the principles of the common law as the same is generally administered in the United States, except in

those Dioceses where Ecclesiastical Courts are provided for by Constitution or Statute, in which case the same shall govern.

No determination or judgment of any Court shall be disturbed for technical errors not going to the merits of the cause.

Record of proceedings. The several Courts shall keep a record of all their proceedings.

Accused to be heard. Sec. 22. The various Courts shall permit the accused to be heard in person or by counsel of his own selection, provided every such counsel shall be a communicant of this Church, but in every trial or investigation the several Courts may regulate the number of counsel who may address the Court or examine witnesses.

Power to summon witnesses. The President, or any other member of the several Courts, shall upon application of either the Church Advocate or the accused issue subpoenas for witnesses, but before doing so the person who issues the same shall first be satisfied that the testimony sought to be adduced is material and that the witness is one whom the Court would be willing to hear upon the trial, otherwise he may refuse to issue the same.

President. When the several Courts are not in session, if there is a vacancy in the office of the President, the Bishop who is senior by consecration shall perform the duties of the office of President.

Mode of taking deposition. If in the course of a trial it becomes necessary to take the testimony of absent witnesses, it may be taken upon a Commission as such commissions are authorized by the common law in the jurisdiction in which the trial takes place, and in case there is ground to suppose that the attendance of a witness at the forthcoming trial cannot be obtained, it shall be lawful for either party to apply to the Court if in session, or, if not, to any member thereof, who shall thereupon appoint a Commissioner to take the deposition of such witness; and such party desiring to take such depositions shall give the opposite party reasonable notice of the time and place of taking depositions, accompanying such notice with the interrogatories to be propounded to the witness, whereupon it shall be lawful for the other

Commissioner.

Cross-examination. party within six days after such notice to propound cross-interrogatories and such interrogatories and cross-interrogatories, if any be propounded, shall be sent to the Commissioner, who shall thereupon proceed to take the testimony of such witness and transmit it under seal to the Court. Such testimony shall be preceded by a written declaration of the witness similar to that of a witness testifying in person before the Court for the Trial of a Bishop.

Proviso. In any Diocese in which the Civil Government shall have authorized the Ecclesiastical Courts therein to issue subpoenas for witnesses or to administer an oath, the Court shall act in conformity to such law.

On what condition deposition may be read. *Provided, however,* that no deposition shall be taken, or read at the trial, unless the Court shall deem such testimony to be material and also have reasonable assurance that the attendance of the witness cannot be procured, and the several Courts shall have power to limit the scope of the testimony and the number of witnesses to be examined and whose depositions shall be taken.

Bishops making presentment select Church Advocate. Sec. 23. Where a presentment of a Bishop is made by any ten Bishops of this Church exercising jurisdiction, they may select a Church Advocate as legal adviser. The Presiding Bishop upon the receipt of written charges or written demand under the provisions of Sections 3 or 4 of Canon IV.4, shall at the same time that the Board of Inquiry is appointed as provided in Section 5 of said Canon IV.4, appoint a Church Advocate to act as the legal adviser of the Board.

Legal Adviser.

Church Advocate. In all trials and upon all appeals the several Courts may appoint a Church Advocate with or without assistants, all of whom shall be of the profession of the law, and communicants of the Church, to appear in behalf of the Church upon such trial or appeal. The Church Advocate shall then be considered the party on one side, and the accused the party on the other.

Expenses of Court of Review. Sec. 24. The necessary charges and expenses of the Court of Review of the Trial of a Presbyter or Deacon, including the necessary expenses of the Church Advocate and Lay Assessors, shall be a charge upon the Province and shall be paid by the Treasurer of the Synod of such Province upon

the order of the President of the Synod. Similar charges in the case of the Trial of a Bishop, and of the Court of Review of the Trial of a Bishop, shall be paid by the Treasurer of the General Convention upon the order of the President of such Courts.

Expenses of Boards of Inquiry. The necessary expenses of Boards of Inquiry or Commissions appointed under the Canons of this Church to make preliminary investigation and to report upon charges presented, including therein the necessary expenses of Church Advocates appointed to assist such Boards or Commissions, shall be a charge upon the General Convention, or upon the Province, or the Diocese, as the case may be. They shall be paid by the respective Treasurers of the General Convention, of the Synod or Province, or of the Diocese, upon the order of the President of the several Courts.



In 1859, the only canon specifying the composition of a court was Title II, Canon 9, which dealt with the trial of a bishop. The relevant sections of this canon were made a separate Canon 24 in 1904, at which time two new canons, 27 and 29, dealing with courts of review, were added. In 1931 these three canons were combined to form Canon 29, which became Canon 54 in 1943, and Title IV, Canon 3, in 1970.

(a) SECTION 1

Convention of 1931

This section was adopted as part of the general rearrangement and revision of the disciplinary canons made by this Convention. Before this, the establishment of diocesan courts had been governed solely by Article IX of the Constitution.

The section as adopted read as at present, except for two references to Missionary Districts, which were deleted as no longer needed in 1973.

(b) SECTIONS 2 THROUGH 13

The question of providing appellate courts occupied the attention of a majority of the General Conventions from 1853 to 1904. In the 1853 Convention, an amendment to the then sixth article of the Constitution was approved by both houses, inserting the words “until the General Convention shall provide a uniform mode of trial” after the words “In every Diocese the mode of trying Presbyters and Deacons may be instituted by the Convention of the Diocese.”

The same Convention appointed a Joint Committee on the Judicial System of the Church, with instructions to report to the next Convention.

The Convention of 1856 defeated the amendment to the Constitution adopted by the Convention of 1853, through failure of the laity to concur therein. The Convention, however, approved of an amendment to the said sixth article of the Constitution in another form, substituting, for the words of the former proposed amendment, the following: "but the General Convention may establish a Court of Appeals for the revision of Diocesan Courts," and also adding, at the end of the article, the words "Such Court of Appeals not to revise the determination of any question of fact."

The Joint Committee on the Judicial System of the Church, appointed by the Convention of 1853, reported to the Convention of 1856 a series of exceedingly elaborate canons, providing for a complete judicial system, among which was a canon on courts of appeals which provided that the House of Bishops should constitute such court. No action was taken on this proposed canon.

The proposed amendment to Article VI of the Constitution approved by the Convention of 1856 was defeated in both houses of the Convention of 1859. So decisive was the defeat of the attempt to amend the Constitution to provide for a court of appeals, that the question was not again seriously brought before General Convention until 1871. From that time until the revision of the Constitution in 1901, when the amendment to the Constitution was finally enacted, providing that the General Convention might establish courts of review and an ultimate court of appeal, the question was presented to almost every General Convention. Memorials from various dioceses were presented to different Conventions, praying for the establishment of some court of appeal. It is a singular fact that efforts to establish such courts, or the adoption of an amendment to the Constitution empowering the Convention to enact a canon providing therefor, were usually defeated by the vote of the laity.

The committee on canons in the House of Deputies also contended whenever a proposed canon to establish a court of appeal was referred to it, that no canon on the subject could be enacted until the Constitution was so amended as to provide therefor. This contention was combated by some of the ablest lawyers in the Convention, who held that no constitutional amendment was necessary to enable the General Convention to erect courts of appeal. In the Convention of 1871, a minority of the committee reported to the Convention, in part, as follows:

We cannot bring ourselves to believe that the framers of our Constitution intended to place it out of the power of the General Convention to establish a Court of Final Appeal, to review and correct the errors of a Diocesan Court upon questions involving the doctrine and ritual of the Church.

The Constitution provides (Article VI) that the Convention of each Diocese *may* institute the mode of trying Presbyters and Deacons. Can these few and simple words contain a grant of authority so comprehensive and exclusive that no power is left in the Church at large to guard her faith and doctrine from the errors and contradictions of different Diocesan Courts? We think not. Such a result could not have been intended.

They recommended, however, in view of the fact that the majority of the committee did not agree with them, the adoption of an amendment to the Constitution, providing that the General Convention might establish an appellate court for the review of all questions arising and determined in a diocesan court which involve the doctrine or ritual of the Church, or the construction of the Constitution or Canons of the General Convention. No action on this report seems to have been made by the Convention.

In the Convention of 1874, the House of Bishops approved an amendment to the Constitution providing for the establishment of courts of appeal, but the House of Deputies refused to concur therein.

In the Convention of 1880, on a vote by orders, such a proposed amendment to the Constitution received a majority of the clerical vote, but it was defeated by the lay vote.

In each succeeding Convention up to 1901, repeated efforts were made to amend the Constitution so as to provide for appellate courts, but without success.

Convention of 1901

This Convention finally enacted Article IX of the Constitution which provided for the establishment by the General Convention of courts of review, and an ultimate court of appeal.

Convention of 1904

The committee of the House of Deputies recommended the adoption of a canon establishing courts of review. The committee, in their report, stated that the several departments provided for in the canon were coterminous with the provinces as provided for in the report of the Commission on Provinces, and were so drafted as to be readily adapted to the provincial system whenever such a system should be adopted. (See Title I, Canon 8, above.)

Section 1 of new Canon 29, as adopted, grouped the various dioceses and missionary districts into eight Judicial Departments.

Section 2 provided for the inclusion of new jurisdictions in one of the eight departments.

Sections 3 through 12 read as follows:

Sec. 3. In each of the departments there shall be a Court of Review, which shall be composed of a Bishop therein, three Presbyters, canonically resident in one or other of the Dioceses or of the Missionary Districts within the department, and three lay communicants of the Church having domicile in the department; two at least of said lay communicants to be men learned in the law.

Sec. 4. At each triennial session, the General Convention shall appoint for every such department seven persons as members of the Court therein, having the character and qualifications prescribed in Section III., to constitute the Court of Review therein. The persons so appointed, except in case of death, resignation, refusal or inability to serve, and as hereinafter provided, shall continue to be members of the Court until a new appointment shall be made. The Bishop appointed in each department shall be the presiding officer of the Court therein.

Sec. 5. The several Courts of Review are vested with jurisdiction to hear and determine appeals from decisions of Trial Courts, in Dioceses and Missionary Districts, on the trial of a Presbyter or Deacon in the cases hereinafter mentioned, *Provided, however,* that until after the establishment of an ultimate Court of Appeal as permitted by Article IX. of the Constitution, no Court of Review shall determine any question of doctrine, faith, or worship.

Sec. 6. An appeal to the Court of Review of the department within which a trial was had may be taken by the accused from a decision hereafter made of a diocesan or Trial Court which sustains in whole or in part a charge of any canonical offense. Upon the written request of at least two Bishops of other jurisdictions within the department, the Bishop or the Standing Committee of the Diocese or Missionary District within which a trial was had shall appeal from a decision hereafter made of a Trial Court acquitting the accused of a charge, involving a question of doctrine, faith or worship; *Provided, however,* that such appeal shall be on the question of the Church's doctrine, faith, or worship, and that the decision shall not be held to reverse the personal acquittal of the accused. But such an appeal by the Standing Committee can be taken only when there is a vacancy in the office of Bishop or in case the Bishop is unable to act. The Bishop of the jurisdiction within which a trial was had or (in case of his inability to act) the Standing Committee shall cause to be served on the accused against whom an adverse decision has been made by the Trial Court, written notice thereof. Within thirty days after the service of such notice the accused may appeal to the Court of Review by serving a written notice of appeal on the Bishop or Standing Committee of the jurisdiction and a duplicate on the President of the Court. Such notice shall be subscribed by the appellant and shall briefly set forth the decision from which the appeal is taken and the grounds of the appeal. An appeal by the Bishop or Standing Committee (in the case herein authorized) may be taken by the service by the appellant of a similar notice upon the accused, and also upon the President of the Court, within thirty days after the decision from which the appeal is taken. If the trial was had in a Missionary District not specified in Section I., the appeal shall lie to the Court of the Department embracing the Diocese, the Constitution and Canons of which had been selected for the administration of such Missionary District.

Sec. 7. In case of conviction by the Trial Court, the Bishop shall not proceed to sentence the accused before the expiration of thirty days after he shall have been notified of the decision of the Court, nor in case an appeal is taken shall sentence be pronounced pending the hearing and determination thereof. If the conviction be upon a charge of crime or immorality, the accused, pending the appeal, shall not exercise any ministerial function.

Sec. 8. An appeal shall be heard upon the record of the Trial Court. When an appeal shall have been taken, the Bishop or (in case of his inability to act) the Standing Committee of the Diocese or Missionary District wherein the trial was had, within thirty days after receiving notice of the appeal, shall transmit to the President of the Court of Review of the department, a full and correct transcript of the record, proceedings, and decisions of the Trial Court, including all the evidence taken upon the trial, duly certified by the presiding officer or clerk of such Court. Except for the purpose of correcting the record, if defective, no new evidence shall be taken by the Court of Review.

Sec. 9. The President of the Court of Review of the department having jurisdiction, within ninety days after the record shall have been received by him, shall appoint a time and place within such department for the hearing of the appeal. At least thirty days prior to the day appointed, written notice of such time and place shall be given by him to the other members of the Court, and also to the accused, and to the Bishop and Standing Committee of the Diocese or Missionary District in which the trial was had.

Sec. 10. Notices may be served personally or by registered mail addressed to the person to be served, at his last place of residence. When the appeal is from the decision of a Trial Court in any Missionary District the notice required by section IX. to be given to the accused shall be served at least three months prior to the day appointed for the hearing and the appellant shall have four months after the appeal is taken within which to serve and to deliver copies of the record as required by section XI.

Sec. 11. It shall be the duty of the appellant to procure a certified copy of the record of the trial, including the charges, evidence, decision or judgment, together with the notice of appeal, to be printed. Within sixty days after the appeal shall have been taken he shall serve two printed copies thereof upon the opposite party, and shall deliver seven printed copies to the President of the Court for the use of the judges. For reasons by him deemed sufficient, the President may dispense with the printing of the record, or of any portion thereof.

Sec. 12. At the time and place appointed, the Court shall organize and may appoint a clerk or secretary, and proceed to hear the appeal; *Provided, however*, that at least six judges, of whom the President of the Court shall be one, shall participate in the hearing. But the members present, if less than that number, may adjourn the Court from time to time, until the attendance of the requisite number shall be secured.

Sections 13 through 17 will be considered below, under the general provisions for membership in courts.

Sections 18, 19, and 20 (in part) read as follows:

Sec. 18. The Court may reverse or affirm, in whole or in part, the decision of the Trial Court, or, if in its opinion, justice shall so require, it may grant a new trial. If after having been duly notified, the appellant fail to appear, and no sufficient excuse be

shown, the Court may dismiss the appeal for want of prosecution or it may proceed to hear and determine the appeal in his absence.

Sec. 19. The concurrence of five members of a Court shall be necessary to pronounce a judgment. The judgment or decision of the Court shall be in writing, signed by the members of the Court uniting therein, and shall distinctly specify the grounds of the decision and shall be attached to the record. If the concurrence of five members cannot be obtained as provided, that fact shall be stated in the record, and the decision of the Trial Court shall stand as affirmed. Immediately after the determination of the appeal the President of the Court shall give notice thereof in writing to the accused and to the Bishop and the Standing Committee of the Diocese or Missionary District in which the trial was had. Upon the determination of the appeal, the original record upon which the appeal was heard, together with the record of the Court of Review, certified by the President and the Secretary or Clerk, shall be, remitted to the Bishop or the Standing Committee of the jurisdiction in which the trial was had. But, if the decision involve a question of doctrine, faith, or worship, the record shall be retained by the President until the time for taking an appeal to the Court of Appeals shall have expired, and if no appeal shall then have been taken, as provided in the Canon creating such Court, he shall remit the record as in other cases. All records remitted as herein provided shall be deposited and be preserved among the archives of the jurisdiction to which they are sent.

Sec. 20. The Court shall not pronounce sentence on the affirmance of a conviction. When the appeal is determined, sentence of admonition, suspension, or deposition shall be pronounced as hereinafter provided; unless the determination involve a question of doctrine, faith, or worship, and an appeal be taken to the Court of Appeals. In any such case the sentence shall be pronounced as provided in the Canon creating such Court. In all cases except as above provided, on the receipt of the record, the Bishop of the jurisdiction in which the trial was had shall determine and pronounce sentence of admonition, suspension, or deposition.

The remainder of Section 20, and Sections 21 and 22, will be considered in another place.

Convention of 1907

The Committee on Courts of Review was continued by this Convention.

Section 11 of the canon, as adopted in 1904, was amended by striking the word "thereof" in the second sentence, and inserting in place thereof the words "of the record and notice of appeal."

This amendment was suggested by the appeal of the Rev. Dr. Crapsy to the Court of Review from a conviction by a diocesan trial court, and was for the purpose of making more definite the contents of the copies which the canon directed to be served by the appellant upon the opposite party in case of an appeal from the trial court.

Convention of 1910

This Convention appointed a joint committee on the subject of a final court of appeals which made a unanimous report to the Convention of

1913, with the exception of one member, who dissented from the remainder of the committee on the expediency of establishing such a court. The canon recommended for adoption by this committee provided for a final court of appeal, to consist of the whole House of Bishops, with a judicial commission consisting of five bishops, five presbyters, and five laymen, whose function it should be to digest the matter of the appeal taken to the court, and report their findings thereon for the final decision of the House of Bishops. Only questions of doctrine, faith, and worship should be taken to the court of appeals.

Although this canon was recommended for adoption by a large majority of the joint commission, it failed of adoption in the House of Deputies. No action was taken thereon in the House of Bishops.

This Convention renumbered Canon 29 as Canon 30, and amended Section 4 to read as follows:

Each Department shall prescribe the manner in which the Court of Review shall be chosen.

The former canon prescribed that the members of the court should be elected by the General Convention at each triennial session; under the provision of the canon as thus amended, each department was given the right to prescribe how the members of the court should be chosen.

Convention of 1913

This Convention amended Canon 30 by striking Sections 1 and 2.

The word "Department," wherever it occurred in the canon, was changed to "Province."

These changes were necessitated by the enactment, by the same Convention, of a canon on provinces, in which the several provinces were coterminous with the former departments.

All the remaining sections of the canon were renumbered. The canon was also renumbered as Canon 31.

Section 2, formerly Section 4, was amended to read as follows:

Each Provincial Synod shall triennially at its first meeting after the regular meeting of the General Convention elect Judges of the Court of Review in the Province. The Synod shall prescribe the manner in which such Judges shall be elected. The persons so elected, except in case of death, resignation, refusal or inability to serve, and as hereinafter provided, shall continue to be members of the Court for the term of three years and until their successors shall be elected.

The Bishop elected by the Synod shall be the presiding officer of the Court.

The purpose of this amendment was to make more definite the power of the province to elect judges of the court of review. The former canon simply provided that each department should prescribe the manner in which the court of review was to be chosen.

Section 4, formerly Section 6, was amended by the insertion of the words "Canon 50" before the words "Section 1" in the last sentence thereof. Canon 50 was the new canon on Provinces.

Convention of 1916

This Convention amended Section 18 [section 20 in 1904] of the canon to read as follows:

The Court shall not pronounce sentence on the affirmation of a conviction. When the appeal is so determined, the Bishop of the jurisdiction in which the trial was had, upon receipt of the record shall determine the sentence whether of admonition, suspension, or deposition, as he shall deem proper, and shall pronounce the same in accordance with the provisions of Canon 37, Sec. 3.

This section contains the substance of the first three sentences only of the former Section 18. The remainder thereof related to the sentence to be pronounced and the notice to be given of such sentence, and was made a part of then Canon 37, Section 3, which was amended so as to contain all matters relating to sentences to be pronounced after conviction by a trial court. Formerly, matters relating to such sentences were stated in the several different canons, but it seemed better, in the mind of the Convention, to group all matters relating to sentences in one canon.

Another change made by the amendment to this section was the provision that the bishop is to determine the sentence that is to be pronounced, whether admonition, suspension, or deposition, as he shall deem proper. Under the former canon, if the determination of the court involved a question of doctrine, faith, or worship, and an appeal was taken to the court of appeal, the bishop was to pronounce such sentence as the canon creating such court might prescribe.

The canon was renumbered as Canon 33 in 1919 and Canon 34 in 1922.

Convention of 1931

As recommended by the joint commission appointed in 1925, Sections 1 through 10 and 16 through 18 of Canon 34 were made Sections 2 through 13 of new Canon 29. Except for references to missionary districts, dropped as no longer needed in 1973, and changes in cross references made to reflect changes in the numbering of the canons, the amendments made were as follows:

Section 2 was former Section 5, amended to read as at present.

Section 3 was former Section 1, amended to read as at present (except for a reference to “men” which was changed to “persons” in 1979).

Section 4 was former Section 2, amended to its present wording, except that it required triennial elections and three-year terms of office.

Section 5 was former Section 3, amended to read as follows:

The several Courts of Review are vested with jurisdiction to hear and determine appeals from decisions of Trial Courts in Dioceses or Missionary Districts, on the trial of a Presbyter or Deacon. *Provided*, however, that until after the establishment of an ultimate Court of Appeal as permitted by Article IX of the Constitution, no Court of Review shall determine any question of doctrine, faith or worship.

In the printing of the Journal of this Convention, the proviso in Section 5 was wrongly attached to Section 16 (see “errata in Canons,” *Journal*, p. 639).

Section 6 was former Section 4, amended to its present wording except for the second paragraph, which read as follows:

If the trial was had in a Missionary District not specified in Canon 52, Sec. 1, the appeal shall lie to the Court of the Province embracing the Diocese, the Constitution and Canons of which had been selected for the administration of such Missionary District.

Section 7 was former Section 6, unamended, and reading as at present.

Section 8 was former Sections 7 and 8, amended to its present wording, except for a reference to “Missionary District,” later changed to “Missionary Diocese.”

Section 9 was former Section 9, amended to its present wording.

Section 10 was former Section 10, unamended, and reading as at present.

Sections 11, 12, and 13 were former Sections 16, 17, and 18, amended to read as at present.

Convention of 1937

The joint commission, in its report, again urged the adoption of a canon creating an ultimate court of appeal. Its reasons, and the history of the proposal, are stated on page 563 of the *Journal* of 1937.

The House of Deputies adopted resolutions providing for such a court of appeal, and in the House of Bishops the committee on canons reported favorably on the subject.

The Bishop of Eau Claire then moved a substitute which was adopted, as follows:

Resolved, That the proposed amendment to Canon 32 (a) be referred to the Committee on Canons with instructions to offer such necessary amendments to the existing Canons as will secure the right of appeal in the cases of Presbyters and Deacons in matters of doctrine, faith and worship without the need of a Court of Appeal.

As a result, the committee on canons proposed the following which was adopted:

Resolved, the House of Deputies concurring, That Canon 29, Section 5, be amended by striking out the proviso beginning with the words: "*Provided, however,*" in line 4, so that Canon 29, Section 5, shall read as follows:

Sec. 5. The several Courts of Review are vested with jurisdiction to hear and determine appeals from decisions of Trial Courts in Dioceses and Missionary Districts, on the trial of a Presbyter or Deacon.

The House of Deputies concurred, so that thereafter courts of review of the trial of a presbyter or deacon received jurisdiction on matters of doctrine, faith, and worship.

The canon was renumbered as Canon 54 in 1943, and as Title IV, Canon 3, in 1970.

Convention of 1973

The second paragraph of Section 6 was amended to its present wording.

Convention of 1976

Section 4 was amended to read as at present.

(c) SECTION 14

Convention of 1841

This Convention enacted Canon 4, "Of the Trial of Bishops," the second section of which read as follows:

The presentment shall be addressed to the Presiding Bishop, who shall give notice with all convenient speed to the several Bishops then being within the territory of the United States, appointing a time and place for their assembling together; and any number thereof, being not less than seven, other than the Bishop presenting, then and there assembled, shall be a quorum, for the purpose of ordering all matters concerning the said presentment. But if the Presiding Bishop be the subject of the presentment, it shall be addressed to the next Bishop in the order of seniority.

The first section of this canon related to the mode of presentment. This canon was enacted because of an amendment to the sixth article of the Constitution by this Convention, providing that a court for the trial of a bishop should be composed of bishops only.

This canon, as enacted, was very unsatisfactory in that it did not make an offense by a bishop punishable. It prescribed neither the form of trial nor degree of punishment.

Convention of 1844

This Convention repealed Canon 4 of 1841, and enacted Canon 3 in place thereof. The only provision in this canon relating to the trial court is found in Section 3, which read, in part, as follows:

The Presiding Bishop shall, without delay, cause a copy of the Presentment to be served on the accused, and shall give notice, with all convenient speed, to the several Bishops then being within the territory of the United States, appointing a time and place for their assembling together; and any number thereof, being not less than seven, other than the Bishops presenting, then and there assembled, shall constitute the Court for the trial of the accused.

The remainder of the section refers to other matters connected with the trial, which will be considered later under the discussion of some of the following canons.

Convention of 1856

This Convention repealed Canon 3 of 1844, and enacted Canon 11 in place thereof. Section 5, which provided for the composition of the trial court, read, in part, as follows:

When a presentment has been made by the Board of Inquiry, or a majority thereof, to the Bishop from whom they received the charges, it shall be the duty of such Bishop forthwith to give to the accused written notice to attend at some place not more than one hundred miles from the place of residence of the accused Bishop, and at some time not less than twenty days after the time of service such notice, either personally, or by some Agent, authorized by him, in writing, to act for him in the premises, for the purpose of selecting the Bishops who shall form the Court for the trial of the said accused Bishop upon the said presentment. He shall also give notice of the time and place appointed for such selection to the Church Advocate. At the time and place appointed in the notices, the Bishop who has given the notices shall attend, and in the presence of the accused Bishop, or of his Agent, authorized as aforesaid, and also in the presence of the Church Advocate, or of such person or persons as may attend in his behalf, or, if no person shall attend on behalf of one or both, of two Presbyters named by himself, the said Bishop shall cause to be placed in a vessel the names of all the Bishops of this Church entitled to seats in the House of Bishops, then being within the territory of the United States, except the accused, and those Bishops who may be related to him either by consanguinity or affinity, in the direct ascending or descending line, or a brother, uncle, or nephew. He shall then cause eleven of the said names to be drawn. The names so drawn shall be entered upon a list as they are drawn, and the accused or his agent may strike off the list one name, and the said Church Advocate or his Agent another name, and so on alternately, until the number be reduced to seven. If it shall happen that either party shall neglect or refuse to strike, then the Bishop, who has given the notices, shall reduce the number to seven by striking off so many of the last drawn names as will reduce the list to that number. The seven Bishops whose names

remain, or a majority of them, when assembled, shall constitute the Court for the trial of the accused upon the presentment.

This section referred to a presentment and trial for all offenses enumerated in the canon, except for holding and teaching any doctrine contrary to that held by the Church. The constitution of the court for the trial of that offense is prescribed in the last two sentences of Section 7 of this same canon, which read as follows:

The court shall be composed of all the Bishops entitled to seats in the House of Bishops, except the accuser and the accused. Three-fourths of such Bishops shall constitute a quorum, but the consent of two-thirds of all the Bishops entitled to seats in the House of Bishops shall be necessary to a conviction.

Section 6 was concerned with procedural matters, and will be discussed later.

Convention of 1859

In the revision of the canon by this Convention, Canon 11 of 1856 was renumbered as Title II, Canon 9, but without amendment.

Convention of 1904

In the revision of the canons by the Convention of 1904, Title II, Canon 9, was divided into three separate canons, and the provisions of Sections 5, 6, and 7, relating to the composition of the court were combined into one canon, Canon 24, "Of the Court for the Trial of a Bishop."

Section 1 of the said canon read as follows:

(i) There shall be a Court for the trial of a Bishop constituted as follows: the House of Bishops, upon the adoption of this Canon, shall choose three Bishops to serve as Judges of said Court for the term of three years; three Bishops to serve as aforesaid for the term of six years, and three Bishops to serve as aforesaid for the term of nine years; and thereafter, at each General Convention, the House of Bishops shall choose three Bishops to serve as aforesaid for the term of nine years in place of those whose term of office shall then have expired; *Provided*, that if, during the trial of any case before said Court, the term of office of any of the Judges sitting on the said trial shall expire, the said Judge shall nevertheless be competent to act in the case until the termination of the trial.

(ii) Upon the occurrence of a vacancy in said Court by death or otherwise, the remaining Judges shall have power to fill such vacancy, until the next General Convention, when the House of Bishops shall choose a Bishop to fill such vacancy, the Bishop so chosen to serve during the residue of the term, if any there be.

(iii) Not less than six of said Judges shall constitute a quorum, but any less number may adjourn the Court from time to time.

The remaining sections of the canon will be considered later.

Convention of 1931

Section 1 of the Canon of 1904 was made Section 14 of new Canon 29, and amended as follows:

In clause (i), the phrase “upon the adoption of this Canon” was deleted, and the words “a term” were substituted for “the term” in three places. The proviso was removed.

The provisions of clause (ii) were transferred elsewhere, and the following new clause (ii) adopted:

The Court is vested with jurisdiction to try a Bishop who is duly charged with any one or more of the offences specified in Canon 27.

Clause (iii) remained the same.

Convention of 1976

Section 14 was amended to its present wording.

(d) SECTIONS 15 THROUGH 17

Convention of 1904

Provision for appellate courts was first made in 1901 by the enactment of Article IX of the Constitution.

The Convention of 1904 enacted Canon 27, “Of the Court for the Review of the Trial of a Bishop,” which read, in part, as follows:

Sec. 1. There shall be a Court for the Review of the determination of the trial court of a Bishop, which shall be composed of Bishops only, and which shall be constituted as hereinafter provided.

Sec. 2. Upon the adoption of this Canon, the House of Bishops shall choose three Bishops to serve as Judges of the Court for the Review of the Trial of a Bishop for the term of three years, three Bishops to serve as aforesaid for the term of six years, and three Bishops to serve as aforesaid for the term of nine years, and thereafter at each General Convention the House of Bishops shall choose three Bishops to serve as aforesaid for a term of nine years in place of those whose term of office shall then have expired; *Provided*, that if during the hearing of any appeal before said Court of Review, the term of office of any of the Judges sitting on the said appeal shall expire, the said Judge nevertheless shall be competent and may continue to act upon the said appeal until the final determination thereof.

Sec. 5. The Court may adjourn from time to time, as convenience may require, by the vote of a majority of the Judges in attendance upon any duly convened session of the Court. For any and all other purposes a quorum of the Court shall consist of six Judges, and the concurrence of six Judges shall be necessary to pronounce a judgment.

Sec. 11. The said Court of Review is vested with jurisdiction to hear and determine appeals from the determination of the Trial Court on the trial of a Bishop....

Convention of 1931

Sections 1 and 2 of the Canon of 1904 were combined into Section 15 of new Canon 29, and amended to read as follows:

There shall be a Court of Review of the Trial of a Bishop, which shall be composed of Bishops only and shall be constituted as follows:

The House of Bishops shall choose three Bishops who shall serve as Judges of the Court of Review of the Trial of a Bishop for the term of three years; three Bishops to serve as aforesaid for the term of six years; and three Bishops to serve as aforesaid for the term of nine years, and thereafter at each General Convention the House of Bishops shall choose three Bishops to serve as aforesaid for the term of nine years in place of those whose term of office shall then have expired.

The first clause of Section 11 of the former canon, amended to its present wording, was made Section 16.

Section 5 of the former canon was made Section 17, and amended to read as at present.

Convention of 1976

Section 15 was amended to its present wording.

(e) SECTIONS 18 AND 19

Convention of 1856

Section 5 of Canon 11, adopted by this Convention, excluded from membership on a court for the trial of a bishop, those bishops related to him either by consanguinity or affinity, in the direct ascending or descending line, or a brother, uncle, or nephew. This provision did not apply, however, to a trial of a bishop for holding and teaching doctrine contrary to that held by the Church, the court for which was the entire House of Bishops.

Convention of 1904

Several of the canons relating to courts adopted by this Convention contained detailed provisions about membership.

Canon 24, "Of the Court for the Trial of a Bishop," read, in part, as follows:

Clause (i) of Section 1 concluded with this proviso:

Provided, that if, during the trial of any case before said Court, the term of office of any of the Judges sitting on the said trial shall expire, the said Judge shall nevertheless be competent to act in the case until the termination of the trial.

Clause (ii) of the same section read:

Upon the occurrence of a vacancy in said Court by death or otherwise, the remaining Judges shall have power to fill such vacancy, until the next General Convention, when the House of Bishops shall choose a Bishop to fill such vacancy, the Bishop so chosen to serve during the residue of the term, if any there be.

Section 4 read:

If in a proceeding before said Court any of the Bishops composing it shall be an accuser or the accused, or shall be related to either by consanguinity or affinity in the direct ascending or descending line, or as brother, uncle, nephew, or first cousin, he shall not be competent to act in such case. If, by reason of any disability, a quorum cannot be had, the Bishops competent to act shall choose a Bishop or Bishops to complete the quorum for such proceeding in place of the Bishop or Bishops unable to act.

The fifth and sixth paragraphs of Section 4 of Canon 25, "Of the Mode of Presenting a Bishop for Trial," read as follows:

If any Presbyter appointed under this section shall become a Bishop or any Layman so appointed shall become a Presbyter, before the final disposition of the charges, he shall thereby vacate his place as member of the Board.

In case of the death, resignation, disqualification or inability of any member of the Board to act, the Presiding Bishop, upon being advised of such disqualification or disability, shall appoint another Presbyter or another Layman, as the case may be, to act as member of the Board. Upon acceptance of the appointment, such person shall become a member of the Board. All of the proceedings in the case in which any person shall have been so appointed a member of the Board, shall continue and shall be completed in the same manner and with the same effect as though such person had been appointed originally a member of such Board of Inquiry.

Section 2 of Canon 27, "Of the Court for the Review of the Trial of a Bishop," ended with the following proviso:

Provided, that if during the hearing of any appeal before said Court of Review, the term of office of any of the Judges sitting on the said appeal shall expire, the said Judge nevertheless shall be competent and may continue to act upon the said appeal until the final determination thereof.

Sections 3 and 4 of the same Canon read as follows:

Sec. 3. No Bishop shall sit as a member of said Court on the hearing of an appeal who is related to the accused, either by affinity or consanguinity in a direct ascending or descending line, or as a brother, uncle, nephew, or first cousin, nor shall any Bishop be competent to sit, who, for any reason upon objection made by either party of the appeal is deemed by the other members of the Court to be incompetent.

Sec. 4. The death, permanent disability, resignation, or refusal to serve of a member of the Court of Review shall constitute a vacancy in the Court. A resignation shall be made by written notice to the Presiding Bishop. Upon the occurrence of a vacancy, the remaining Judges shall have power to fill such vacancy until the next General Convention, when the House of Bishops shall choose a Bishop to fill such vacancy, the Bishop so chosen to serve during the residue of the term, if any there be. In case of the disqualification of any Judge as provided in the preceding section, the remaining Judges may appoint a Judge to take the place of the one so disqualified on such appeal. All

the provisions of this Canon, or of Canon 24 relating to Bishops originally appointed as members of the Court, shall apply to Bishops appointed under this section, and all proceedings which may have been taken upon any appeal pending at or prior to such appointment, shall have the same force and effect as if the appointee had been a member of the Court when such proceedings were taken, and such appointee may participate in the continuing, hearing and determination of such appeal.

Sections 13 through 16 of Canon 29, "Of Courts of Review of the Trial of a Presbyter or Deacon," were as follows:

Sec. 13. No person shall sit as a member of a Court of Review, on the hearing of an appeal, who is related to the accused either by affinity or consanguinity, in a direct ascending or descending line, or as brother, uncle, nephew, or first cousin, nor shall the Bishop, nor any Presbyter or Layman of the Diocese or Missionary District in which the trial was had be competent to sit on an appeal from the decision on such trial, nor any Presbyter or Layman who for any other reason upon objection made by either party is deemed by the other members of the Court to be disqualified.

Sec. 14. The death, permanent disability, resignation, or refusal to serve of any member of a Court of Review, shall constitute a vacancy in the Court. A resignation by the President of the Court shall be by a written notice sent to the Presiding Bishop of the Church. A resignation by a Presbyter or Layman, or his refusal to serve, shall be made by written notice to the President of the Court.

Sec. 15. In case of death, permanent disability, removal from the department, or resignation of the Bishop appointed as a member of the Court in any department, or of his refusal to serve, the Presiding Bishop of the Church thereupon shall give written notice thereof to the Bishop senior by consecration in that department. Thereupon the Bishop so notified shall become and shall continue to be a member of the Court until a new appointment shall be made. If, in a particular case, the Bishop appointed as a member of a Court shall be disqualified from sitting, or by reason of illness, or other cause, shall be unable to attend a session of the Court, he shall give written notice of such disqualification or inability to the Presiding Bishop of the Church. Thereupon the Presiding Bishop shall notify the Bishops in that department in the order of their seniority by consecration, and on the hearing of such appeal the Bishop finally notified shall act as the President of the Court. All the provisions of this Canon relating to a Bishop originally appointed as a member of the Court shall apply to any Bishop designated under this section.

Sec. 16. In case (1) a vacancy or vacancies shall exist in the membership of the Court of Review in any department among the clerical or lay members originally chosen, or in case (2) one or more such members shall be disqualified or unable to sit in a particular case or at a particular session of the Court, the President of the Court, on being advised of the existence of such vacancy or vacancies, or of such disqualification or disability, shall appoint other Presbyters or Laymen residing in the department to fill such vacancy or vacancies, or to sit as members of the Court. He shall give written notice to the person or person appointed under this section, and upon acceptance of the appointment, the person or persons so appointed shall become members of the Court for the unexpired term of the original appointees, or temporarily, as the case may be. All the provisions of this Canon relating to persons originally appointed as members of the Court shall apply to persons appointed under this section. And all proceedings which have been taken in any case prior to such appointment under this section or the preceding section shall have the same force and effect as if the appointee had been a member of the Court when such proceedings were taken.

Except for the substitution, in 1913, of the word “provinces” for the word “departments,” and the words “President of the Provincial Synod,” for the words “Presiding Bishop of the Church,” in Sections 14 through 16, above, these provisions remained substantially unamended until 1931.

Convention of 1931

In the revision and recodification of the disciplinary canons adopted by this Convention, the above provisions were consolidated into Sections 18 and 19 of new Canon 29.

Section 18 read as follows:

(1) No person shall sit as a member of any Court who is a presenter of charges or is related to the accused or either of them by affinity or consanguinity in a direct ascending or descending line, or as a brother, uncle, nephew or first cousin, nor shall any Bishop, nor any Presbyter, nor any Layman of the Diocese or Missionary District in which the trial was had be competent to sit on an appeal from the decision on such trial, nor shall any Bishop, Presbyter or Layman who for any other reason upon objection made by either party is deemed by the other members of the Court to be disqualified.

(2) The death, permanent disability, resignation or refusal to serve as a member of any Court shall constitute a vacancy in the Court.

Notices of resignations or refusals to serve shall be given as follows:

(i) By any Bishop chosen to serve as a member of the Court for the Trial of a Bishop or of the Court of Review of the Trial of a Bishop; written notice sent to the Presiding Bishop.

(ii) By the President of the Court of Review of the Trial of a Presbyter or Deacon; written notice sent to the President of the Provincial Synod.

(iii) By a Presbyter or Layman of such Court; written notice sent to the President of said Court.

(3) If any Presbyter appointed to a Board of Inquiry shall become a Bishop or any Layman appointed to said Board shall become a Presbyter before the final disposition of the charge he shall thereby vacate his place as a member of the Board.

Section 19 read as at present, except for the amendments in the opening sentence and in clause (3) noted below.

Convention of 1940

Clause (3) of Section 19 was amended by inserting the words “with jurisdiction” after the word “Bishop” in the last clause of both the first and third sentences.

Convention of 1955

Section 18, clause (b) [formerly clause (ii)], was amended to its present wording.

The present paragraph (4) of the said clause (b) was added.

Clause (c) [formerly clause (3)] was amended to its present form.

In Section 19, the introductory sentence was amended by adding the words “or Boards” after the word “Courts.”

The purpose of these amendments was to include Boards of Inquiry in the provisions of these two sections.

Convention of 1973

The reference to Missionary Districts in the first clause of Section 18 was dropped as no longer needed.

Convention of 1976

Section 18 was amended by deleting the words “in a direct ascending or descending line, or as brother, uncle, nephew, or first cousin” from the first clause, and by substituting “Lay Member” for “Layman” throughout the section.

(f) SECTIONS 20 THROUGH 24

Convention of 1856

The early canons of the Church did not envision permanent courts. The only canon, prior to 1904, concerned with courts and their procedures, was that for the trial of a bishop.

Section 6 of Canon 11, adopted by this Convention, read, in part, as follows:

The Bishops who constitute the Court, or a majority of them, having assembled according to the notice given them, which notice it is hereby made their duty to obey, shall proceed as follows, viz.: 1. They shall elect a President out of their own number, and appoint a Presbyter of the Church as Clerk, and if necessary, another Presbyter as Assistant Clerk: and when thus organized, the President shall direct the Clerk to call the names of the Church Advocate and the accused, and if both appear he shall then cause the Clerk to read the presentment, which was delivered to the presiding or Senior Bishop, whose duty it is hereby made to deliver the same to the Court upon its organization....

(xiii) Every Court constituted under the authority of this Canon, may be attended by one or more Lay Advisers, who shall be communicants of this Church, and of the profession of the law. Such Advisers may be present at all proceedings of the Court, but they shall have no vote in any case whatever; it shall be their duty to give in person to the Court an opinion on any question, not theological, upon which the Court or any member thereof, or either party, shall desire an opinion. If a dispute shall arise whether any question be or be not theological, it shall be decided by the Court by a majority of votes. The Court may always, by unanimous consent, appoint an Adviser or Advisers. If they are not unanimous, each member of the Court may name a candidate; if not more than three are named, they all shall be Advisers; if more than three are named, the Court shall reduce them to three by lot.

Convention of 1904

Several of the canons relating to courts adopted by this Convention contained sections about procedures.

Canon 24, "Of the Court of the Trial of a Bishop," included the following sections:

Sec. 2. The said Court shall from time to time elect from its own members a President, who shall hold office until the expiration of the term for which he was chosen Judge. The said Court shall appoint a Clerk, and, if necessary, an Assistant Clerk, who shall be Presbyters of this Church, to serve during the pleasure of the Court.

Sec. 3. The Court may establish rules of procedure not inconsistent with the Constitution and Canons of this Church, with power to alter or rescind the same.

Sec. 5. If, in a proceeding before said Court, the President is disqualified, or is for any cause unable to act in the case, the Court shall elect a President *pro tempore*.

Sec. 6. Whenever there shall be a trial before said Court, the Court shall appoint not less than two nor more than three lay communicants of this Church, learned in the law, as assessors; but they shall have no vote in any case. It shall be their duty to give the Court an opinion on any question not theological, upon which the Court or any member thereof, or either party, shall desire an opinion. If a question shall arise, as to whether any question be or be not theological, it shall be decided by the Court by a majority of votes.

Canon 25, "Of the Mode of Presenting a Bishop for Trial," included these words as part of Section 4:

... in all cases of trial by an Ecclesiastical Court now authorized, or hereafter to be authorized, by the Constitution or Canons of the General Convention, the laws of the State in which such investigation or trial is had, so far as they relate to the law of evidence, shall be adopted and taken as the rules by which the said Board or Court shall be governed.

The testimony shall be stenographically reported....

Canon 26, "Of the Trial of a Bishop," included the following sentence at the end of Section 1, clause (ii):

The President, or any other member of the Court, shall, upon the application of either the Church Advocate or the accused, issue a summons for witnesses.

Section 3 of the said canon read, in part, as follows:

The accused being present and the trial proceeding, it shall be conducted according to the principles of the common law, as the same is generally administered in the United States; and the laws of the State in which such trial is held, so far as they relate to the law of evidence, shall be adopted, and taken as the rules by which said Court shall be governed; and the accused shall in all cases have the right to be a witness on his own behalf, subject to cross-examination in the same manner as any other witness....

And if it be necessary to take the testimony of an absent witness on a commission, such testimony shall be preceded by a similar written declaration of the witness, which shall

be filed and transmitted with his or her deposition to the Court. The testimony of each witness shall be reduced to writing. And in case there is ground to suppose that the attendance of any witness on the trial cannot be obtained, it shall be lawful for either party to apply to the Court, if in session, or, if not, to any member thereof, who shall thereupon appoint a commissioner to take the deposition of such witness; and such party so desiring to take the deposition shall give to the other party reasonable notice of the time and place of taking such deposition, accompanying such notice with the interrogatories to be propounded to the witness: whereupon, it shall be lawful for the other party, within six days after such notice, to propound cross-interrogatories; and such interrogatories and cross-interrogatories, if any be propounded, shall be sent to the commissioner, who shall thereupon proceed to take the testimony of such witness, and transmit it under seal to the Court. But no deposition shall be read at the trial, unless the Court have reasonable assurance that the attendance of the witness cannot be procured, or unless both parties shall consent that it may be read; *Provided*, that in any Diocese in which the civil government has authorized the Ecclesiastical Courts therein to issue summons for witnesses, or to administer an oath, the Court shall act in conformity to such laws.

Section 5 was as follows:

The accused party may if he think proper, have the aid of counsel of his own selection; and if he should choose to have more than one counsel, the Church Advocate may have assistant advocates, to be named by the accusers; but in every case, the Court may regulate the number of counsel who shall address the Court, or examine witnesses. The Church Advocate shall be considered the party on one side, and the accused the party on the other. All counsel must be communicants of the Church.

Sections 9 and 10 read as follows:

Sec. 9. Every trial shall be public if the accused shall so request.

Sec. 10. The necessary charges and expenses of the Church Advocate and of the proceedings before the Board of Inquiry and at the trial shall be paid by the Treasurer of the General Convention on the order of the Presiding Bishop.

Canon 27, "Of the Court for the Review of the Trial of a Bishop," contained the following provisions:

Sec. 6. From time to time the said Court shall elect one of its members to be President, who shall hold such office during the term for which he is chosen Judge, and also shall appoint a Presbyter of this Church to be Clerk, to serve during the pleasure of the Court.

Sec. 7. From time to time the Court may appoint a Church Advocate with or without assistants, all of whom shall be communicants of the Church, to appear in behalf of the Church upon any appeal. The Church Advocate then shall be considered the party on one side, and the accused the party on the other. The Court shall allow the accused to be heard in person, or by counsel of his own selection, provided every such counsel shall be a communicant of this Church.

Sec. 8. The Court may establish rules of procedure not inconsistent with the Constitution and Canons of this Church, with power to alter or rescind the same. The Court shall keep a record of all its proceedings.

Sec. 9. Every hearing shall be public, if the accused shall so request.

Sec. 10. The necessary charges and expenses of the Church Advocate and of the Court of Review, shall be paid by the Treasurer of the General Convention on the Order of the Presiding Bishop.

Section 15 of Canon 29, "Of Courts of Review of the Trial of a Presbyter or Deacon," read, in part, as follows:

In case of death, permanent disability, removal from the department, or resignation of the Bishop appointed as a member of the Court in any department, or of his refusal to serve, the Presiding Bishop of the Church thereupon shall give written notice thereof to the Bishop senior by consecration in that department. Thereupon the Bishop so notified shall become and shall continue to be a member of the Court until a new appointment shall be made.

Section 17 of the same canon read as follows:

The Court may adjourn from time to time as convenience or necessity may require. The accused may appear and be heard in person or by counsel. Such counsel shall be a communicant of the Church. A Church Advocate may be appointed from time to time by the Bishop, or in case of his inability to act, by the Standing Committee of a Diocese or Missionary District in which the trial was had, to appear in behalf of the Church on any appeal. The Church Advocate shall be a communicant of the Church. The Court shall cause a full record to be kept of its proceedings.

Sections 21 and 22 were as follows:

Sec. 21. The several Courts of Review may establish rules of procedure not inconsistent with the Constitution and Canons.

Sec. 22. The expenses incurred by the Court or by its members, certified by the President, shall be a charge on the contingent fund of the General Convention, and shall be paid by the Treasurer thereof. To provide for these expenses, the Secretary and the Treasurer of the Convention are authorized to assess each Diocese one dollar for each Clergyman canonically resident, whensoever the need shall arise; the fund thus secured to be added to the Contingent Fund in the hands of the Treasurer.

Convention of 1910

The second sentence of Canon 29, Section 22, was amended to read as follows:

To provide for these and other necessary expenses, should the state of the treasury at any time before the next General Convention require it, the Treasurer of the General Convention and the Secretary of the House of Deputies are authorized to assess each Diocese one dollar for each Clergyman canonically resident; and the fund thus secured shall be added to the Contingent Fund in the hands of the Treasurer.

The canon was renumbered as Canon 30.

Convention of 1913

Section 15 of Canon 30 was made Section 13, and was amended by substituting the word “province” for the word “department,” and the words “President of the Provincial Synod” for the words “Presiding Bishop of the Church.”

Except for changes in numbering, these provisions of the Convention of 1904 received no further amendment until 1931.

Convention of 1931

In the revision of the disciplinary canons adopted by this Convention, these scattered provisions were consolidated into Sections 20 through 24 of new Canon 29.

Section 20 read as at present, except for a reference to missionary districts in clause (a).

Sections 21 and 22 read as at present.

Section 23 read as at present, except that the number of bishops required to make a presentment was three.

Section 24 read as at present, except for two references to missionary districts in the second paragraph.

Convention of 1967

Section 23 of Canon 55 [formerly Canon 29] was amended by changing the number of bishops required to make a presentment of a bishop from three to ten.

This amendment resulted from the report of the so-called “Bayne Committee,” which decried the process whereby as few as three bishops could “invoke the whole portentous machinery of the Church’s law” (*Journal*, appendix 6). The committee report was prompted by the “Bishop Pike affair.” See also Title IV, Canon 4, Section 2.

Convention of 1973

The references to missionary districts in Sections 20 and 24 of the canon, now Canon IV.3, were dropped as no longer needed.

EXPOSITION OF CANON IV.3

(a) Diocesan Courts for the Trial of a Presbyter or Deacon

This section of the canon creates a duty on the part of each diocese to provide for the establishment of such a court and the mode of conducting trials before it.

(b) Courts for the Review of the Trial of a Presbyter or Deacon

One of the arguments put forth in some of the Conventions prior to 1904, for not recommending the enactment of a canon providing for a court to review the decisions of diocesan courts was the difficulty, if not the impossibility, of framing a satisfactory canon on the subject. The present canon on courts of review shows the futility of that objection, for the canon has proven itself generally satisfactory.

The enactment of the canon providing for courts of review by the Convention of 1904 was due, in part at least, to the memorials to that Convention from several diocesan conventions, praying the General Convention to enact a canon providing for the erection of extra-diocesan courts of review. The Convention of the Diocese of Milwaukee adopted a set of resolutions setting forth the reasons why, in its opinion, such courts were needed. These resolutions read, in part, as follows:

Whereas, Recent events that have been widely published and discussed in the public press, have illustrated anew the grave evils resulting from the neglect in this Church to make canonical provision for extra-diocesan Courts of Appeal in cases of the trial of a Clergyman; a neglect that renders both the Minister who may be the defendant, and the Bishop who may act as trial judge or may pronounce sentence after trial, liable to the gravest injustice or suspicion of injustice, by reason of the impossibility of granting or receiving a new trial upon appeal to a higher court; therefore be it

Resolved, That the Diocese of Milwaukee, which has been happily free from any instance of the trial of any of her Clergy for a long term of years, earnestly petitions General Convention to grant some form of relief, by provision for extra-diocesan Courts of Appeal, for the protection alike of the Bishops and the other Clergy of this Church.

Then followed other resolutions setting forth the view of that diocese, that such relief could best be effected by means of a provincial system, also instructing the secretary of the Convention to communicate its action to the conventions of every diocese, with the request that they cooperate in presenting petitions to the General Convention, praying for the erection of such courts.

The Convention of the Diocese of Pennsylvania, in uniting with the Diocese of Milwaukee praying for action in the matter by the General Convention, gave as its reasons which ought to induce such action the following, among others:

1. Error is the common misfortune of humanity; and the experience of mankind in Church and State has shown the necessity of providing Courts of Review to revise the determinations of courts of first instance.
2. The necessity of Courts of Review increases with the importance of the issues at stake. The law cares little for trifles; but when life, liberty, or honorable reputation is involved, no State of the American Union leaves a citizen at the mercy of a single trial court....

6. The present position of the Episcopal Church in this matter is utterly anomalous. It is the only Church on earth in which a Clergyman may be found guilty of crime or of heresy by an ignorant court, sentenced by an ill-advised Bishop, and driven in disgrace from office and benefice, with no appeal save to the final judgment of God at the last day.

For such a state of things to have been suffered to continue for more than a century, is itself a scandal.

Undoubtedly, these memorials, with their strong condemnation of the then present conditions, had much weight with the Convention of 1904, and resulted in the enactment of the canon providing for courts of review, without a division in either house.

The court of review in each province is to consist of one bishop, three presbyters, and three lay persons, communicants of the Church, two of whom, at least, shall be learned in the law, and to hold office for three years. The bishop must be one of the bishops of the province, the presbyters must be canonically resident in some diocese within the province, and the lay persons be domiciled within the province. These judges are to be elected by each provincial synod, at its first meeting after the regular meeting of the General Convention. At the time of the first edition of this book, the court was given power to hear and determine appeals from the decisions of diocesan courts of review, with one very important exception, that such court of review was given no power to determine any question of doctrine, faith, or worship, until an ultimate court of appeal should have been established by General Convention. But a clergyman convicted in a diocesan court on a question of doctrine, faith, or worship was not entirely cut off from an appeal to the court of review. He might appeal on any one of these three grounds, viz.:

1. He might appeal on the ground that the trial court had erred in its procedure by violating some provision of the diocesan canon under which the trial court was constituted. If this contention were sustained, the court of review would undoubtedly have set aside the verdict and ordered a new trial.

2. He might allege that evidence material to his case was improperly admitted or refused by the trial court in violation of the law of the state in which the trial was had. If this allegation were proved, and the evidence in question appeared to the Court as materially important, the court of review might either set aside the verdict, in whole or in part, or order a new trial.

3. An appeal might also have been made on the ground that the verdict of the trial court was not sustained by the evidence. In that case,

the court of review would have been required to decide a mere matter of fact, whether the charges in the presentment were sufficiently proved by the evidence of record to justify a verdict of guilty. If the court should decide in the negative, the appellant would, of course, have been acquitted.

But in no case had the court of review of the trial of a deacon or a presbyter any power to deliver a judicial determination of any question of doctrine, faith, or worship until, in the revision of 1931, the proviso in Section 3 of former Canon 34 (now Section 5 of this canon) was repealed.

It was on the three grounds stated above that the Rev. Dr. Crapsey, of the Diocese of Western New York, appealed to the court of review from the decision of the trial court of that diocese, convicting him of heresy.

An appeal to the court of review must be had on the record of the trial court. No new evidence can be produced before the court of review, except for the purpose of correcting the record, if defective.

A defendant convicted in the trial court is allowed thirty days in which to perfect his appeal to the court of review, and the bishop of the diocese is debarred from sentencing him until after the said thirty days have expired, and also, in case the convicted cleric shall have appealed to the court of review, until after the hearing and determination thereof.

Canon IV.12 (e) provides that a presbyter or deacon who has been convicted of a crime or immorality rendering him liable to canonical sentence may be inhibited by the bishop of the diocese from all public ministrations, pending final judgment in the case.

The accused shall be allowed counsel if he desires, and the bishop may appoint a church advocate, both of whom must be communicants of the Church.

The court of review may reverse or affirm, in whole or in part, the decision of the trial court, or it may grant a new trial.

The concurrence of five of the seven members of the court was necessary to pronounce judgment as the canon stood at the time of the 1924 edition of this annotation. If such concurrence of five members of the court could not be obtained, then the decision of the trial court stood affirmed.

In the Convention of 1913, it was proposed to substitute the word "four" for the word "five," making necessary the concurrence of only four members of the court, that is, a majority of the court, to pronounce judgment, following the rule in the civil courts. The proposed amendment was defeated on the ground that it would thus be possible for the lay members of the court, with the assistance of one clerical member, to pronounce judgment.

As this provision has been constituted since the 1931 revision of the Disciplinary Canons, two-thirds of the members of the court who sit on the case must concur for a reversal; and otherwise the decision of the Trial Court must stand as affirmed. Since the court can act if six of its seven members participate (see Section 10), a reversal or order for a new trial might be brought about by the concurrence of four of that six, if the seventh did not participate; otherwise the concurrence of five would still be necessary.

The court of review has no power to pronounce sentence on the affirmation of a conviction. Only the bishop of the diocese in which the trial was had can pronounce the sentence.

The Canon of 1904, providing for a court of review, was a great advance in the improvement of the discipline of the Church, despite the fact that the committee's other major proposal, the creation of an ultimate court of appeal, was rejected. The 1904 Convention did agree, however, that questions of doctrine, faith, and worship should not be subject to the final determination of the court of review composed of only one bishop, three presbyters, and three laymen, and therefore the proviso was added to Section 3, providing that such court should not determine such questions until after the establishment of an ultimate court of appeal.

The elimination of this proviso in 1937, without the establishment of a court of appeal, has resulted in a situation whereby the adjudication of questions of doctrine, faith, and worship takes place in two vastly different types of tribunals. If a bishop is accused of such an offense, the most minute question of disputed doctrine can be pressed before the whole House of Bishops, and a decision rendered by a vote of two-thirds of all the bishops canonically assembled and entitled to vote (see Canon IV.6, Section 5). If the accused is a presbyter or deacon, the question is finally decided by the appropriate one of nine provincial courts of review, each of which makes its decisions in complete independence of all of the others, and independently of the House of Bishops, except that the president of the court is a member of that house. Theoretically, the same question of doctrine could be decided

ten different ways, if it should be susceptible of that many interpretations.

The authors of the two previous editions of this work were strong advocates of a single, ultimate court of appeal, at least for the decision of questions of doctrine, faith, and worship. There are still advocates of this point of view, who are prompted to become more vocal in support of their position at times when the Church has experienced a diversity of judicial result on the same issue among two or more of the nine Provincial Courts of Review; for example, the decisions in the Beebe and Wendt cases. (See the exposition of Canon IV.1 above.) In general, however, the pressure for the creation of a court of appeal has eased. It is recognized that the existence of the court of appeal may move the Church closer to the ideal uniformity of result, but the question is raised whether the Church has, in fact, suffered materially for not attaining this ideal, and whether the creation of the ultimate court might not, in fact, foster controversy.

There is also a point of view that there should be a national canon to provide uniformity in the mode of constituting diocesan trial courts and in the conduct of trials in such courts. Again, the pressure for action is not great enough to cause a change.

(c) Court for the Trial of a Bishop

The provisions of this section are otherwise so clear as not to require further exposition.

(d) The Court of Review of the Trial of a Bishop

The provisions of these sections are substantially the same as in (c). In this court, six judges must concur.

(e) Of Membership in Courts

These sections do not require further exposition.

(f) Of Procedure

Section 20 (a) leaves the procedure in diocesan courts to the canons of the diocese, in accordance with Section 1.

Clause (b) creates a presiding judge in the courts having jurisdiction over bishops.

Clause (c) provides for clerks and lay assessors. It applies to “the several courts” and governs diocesan courts.

Section 21 requires consideration because here, hidden away in the canon governing courts, is a provision made also to apply to the “conduct of investigations preliminary to presentment,” and providing that the laws of the civil jurisdiction, in which either an “investigation” or a trial is held, shall be adopted and taken as the rules of evidence, by which a board of inquiry, court, or commission is governed; and “trials shall be conducted according to the principles of the common law as the same is generally administered in the United States.”

An exception is made for dioceses where ecclesiastical courts are provided for by constitution or statute, of which, it is believed, there are none.

This section, bristling with pegs on which astute counsel could hang a number of hats, is perhaps neutralized by the final provision: “No determination or judgment of any Court shall be disturbed for technical errors not going to the merits of the cause.”

Section 22 gives the accused the right to be heard in person or by counsel, who must be a communicant, with power in the court to limit the number of counsel, vests a power of subpoena in the president or any member of the court, with the unique provision that before doing so the person issuing the subpoena shall first be satisfied that the testimony will be material and the witness one whom the court “would be willing to hear upon the trial, otherwise he may refuse to issue the same.”

The section then provides for depositions, and ends with the proviso that, in any diocese in which the civil government shall have authorized the “ecclesiastical courts” to issue subpoenas or administer oaths, the court shall act in conformity to such law.

Section 23 provides for the appointment of a church advocate in all trials and appeals, with the provision that, in the case of presentment of a bishop by ten bishops having jurisdiction, they may select a church advocate as legal adviser.

Section 24 makes the costs and expenses of a court of review of the trial of a presbyter or deacon a charge upon the province, and those of a court of review of the trial of a bishop are made payable by the treasurer of General Convention. Those of boards of inquiry and commissions are chargeable to General Convention, the province, or diocese, as the case may be.

While the sections of the canon under the heading “(f) Of Procedure” leave procedure in diocesan courts to diocesan canons and their courts,

and incorporate, by reference, laws of the local civil jurisdiction, questions of standard of proof, *voir dire*, expert testimony and the defenses of “informed conscience” and “selective prosecution” are not addressed specifically.

In the case of *The Standing Committee of The Diocese of Ohio v. the Reverend L. Peter Beebe*, decided April 3, 1976, the court of review of the Fifth Province met these issues head on in a very clear, compelling, and informative opinion:

Per Curiam:

Defendant appeals from a decision of the Ecclesiastical Court of the Diocese of Ohio finding him guilty of violating Title IV, Canon 1, Sections 1(4) and 1(6) of the Canons of this Church. For the reasons stated below we reverse the judgment of the Ecclesiastical Court and remand the cause for a new trial consistent with this decision.

Both charges against the defendant arise out of allegations that he allowed two women clergy to celebrate the Eucharist in Christ Church, Oberlin, on December 8, 1974 in contravention of a prohibition to the contrary from the Bishop of Ohio. The first charge alleges a violation of Title III, Canon 24, which provides in relevant part:

Canon 24.

Of Persons Not Ministers in this Church Officiating in any Congregation Thereof.

No Minister in charge of any Congregation of this Church ... shall permit any person to officiate therein, without sufficient evidence of his being duly licensed or ordained to minister in this Church...

The second charge alleges that defendant's disobedience of the Bishop's prohibition constituted a violation of his Ordination vow to follow the “godly admonition” of his Bishop.

Defendant appeals his conviction on these two charges, raising ten assignments of error. It is to these that we now proceed.

It should be stated at the outset that we are aware that the Canons make it the duty of each Diocese to provide for the establishment of an Ecclesiastical Court and “the mode of conducting trials in the same.” We are also mindful of the injunction of the canons that “No determination or judgment of any Court shall be disturbed for technical errors not going to the merits of the cause.” However, in the view we take of this case, defendant was in several important respects denied due process of law as that term is understood in the common law of our land. This is not a technical error but one which goes to the merits of the case. It is a matter of substantive right which an Ecclesiastical Court cannot be permitted to deny in establishing rules of procedure or evidence. The offense tried before a court of the Church may be canonical but the accused is still entitled to the procedural safeguards afforded him by the civil courts. This right is guaranteed by the Canons themselves, which provide that “trials shall be conducted according to the principles of the common law as the same is generally administered in the United States....”

I. Standard of Proof

Defendant's first assignment of error is that the trial court erred in not requiring the prosecution to establish its case beyond a reasonable doubt rather than by a preponderance of the evidence. We agree with the defendant. A trial for a canonical offense in our view is in the nature of a criminal proceeding and the burden of proof should be that required in a criminal proceeding in the civil courts.

The Canons support this position. Title IV of the Canons, dealing with Ecclesiastical Discipline, refers throughout to “presentments,” “offenses,” “charges,” the “accused,” “accusers,” “accusations,” “conviction” and “being found guilty.” Furthermore, upon conviction of a canonical offense, sentences may be imposed, ranging in severity from admonishment to suspension to deposition. These sentences restrain the ministry of an ordained person or deprive him of that ministry in a manner similar to the restraints on life and liberty resulting from sentences imposed in criminal proceedings in the civil courts. Canonical offenses are in effect crimes against the Church and those prosecuting them should be required to prove their cases beyond a reasonable doubt.

II. Examination For Prejudice

Defendant secondly states that the trial court erred in not permitting his counsel to examine members of the trial court for prejudice. We again agree. In the system instituted by the Canons, the Ecclesiastical Court serves as both jury and judge, i.e., it acts as both the trier of fact and the finder of law. The right of voir dire—to examine the jurors finding fact for prejudice against the defendant—is always accorded the defense in a criminal proceeding in the civil courts. It is a long standing right designed to insure that a defendant obtains a fair trial. Here defendant was unfairly denied that right. The fact that the members of the trial court privately examined themselves for prejudice and publicly declared that they were not prejudiced did not sufficiently protect the defendant’s rights.

III. Expert Testimony on Ultimate Facts

Defendant next assigns as error the trial court’s refusal to allow expert testimony on questions of ultimate fact. Here again we agree. The question is not without difficulty, however, as the issue of how far an expert witness is permitted to go in his testimony is one constantly present in trials in the civil courts. In this instance, expert testimony on the subject of valid ordination was offered, but the experts were not allowed to answer the question of whether the acts testified to constituted a valid ordination. The same was true of the expert testimony concerning the issue of godly admonition. The refusal to allow the experts to answer these questions was based on the reasoning that the questions were for the trial court alone to answer.

We cannot agree with this reasoning. We hold that when expert testimony on a canonical offense is offered in a trial involving that offense, such testimony may proceed to a point just short of the expert responding to the question of whether the accused is guilty or innocent of the offense. The court, of course, is free to accept or disregard the testimony of the expert in whole or in part, as it chooses, but it is obliged to admit such testimony when offered by either party.

Defendant’s alternate contention, that counsel should have been permitted to examine each member of the trial court as to his expertise in canon law, cannot stand. A trial court is presumed to know the law it is called upon to interpret. If it does not, it may seek information on the law from any source it deems proper. If it makes an erroneous interpretation of the law, that error will be corrected on appeal.

IV. The Construction of Canon 24

Defendant’s fourth assignment of error is that the trial court erred in its interpretation of Title III, Canon 24 by construing the Canon to mean that defendant must have had sufficient evidence that the women in question were duly licensed *and* ordained to minister in this Church in order for them to have officiated legally in the service at Christ Church.

We agree that the Canon was misconstrued. This is evident to our minds from the language of the trial court's opinion. In our view, the words "duly licensed *or* ordained" contained in Canon 24 cannot be construed as meaning "duly licensed *and* ordained." The language of the Canon must be stipulated in its natural sense, in the fullness of the phrase, viz., "duly licensed or ordained to minister in this Church."

The defense stipulated that the women in question were not licensed. That being the case, the trial court was, under our interpretation of the Canon, bound to find specifically and beyond a reasonable doubt that the defendant did not have sufficient evidence of the women being duly ordained to minister in the Church in order to convict him of the charge of violating Canon 24. Evidence on the question of the two women being duly ordained so to minister is not only admissible on this question but critical to its determination. The question is also one of ultimate fact on which expert testimony may be admitted.

Our disposition of this assignment of error makes it unnecessary to consider the fifth, sixth and ninth assignments of error raised by defendant. In stating this, however, we take notice of the seriousness of the issues raised by the Comment of the Trial Court in its opinion which serves as the basis for the fifth assignment of error.

V. Godly Admonition and the Defense of Informed Conscience

Defendant's seventh assignment of error is that the trial court erred in not correctly applying its own definition of the "godly admonition" of a Bishop or, alternatively, in not accepting defendant's definition thereof. The eighth assignment of error is that, assuming defendant did disobey a godly admonition, the trial court erred in not allowing the defense that defendant acted out of informed conscience to excuse the disobedience. Put otherwise, the argument is that disobedience of a godly admonition based on informed conscience excuses that disobedience.

Since the cause is remanded for a new trial, we deal with the seventh assignment of error by defining the elements of a godly admonition which must be proven beyond a reasonable doubt in future trials where disobedience of a godly admonition is charged. We deal with the eighth assignment of error by holding that the informed conscience of a Presbyter or Deacon who disobeys an admonition ultimately proven to be a godly admonition does not provide a defense excusing such disobedience but that it is an important consideration to be taken into account in imposing a sentence upon conviction of such disobedience.

In our view, a "godly admonition" is a solemn warning to a Presbyter or Deacon by the Bishop of the Diocese in question or other Bishop having canonical jurisdiction over the Presbyter or Deacon to whom it is addressed; it is to be in writing and is to set forth clearly the reasons of the Bishop for the admonition; it is to be an expression of the Bishop speaking advisedly and in the office of the pastor, teacher, and canonical overseer of the Presbyter or Deacon; it must be neither capricious nor arbitrary in nature nor in any way contrary to the Constitution and Canons of this Church; and it must be directed to some matter which concerns the doctrine, discipline or worship of this Church or the manner of life and behavior of the Deacon or Presbyter concerned. Further, because of the personal and pastoral nature of the admonition, only the admonisher may complain of its violation and a presentment for violation of a godly admonition may not be brought in the Ecclesiastical Courts of this Province without the consent of the Bishop who delivered the admonition. We hold, in addition, that the question of whether a particular admonition is a godly admonition is one which is justiciable by the Ecclesiastical Courts of this Province and is a matter of ultimate fact on which expert testimony must be admitted, if offered. We reach these holdings

because we have been unable to discover any definition of “godly admonition” and think that it is our duty to define the term in order to guide the Ecclesiastical Courts of this Province in their deliberations in future cases.

The foregoing definition, we believe, affords Presbyters and Deacons protection sufficient to obviate the necessity for a defense of informed conscience. A Presbyter or Deacon motivated by informed conscience to disobey an episcopal injunction will, in other words, always have the defense that the injunction was not a godly admonition. In saying this, we recognize the imperative nature of an informed conscience. We believe, however, that it cannot excuse disobedience of a godly admonition. Neither, in our view, does the informed conscience of a Bishop by itself automatically validate an episcopal injunction given by him as a godly admonition.

The Canons recognize that evidence may be offered in mitigation of sentence following conviction of a canonical offense. Evidence of an informed conscience should be accepted in sentencing following conviction on a charge of disobeying a godly admonition and should, if compelling, temper the sentence.

VI. Selective Prosecution

Defendant's final assignment is that his rights of due process have been violated because others involved in the service at Christ Church and the service in Philadelphia at which the two women were allegedly ordained were not prosecuted. This contention is without merit and we reject it. At common law the decision to prosecute rests exclusively with the discretion of the prosecution. No penalty for following the same rule should attach to the prosecution of a case in the Ecclesiastical Courts.

In rendering the foregoing decision we express no opinion on the sufficiency of the evidence introduced in the Ecclesiastical Court to prove the charges against defendant, except as expressly set forth herein.



CANON 4. Of Presentments

(a) Of a Presbyter or Deacon

*Mode of
presentment.*

Sec. 1. The mode of presentment of a Presbyter or Deacon shall be that provided by the Canons of the Diocese wherein the accused is canonically resident.

(b) Of a Bishop

*May be
presented for
erroneous
doctrine by
any ten
Bishops.*

*Supporting
brief to be
filed.*

*Answer and
supporting
brief.*

*Consent of
two-thirds of
qualified
voters in
House of
Bishops
required
before
proceeding
to trial.*

Sec. 2. A presentment of any Bishop under Canon IV.1, Section 1, for holding and teaching publicly or privately and advisedly, any doctrine contrary to that held by this Church, shall be had only upon the presentment of any ten Bishops exercising jurisdiction in this Church. Every such presentment shall be filed with the Presiding Bishop, together with a brief in support thereof. The Presiding Bishop shall thereupon serve a copy upon the person charged, together with a copy of the supporting brief. He shall fix a date for the filing of an answer, and brief in support thereof, at least three months from the date of service, and may, at his discretion and for good cause, extend the time for answering. Upon the filing of an answer and supporting brief, if any, or upon the expiration of the time fixed for an answer, if none be filed, the Presiding Bishop shall forthwith transmit copies of the presentment, answer, and briefs to each member of the House of Bishops. The written consent of two-thirds of the Bishops qualified to vote in the House of Bishops shall be required before the proceeding may continue as provided by Canon. In case a two-thirds majority of all the Bishops entitled to act in the premises shall not consent within the period of three months from the date of notification to them by the Presiding

Bishop of the proceeding, the Presiding Bishop shall declare the presentment dismissed.

Who may charge Bishops with offences. Sec. 3. A bishop may be charged with any one or more of the offenses specified in Canon IV.1, other than that of holding and teaching doctrine contrary to that held by this Church, by three Bishops or ten or more adult communicants of this Church in good standing, of whom at least two shall be Presbyters; one Presbyter and not less than six lay communicants shall belong to the Diocese of the accused, or, in case the accused have no jurisdiction, to the Diocese in which he has domicile. Such charges shall be

Charges to be in writing. in writing, signed by all the accusers, sworn to by two or more of them, and shall be presented to the Presiding Bishop of the Church. The grounds of accusation must be set forth with reasonable certainty of time, place, and circumstance.

A Bishop may demand investigation. Sec. 4. Whenever a Bishop shall have reason to believe that there are in circulation rumors, reports, or allegations affecting his personal or official character, he may, acting in conformity with the written advice and consent of any two Bishops of this Church, demand in writing of the Presiding Bishop that investigation of said rumors, reports, and allegations be made.

The Presiding Bishop shall summon Board of Inquiry. Sec. 5. The Presiding Bishop, upon the receipt of such written charges or such written demand, shall summon not less than three nor more than seven Bishops, and, unless a majority of them shall determine that such charges, if proved, would constitute no canonical offense, they shall select a Board of Inquiry of five Presbyters and five Laymen, none of whom shall belong to the Diocese of the accused, of whom eight shall form a quorum.

Duties of Board of Inquiry. The Board of Inquiry shall investigate such charges, or the said rumors or reports, as the case may be. In conducting the investigation, the Board shall hear the accusations and such proof as the accusers may produce, and shall determine whether, upon matters of law and of fact, as presented to them, there is sufficient ground to put the accused Bishop on his trial.

Testimony to be preserved. The testimony shall be stenographically reported, and shall be preserved in the custody of the Presiding Bishop or in

the archives of the House of Bishops. The proceedings of the Board of Inquiry shall be private.

Presentment. Sec. 6. If in the judgment of the majority of the whole Board of Inquiry, there is sufficient ground to put the said Bishop upon trial, they shall cause the Church Advocate to prepare a presentment, which shall be signed by such of the Board as shall agree thereto, and which shall be transmitted with the certificate of the determination of the Board to the Presiding Bishop.

If no ground for trial. If a majority of the whole Board shall determine that there is not sufficient ground to present the accused Bishop for trial, it shall forward the charges and a certificate of the finding thereon to the Presiding Bishop. He shall send the same to the Secretary of the House of Bishops, by him to be deposited in the archives of the House; and a true copy of these papers shall be given to the accused Bishop. No further proceeding shall be had by way of presentment on such charges, except that any communicant of this Church

New evidence. in good standing may make and present to the Presiding Bishop his affidavit alleging the discovery of new evidence as to the facts charged and setting forth what such evidence is; and upon the receipt thereof the Presiding Bishop shall decide whether the affidavit does or does not state grounds which in his opinion are sufficient for reopening the case. If the Presiding Bishop shall be of opinion that the affidavit states grounds sufficient to justify reopening the case, he shall reconvene the Board, which shall determine, first, whether as a matter of fact the evidence set forth in such affidavit is really new evidence and not merely cumulative; and if the Board shall find that the evidence so tendered is new, it shall proceed to receive and to consider such evidence, and any further evidence that it may deem proper to receive; and in the light of all the evidence the Board shall determine whether there are sufficient grounds for presentment. If the Board, by a majority of its members, shall decide that there is any such sufficient ground, it shall certify its decision as in this Canon heretofore provided.

In case Board disagrees. Sec. 7. In case a majority of the whole Board shall fail to find either that there is, or that there is not, sufficient ground to present the accused Bishop for trial, it shall

certify the fact of its inability to agree upon any such finding to the Presiding Bishop, who, at the request of the accused Bishop, may select a new Board in the manner provided in Section 5, who shall consider the case *de novo*.

Copy of presentment to be served. Sec. 8. In case any presentment shall be made to the Presiding Bishop as hereinbefore provided, he shall at once transmit the same to the President of the Court for the Trial of a Bishop, and shall cause a true copy of the presentment to be served upon the accused Bishop, in the manner provided in Canon IV.2.

In case of disability of Presiding Bishop. Sec. 9. In case the Presiding Bishop shall be either an accuser or the accused, or shall otherwise be disabled, his duties under this Canon shall be performed by the Bishop who, according to the rules of the House of Bishops, becomes its Presiding Officer in case of the disability of the Presiding Bishop of the Church.



In 1859, the only canon concerned with presentments was Title II, Canon 9, which dealt with the trial of a bishop. In 1904, the sections of that canon prescribing the mode of presentment were made a separate Canon 25, which became Canon 30 in 1931, Canon 55 in 1943, and Title IV, Canon 4, in 1970.

(a) SECTION 1

Convention of 1931

This section was adopted as part of the general revision and recodification of the disciplinary canons adopted by this Convention.

It read as at present, except for a reference to missionary districts, which was dropped as no longer needed in 1973.

(b) SECTIONS 2 THROUGH 9

Convention of 1841

The first provision of the canons, relating to the mode of presenting a bishop for trial, was contained in Canon 4, enacted by the Convention of 1841, and which read as follows:

Sec. 1. A Bishop may be presented to the Bishops of this Church, by the Convention of his Diocese for any crime or immorality, for heresy, or for violation of the Constitution or Canons of this Church, or of the Diocese to which he belongs, provided always, that two-thirds of each order, Clergy and Laity, concur in the same. He may also be presented to the Bishops, by any three Bishops.

Sec. 2. The presentment shall be addressed to the Presiding Bishop, who shall give notice with all convenient speed to the several Bishops then being within the territory of the United States, appointing a time and a place for their assembling together; and any number thereof, being not less than seven, other than the Bishop presenting, then and there assembled, shall be a quorum, for the purpose of ordering all matters concerning the said presentment. But if the Presiding Bishop be the subject of the presentment, it shall be addressed to the next Bishop in the order of seniority.

This canon, as before stated, was so unsatisfactory that it was repealed by the next Convention.

Convention of 1844

This Convention repealed Canon 4 of 1841, and enacted Canon 3 in place thereof, which read, in part, as follows:

Sec. 1. The trial of a Bishop shall be on a Presentment in writing, specifying the offence of which he is alleged to be guilty, with reasonable certainty as to time, place, and circumstances. Such Presentment may be made for any Crime or Immorality, for Heresy, for Violation of the Constitution or Canons of this Church, or of the Church in the Diocese to which he belongs. Said Presentment may be made by the Convention of the Diocese to which the accused Bishop belongs, two-thirds of each order present concurring: *Provided*, that two-thirds of the Clergy entitled to seats in said Convention be present: and *Provided also*, that two-thirds of the Parishes canonically in union with said Convention be represented therein; and the vote thereon shall not in any case take place on the same day on which the resolution to Present is offered, and it may also be made by any three Bishops of this Church. When made by the Convention, it shall be signed by a Committee of Prosecution, consisting of three Clergymen and three Laymen to be appointed for that purpose; and when by three Bishops, it shall be signed by them respectively, in their official characters.

Sec. 2. Such Presentment shall be addressed "To the Bishops of the Protestant Episcopal Church in the United States," and shall be delivered to the Presiding Bishop, who shall send copies thereof without delay to the several Bishops of this Church, then being within the territory of the United States; *Provided*, that if the Presentment be made by three Bishops, no copies shall be sent to them; and *Provided further*, that if the Presiding Bishop be the subject of the Presentment, or if he be one of the three Bishops presenting, such Presentment shall be delivered to the Bishop next in seniority, the same not being one of the three presenting; whose duty it shall be, in such case, to perform all the duties enjoined by this Canon on the Presiding Bishop. Upon a Presentment made in either of the modes pointed out in Section 1 of this Canon, the course of proceeding shall be as follows:

The remaining sections of the canon, after stating that a copy of the presentment shall be served upon the accused, provided for the mode of trial.

Only two presentments were made under this canon, that of Bishop Onderdonk of New York, almost immediately after this canon was enacted, and for the trial of whom, it has been stated, the canon was framed, and that of Bishop Doane, of New Jersey, in 1852. The case of Bishop Onderdonk will be considered later under the discussion of the canon "Of the Trial of a Bishop."

The matter of the presentment of Bishop Doane deserves a brief recital of the facts in the case.

The bishop had established two schools, one for girls and one for boys, in the city of Burlington, New Jersey. In carrying on these two institutions, the bishop became heavily involved, and owing, in part, to a financial depression then prevailing, he was unable to meet his financial obligations, and was forced to make an assignment to his creditors. Certain newspapers took up the matter and attributed to the bishop motives that were dishonest, and tending to bring disgrace upon the Church. The first step toward an investigation of the rumors affecting the bishop's character were taken in 1849, by the introduction of a resolution in the Convention of New Jersey of that year, calling for the appointment of a committee to "make such inquiries as shall satisfy them of the innocency of the accused, or of the sufficiency of ground for presentment and trial." After extended debate on the question, the convention voted unanimously against the adoption of the resolution. Two years later, in 1851, Bishops Meade, McIlvaine, and Burgess addressed a letter to Bishop Doane, stating certain charges, demanding that a special convention of the diocese be called, and a committee appointed to make an investigation, and implying that, in case of failure to do this, the inquiry would be undertaken by them.

A special meeting of the convention was called to meet in Burlington, New Jersey, on March 17, 1852, "to answer and express their judgment on the official conduct of these three Bishops, as touching the rights of the Bishop and the Diocese, in dictating a course of action to be pursued by them." By a very large vote, the convention refused and resisted the dictation, and declared their confidence in the bishop to be such as to make unnecessary any investigation, as proposed.

The three presenting bishops then prepared a presentment, and issued a summons to the bishop to attend a trial thereon on June 24, 1852. A presentment having been made, the convention felt themselves bound to redeem their pledge of investigating any charges duly made and presented. A committee of seven was appointed for this purpose, and directed to report at an adjourned meeting of the convention in July, 1852. The Presiding Bishop then postponed the trial until October of that year.

The adjourned convention met, received the report of the committee, declared their renewed and strengthened confidence in the bishop's integrity and his entire exculpation from any of the charges, and appointed a committee to present their action to the Court of Bishops.

Without waiting for the results of the investigations by the committee of the convention, the three presenting bishops drew up a new presentment, dated July 22, of that year.

A special meeting of the convention was called for October 27. In the meantime, the court met in Camden, New Jersey, on October 7, and adjourned to Burlington. The committee of investigation of the convention sent their report to the court on October 9. On October 15, the court adopted the action of the convention in dismissing the first presentment, and relying on the convention soon to meet, to investigate the matters alleged in the second presentment, decided to proceed no further with it.

At the special convention on October 2, the same year, the matter of the new charges was referred to the same committee, and it was directed to report at an adjourned meeting in December of that year. The committee made their report to the convention in December, and the convention adopted resolutions, urging "in more earnest words, the futility and falsehood of the charge, their unabated confidence in their Bishop, and their appeal to the Church to ratify this result of their fulfillment of their solemn pledge."

The same three presenting bishops made a third presentment in March, 1853. This new presentment was made necessary, if it was desired to bring the bishop to trial, because, under the interpretation of the canon which was admitted by the three presenting bishops, the convention of the diocese had the right to act in the first instance, and the convention having declared the two former presentments unproven as to the charges therein contained, a new presentment had to be made. The annual convention of that year, meeting in May, adopted a series of resolutions declaring the identity of the three presentments, "asserting that the action of the Committee, as recognized by the Court, had proclaimed and proven these charges unsustainable, and branding the attempt of the Presenters as a violation of the most common rights of their Bishop and themselves," appointed a committee to present a statement of their action to the court, called to meet September 1 of that year, and to protest against any further action in the matter.

The court met in December following and after careful consideration of the whole matter, unanimously decided to dismiss the presentment.

Convention of 1856

This Convention repealed Canon 3 of 1844, and enacted Canon 11 in place thereof, as follows:

The first section of the canon set forth the offenses for which a bishop might be presented and tried. The sections relating to the mode of presenting a bishop for trial were Sections 2, 3, 4, 7, and 8, which read as follows:

Sec. 2. The proceedings shall commence by charges in writing; and, except when the charge is holding and teaching doctrine contrary to that held by this Church, shall be signed by either—

1. Five male communicants of this Church in good standing belonging to the Diocese of the accused, of whom two at least must be Presbyters; or, 2. by seven Male Communicants of this Church in good standing, or whom two at least shall be Presbyters, and three of which seven shall belong to the Diocese of the accused. 3. Whenever a Bishop of this Church shall have reason to believe that there are in circulation rumors, reports or charges affecting his moral or religious character, he may, if he please, acting in conformity with the written advice and consent of any two of his brother Bishops whom he may select, demand of the presiding Bishop of the House of Bishops, or, if he be the Bishop affected by such rumors, or if he be related to him within the degree hereinafter mentioned, then to the Bishop next in seniority not so related, to convene a Board of Inquiry in the mode hereinafter set forth, to investigate such rumors, reports and charges; and to proceed in all respects, according to the provisions of this Canon, as if charges had been formally made in either of the two modes first mentioned in this Section.

Whenever charges are formally made in either of the modes first above mentioned, the accusers may, if they choose, select a Lay Communicant of this Church, of the profession of the law, to act as their adviser, advocate and agent, in preparing the accusation, proofs, etc., until such time as a Board of Inquiry is convened in such manner as is hereinafter provided for; or they may prepare such charges themselves, without regard to any particular form: and, in either case, the grounds of accusation must be set forth with reasonable certainty of time, place and circumstance.

Sec. 3. The charges having been prepared in either of the modes first above mentioned shall then be delivered to the Presiding Bishop of the Church, if he be not the accuser nor related to the accused in any degree mentioned hereafter in this Canon; in either of which case, the charges shall be delivered to the next Bishop in seniority, not so related.

Sec. 4. A Board for making a preliminary inquiry into charges thus preferred shall be constituted as follows, whenever such Board shall be necessary, viz.:

The Presiding Bishop or senior Bishop, as the case may be, to whom such charges are delivered, shall take the list of Clerical and Lay Deputies to the last General Convention that was held before such charges are presented, and from that list shall choose by lot, two Presbyters and two Laymen from the deputation of the Diocese of the accused Bishop, and two Presbyters and two Laymen from each of the respective deputations of the three Dioceses adjoining that of the accused, together with the Diocese of the accused; and if there be not three adjoining, of the three nearest thereto; and if more than three Dioceses adjoining that of the accused, those three that have the largest number of Canonically resident Presbyters in them shall be accounted adjoining for the purposes of this Canon. And the sixteen individuals thus selected by lot, shall constitute the Board of Inquiry, a majority of whom shall form a quorum for doing business.

The Presiding Bishop, or next in seniority as the case may be, immediately after thus selecting by lot, the Board of Inquiry shall give notice thereof to each member of said Board, and direct him to attend at a time and place designated by him and organize the Board; and it shall be the duty of each member so to attend. The place must be within the Diocese of the accused. The Presiding Bishop shall, at the same time, send a copy of the charges to the senior Presbyter of those thus selected by lot from the four Dioceses.

On assembling, the Board shall organize by choosing from among themselves a President and Secretary, and shall also appoint a Church Advocate, who must be a Lay Communicant of this Church, and of the profession of the law, and who thenceforward shall in all stages of the proceedings, if a trial be ordered, represent the Church; and be the party on the one hand, while the accused is the party on the other. The sittings of the Board shall be private: The Church Advocate shall not attend as prosecuting counsel, but shall be at all times at hand and in readiness to give his advice in all questions submitted to him by the Board.

In conducting the investigation the Board shall hear the accusations and such proof as the accusers may produce: and shall determine whether upon matters of law and of fact as presented to them, there is sufficient ground to put the accused Bishop upon his trial; and in such investigation, as well as in all cases of trial by an Ecclesiastical Court, now authorized or hereafter authorized by the Constitution or Canons of the General Convention, the laws of the State in which such investigations or trial is had, so far as they relate to the law of evidence, shall be adopted and taken as the rules by which the said Board or Court shall be governed. If a majority of the Board present on such investigation, shall be of opinion that there are sufficient grounds to put the accused Bishop on his trial, they shall direct the Church Advocate to prepare a presentment to be signed by such of the Board as agree thereto; and to that end shall place in his hands all the charges, together with the testimony, that has been laid before the Board.

The Board shall then direct the Church Advocate to transmit to the Bishop from whom they received the charges, the presentment thus signed: and shall cause him also, without delay, to send to the accused Bishop a copy of the same, certified to by the Church Advocate to be correct.

If a majority of the Board present shall be of opinion that there is not sufficient ground to put the accused Bishop on his trial, in such case the charges, together with a certificate of the President of the Board, of its refusal to make a presentment, shall be sent to the Secretary of the House of Bishops, to be deposited among the Archives of that House. And no proceedings shall thereafter be had by way of presentment on such charges, except upon the affidavit of a respectable Communicant of the Church, of the discovery of new testimony as to the facts charged, and setting forth what such testimony is....

Sec. 7. 1. Any Bishop of this Church may be presented for holding and teaching doctrine inconsistent with that of this Church, by any Bishop in communion with this Church, and not under suspension or degradation. No Bishop shall be presented in any other mode for this offence; and it shall not be lawful for two or more persons to unite in any such presentment. The Bishop making such presentment shall appoint a Church Advocate. 2. Every presentment for alleged erroneous doctrine shall be signed by the person making it, and shall be addressed to the Bishops of the Protestant Episcopal Church in the United States, and delivered to the senior Bishop entitled to a seat in the House of Bishops, and not being the accused or the accuser, whose duty it shall be to convene a court for the trial of the accused. The court shall be composed of all the Bishops entitled to seats in the House of Bishops, except the accuser and the accused. Three-

fourths of such Bishops shall constitute a quorum, but the consent of two-thirds of all the Bishops entitled to seats in the House of Bishops shall be necessary to a conviction.

Sec. 8. 1. If charges are preferred against a Missionary Bishop who is not a Diocesan, such Missionary Bishop shall be required by the Presiding or senior Bishop to name some one of the three Dioceses nearest to his District or missionary field; and such selection having been made, the proceedings shall then be precisely such, as under this Canon they would be were he the Diocesan of the Diocese named by him. Should the Missionary Bishop refuse to name a Diocese, then the Presiding Bishop may name any one of the three above designated, and the effect shall be the same as if the nomination had been made by the accused Missionary Bishop. 2. If charges are preferred against a Bishop having no jurisdiction, he shall be proceeded against precisely as if he were the Diocesan of the Diocese in which he has his civil residence.

This canon differed very materially from the former canon on the subject. In the list of offenses for which a bishop might be presented for trial, a new offense was added, "any act which involves a breach of his Ordination or Consecration vows." The offense of "Heresy" in the former canon was defined more particularly as "Holding and teaching publicly, or privately and advisedly, any doctrine contrary to that held by the Protestant Episcopal Church in the United States."

The most radical change made was in the matter of the presentment. The former canon provided that the presentment might be made by the convention of the accused bishop, or by any three bishops. The canon of 1856 provided first, that the charges must be in writing, and, except when the charge was for holding and teaching doctrine contrary to that held by the Church, signed by a certain number of male communicants and presbyters of the Church. Provision was also made for a bishop, having reason to believe that there were rumors or reports in circulation affecting his character, with the consent of two bishops, to ask of the Presiding Bishop that a board of inquiry be convened to investigate such rumors or reports.

The charges having been properly prepared, they were to be sent to the Presiding Bishop, who was then authorized to convene a board of inquiry. The functions of this board were similar to those of a grand jury. The board was empowered to investigate the charges, hear the accusations and whatever proof the accusers might produce. Like the proceedings before a grand jury, the proceedings before the board of inquiry were *ex parte*, the accused bishop not being present or represented by counsel. The board was to determine, by a majority vote, whether, in its judgment, there was, or was not, sufficient ground to put the accused bishop on trial. If it determined there was sufficient ground therefore, it was to direct the church advocate to prepare a presentment to be sent to the Presiding Bishop, and also a copy thereof to be sent to the accused bishop.

Neither the convention of the diocese of the accused bishop, nor any three bishops, were given a right to make a presentment. The provisions of the canon regarding the mode of presenting a bishop for trial were doubtless due, in large measure, to the controversy between the Convention of New Jersey and the three presenting bishops in the case of Bishop Doane, before referred to. The Convention of 1853, which assembled almost immediately after the adjournment of the court convened for the trial of Bishop Doane, appointed a Joint Committee on the Judicial System of the Church, to which committee was referred a proposed canon on the trial of a bishop.

In case a bishop was accused of holding and teaching any doctrine contrary to that held by the Church, no board of inquiry was to be formed. Any bishop might make a presentment for such an offense, addressed to all the bishops of the church, and delivered to the Presiding Bishop, who was then to summon all the bishops of the Church to form a court for the trial on the presentment.

No presentment of a bishop was made under the provisions of this canon.

Convention of 1859

In the revision of the canons by this Convention, Canon 11 of 1856 was renumbered as Title II, Canon 9, but without amendment.

Convention of 1868

This Convention amended Section 3 by striking the words "of this Church" after the words "Presiding Bishop."

It was first moved in the House of Deputies, in this Convention, that the phrase "Presiding Bishop of this Church," in Title II, Canon 9, Section 3, be referred to a joint committee of the House of Bishops and the House of Deputies, to sit during the recess and report to the next Convention as to the meaning of the phrase; "whether the meaning be that which stands upon the face of it, and is the literal sense; and if we have actually and legally a Presiding Bishop in the sense of Primus, Metropolitan, or Patriarch, and that this Committee do report a Canon defining his powers, bringing the present phraseology into harmony with itself, and prescribing the mode of his election."

A substitute was offered to this resolution, directing the committee on canons to enquire into the expediency of striking the words "of this Church." The substitute was adopted by the house, and the committee on canons reported in favor of so striking the words noted.

Convention of 1904

In the revision of the Digest of Canons by this Convention, Title II, Canon 9 was divided into three canons, and the provisions of Sections 2, 3, 4, 7, and 8, prescribing the mode of presenting a bishop for trial, were combined into one canon, Canon 25, "Of the Mode of Presenting a Bishop for Trial."

The first three sections of the new canon read as follows:

Sec. 1. The presentment of a Bishop for holding and teaching publicly or privately and advisedly doctrine contrary to that held by this Church, shall be made by any three Bishops of this Church exercising jurisdiction.

Such presentment shall be in writing, signed and verified by the Bishops presenting, and shall be delivered to the Presiding Bishop.

A lay communicant of this Church, of the profession of the law, shall be appointed by the Bishops making presentment, to act as Church Advocate and as the legal adviser of such Bishops.

Sec. 2. A Bishop may be charged with any one or more of the offences specified in Canon 23, other than that of holding and teaching doctrine contrary to that held by this Church, by ten or more male communicants of this Church in good standing, of whom at least two shall be Presbyters. One Presbyter and not less than six communicants shall belong to the Diocese or Missionary District of the accused, or, in case the accused have no jurisdiction, to the Diocese or District in which he has domicile. Such charges shall be in writing, signed by all the accusers, sworn to by two or more of them, and shall be presented to the Presiding Bishop. The grounds of accusation must be set forth with reasonable certainty of time, place, and circumstance.

Sec. 3. Whenever a Bishop shall have reason to believe that there are in circulation rumors, reports, or allegations affecting his moral or religious character, he may, acting in conformity with the written advice and consent of any two Bishops of this Church, demand in writing of the Presiding Bishop that investigation of said rumors, reports and allegations be made.

Section 4 read, in part, as follows:

The Presiding Bishop, upon the receipt of such written charges or of such written demand, shall summon not less than three nor more than seven Bishops, and, unless a majority of them shall determine that such charges, if proved, would constitute no canonical offence, they shall select a Board of Inquiry of five Presbyters and five Laymen, none of whom shall belong to the Diocese of the accused, of whom eight shall form a quorum...

The Board of Inquiry shall investigate such charges, or the said rumors or reports, as the case may be. In conducting the investigation, the Board shall hear the accusations and such proof as the accusers may produce, and shall determine whether, upon matters of law and of fact, as presented to them, there is sufficient ground to put the accused Bishop on his trial...

The testimony shall be stenographically reported, and shall be preserved in the custody of the Presiding Bishop or in the archives of the House of Bishops. The proceedings of the Board of Inquiry shall be private.

The remaining parts of Section 4 consisted of material later transferred to other places.

Sections 5 and 6 were the same as the present Sections 6 and 7.

Section 7 read as follows:

In case any presentment shall be made to the Presiding Bishop as hereinbefore provided, he shall at once transmit the same to the President of the Court for the trial of a Bishop, and shall cause a true copy of the presentment to be served upon the accused Bishop, either in person or by mailing the same by registered mail addressed to him at his place of residence.

Section 8 was the same as the present Section 9.

One effect of the canon, as amended, was to restore the provision, repealed in 1856, that any three bishops might unite to present a bishop for holding and teaching doctrine contrary to that held by this Church. This right was not restored, however, in respect of other charges.

Convention of 1931

The Canon of 1904 was made Sections 2 through 9 of new Canon 30, "Of Presentments."

Section 2 was former Section 1, amended to read as follows:

A Bishop may be presented by any three Bishops of this Church exercising jurisdiction, for holding and teaching publicly or privately and advisedly, doctrine contrary to that held by this Church. Such presentment shall be in writing, signed and verified by the Bishops presenting, and shall be delivered to the Presiding Bishop.

Section 3 was former Section 2, amended by inserting the words "three Bishops or" before the words "ten or more male communicants."

Section 4 was former Section 3, substituting the words "personal or official character" for the words "moral or religious character."

Section 5 consisted of the portions of former Section 4 quoted above, without further amendment.

Sections 6 through 9 were former Sections 5 through 8, with an amendment at the end of former Section 7 corresponding to the present reading.

Under the canon as revised, three bishops could present a bishop for any chargeable offense.

The canon was renumbered Canon 56 in 1946.

Convention of 1967

On recommendation of the so-called “Bayne Committee” (*Journal*, appendix 6), Section 2 of the canon was amended to its present wording.

The effect was to raise, from three to ten, the number of bishops required to make a presentment, and to require the written consent of two-thirds of the bishops qualified to vote in the House of Bishops before a trial could proceed. A corresponding amendment was made to Canon IV.3.

These amendments were a direct result of the “Bishop Pike affair.”

The canon was made Title II, Canon 4, in 1970.

Convention of 1973

The references to missionary districts in Section 3 were deleted as no longer needed.

Convention of 1979

Section 3 was amended to its present form by substituting the word “adult” for the word “male,” and by inserting the word “lay” before the word “communicants” in the following clause.

EXPOSITION OF CANON IV.4

The mode of presentment of a presbyter or deacon is left to the canons of the diocese in which the accused is canonically resident.

A bishop may be presented for trial for holding and teaching erroneous doctrine, or for any one of the other offenses set forth in Canon IV.1. The mode of presenting a bishop differs in the two cases named. If the offense be for holding and teaching erroneous doctrine, then the presentment can only be made by ten bishops exercising jurisdiction within the Church. If it be for any of the other offenses specified in Canon IV.1, the presentment is to be made by three bishops, or by ten or more adult communicants of the Church, two of who must be presbyters, and at least one presbyter and at least six of the communicants must belong to the diocese of the accused bishop or the diocese in which he resides.

The charges preferred must be in writing, setting forth with reasonable certainty, the time, place, and circumstance of the alleged offense or offenses, signed by all the accusers, and sworn to by at least two of them. These charges, so signed, must then be presented to the Presiding Bishop. In case he shall be the accused or one of the accusers, or if he be disqualified, these charges shall be presented to the bishop who, under the rules of the House of Bishops, becomes its Presiding Officer in case of the disability of the Presiding Bishop.

Upon the receipt of these written charges, the Presiding Bishop must summon at least three but no more than seven bishops who, unless they deem that the charges, even if proved, would not constitute a canonical offense, shall then select a board of inquiry, composed of five presbyters and five lay persons from outside the diocese of the accused bishop, of whom eight shall be a quorum. A church advocate is appointed as provided in Canon IV.3, Section 23.

The board of inquiry thus constituted shall then proceed to investigate the charges preferred, and after hearing all such proof thereof as may be adduced, shall decide whether there is sufficient ground to put the accused bishop on trial. In the conduct of the investigation, the board shall conduct the same according to the rules of evidence which prevail in the state in which such investigation is held. The proceedings of the board shall be private, but the testimony must be stenographically reported and preserved, either in the custody of the Presiding Bishop, or in the archives of the House of Bishops. In case of any vacancy occurring in the board, the Presiding Bishop shall appoint another presbyter or lay person, as the case may be, to act as a member of the board.

If the board shall decide that there is sufficient ground to warrant the putting of the accused bishop on trial, they shall cause the church advocate to prepare a presentment to be signed by such members of the board as shall agree thereto, and to be presented to the Presiding Bishop, together with the certificate of the determination of the board.

If the board shall decide that there is not sufficient evidence to warrant placing the accused bishop on trial, the board shall forward the charges with a certificate of their determination in the matter to the Presiding Bishop, who shall send the same to the secretary of the House of Bishops, to be deposited in the archives of the house, and a copy of the same shall be sent to the accused bishop. If the board decides against presenting the accused bishop for trial, no further presentment shall be had against him unless new evidence be presented which the Presiding Bishop shall deem sufficient to justify reopening the matter, in which case the Presiding Bishop shall reconvene the same board of inquiry, who shall proceed to hear such new evidence as may be offered. In case they deem that it is not merely cumulative but new evidence, and if the majority shall decide that the new evidence warrants it, they shall so certify to the Presiding Bishop, as before.

In case of a disagreement among the members of the board, and a majority cannot be had either for or against making a presentment, the board shall so certify to the Presiding Bishop, who, if requested by the

accused bishop, may select a new board of inquiry in the same manner as the first board was selected, who shall consider the case *de novo*.

When any presentment shall have been made to the Presiding Bishop, he must at once transmit the same to the president of the court for the trial of a bishop, and also cause a copy of the same to be served upon the accused bishop as directed by the canon.

A bishop who has reason to believe that there are in circulation any rumors or allegations affecting his character, may, with the consent of any two bishops, demand of the Presiding Bishop that an investigation of such rumors or allegations be made, and it shall then be the duty of the Presiding Bishop to proceed in the same manner as if charges had been made against such bishop.



CANON 5. Of the Trial of a Bishop

- Notice to Court.* Sec. 1 (a). When the President of the Court for the Trial of a Bishop shall receive a presentment, he shall call the Court to meet at a certain time and place, said time not to be less than two nor more than six calendar months from the day of mailing such notice, and at a place within the Diocese of the accused Bishop, unless the same be of such difficult access, in the judgment of the President of the Court, that reasonable convenience requires the appointment of another place; and in case the accused have no jurisdiction, at a place within the Diocese in which he has his domicile. With said notice, he shall send to each member of the Court a copy of the presentment.
- Appointment of time and place.*
- Summons of accused.* (b). He shall also summon the accused to appear at the same time and place to answer the said presentment, and shall also give notice of the said time and place to the Church Advocate.
- Reading the presentment.* Sec. 2. (a). At the time and place appointed, a quorum of the Court being present, the President shall declare the Court open for hearing the case; and when thus open, he shall direct the Clerk to call the names of the Church Advocate and the accused; and if both appear, he shall then cause the Clerk to read the presentment.
- The call to plead.* (b). The accused shall then be called upon by the Court to plead to the presentment and his pleas shall be duly recorded; and on his neglect or refusal to plead, the plea of not guilty shall be entered for him, and the trial shall proceed; *Provided*, that for sufficient cause the Court may adjourn from time to time; and *Provided, also*, that the
- Power to adjourn.*

Right of accused. accused shall, at all times during the trial, have liberty to be present, and in due time and order to produce his testimony and to make his defense.

Non-appearance. (c). If the accused fail or refuse to appear in person, according to the notice served on him as aforesaid, except for reasonable cause to be allowed by the Court, it shall pronounce him in contumacy, and give him notice that sentence of suspension or deposition will be pronounced

Contumacy. against him by the Court at the expiration of three months unless at that time he shall appear and take his trial upon the presentment. If he do not so tender himself for trial, sentence of suspension, or of deposition from the Ministry, may be pronounced upon him by the Court.

Three months' grace to appear. *The rule of procedure.* Sec. 3. The accused being present and the trial proceeding, it shall be conducted in accordance with Secs. 20, 21, and 22 of Canon IV.3. The accused shall in all cases have the right to be a witness on his own behalf, subject to cross-examination in the same manner as any other witness. No testimony shall be received at the trial except from witnesses who have signed a declaration in the following words, to be read aloud before the witness testifies and to be filed with the records of the Court.

Declaration of witnesses before testifying. **“I, A.B., a witness on the trial of a presentment against the Right Reverend _____, a Bishop of the Protestant Episcopal Church in the United States of America, now pending, do most solemnly call God to witness that the evidence I am about to give shall be the truth, the whole truth, and nothing but the truth, so help me God.”**

Court to express opinion on each charge or specification. Sec. 4. The Court, having fully heard the allegations and proofs of the parties, and having deliberately considered the same after the parties have withdrawn, every member of the Court sitting in the cause shall declare whether in his opinion the accused is guilty or not guilty, and with respect to each particular charge and specification contained in the presentment; and the accused shall be deemed not guilty upon every charge and specification upon which he shall not be pronounced guilty by a majority of the members of the Court sitting in the cause.

Decision to be reduced to writing and signed. Sec. 5. The decision of the Court as to all the charges and specifications shall be reduced to writing, and signed by those who assent to it; and the Court shall also, if the accused is found guilty of any charge or specification, determine and embody in the written decision the penalty which it shall adjudge should be imposed upon the accused; and the decision so signed shall be recorded as the judgment of the Court, and shall be judgment *nisi* until it becomes final as hereinafter stated.

Accused to be heard before sentence. Sec. 6. If the accused shall be found guilty of any charge or specification, he may file a motion for a new trial and for a modification of penalty. Any such motion or motions shall be filed within 30 days from the day of the filing of the decision, and the motion shall set forth all the reasons therefor, and no other shall be relied on at the hearing of the motion without the consent of the Court. The President of the Court shall set a place and time for hearing the motion and shall reconvene the Court to hear and determine the same.

New trial. The Court may in the interest of justice grant a new trial or modify the penalty. If the motion for a new trial is granted the President of the Court shall set a time and place for the new trial, and notify the parties and the members of the Court of such time and place. If the motion for a new trial is overruled, the judgment *nisi* as to the guilt of the accused shall become final, but the Court in the exercise of its discretion may modify or change the penalty, and shall in writing signed by a majority of the Court direct what penalty is to be incorporated in the final judgment to be recorded by the Clerk. If no motion for a new trial or for modification of sentence shall be filed within the time limited for filing such motions, the Clerk of the Court shall on the next secular day enter, as final, the judgment rendered by the Court. An appeal from a final judgment of a Court for the Trial of a Bishop to the Court of Review of the Trial of a Bishop, as provided in Canon IV.6, may be taken within sixty days from the entry of such judgment.

The Court may modify penalty.

Sentence. After the entry of final judgment, the President of the Court shall appoint a time and place not less than 60 days thereafter for pronouncing sentence. At the time and place

appointed, if the accused shall not have an appeal pending in the Court of Review of the Trial of a Bishop, or the action of the Court of Review has not made it unnecessary for the Trial Court to proceed to pronounce sentence, the President of the Court or a member thereof designated in writing by a majority of the members thereof to do so, shall in the presence of the accused, if he shall see fit to attend, pronounce the sentence which has been adjudged by the Court, and direct the same to be recorded by the Clerk.

Exceptions to be part of record. Sec. 7. (a). During the trial, exceptions in writing may be taken by either side to the admission or exclusion of evidence, or to any ruling of the Court, and such exceptions shall form part of the record of the case.

Record, how kept and attested. (b). Such record shall be kept by the Clerk, and inserted in a book to be attested by the signature of the President and Clerk. The record shall be in the custody of the Clerk and kept in the depository of the Registrar of the General Convention and shall be open to the inspection of every member of this Church.



This canon was Title II, Canon 9, in 1859. It became Canon 26 in 1904, Canon 31 in 1931, Canon 56 in 1943, and Title IV, Canon 5, in 1970.

Convention of 1841

The first canonical enactment on the trial of a bishop was Canon 4 of 1841, the full text of which is given above under Canon IV.4.

This canon was repealed by the next Convention, as it was recognized to be inoperative, providing no penalty upon a conviction, and also because it was well known that a certain bishop would soon be presented for trial.

Convention of 1844

This Convention repealed Canon 4 of 1841, and enacted Canon 3 in place thereof, reading, in part, as follows:

The first two sections of the canon related to the presentment, and have already been considered in the discussion of the previous canon. Section 3 related to the composition of the court, and has also been

considered under the discussion of a previous canon. The remaining sections, which provide for the trial of a bishop, read as follows:

Sec. 4. When the Court proceeds to trial, some officer authorized by law to administer oaths, may, at the desire of either party, be requested to administer an oath or affirmation to the witnesses, that they will testify the truth, the whole truth, and nothing but the truth, concerning the matters charged in the Presentment, and the testimony of each witness shall be reduced to writing. And in case the testimony of any witness whose attendance on the trial cannot be obtained, is desired, it shall be lawful for either party, at any time after notice of the Presentment is served on the accused, to apply to the Court, if in session, or if not, to any Bishop, who shall thereupon appoint a Commissary to take the deposition of such witness. And such party, so desiring to take the deposition, shall give to the other party, or some one of them, reasonable notice of the time and place of taking the deposition, accompanying such notice with the interrogatories to be propounded to the witness; whereupon it shall be lawful for the other party, within sixty days after such notice, to propound cross-interrogatories; and such interrogatories and cross-interrogatories, if any be propounded, shall be sent to the Commissary, who shall thereupon proceed to take the testimony of such witness, and transmit it, under seal, to the Court. But no deposition shall be read at the trial unless the Court have reasonable assurance that the attendance of the witness cannot be procured, or unless both parties shall consent that it may be read.

Sec. 5. The Court having fully heard the allegations and testimony of the parties, and deliberately considered the same, after the parties have withdrawn, shall declare respectively, whether, in their opinion, the accused be guilty or not guilty of the charges and specifications contained in the Presentment, in the order in which they are set forth; and the declaration of a majority of the Court being reduced to writing and signed by those who assent thereto, shall be considered as the judgment of the said Court, and shall be pronounced in the presence of the parties, if they choose to attend. And if it be that the accused is guilty, the Court shall, at the same time, pass sentence, and award the penalty of Admonition, Suspension, or Deposition, as to them the offence or offences proved may seem to deserve; *Provided*, that if the accused shall, before sentence is passed, show satisfactory cause to induce a belief that justice has not been done, the Court, or a majority of its members, may, according to a sound discretion, grant a rehearing: and in either case, before passing sentence, the accused shall have the opportunity of being heard, if he have aught to say in excuse or palliation: *Provided*, that the accused shall not be held guilty unless a majority of the Court shall concur, in regard to one or more of the offences charged, and only as relates to those charges in which a majority so concur.

Sec. 6. If the accused Bishop neglect or refuse to appear, according to the summons of the Court, notice having been served on him as aforesaid, except for some reasonable cause, to be allowed by the said Court, they shall pronounce him to be in *contumacy*; and sentence of Suspension from the Ministry shall be pronounced against him for contumacy by the Court; but the said sentence shall be reversed, if, within three calendar months, he shall tender himself ready, and accordingly appear, and take his trial on the Presentment. But if the accused Bishop shall not so tender himself before the expiration of the said three months, the sentence of Deposition from the Ministry shall be pronounced against him by the Court. And it shall be the duty of the Court, whenever sentence has been pronounced, whether it be on trial or for contumacy, to communicate such sentence to the Ecclesiastical Authority of every Diocese of this Church; and it shall be the duty of said Ecclesiastical Authority to cause such sentence

to be publicly read to the Congregations of each Diocese by the respective Ministers thereof.

Sec. 7. All notices and papers contemplated in this Canon, may be served by a Summoner or Summoners, to be appointed by the Bishop to whom the Presentment is made, or by the Court, when the same is in session; and the certificate of any such Summoner shall be evidence of the due service of a notice or paper. In case of service by any other person, the fact may be proved by the affidavit of such person. The delivery of a written notice or paper to a party, or the leaving it at his last place of residence, shall be deemed a sufficient service of such notice or paper.

Sec. 8. The accused party may have the privilege of appearing by counsel, and in case of the exercise of such privilege, but not otherwise, those presenting shall have the like privilege.

Sec. 9. If at any time during the session of any General Convention, any Bishop shall make to the House of Bishops a written acknowledgment of his unworthiness or criminality in any particular, the House of Bishops may proceed, without trial, to determine by vote, whether the said offending and confessing Bishop shall be admonished, or suspended from his office, or be deposed; and the sentence thus determined by a majority of the votes of the House of Bishops, shall be pronounced by the Bishop presiding, in the presence of the said House of Bishops, and entered on the Journal of the House, and a copy of the said sentence, attested by the hand and seal of the Presiding Bishop shall be sent to the said Bishop and to the Standing Committee of his Diocese, and to the Ecclesiastical Authority of every Diocese of this Church, and it shall be the duty of said Ecclesiastical Authority to cause such sentence, unless it be the sentence of Admonition, to be publicly read to the Congregations of each Diocese by the respective Ministers thereof.

Sec. 10. Any Bishop of this Church not having Ecclesiastical jurisdiction, shall be subject to Presentment, trial, and sentence, as hereinbefore provided, but shall not be included in any other provision of this Canon.

A few weeks after the Convention of 1844 adjourned, occurred the presentment and trial of Bishop Onderdonk of New York, the first, and only, bishop tried under the provisions of this canon.

This trial occasioned much excitement and discussion in the Church, which continued long after the trial was concluded. Because of his ordination of a Rev. Mr. Carey to the priesthood, who was accused of holding certain views which, in those days, were considered to be so advanced as almost to be papalistic, Bishop Onderdonk was accused by three bishops of the Church of holding heretical doctrines. In reply to these accusations, Bishop Onderdonk challenged his accusers to place him upon trial. No reply was made to this challenge, but the next year Bishop Onderdonk was presented for trial of charges affecting his moral character. The trial proceeded under a canon which was enacted several years after the first offense, and more than two years after the last offense, for which he was tried, was alleged to have been committed.

The presentment was made only fifteen days after the adjournment of the Convention which enacted the canon under which he was tried.

Eight of the nine specifications of the presentment and six of the seven actually tried, were based entirely upon hearsay testimony.

The affidavits on which the presentment was based were all made before the adjournment of said Convention.

One of the charges of the presentment was "impurity," a term unknown to the canon. The presentment made no one specific charge, but comprised allegations, referring to acts of diverse nature under the general charge of "immorality." In support of this general charge, the presenters alleged only one act during nearly eight years, viz.: drunkenness.

The presenters, and the members of the trial court, were members of the Convention which, only a few weeks before the presentment was made, had taken part in the enactment of the canon which constituted the court. Three of his judges were the three bishops who had accused him, only the year before, of holding heretical opinions, and all his judges were members of a Convention in which certain theological doctrines, which he had been accused of being in sympathy with, had been a subject of protracted discussion and bitter controversy.

The law under which Bishop Onderdonk was tried was strictly an *ex post facto* law. It defined an offense and affixed a penalty thereto in a case where no penalty existed before, and all this *after* the alleged offense had been committed.

Convention of 1856

This Convention repealed Canon 3 of 1844, and enacted Canon 11 in place thereof. The first five sections of this canon contained provisions for the presentment of the accused bishop and the formation of the court for the trial of a bishop, and have already been considered. Section 6, which contains the provisions governing the trial of a bishop, read as follows.

(In the printing of the *Journal* of this Convention, three of the clauses of Section 6 were incorrectly numbered. The text which follows has been corrected by reference to the Digest of 1859.)

The Bishops who constitute the Court, or a majority of them, having assembled according to the notice given them, which notice it is hereby made their duty to obey, shall proceed as follows, viz.:

(i) They shall elect a President out of their own number, and appoint a Presbyter of the Church as Clerk, and if necessary, another Presbyter as Assistant Clerk; and when thus organized, the President shall direct the Clerk to call the names of the Church Advocate and the accused; and if both appear, he shall then cause the Clerk to read the presentment which was delivered to the Presiding or senior Bishop, whose duty it is hereby made to deliver the same to the Court upon its organization.

(ii) The accused shall then be called upon by the Court to say whether he is guilty or not guilty of the offence or offences charged against him, and his plea shall be duly recorded; and on his neglect or refusal to plead, the plea of not guilty shall be entered for him, and the trial shall proceed; *Provided*, that, for sufficient cause, the Court may adjourn from time to time; and *Provided also*, that the accused shall, at all times during the trial, have liberty to be present, and in due time and order produce his testimony, and to make his defence.

(iii) If the accused neglect or refuse to appear in person, according to the notice served on him as aforesaid, except for some reasonable cause to be allowed by the Court, they shall proceed to pronounce him in contumacy, and notify him that sentence of suspension or degradation will be pronounced against him by the Court at the expiration of three months, unless within that time he tender himself ready, and accordingly appear and take his trial on the presentment. But if the accused shall not tender himself before the expiration of the said three months, sentence of suspension or degradation from the Ministry may be pronounced against him by the Court.

(iv) The accused being present, and the trial proceeding, it shall be conducted according to the principles of the Common Law, as the same are generally administered in the United States; nor shall any testimony be received by the trial, except from witnesses who have signed a declaration in the following words, to be read aloud before the witness testifies, and to be filed with the records of the Court:

"I, A.B., a witness summoned to testify on the trial of a presentment against the Right Rev. _____, a Bishop of the Protestant Episcopal Church in the United States, now pending, do most solemnly call to God to witness that the evidence I am about to give shall be the truth, the whole truth, and nothing but the truth; so help me God!"

And if it be necessary to take the testimony of an absent witness on a commission, such testimony shall be preceded by a similar written declaration of the witness, which shall be filed and transmitted with his or her deposition to the Court. The Testimony of each witness shall be reduced to writing. And in case there is ground to suppose that the attendance of any witness on the trial cannot be obtained, it shall be lawful for either party to apply to the Court if in session, or if not, to any member thereof, who shall thereupon appoint a commissary to take the deposition of such witness; and such party so desiring to take the deposition, shall give to the other party reasonable notice of the time and place of taking such deposition, accompanying such notice with the interrogatories to be propounded to the witness; whereupon it shall be lawful for the other party, within six days after such notice, to propound cross-interrogatories; and such interrogatories and cross-interrogatories, if any be propounded, shall be sent to the commissary, who shall thereupon proceed to take the testimony of such witness, upon oath or affirmation, and transmit it under seal to the Court. But no deposition shall be read at the trial, unless the Court have reasonable assurance that the attendance of the witness cannot be procured, or unless both parties shall consent that it may be read. *Provided*, that in any Diocese in which the civil government has authorized the ecclesiastical courts therein to issue summons for witnesses, or to administer an oath, the Court shall act in conformity to such laws.

(v) All notices and papers may be served by a summoner or summoners, to be appointed by the Court when the same is in session, or by a member thereof; and the certificate of any such summoner shall be evidence of the due service of a notice or paper. In case of service by any other person, the fact may be proved by the affidavit of such person. The delivery of a written notice or paper to the accused party, or to the Church Advocate, or leaving it, or a copy thereof, at the residence, or last known residence, of either, shall be deemed sufficient service of such notice or paper, on the Church Advocate and accused respectively. If the person to be served with any notice or paper shall have left the United States, it shall be a sufficient service thereof to leave a copy of such notice or paper at his last place of abode within the United States, sixty days before the day on which the appearance, or other act required by the said notice or paper, is to be performed.

(vi) The accused party may, if he think proper, have the aid of counsel; and if he should choose to have more than one counsel, the Church Advocate may have assistant advocates, to be named by the accusers; but in every case the Court may regulate the number of counsel who shall address the Court or examine witnesses. The Church Advocate shall be considered the party on one side, and the accused on the other. All Counsel must be communicants of the Church.

(vii) The Court, having fully heard the allegations and proofs of the parties, and deliberately considered the same, after the parties have withdrawn, shall declare respectively, whether, in their opinion, the accused is guilty or not guilty of each particular charge and specification contained in the presentment, in the order in which they are set forth; and the accused shall be considered as not guilty of every charge and specification of which he shall not be pronounced guilty by a majority of the members of the Court.

(viii) The decision of the Court as to all the charges and specifications of which a majority of the members of the Court have found him guilty, shall be reduced to writing, and signed by those who assent to it; and a decision pronouncing him not guilty of all those charges and specifications of which a majority shall not have pronounced him guilty, shall also be drawn up, and signed by those who assent to it; and the decision thus signed shall be regarded as the judgment of the Court, and shall be pronounced in the presence of the parties, if they shall think proper to attend.

(ix) If the accused shall be found guilty of any charge or specification, the Court shall proceed to ask him whether he has anything to say before the sentence is passed, and may, in their discretion, give him time to prepare what he wishes to say, and appoint a time for passing the sentence; and before passing sentence, the Court may adjourn from time to time, and give the accused reasonable opportunity of showing cause to induce a belief that justice has not been done, or that he has discovered new testimony; and the Court, or a majority of its members, may, according to a sound discretion, grant him a new trial; but, in such new trial, no Bishop shall sit who has already been a trier. Before passing sentence, the accused shall always have the opportunity of being heard, if he have aught to say in excuse or palliation.

(x) The accused having been heard, or not desiring to be heard, the sentence of the Court shall then be pronounced, and shall be either admonition, suspension as defined by the existing Canons of this Church, or degradation, as the offence or offences adjudged to be proved shall seem to deserve. It shall be the duty of the Court, whenever sentence has been pronounced, whether it be upon a trial, or for contumacy, to communicate such sentence to the ecclesiastical authority of every Diocese of this Church; and it shall be the duty of such authority to cause such sentence to be made known to every clergyman under his jurisdiction.

(xi) Every Court shall keep a full record of its proceedings, including the whole evidence given before it. Should any Court refuse to insert in its record a statement of any testimony which has been received, or of any decision which the Court has made, or of any fact which has occurred in Court, or any paper which either party has produced, it shall be the right of either party to file an exception in writing, containing a statement of such evidence, decision or fact, or referring to or describing such paper, which paper shall also be filed with the exception. All exceptions and papers so filed shall become parts of the record.

(xii) Such records shall be kept by the Clerk, and inserted in a book, to be attested by the signatures of the President and Clerk. Every such book, and all papers connected with any trial, shall be deposited with the Registrar of the General Convention. Such books and papers shall be open to the inspection of every member of this Church.

(xiii) Every Court, constituted under the authority of this Canon, may be attended by one or more lay advisers, who shall be communicants of this Church, and of the profession of the law. Such advisers may be present at all the proceedings of the Court, but they shall have no vote in any case whatever; it shall be their duty to give in person to the Court an opinion on any question not theological, upon which the Court, or any member thereof, or either party, shall desire an opinion. If a dispute shall arise whether any question be or be not theological, it shall be decided by the Court by a majority of votes. The Court may always, by unanimous consent, appoint an adviser or advisers. If they are not unanimous, each member of the Court may name a candidate; if not more than three are named, they all shall be advisers; if more than three are named, the Court shall reduce them to three by lot.

Section 7 provided for the presentment, and the constitution of the court, for the trial of a bishop accused of teaching doctrine inconsistent with that of this Church, and has already been considered.

Section 8 provided for the trial of a missionary bishop, and has been considered under Canon IV.4. The missionary bishop was to choose one of the three dioceses nearest to his district and, such selection having been made, either by the bishop, or, if he refused to make the choice, by the Presiding Bishop, the trial was to be conducted as if it were the trial of the bishop of that diocese.

In the revision of the canons by the Convention of 1859, this canon was made Title II, Canon 9, but without amendment.

Convention of 1904

In the revision of the Digest of Canons made by this Convention, Section 6 was made a separate Canon 26. Much of the former language was retained, and some of the amendments were merely stylistic.

Section 1 was new and read as follows:

(i) When the President of the Court for the Trial of a Bishop shall receive a presentment, he shall call the Court to meet at a certain time and place, said time not to be less than two nor more than six calendar months from the day of mailing such notice, and at a place within the Diocese or Missionary District of the accused Bishop, unless the same

be of such difficult access, in the judgment of the President of the Court, that reasonable convenience require the appointment of another place. With said notice, he shall send to each member of the Court a copy of the presentment.

(ii) He shall also summon the accused to appear at the same time and place to answer the said presentment, and shall also give notice of the said time and place to the Church Advocate, who shall in all stages of the trial represent the Church. The President, or any other member of the Court, shall, upon the application of either the Church Advocate or the accused, issue a summons for witnesses.

Section 2 (i) was an amended form of the latter portion of former clause (1). Its text was identical to the present Section 2 (a).

Section 2 (ii) was former clause (2), slightly amended. Its text was the same as the present Section 2 (b).

Section 2 (iii) was former clause (3), amended primarily by substituting the term “deposition” for the term “degradation.” Its text was the same as the present Section 2 (c).

Section 3 was former clause (4), amended by the substitution of the word “commissioner” for the word “commissary” in the latter part thereof, and with a significantly expanded first paragraph reading as follows:

The accused being present and the trial proceeding, it shall be conducted according to the principles of the common law, as the same is generally administered in the United States; and the laws of the State in which such trial is held, so far as they relate to the law of evidence, shall be adopted, and taken as the rules by which said Court shall be governed; and the accused shall in all cases have the right to be a witness on his own behalf, subject to cross-examination in the same manner as any other witness. No testimony shall be received at the trial, except from witnesses who have signed a declaration in the following words, to be read aloud before the witness testifies, and to be filed with the records of the Court.

Section 4 was former clause (5) with minor stylistic changes.

Section 5 was former clause (6) with unimportant changes.

Section 6 (i) was a rewritten form of former clause (7). Its text was the same as the present Section 4.

Section 6 (ii) was former clause (8), amended to read as follows:

The decision of the Court as to all the charges and specifications shall be reduced to writing, and signed by those who assent to it; and the decision signed shall be regarded as the judgment of the Court, and shall be pronounced in the presence of the parties, if they shall think proper to attend.

Section 6 (iii) was new and read as follows:

A Bishop found guilty upon a presentment for crime or immorality shall not, after the rendering of such judgment, and while the same continues unreversed, perform any

Episcopal or Ministerial functions, except such as relate to the administration of the temporal affairs of his Diocese or Missionary District.

Section 7 (i) was former clause (9), amended to read as follows:

If the accused shall be found guilty of any charge or specification, the Court shall proceed to ask him whether he has anything to say before sentence is passed, and may, in its discretion, give him time to prepare what he wishes to say, and appoint a time for passing the sentence, which time shall be at least sixty days from the date of the judgment, unless the accused shall, in writing, waive his right of appeal. Before passing sentence, the Court may adjourn from time to time, and give the accused reasonable opportunity of showing cause to induce a belief that justice has not been done, or that he has discovered new testimony; and the Court, or a majority of its members, may according to a sound discretion grant him a new trial. Before sentence is passed the accused shall have the opportunity of being heard if he have aught to say in excuse or palliation.

Section 7 (ii) was former clause (10), considerably amended, and reading as follows:

The accused having been heard, or not desiring to be heard, the sentence of the Court shall then be pronounced by the President, and shall be either admonition, suspension as defined by the Canons of this Church, or deposition, as the offence or offences adjudged to be proved shall seem to deserve. It shall be the duty of the Court whenever sentence has been pronounced, whether it be upon a trial or for contumacy, to communicate such sentence to the Ecclesiastical Authority of every Diocese and Missionary District of this Church. In case of the suspension or deposition of a Bishop, it shall also be the duty of the Presiding Bishop to give notice of the same to all Archbishops and Metropolitans and all Presiding Bishops of Churches in communion with this Church.

Section 8 (i) was former clause (11), amended to read as follows:

During the trial, exceptions in writing may be taken by either side to the admission or exclusion of evidence, or to any ruling of the Court, and such exceptions shall form part of the record of the case. The Court shall keep a full record of its proceedings, including the evidence given before it.

Section 8 (ii) was a rewritten form of former clause (12). Its text was the same as the present Section 7 (b).

Sections 9 and 10 were new and read as follows:

Sec. 9. Every trial shall be public if the accused shall so request.

Sec. 10. The necessary charges and expenses of the Church Advocate and of the proceedings before the Board of Inquiry and at the trial shall be paid by the Treasurer of the General Convention on the order of the Presiding Bishop.

The substance of former clause 13 was transferred to another canon. See Canon IV.3 above.

Convention of 1910

The first sentence of Section 7 (ii) was amended to read as follows:

The accused having been heard, or not desiring to be heard, the sentence of the Court shall then be pronounced by the President, and shall be admonition, or suspension from the Ministry, or deposition from the Ministry, as shall have been adjudged by the Court.

Convention of 1913

At this Convention, the second sentence of Section 7 (ii) was amended by adding the words “and to the Recorder” at the end thereof.

Convention of 1931

In the recodification of the disciplinary canons adopted by this Convention, this canon was made Canon 31, and amended chiefly by transferring some of its provisions to other canons.

The eight sections of the new canon were constituted as follows:

Section 1 was former Section 1, amended to its present wording, except for two references to missionary districts, which were deleted in 1973 as no longer needed.

Section 2 was former Section 2, unamended, and reading as at present.

Section 3 was former Section 3, amended to read as at present.

Section 4 was former Section 6 (i), unamended, and reading as at present.

Section 5 was former Section 6 (ii), amended to read as follows:

The decision of the Court as to all the charges and specifications shall be reduced to writing, and signed by those who assent to it, and the Court shall also, if the accused is found guilty of any charge or specification, determine and embody in the written decision the penalty which it shall adjudge should be imposed upon the accused, which penalty may be admonition or suspension or deposition from the ministry, as shall be by the Court adjudged; and the decision so signed shall be recorded as the judgment of the Court, and shall be judgment *nisi* until it becomes final as hereinafter stated.

Section 6 was former Section 6 (iii), unamended.

Section 7 was former Section 7 (i), substantially amended and expanded. Its text was identical to the present Section 6.

Section 8 was former Section 8, amended by omitting the second sentence of clause (i). Its text was the same as the present Section 7.

Special Convention of 1969

At this Convention, Section 5 of the canon, now Canon 57, was amended by deleting the words “which penalty may be admonition or suspension or deposition from the ministry,” on the grounds that they were inappropriate in a canon dealing with procedures, and because they were an unnecessary duplication of Canon IV.12.1.

Section 6 was repealed in its entirety, since it was substantially covered by Canon IV.12.8. The remaining sections were renumbered.

Convention of 1970

The canon was renumbered Title IV, Canon 5.

EXPOSITION OF CANON IV.5

The provisions of this canon require but little exposition, and do not differ materially from the canon as enacted in 1856.

Only three trials of bishops have ever occurred in the history of the American Church: that of Bishop Smith of Kentucky, which resulted in an acquittal; that of Bishop Onderdonk of New York, whose case has been discussed above under the history of this canon, which resulted in a conviction and a sentence of indefinite suspension; and that of Bishop Brown, retired of Arkansas, which resulted in a conviction for holding and teaching doctrine contrary to that held by this Church and a sentence of deposition in 1925.

Section 3 prescribes, by its cross reference to Canon IV.3, that the trial shall be conducted according to the principles of the common law, as the same is administered in the United States, and the rules of evidence shall be according to the laws of the state in which the trial is had.

Instead of an oath, which the court is not entitled to administer, every witness must sign a prescribed declaration that the evidence he or she is about to give “shall be the truth, the whole truth, and nothing but the truth.”

The accused bishop may have counsel of his own selection. Counsel must, however, be a communicant, or communicants, of this Church (Canon IV.3.22).

It is not sufficient for the court to render a judgment of guilty or not guilty on the whole presentment. It must render a decision on each particular charge and specification contained in the presentment; and whether the accused be guilty or not guilty of each of such charges or

specifications must be decided by a majority vote of the members of the court.

The decision of the court upon each charge and specification must be reduced to writing and signed by those who assent thereto, and such decision, so signed, is regarded as the judgment of the court.

Any motion for a new trial, or for a modification of penalty, must be filed within 30 days of the filing of the decision, and may be granted by the court by a majority vote.

A period of 60 days is allowed, following the final judgment of the court, in order to give the accused proper time to perfect his appeal to the court of review, should he desire to appeal.

The sentences which may be imposed, in the event of a conviction, and the conditions appertaining thereto, are governed by Canon IV.12.

The express provision that every trial shall be public, if the accused shall so request, was omitted in the revision of 1931. It would seem, however, that the provision in Canon IV.3.21, that "trials shall be conducted according to the principles of common law as the same is administered in the United States" would guarantee a public trial where demanded.



CANON 6. Of Appeals to the Court of Review of the Trial of a Bishop

Right of appeal. Sec. 1. A Bishop found guilty of any offense shall have the right to appeal from the judgment of the Trial Court to the Court of Review of the Trial of a Bishop; and in the case of a Bishop presented for holding and teaching doctrine contrary to that held by this Church, the Church Advocate shall have a like right to appeal.

Notice of appeal. Sec. 2. Unless within sixty days from the date of entry of judgment in the Trial Court the appellant shall have given notice of the appeal, in writing, to said court, to the party against whom the appeal is taken, and to the President of the Court of Review of the Trial of a Bishop, assigning in said notice the reasons of appeal, he shall be held to have waived the right of appeal, although in its discretion the Court of Review of the Trial of a Bishop may entertain and hear an appeal not taken within such prescribed period.

Time for hearing appeal. The President of the Court of Review upon receiving the notice of appeal shall appoint a time within 60 days thereafter for hearing the appeal and fix the place of the hearing, and at least 30 days prior to the day appointed written notice of such time and place shall be given by him to the other members of the Court and also to the appellant and appellee.

Transcript of record to be laid before Court. Sec. 3. Upon notice of appeal being given, the Clerk of the Trial Court shall send to the Clerk of the Court of Review of the Trial of a Bishop a transcript of the record, including all the evidence, certified by the President and Clerk

of the said Court, and the Clerk shall lay the same before the Court at its next session.

Evidence. Sec. 4. No oral testimony shall be heard by said Court, nor, except by permission of the said Court, shall any new evidence be introduced in said hearing.

Power of Court to dispose of case. Sec. 5. The Court of Review of the Trial of a Bishop may affirm or reverse any judgment brought before it on appeal, and may enter final judgment in the case, or may remit the same to the Trial Court for a new trial, or for such further proceedings as the interests of justice may require; *Provided, however,* that if the accused shall have been found not guilty by the Trial Court upon any of the charges and specifications upon which he has been tried other than that of holding and teaching doctrine contrary to that held by this Church, the Court of Review of the Trial of a Bishop shall have no power to reverse said findings; and, *Provided, further,* that sentence shall not be imposed upon a Bishop found guilty of holding and teaching doctrine contrary to that held by this Church unless and until the said finding shall have been approved by a vote of two-thirds of all the Bishops canonically assembled in said House, and entitled to vote.

Proviso.
In doctrinal cases, finding of guilt must be approved by vote of two-thirds of all Bishops.

Sentence. Sec. 6. If the Court of Review of the Trial of a Bishop shall enter final judgment in the case, and if by said judgment the accused shall be found guilty of any of the charges or specifications upon which he has been tried, the Court of Review of the Trial of a Bishop shall determine the sentence. Before sentence is passed the accused shall have the opportunity of being heard, if he has aught to say in excuse or mitigation. The sentence shall be pronounced by the Presiding Bishop, or such other Bishop as the Presiding Bishop shall designate, who shall thereupon give the notices thereof required by Canon IV.

Stay or proceedings in Trial Court. Sec. 7. In case of appeal, all proceedings in the Trial Court shall be stayed until such appeal be dismissed by the Court of Review of the Trial of a Bishop, or the said case be remitted by the said Court to the Trial Court. Should the appellant fail to prosecute his appeal before the said Court at the first session thereof, after the entry of the appeal, at which the same could be heard, the appeal may be dismissed for want of prosecution. In case the said Court

Dismissal of appeal. dismiss the appeal, the Clerk of the Court shall immediately give notice of such dismissal to the Trial Court.

Waiver of appeal. The appellant may waive his appeal at any time before a hearing thereof has begun before the Court of Review of the Trial of a Bishop. After said hearing has begun, he may waive his appeal only with the consent of the Court. In case the appeal is waived or dismissed, the Trial Court shall proceed as if no appeal has been taken.



This canon was Canon 28 when it was adopted in 1904. It became Canon 32 in 1931, Canon 57 in 1943, and Title IV, Canon 6, in 1970.

Convention of 1904

This canon was enacted by this Convention as Canon 28, “Of Appeals to the Court for the Review of the Trial of a Bishop.”

It differed from the present canon only in the following particulars:

The wording “Court for the Review,” seen above in the title, was also used throughout the canon.

The canon lacked the present second paragraph of Section 2.

Section 5 ended as follows:

...unless and until the said finding shall have been approved by a vote of two-thirds of all the Bishops entitled to seats in the House of Bishops canonically assembled in the said House.

Section 6 read as follows:

If the Court for the Review of the Trial of a Bishop shall enter final judgment in the case, and if by said judgment the accused shall be found guilty of any of the charges or specifications upon which he has been tried, the Court for the Review of the Trial of a Bishop shall determine the sentence, which shall be either admonition, suspension as defined by the Canons of this Church, or deposition. Before sentence is passed the accused shall have the opportunity of being heard, if he have aught to say in excuse or palliation. The sentence shall be pronounced by the Presiding Bishop, who shall thereupon give the notices thereof required by Canon 26, Section VII. [ii].

The second to the last sentence of Section 7 ended with the words “consent of the said Court.”

Convention of 1931

The canon was renumbered as Canon 32, and was amended to read as at present, except for Section 6.

Section 6 was amended by adding a new phrase in the last sentence thereof, so that the sentence read as follows:

The sentence shall be pronounced by the Presiding Bishop, or such other Bishop as the Presiding Bishop shall designate who shall thereupon give the notices thereof required by Canon 38.

Special Convention of 1969

In Section 6, the words “which shall be either admonition, suspension as defined by the Canons of this Church, or deposition,” at the end of the first sentence, were deleted as unnecessary, being provided for in Canon IV.12.1; and the word “mitigation” was substituted for the word “palliation” at the end of the following sentence.

EXPOSITION OF CANON IV.6

As early as 1853, the question of some court to review the proceedings in a trial court for bishops came before the General Convention, and a canon was introduced in the Convention of that year, providing for an appeal from the trial court to the full bench of bishops. This proposed canon was referred to a Joint Committee on the Judicial System of the Church, which committee was instructed to report to the Convention of 1856. This committee reported to the Convention of 1856 a number of canons providing for the trial of bishops, priests, and deacons, but failed to report a canon for the review of the trial of a bishop.

While the question of establishing some form of a court of appeal from the diocesan trial courts in the case of priests and deacons was the subject of extended consideration in several conventions, the providing of a court of appeal on the trial of a bishop does not seem to have been again presented to any Convention until the revision of the Constitution in 1898 and 1901, when Article IX was enacted, providing for courts of review of the determination of a trial court on the trial of a bishop, and the enactment by the Convention of 1904 of the present canons, providing for a court of review of the trial of a bishop and the mode of making appeals to such court.

A bishop found guilty of an offense by the trial court has the right to appeal to the court of review, and the church advocate also has the right to appeal in the case of acquittal by the trial court of a bishop presented for holding and teaching doctrine contrary to that held by the Church, but he has no right of appeal for acquittal on any other presentment. The appeal must be taken within sixty days, unless the court of review decides to hear an appeal not taken within the prescribed time.

No oral testimony can be heard by the court, nor can any new evidence be introduced, except by permission of the court.

The court is given power to affirm or reverse the judgment of the trial court in the case brought before it, and may enter final judgment in the case, or it may remit the case to the trial court for a new trial.

In a case where the bishop is found guilty of holding and teaching erroneous doctrine, the court of review cannot impose any sentence until the findings have been approved by two-thirds of all the bishops entitled to seats in the House of Bishops, at a meeting of said house.

If the court shall enter final judgment in the case, and the accused bishop be found guilty of any of the charges or specifications upon which he has been tried, the court of review determines the sentence to be pronounced upon him, which sentence is to be pronounced by the Presiding Bishop or by a bishop appointed by him.

An appeal to the court of review stays all proceedings in the trial court until the appeal be dismissed by said court, or the case be remitted to the trial court.

If the appellant waives his right of appeal before a hearing has begun in the court of review, or waives the same after the hearing has begun, with the consent of the court, then the trial court proceeds as if no appeal had been taken.



CANON 7. Of a Minister in any Diocese Chargeable with Offense in Another

Ecclesiastical Authority to give notice of the same. Sec. 1. If a Minister belonging to any Diocese shall have conducted himself in any other Diocese in such a way as to be liable to presentment under the provisions of Canon IV. 1, the Ecclesiastical Authority thereof shall give notice of the same to the Ecclesiastical Authority where he is canonically resident, exhibiting, with the information given, reasonable ground for presuming its truth. If the Ecclesiastical Authority, after due notice given, shall omit, for the space of three months, to proceed against the offending Minister, or shall request the Ecclesiastical Authority of the Diocese in which the offense or offenses are alleged to have been committed, to proceed against him, it shall be within the power of the Ecclesiastical Authority of the Diocese, within which the offense or offenses are alleged to have been committed, to institute proceedings according to the mode provided by the said Diocese.

Minister of other Diocese charged with misdemeanor may be inhibited from officiating. Sec. 2. If a Minister shall come temporarily into any Diocese, under the imputation of having elsewhere been guilty of any of the offenses within the provisions of Canon IV. 1, or if any Minister, while sojourning in any Diocese, shall so offend, the Bishop, upon probable cause, may admonish such Minister and inhibit him from officiating in said Diocese. And if, after such inhibition, the said Minister so officiate, the Bishop shall give notice to all the Ministers and Congregations in said Diocese, that the officiating of said Minister is inhibited; and like notice shall be given to the Ecclesiastical Authority of the Diocese to which the said Minister belongs, and to the Recorder. And such inhi-

bition shall continue in force until the Bishop of the first-named Diocese be satisfied of the innocence of the said Minister, or until he be acquitted on trial.

Ministers from foreign Countries. Sec. 3. The provisions of the last Section shall apply to ministers ordained in foreign lands by Bishops in communion with this Church; but in such case notice of the inhibition shall be given to the Bishop from whose jurisdiction the Minister shall appear to have come, and also to all the Bishops exercising jurisdiction in this Church, and to the Recorder.



This canon was Title II, Canon 3, in 1859. It became Canon 30 in 1904, Canon 33 in 1931, Canon 58 in 1943, and Title IV, Canon 7, in 1970.

It is one of the Church's most ancient rules that the discipline of an offending minister belongs to his own bishop, and very early in the history of the Church we find canons prohibiting one bishop from intruding into the jurisdiction of another, or of interfering with matters which belong to another bishop. Therefore, we are not surprised that the American Church, almost at the beginning of its national life, enacted a canon on the subject of the discipline of the clergy.

Convention of 1792

This Convention enacted Canon 2, which read as follows:

If a Clergyman of the Church in any diocese or district within this union shall, in any other diocese or district, conduct himself in such a way as is contrary to the rules of this Church, and disgraceful to his office, the Bishop, or, if there be no Bishop, the Standing Committee, shall give notice thereof to the ecclesiastical authority of the diocese or district to which such offender belongs, exhibiting, with the information given the proofs of the charges made against him.

Convention of 1832

In the revision of the canons by this Convention, Canon 2 of 1792 was made Section 1 of Canon 40, and a new Section 2 was added, reading as follows:

If a Clergyman shall come temporarily into any Diocese under the imputation of having elsewhere been guilty of any crime or misdemeanor, by violation of the Canons or otherwise, or if any Clergyman while sojourning in any Diocese shall misbehave in any of these respects, the Bishop, upon probable cause, may admonish such Clergyman, and forbid him to officiate in the said Diocese. And if, after such prohibition, the said

Clergyman so officiate, the Bishop shall give notice to all the Clergy and congregations in said Diocese, that the officiating of the said Clergyman is, under any and all circumstances, prohibited; and like notice shall be given to the Bishop, or if there be no Bishop, to the Standing Committee of the Diocese to which the said Clergyman belongs. And such prohibition shall continue in force until the Bishop of the first named Diocese be satisfied of the innocence of the said Clergyman, or until he be acquitted on trial.

The continued supervision of a priest or deacon by the bishop of the diocese in which he is canonically resident is recognized in the ancient canons, as well as in those of the present day. Under the second section, however, the bishop of the diocese in which the offense is committed was given the right to admonish the offending minister, and to prohibit him from officiating therein.

Convention of 1850

This Convention repealed Canon 40 of 1832, and enacted Canon 6 in place thereof, the first section of which read as follows:

If a Clergyman of this Church, belonging to any Diocese or Missionary District, conduct himself in such a way as is contrary to the rules of this Church, and disgraceful to his office, the ecclesiastical authority thereof shall give notice of the same to the ecclesiastical authority where he is canonically resident, exhibiting with the information given reasonable grounds for presuming its correctness. If the ecclesiastical authority when thus notified shall omit for the space of three months, to proceed against the offending Clergyman, it shall be in the power of the ecclesiastical authority of the Diocese or Missionary District, within which the alleged offence or offences were committed, to institute proceedings, and the decision given shall be conclusive.

The second section of the former canon was reenacted without amendment. A new Section 3 was added, reading as follows:

The provisions of the second Section shall apply to Clergyman ordained in Foreign Countries by Bishops in Communion with this Church: provided that in such case, notice of the prohibition shall be given to the Bishop under whose jurisdiction the Clergyman shall appear to have been last, and also to all the Bishops exercising jurisdiction in this Church.

The provision of the first section, that a clergyman might, under certain circumstances, be presented and tried in the diocese where the offense of which he is charged was committed, though he be not canonically connected with that diocese, was questionable as to its constitutionality.

We have been unable to find, however, any case where the ecclesiastical authority of a diocese attempted to carry out the provisions of this first section.

The third section was added because of serious doubt as to whether the words of the first section, "a Clergyman of this Church," would

cover the case of a minister ordained in a foreign country by a bishop who did not belong to the American Church, even though he was in communion with it. The reference, of course, was to ministers of other branches of the Anglican Communion.

Convention of 1859

In the revision of the canons by this Convention, the sixth canon of 1850 was renumbered as Title II, Canon 3, without amendment.

Convention of 1874

This Convention amended Title II, Canon 3, by striking the words “conduct himself in such a way as is contrary to the rules of this Church, and disgraceful to his office,” in the first section, and inserting in place thereof the following:

shall have conducted himself in any other Diocese or Missionary District in such a way as to be liable to presentment under the provisions of Canon 3, Title II.

Also, by inserting after the words “to institute proceedings,” at the end of the section, the words “according to the mode provided by the Convention thereof.”

Under the former canon, it was possible for a case to arise that was not free from difficulty. A clergyman visiting in a diocese might violate some canon of that diocese, there being no such canon in his own diocese, and there being a penalty affixed to such violation. Under the Constitution, he must be tried in the diocese to which he belongs, but there being no such canon in his own diocese, there was, of course, no penalty provided therefor. The bishop of the diocese to which he belonged could not enforce the canon of another diocese with its attending penalty. What punishment, then, could he decree?

It was this difficulty which led to the amendment of the canon so as to provide that he should be liable only for violation of the offenses defined in the canon of the General Convention.

There was a case decided in the court of delegates in Ireland in 1838, which bears upon this question. A clergyman belonging to a certain society went into the parish of another clergyman, and in another diocese, and officiated at an open-air service as a member of the society to which he belonged. He had been previously warned not to officiate. He was cited before the bishop of the diocese in which the act was committed. An exception to the jurisdiction was taken, because the clergyman was not a resident of the diocese.

The court, after citing Canons 21, 38, and 39 of the Irish Church, held that the offense was in the nature of a contempt or violation of the authority of the bishop of the diocese in which the offense had been committed, and therefore it was local, and subject to the jurisdiction of that diocese alone.

The general rule of the ecclesiastical law was, unquestionably, that the canonical residence of the accused was the forum to which he was to be cited. But there were exceptions which took the place out of the general rule, and gave locality of jurisdiction to the place where the offense was committed.

Convention of 1904

In the revision of the Digest of Canons by this Convention, Title II, Canon 3, was renumbered as Canon 30. Such amendments as were made were entirely stylistic, such as the substitution of "Minister" for "Clergyman." Except for changes in cross references to other canons, and references to missionary districts, dropped as no longer needed in 1973, the canon (apart from the additions made in 1913) read exactly as it does today.

Convention of 1913

This Convention amended the canon by adding the words "and to the Recorder" to the end of the second sentence of Section 2, and also at the end of Section 3.

EXPOSITION OF CANON IV.7

After the enactment of the present Article IX of the Constitution in 1901, prescribing that "Presbyters and Deacons canonically resident in a Diocese shall be tried by a Court instituted by the Convention thereof," the provision of the first section of the canon, empowering the ecclesiastical authority of the diocese in which the offense is committed to institute proceedings against the offender, became clearly unconstitutional. As before stated, this same provision was unconstitutional under the Constitution as it stood before 1901, which provided that "In every Diocese, the mode of trying Presbyters and Deacons may be instituted by the Convention of the Diocese," as this provision had been interpreted by the General Convention as giving the right to each diocese to provide for the trial of members of its own clergy.

Two attempts were made to amend the ninth article of the Constitution in order that the provision contained in the first section of the canon might be made constitutional. The first amendment to this article was

made by the Convention of 1916, which added a proviso to the second paragraph, reading as follows:

Provided, however, that the General Convention may by Canon provide a change of the place of trial.

As soon as this amendment was enacted, it was seen that it was not sufficient to overcome the difficulty, and another form of amendment was approved by the Convention of 1916, reading as follows:

Provided, that the General Convention in each case may prescribe by Canon for a change of venue.

This amendment was enacted by the Convention of 1919.

Dr. White, in the first edition of this annotation, indicated that even after the adoption of the 1919 amendment, there were still doubts about whether the result was to render the provisions of the canon constitutional.

However, neither the constitutional proviso, nor the substance of the canon, has been amended since 1919.

Whatever doubt there may be concerning the power under the Constitution of the ecclesiastical authority of the diocese in which an offense is committed to institute proceedings against the offender, it is mandatory upon such authority to give notice of the same to the ecclesiastical authority of the diocese in which the offender has canonical residence.

It would appear that it then becomes the duty of the ecclesiastical authority, who received such notice, "to proceed against him," although the only affirmative provision of the canon is that vesting such authority in the bishop who gives notice. If such diocesan has the duty to proceed, the question arises, what is meant by "proceed"? It would appear that any form of discipline is proper and that its nature should depend upon the seriousness of the offense.



CANON 8. Of Renunciation of the Ministry

*Order of
proceedings.*

Sec. 1. If any Minister of this Church not under presentment shall declare, in writing, to the Ecclesiastical Authority of the Diocese in which he is canonically resident, his renunciation of the Ministry of this Church, and his desire to be removed therefrom, it shall be the duty of the Ecclesiastical Authority to record the declaration and request so made. The Bishop, being satisfied that the person so declaring is not amenable for any canonical offense, and that his renunciation of the Ministry is not occasioned by foregoing misconduct or irregularity, but is voluntary and for causes, assigned or known, which do not affect his moral character, shall lay the matter before the clerical members of the Standing Committee, and with their advice and consent he may pronounce that such renunciation is accepted, and that the Minister is released from the obligations of the Ministerial office, and that he is deprived of the right to exercise the gifts and spiritual authority as a Minister of God's Word and Sacraments conferred on him in his Ordination. He shall also declare in pronouncing and recording such action that it was for causes which do not affect the person's moral character, and shall, if desired, give a certificate to this effect to the person so removed from the Ministry. In all other cases of Renunciation of the Ministry, where there may be a question of foregoing misconduct or irregularity, the Bishop shall not pronounce sentence of deposition save with the consent of the Standing Committee of the Diocese. The Bishop shall give due notice of every such removal or deposition from the Ministry, in the form in which the same is recorded, and

in accordance with the provisions of Canon IV.12, Sec. 4 (b).

Renunciation under liability to presentment. Sec. 2. If a Minister making the aforesaid declaration of renunciation of his Ministry be under presentment for any canonical offense, or if he shall have been placed on trial for the same, the Ecclesiastical Authority to whom such declaration is made shall not consider or act upon such declaration until after the said presentment shall have been dismissed, or the said trial shall have been concluded and sentence, if any, pronounced. If the Ecclesiastical Authority to whom such declaration is made shall have ground to suppose that the person making the same is liable to presentment for any canonical offense, such person may, in the discretion of the said Ecclesiastical Authority, be placed upon trial for such offense, notwithstanding such declaration of renunciation of the Ministry.



This canon was Title II, Canon 5, in 1859. It became Canon 31 in 1904, Canon 34 in 1931, Canon 59 in 1943, and Title IV, Canon 8, in 1970.

Convention of 1801

The earliest canon that contained any regulation on the subject of a renunciation of the ministry was the first canon of 1801, which read as follows:

If any person, having been ordained in this Church, or having been otherwise regularly ordained and admitted a minister in this Church, shall discontinue all exercises of the ministerial office without lawful cause, or shall avow that he is no longer a minister of this Church, or shall live in the habitual disuse of the public worship, or of the Holy Eucharist, according to the offices of this Church—such person, on due proof of the same, or on his own confession, shall be liable to be degraded from the Ministry.

The words in this canon which related to the renunciation of the ministry are “or shall avow that he is no longer a minister of this Church.”

A case of renunciation of the ministry occurred in Connecticut before the enactment of this canon. The minutes of the Convocation of Connecticut held in 1795 hold the following record:

Whereas the Rev. D. P. has requested of the Bishop and his clergy in convocation, liberty to resign the pastoral charges of the parishes of R. &c., as well as to relinquish

totally the exercises of ecclesiastical functions—therefore voted that his request be granted, and the resignation of his letters of orders be accepted.

A similar case occurred in the same state in 1804, and like action was taken by the convocation.

In both of these cases the minister was a deacon, and it is said that the distinction was taken by Bishop Jarvis between the case of a deacon and a priest in this particular.

Convention of 1808

In the revision of the canons by the Convention of 1808, the provisions of Canon 1, of the Canons of 1801, were incorporated in Canon 26 of that year, enumerating the offenses for which ministers shall be tried.

Convention of 1817

This Convention enacted the first canon relating solely to the renunciation of the ministry as Canon 2, which read as follows:

If any minister of this Church shall declare to the Bishop of the Diocese to which he belongs, or to any Ecclesiastical Authority for the trial of clergymen, or, where there is no Bishop, to the Standing Committee, his renunciation of the ministry, and his design not to officiate in future in any of the offices thereof; it shall be the duty of the Bishop, or, where there is no Bishop, of the Standing Committee, to record the declaration so made. And it shall be the duty of the Bishop to admonish or to suspend him, and to pronounce and record, in the presence of two or three clergymen, that the person so declaring has been admonished, or suspended, or displaced from his grade of the ministry in this Church. In any Diocese in which there is no Bishop, the same sentence may be pronounced by the Bishop of any other Diocese, invited by the Standing Committee to attend for that purpose. In the case of displacing from the ministry as above provided for, it shall be the duty of the Bishop to give notice thereof to every Bishop of this Church, and to the Standing Committee in every Diocese wherein there is no Bishop.

Convention of 1820

The Convention of 1820 amended the second canon of 1817 by inserting the words “or to displace him from his grade in the ministry” after the words “to admonish or to suspend him.”

The former canon made it the duty of the bishop to pronounce and record in the presence of two or three clergymen, that the person so declaring had been admonished, or suspended, or displaced from his grade in the ministry, but did not give any power to the bishop to displace him from the ministry. The amendment was made to correct this omission.

A case occurred under this canon which received very serious and extended consideration by the standing committee of the Diocese of

New York, as the bishop's council of advice. The facts of the case were as follows:

Sometime before the diocesan convention of 1826, Bishop Hobart ordained a Mr. Harrison as deacon, and reported the fact to the Convention of 1826.

The bishop, in his report to the Convention of 1827, used this language:

“The Rev. Joshua L. Harrison removed on account of his health to England. He has since signified to me his relinquishment of the ministry, and of course, under the canon in such case provided, is displaced therefrom.”

In 1833, Mr. Harrison wrote to Bishop Onderdonk, the successor of Bishop Hobart, asking to be permitted to resume the exercise of ministerial duties, and stating that his relinquishment of the ministry had been caused by ill health, and a resulting despondency and depression.

Bishop Onderdonk had seriously questioned, at the time of Mr. Harrison's relinquishment of the ministry, whether Bishop Hobart had complied with all the provisions of the canon, and took this view of the case, as stated by Dr. Hawks (*Constitution and Canons*, pp. 341-344).

1. That this canon was one so serious in its consequences to the clergyman that a strict and literal compliance with all its provisions was essential.
2. That merely stating the fact of relinquishment in the address of Bishop Hobart to the convention, and his reading the same to that body, was not “to pronounce and record” the displacement within the meaning of the law.
3. That merely sending a copy of the printed journal of the convention, containing the address, to each of the bishops, was not giving such “notice to every bishop of this Church,” as the Canon required.

Although diligent search was made among Bishop Hobart's papers, no other evidence could be found of the fact of the displacement of Mr. Harrison, save the mere announcement thereof in the convention address of the bishop.

The bishop then asked the advice of the standing committee, and the matter was referred to a sub-committee of two of the members thereof, men of high legal standing, who reported as their opinion:

1. That the serious character and consequences of such a proceeding as a renunciation of the ministry did give increased importance to the formalities prescribed by canon for its accomplishment.
2. That though Bishop Hobart's address was silent as to the *form* of Mr. Harrison's renunciation, yet, if *all the subsequent proceedings were shown to be regular*, a valid

renunciation might be presumed on the ground that the bishop would not have acted in the case unless it had been duly and properly brought under his cognizance.

3. As the evidence of displacement, the canon contemplated the summoning of “two or three clergymen” by the bishop, for a specific purpose, viz.: to become *witnesses* to the recording and pronouncing of an official sentence, or decree of displacement.

4. None of the clergy attending the convention could have supposed themselves called together for any such purpose; and in fact, they were not: their appropriate business being a very different one.

5. That the address of the bishop to his convention was prescribed by canon, and related to the general concerns of the diocese, and was designed merely to *give information* of his Episcopal acts; but could by no fair rule be considered as substantive acts of discipline in the various cases which they might bring to the knowledge of the convention.

6. Even if Bishop Hobart’s address was to be deemed a *sentence* pronounced, recording it on the minutes of the convention was not such a recording as the canon required. The record demanded by the law must be “some book or memorial, kept and preserved by or under the authority of the individual whose province it is to pronounce and record the sentence.” The journals of the convention are kept by their secretary, and belong not to the bishop, but to the convention; they are in no sense records of the bishop’s official acts in a case which, like this, did not require their consent and co-operation.

7. Mr. Harrison’s renunciation having been voluntary, it was revocable by him at any time before the legal recording and pronouncing of the sentence of displacement, and there being here no proper and sufficient evidence, according to the canon, that the sentence had ever been pronounced and recorded, Mr. Harrison’s application must be considered as a revocation of his previous renunciation; and he is consequently entitled to exercise his ministerial functions.

The standing committee, upon the receipt of this report, were equally divided as to the advice to be given to the bishop. The clergy were opposed to granting the request of Mr. Harrison, while the laity were in favor of it.

The bishop, however, restored Mr. Harrison to his list of deacons, and his action was approved by the three bishops to whom he submitted the facts of the case.

Convention of 1829

This Convention amended the second canon of 1817 by the insertion of the words “against whom there is no ecclesiastical proceeding instituted,” after the words “If any minister of this Church,” at the beginning of the canon. Also, the words “to admonish, or to suspend him, or,” after the words “And it shall be the duty of the Bishop” in the second sentence thereof, were stricken, thus making the sentence to be pronounced that of displacement only. Also, at the end of the canon were added these words: “And in the case of a person making the above declaration for causes not affecting his moral standing, the same shall be declared.”

Dr. Hawks (*Constitution and Canons*, p. 345) cites the case of a minister laboring under mental affliction who made a renunciation under this canon.

The bishop, it was understood, made no formal record of the renunciation. Afterwards, the clergyman, restored to his right mind, was permitted to resume his duties. Dr. Hawks was of the opinion that, if the bishop had made a formal record of the renunciation, and pronounced the sentence of displacement according to the canon, that sentence would be held to be of no force upon the restoration of the clergyman to reason, as the preliminary ground upon which it must rest, viz.: a declaration made by the clergyman with a full understanding of his act and its consequences, would be wanting.

Under the former canon, it was possible for a clergyman, accused of an offense which would render him liable to presentment and trial, to escape trial by a renunciation of the ministry, which renunciation it was made the duty of the bishop to accept. Bishop Onderdonk is quoted as saying that he was told by Bishop White that one motive, if not the leading one, for the original enactment of this canon was the great difficulty of obtaining testimony in cases of moral depravity.

Two cases occurred which probably led to the insertion of the provision in the canon that there must be no ecclesiastical proceedings instituted against the clergyman making a renunciation of the ministry in order to permit of his renunciation being accepted by the bishop.

The first case was that of the Rev. Mr. Dashiell of Maryland in 1815. The standing committee reported to the bishop that it was commonly reported that the Rev. Mr. Dashiell was guilty of "scandalous, immoral, and obscene conduct, and recommended an investigation," which was commenced. Mr. Dashiell objected to the investigation and wrote to the bishop, requesting that the investigation might be stopped, and if not stopped, then the bishop was to consider his letter as a renunciation of all connection with the Episcopal Church. The bishop, however, refused to accept the renunciation, and, on the advice of the standing committee, informed Mr. Dashiell that the trial must proceed. He failed to appear at the trial, and was suspended from the ministry.

The other case was that of the Rev. Mr. Raynor, in Connecticut, in 1828. He was presented "for being in the habit of countenancing and disseminating opinions contrary to the doctrines of the Protestant Episcopal Church in the United States, for being in the habit of public preaching without using the liturgy, and that his conduct had been unbecoming the character of a Christian minister."

The standing committee were informed by the bishop that the Rev. Mr. Raynor would immediately make the declaration of the relinquishment of his ministry, and thus permit the bishop to suspend him, if the proceedings on the charge were not pressed. On this report, the standing committee postponed the proceedings. At a subsequent meeting of the committee, information was received from the bishop that the Rev. Mr. Raynor had been suspended.

At the first meeting thereafter of the General Convention held in 1829, the provision was added to the canon, requiring that a minister desiring to relinquish the ministry must have no ecclesiastical proceedings instituted against him at the time of his request.

Convention of 1832

In the revision of the canons by this Convention, Canon 2 of 1817 was renumbered as Canon 38, but without material change.

Convention of 1850

The Convention of 1850 repealed Canon 38 of 1832, and enacted Canon 5 in place thereof, which read as follows:

If any minister of this Church, against whom there is no ecclesiastical proceeding instituted, shall declare in writing to the Bishop of the Diocese to which he belongs, or to any ecclesiastical authority for the trial of a Clergyman, or where there is no Bishop to the Standing Committee, his renunciation of the Ministry, and his design not to officiate in future in any of the offices thereof, it shall be the duty of the Bishop, or where there is no Bishop, of the Standing Committee, to record the declaration so made; and it shall be the duty of the Bishop to depose him from the Ministry, and to pronounce and record, in the presence of two or more Clergymen, that the person so declaring has been deposed from the Ministry of this Church. In any Diocese in which there is no Bishop, the same sentence may be pronounced by the Bishop of any other Diocese, invited by the Standing Committee to attend for that purpose. *Provided always*, nevertheless, that if the Bishop to whom such declaration renouncing the Ministry is made, have reason to believe that the party has acted unadvisedly and hastily, he may forbear all action thereupon for the space of not more than six months, during which time the party may withdraw his application. And *provided further*, that if the Bishop shall have ground to suppose the party to be liable to presentment for any canonical offense, in his discretion he may, and with the consent of the Standing Committee, proceed to have the applicant put upon his trial, notwithstanding his having made the aforesaid declaration. And the same discretion is allowed to the Standing Committee, in case the Diocese should be without a Bishop.

In the case of deposition from the Ministry, as above provided for, it shall be the duty of the Bishop to give notice thereof to every Bishop of this Church, and to the Standing Committee of every Diocese wherein there is no Bishop.

Under the former canon, the bishop had no alternative, in case a clergyman made a declaration to the bishop of his renunciation of his ministry, but to record such declaration and displace him at once from

the ministry, even though the bishop might feel positive that the man had acted upon impulse, and, if given time, might, after being counseled in the matter, retract his declaration of renunciation. The first proviso of the amended canon permitted the bishop to delay taking any action upon a declaration of renunciation, if he had reason to believe that the man had acted hastily or unadvisedly, for the space of six months, during which time the clergyman might withdraw his application.

The second proviso gave the bishop power, with the consent of the standing committee, if he had reasonable ground to believe that the applicant was liable to presentment for some canonical offense, to put the applicant on trial, notwithstanding the fact that he might already have made his declaration of renunciation.

The amendment in this second proviso was probably occasioned by a case which caused much discussion and consideration in 1849-1850, just prior to the Convention which enacted this amendment to the canon. The facts of the case were as follows:

The Rev. Dr. Forbes of the Diocese of New York, on November 21, 1849, addressed a letter to the president of the standing committee, as follows:

“You may conceive that it is with no ordinary emotion that I feel myself constrained to declare to you as President of the Standing Committee, that it is my intention no longer to exercise the ministry of the Protestant Episcopal Church, it having become my conscientious conviction that duty to God requires me to unite myself to the one holy catholic and apostolic church, in communion with the See of Rome.”

This letter of renunciation was not according to the letter of the canon, and an attempt was made to procure a letter from Dr. Forbes strictly within the terms of the canon. Dr. Forbes replied thereto, but his second letter did not contain the exact words of the canon. In the meantime, on December 27 of that year, a presentment of Dr. Forbes was made to the standing committee, as the ecclesiastical authority of the diocese, “for schism and non-conformity to the worship and discipline of the Protestant Episcopal Church of the United States.”

On the same day, a sub-committee was appointed to consider the whole matter and report a course of action. A member of this sub-committee wrote to Dr. Forbes, asking him if he “intended in his letter to the President to declare his renunciation of the Ministry of the Protestant Episcopal Church, and his design no longer to officiate in any of the offices thereof.” Dr. Forbes replied in writing that such was his intention.

On January 8, the standing committee ordered the declaration to be recorded. The presenters addressed a letter of remonstrance to the standing committee, asking for a reversal of their action in the matter. The committee declined to reverse its action, and sentence was pronounced by the bishop on February 28, 1850.

The reasons which induced the standing committee to take the action it did are given by Judge Hoffman in his *Law of the Church* (pp. 349-353).

The committee held that the original letter of Dr. Forbes, stating his intention to no longer exercise the ministry of the Church, must be considered as sufficient. That the last communication of Dr. Forbes was not a new renunciation; it was a full, positive statement that he desired his former letter to be interpreted as a full compliance with the canons, and that it could be justly treated as relating back to the former, forming part and parcel of it, and therefore, justify considering the date of the first letter as being the date of the whole.

This being the case, the committee considered that the presentation of Dr. Forbes was made after his letter of renunciation of the ministry had been made and received, and therefore, under the terms of the canon, must be recorded and accepted, and consequently estopped any proceedings designed to place the Rev. Dr. Forbes on trial.

As before stated, it was probably this case which called the attention of the General Convention to the matter, and induced a consideration of the question, as to whether it was advisable to permit a clergyman's being placed on trial after he had made a declaration of renunciation of the ministry, and the enactment of an amendment to the canon providing that a presentment might be received, and a trial had thereon, after a declaration of renunciation of the ministry.

This Convention also changed the term "displacement" to "deposition."

Convention of 1859

In the revision of the canons by this Convention, Canon 5 of 1850 was renumbered as Title II, Canon 5. No amendment was made to the canon, except that the canon was divided into five sections, the two provisos of the former canon becoming Sections 3 and 4.

Convention of 1877

This Convention amended the first section of Title II, Canon 5, to read as follows:

If any Minister of this Church, against whom there is no ecclesiastical proceeding instituted, shall declare, in writing, to the Ecclesiastical Authority of the Diocese or Missionary Jurisdiction to which he belongs, his renunciation of the Ministry of this Church, it shall be the duty of the Ecclesiastical Authority to record the declaration so made; and thereupon it shall be the duty of the Bishop or, if there be no Bishop of the Diocese or Missionary Jurisdiction, of any Bishop who, being requested by the Standing Committee, shall consent to act in the matter, to depose such person from the Ministry, and to pronounce and record, in the presence of two or more Clergymen, that the person so declaring has been deposed from the Ministry of this Church: *Provided, however*; that if the Bishop shall be satisfied that the person so declaring is not amenable for any canonical offence, and that his renunciation of the Ministry is not occasioned by foregoing misconduct or irregularity, but is voluntary and for causes, assigned or known, which do not affect his moral character, he shall so declare in pronouncing and recording said deposition, and shall, if desired, give a certificate to this effect to the person so deposed; and shall also give due notice of such deposition from the Ministry to the Ecclesiastical Authority of every Diocese and Missionary Jurisdiction of this Church, in the form in which the same is recorded.

The principal change made in the canon by this Convention, aside from the substitution of the words "Ecclesiastical Authority" for the word "Bishop," and the addition of the words "Missionary Jurisdiction," was the provision that, in every case of deposition from the ministry for causes not affecting one's moral character, there should be a distinct record and certificate made of that fact, and that, in the notices sent to the several ecclesiastical authorities and to the clergy of the diocese, that fact should be distinctly stated.

There was a provision in Canon 38 of 1832 to this effect, but in the revision of the canon in 1850 it was omitted.

The second section of the former canon was repealed, as the substance thereof was embodied in Section 1.

Former Sections 3 and 4 were made Sections 2 and 3, respectively, and amended by substituting the words "Ecclesiastical Authority" for the word "Bishop" wherever that word occurred in said sections.

Section 5 was repealed, as the substance thereof was embodied in Section 1.

It was proposed in the House of Deputies at this Convention to amend the canon, so as to provide that a clergyman might resign his ministry without being deposed therefrom, but the committee on canons in reporting the amended canon stated that they had found it impossible to make so radical a change, but had endeavored to mitigate the supposed evil by providing that, in every case of deposition for causes not affecting one's moral character, there should be a distinct record and certificate of that fact.

Convention of 1901

This Convention amended the first section of Title II, Canon 5, by striking the words “against whom there is no ecclesiastical proceeding instituted.”

The committee on canons in the House of Bishops, in reporting the proposed amendment, said that

in its judgment it would be both safe and desirable to omit the sentence quoted, and thereby to allow the deposition of a clergyman from the Ministry on his renunciation thereof, even though an ecclesiastical trial might be pending, thereby saving the Church the scandal of a trial, with all its attending difficulties, where a trial is not demanded by the Clergyman.

The Committee considers that the distinction is made sufficiently clear in the proviso contained in the same Section of the Canon between a deposition for causes which in no way affect the moral character of the clergyman deposed and a deposition not declared to be for such causes.

Convention of 1904

In the revision of the canons by this Convention, Title II, Canon 5 was made Canon 31, without amendment.

Convention of 1907

This Convention amended Section 1 of Canon 31, by striking the words “to which he belongs” in the first clause, and inserting in place thereof the words “in which he is canonically resident.”

Convention of 1910

This Convention renumbered Canon 31 as Canon 32, and amended the first section by combining Sections 1 and 2 as Section 1, and amending the proviso to read as follows:

Provided, however, that if the Bishop shall be satisfied that the person so declaring is not amenable for any canonical offense, and that his renunciation of the Ministry is not occasioned by foregoing misconduct or irregularity, but is voluntary and for causes, assigned or known, which do not affect his moral character, he shall first pronounce sentence of suspension from the Ministry for six months, and if the renunciation be not withdrawn within that period, he shall then pronounce sentence of deposition from the Ministry. In such cases the Bishop shall declare in pronouncing and recording such deposition that it was for causes which do not affect the man’s moral character, and shall, if desired, give a certificate to this effect to the person so deposed; and *Provided, further,* that in all other cases of renunciation of the Ministry, the Bishop shall not pronounce sentence of deposition save with the consent of the Standing Committee of the Diocese or the Council of Advice of the Missionary District. The Bishop shall give due notice of every deposition from the Ministry to the Ecclesiastical Authority of every Diocese and Missionary District of this Church in the form in which the same is recorded.

Section 3 became Section 2.

Under the provisions of the former canon, when a clergyman was courteous enough to notify the bishop of his desire to renounce his ministry, the Bishop could depose him at once, but if he abandoned the ministry without giving the bishop such notice, his discourtesy was rewarded by being suspended for six months before deposition. It seemed as if the courteous clergyman should be treated at least as fairly as the discourteous clergyman, hence the amendment providing that, in case the clergyman declaring his desire to renounce the ministry was not under presentment, the bishop must first suspend him for six months before pronouncing sentence of deposition. The amendment also provided that a clergyman declaring his renunciation, and being suspended, could not exercise any of the offices of the Church during the period of clemency granted to him by the bishop.

Convention of 1913

This Convention amended Section 1 of Canon 32, made Canon 33 by this Convention, by the insertion of the words “and to the Recorder” after the word “Church” in the final clause thereof.

Convention of 1916

This Convention amended the first sentence of Section 1, by the insertion of the words “not under presentment” in the opening clause thereof.

Also, the last sentence of the same section was amended to read as follows:

The Bishop shall give due notice of every such deposition from the Ministry, in the form in which the same is recorded, and in accordance with the provisions of Canon 37, Section 3.

Section 2 was amended to read as follows:

If a Minister making the aforesaid declaration of his renunciation of the Ministry be under presentment for any canonical offense, or if he shall have been placed on trial for the same, the Ecclesiastical Authority to whom such declaration is made shall not consider or act upon such declaration until after the said presentment shall have been dismissed, or the said trial shall have been concluded and sentence, if any, pronounced. If the Ecclesiastical Authority, to whom such declaration is made shall have ground to suppose that the person making the same is liable to presentment for any canonical offense, such person may, in the discretion of the said Ecclesiastical Authority, be placed upon trial for such offense, notwithstanding such declaration of renunciation of the Ministry.

The first amendment to the canon above noted was made because of a certain case that arose in the Diocese of Washington.

After the trial court had found a clergyman guilty of the offenses charged, the convicted clergyman sent to the bishop a notice of his renunciation of the ministry. A few days later, and within the thirty days prescribed by the canons, he took an appeal to the provincial court of review. The question arose whether the Bishop of Washington was obliged to act upon this renunciation before the decision of the court of review.

Also, if he had so acted, what would have happened to the jurisdiction of the court of review?

It was to prevent such a case from happening in the future that the amendment was made to the canon, providing that, when a clergyman declares to the bishop his renunciation of the ministry, he must not be under presentment.

The second amendment to the canon as above noted was in line with amendments to other canons by the same Convention, providing that all matters relating to sentences should be grouped under one canon, and thus secure uniformity of action in the pronouncing of sentences.

The third amendment, being the amendment of Section 2, was also made because of the occurrence in the Diocese of Washington as above noted. It was made to settle any question of the right or duty of a bishop to act upon a renunciation of the ministry after presentment, or trial upon a presentment, by providing that the bishop shall not act on such renunciation until after the trial is concluded, and sentence, if any, pronounced.

Convention of 1922

This Convention amended Section 1 of this canon by striking out the word "Clergymen," and inserting in place thereof the word "Presbyters."

It is in accordance with the polity of the church, that a sentence of deposition must be pronounced in the presence of two or more presbyters. (Another application of this same principle may be seen in the requirement that at least two presbyters be present at every ordination. See the Book of Common Prayer, 1979, pp. 524 and 536.) Since the word "clergymen" could have been construed to mean two deacons, the more precise term "presbyter" was substituted.

Convention of 1925

Section 1 of the canon, now Canon 36, was amended to read as follows:

If any Minister of this Church not under presentment shall declare, in writing, to the Ecclesiastical Authority of the Diocese or Missionary District in which he is canonically resident, his renunciation of the Ministry of this Church, and his desire to be removed therefrom, it shall be the duty of the Ecclesiastical Authority to record the declaration and request so made. The Bishop, being satisfied that the person so declaring is not amenable for any canonical offence, and that his renunciation of the Ministry is not occasioned by foregoing misconduct or irregularity, but is voluntary and for causes, assigned or known, which do not effect his moral character, shall defer formal action upon the declaration for three months, and meanwhile shall lay the matter before the clerical members of the Standing Committee (or of the Council of Advice), and with their advice and consent he may pronounce that such renunciation is accepted, and that the Minister is released from the obligations of the Ministerial office, and that he is deprived of the gifts and spiritual authority as a Minister of God's Word and Sacraments conferred on him in his Ordination. He shall also declare in pronouncing and recording such action that it was for causes which do not affect the man's moral character, and shall, if desired, give a certificate to this effect to the person so removed from the Ministry. In all other cases of Renunciation of the Ministry, where there may be a question of foregoing misconduct or irregularity, the Bishop shall not pronounce sentence of Deposition save with the consent of the Standing Committee of the Diocese or the Council of Advice of the Missionary District. The Bishop shall give due notice of every such Removal or Deposition from the Ministry, in the form in which the same is recorded, and in accordance with the provisions of Canon 40, Section III.

The effect of this amendment was to recognize "removal" as a sentence distinct from deposition, to require that all cases of renunciation be laid before the clerical members of the standing committee, and to create a waiting period of three months in the case of one who desired to renounce his ministry and against whom there were no charges affecting moral character.

Convention of 1928

At this Convention, the words "the right to exercise" were inserted after the words "deprived of" in the last clause of the second sentence of Section 1.

This was an important amendment, since it recognizes that a person removed is deprived of the right to exercise the gifts and spiritual authority, and not of the gifts and authority themselves.

Special Convention of 1969

Section 1 of the canon, now Canon 60, was amended by deleting the words in the second sentence "shall defer formal action upon the declaration for three months, and meanwhile."

The committee on canons of the House of Bishops, who recommended this amendment, pointed out that the requirement of consultation with the clerical members of the standing committee afforded sufficient time for mature consideration of the minister's request, and that the

canons (Canon IV.12.4) made provision for holding a sentence of removal in confidence for a time when that is desirable.

Convention of 1973

The references to missionary districts were dropped as no longer needed.

EXPOSITION OF CANON IV.8

No extended exposition of this canon seems necessary in view of the comment made in connection with various amendments.

Since 1925 a distinction has been made between a minister who desires to renounce the ministry and who is not amenable for any canonical offense and one so amenable. The former is now removed, whereas prior to 1925 he was deposed.



CANON 9. Of the Abandonment of the Communion of this Church by a Bishop

Facts to be certified. Sec. 1. If a Bishop abandon the communion of this Church, either (a) by an open renunciation of the Doctrine, Discipline, or Worship of this Church, or (b) by formal admission into any religious body not in communion with the same, or (c) by exercising episcopal acts in and for a religious body other than this Church, so as to extend to such body Holy Orders as this Church holds the same, or to administer on behalf of such religious body Confirmation without the express consent and commission of the proper authority in this Church; it shall be the duty of the Advisory Committee to the Presiding Bishop as provided for by the Rules of Order of the House of Bishops, to certify the fact to the Presiding Bishop, and with such certificate to send a statement of the acts or declarations which show such abandonment, which certificate and statement shall be recorded by the Presiding Bishop. The Presiding Bishop, with the consent of the three senior Bishops having jurisdiction in this Church, shall then suspend the said Bishop from the exercise of his Office and Ministry until such time as the House of Bishops shall investigate the matter.

May demand a trial before deposition. Sec. 2. The Presiding Bishop shall forthwith give notice to the said Bishop of such suspension, and that unless he shall, within six months, make declaration that the facts alleged in said certificate are false, and shall demand a trial, he will be liable to deposition from the Ministry. And if such declaration be not made within six months, as aforesaid, it shall be the duty of the Presiding Bishop to convene the House of Bishops to consider the case; and if the said

House, by a majority of the whole number of Bishops entitled to vote, shall give their consent, the Presiding Bishop shall depose the said Bishop from the Ministry, and pronounce and record in the presence of two or more Bishops that he has been so deposed.



This canon was Title II, Canon 8, in 1859. It became Canon 32 in 1904, Canon 35 in 1931, Canon 60 in 1943, and Title IV, Canon 9, in 1970.

Convention of 1853

The first canonical enactment on the subject of the “Abandonment of the Communion of the Church by a Bishop” was Canon 1 of 1853, which read as follows:

In all cases where a Bishop, Presbyter, or Deacon of this Church, without availing himself of the provisions of Canons 2 and 5 of 1850, has abandoned her Communion or shall hereafter abandon it, either by an open renunciation of the Doctrines, Discipline and Worship of this Church, or by a formal admission into any religious body not in Communion with the same: such Bishop, Presbyter, or Deacon shall be held, *ipso facto*, as deposed to all intents and purposes; and shall thereupon be pronounced deposed; if a Presbyter or Deacon, by the Bishop having jurisdiction, with the consent of the Standing Committee; and if a Bishop, by the Presiding Bishop, with the consent of the majority of the Members of the House of Bishops. And notice of such deposition shall be given as in like cases.

This canon was enacted to meet the case of Bishop Ives of North Carolina, who, on December 22, 1852, renounced the communion of the Protestant Episcopal Church and submitted himself to the authority of the Church of Rome. No canon on this subject had before been enacted, as there had been no need thereof, Bishop Ives being the first bishop of the Church to abandon her communion. In order that there might be some canonical authority for the deposition of Bishop Ives, this canon was enacted, and immediately upon its enactment, Bishop Ives was deposed.

It was recognized that the canon, hastily enacted to meet an emergency, was far from perfect, and the House of Deputies, in the Convention of 1856, passed an amended canon to take its place, but the House of Bishops refused concurrence.

Convention of 1859

In the revision of the canons by this Convention, Canon 1 of 1853 was made Title II, Canon 8, and amended to read as follows:

If any Bishop, without availing himself of the provisions of Section 16 of Canon 13 of Title I, abandon the Communion of this Church, either by an open renunciation of the doctrine, discipline, and worship of this Church, or by formal admission into any religious body not in communion with the same, it shall be the duty of the Standing Committee of the Diocese to make certificate of the fact to the senior Bishop, which certificate shall be recorded, and shall be taken and deemed equivalent to a renunciation of the Ministry by the Bishop himself.

Notice shall then be given to said Bishop by the said Bishop receiving the certificate, that unless he shall, within six months, make declaration that the facts alleged in said certificate are false, he will be deposed from the Ministry of this Church.

And if such declaration be not made within six months as aforesaid, it shall be the duty of the senior Bishop with the consent of the majority of the House of Bishops, to depose from the Ministry the Bishop so certified as abandoning, and to pronounce and record, in the presence of two or more Bishops, that he has been so deposed.

Provided, nevertheless, that if the Bishop so certified as abandoning, shall transmit to the senior Bishop a retraction of the acts or declarations constituting his offence, the Bishop may, at his discretion, abstain from any further proceedings.

Section 16 of Canon 13, Title I, to which reference in the canon is made, related to the resignation of a bishop.

As in the case of a presbyter or a deacon, the bishop abandoning the ministry of the Church was given six months in which to retract his declaration of abandonment, and in case no such retraction was made within the time specified, then the Presiding Bishop, with the consent of a majority of the House of Bishops, was to proceed to depose him from the ministry of the Church.

Convention of 1874

This Convention, confronted by the renunciation of the communion of the Church by another bishop, and realizing certain defects in the canon, amended Title II, Canon 8, to read as follows:

If any Bishop without availing himself of the provisions of Section 16 of Canon 13 of Title I, abandon the Communion of this Church, either by an open renunciation of the doctrine, discipline, and worship of the Church, or by a formal admission into any religious body not in communion with the same, or otherwise, it shall be the duty of the Standing Committee of the Diocese of said Bishop to make certificate of the fact to the Presiding Bishop, together with a statement of the acts or declarations which prove such abandonment, which certificate shall be recorded by the Presiding Bishop; and the Presiding Bishop with the consent of the three Bishops next in seniority, shall then suspend said Bishop from the exercise of his office and Ministry until such time as the House of Bishops shall consent or refuse to consent to his deposition; and in case the Bishop so abandoning the Communion of this Church be the senior Bishop, the Bishop next in the order of seniority shall be deemed to be and shall act as the Presiding Bishop under this Canon.

Notice shall then be given to said Bishop by the Bishop receiving the certificate, that unless he shall, within six months, make declaration that the facts alleged in said

certificate are false, and shall demand a trial, he will be deposed from the Ministry. And if such declaration be not made within six months, as aforesaid, it shall be the duty of the Presiding Bishop to convene the House of Bishops, and if a majority of the whole number of Bishops entitled at the time to seats in the House of Bishops, shall at such meeting give their consent, the said Presiding Bishop, or the senior Bishop present, shall proceed to depose from the Ministry the Bishop so certified as abandoning, and to pronounce and record in the presence of two or more Bishops, that he has been so deposed: *Provided*, nevertheless, that if the Bishop so certified as abandoning, shall transmit to the Presiding Bishop a retraction of the acts or declarations constituting his offence, the Bishop may at his discretion abstain from any further proceedings.

As before stated, this canon was enacted to meet the case of a bishop who had abandoned the communion of the Church.

On November 10, 1873, Bishop Cummings, Assistant Bishop of Kentucky, addressed a letter to the Presiding Bishop, declaring his renunciation of the ministry of this Church. The Presiding Bishop, without calling a meeting of the House of Bishops, obtained the written consent of a majority of the bishops entitled to seats in the House of Bishops, and then proceeded to depose the said Bishop Cummings on June 24, 1874, and pronounced and recorded said deposition in the presence of two bishops. It was questioned whether the consent of the bishops so obtained was regular, the canon stating that "the senior Bishop, with the consent of a majority of the House of Bishops" shall depose, etc.

In order to remove any doubt as to the canonical deposition of Bishop Cummings, when the House of Bishops met in General Convention a few months later, it was resolved by that house, "That the action of the Senior Bishop in deposing the said George David Cummings, late Assistant Bishop of Kentucky, from the Ministry of this Church, be, and the same is hereby consented to, ratified and confirmed.... And the consent of a majority of the House of Bishops is hereby given that the said George David Cummings, late Assistant Bishop of Kentucky, be deposed from the Ministry of this Church."

In accordance with these resolutions of the House of Bishops, the Presiding Bishop did, on October 17, 1874, pronounce and record the sentence of deposition of Bishop Cummings.

While the former canon provided that the Presiding Bishop must obtain the consent of "a majority of the House of Bishops," no provision was made for the calling of a meeting of the House of Bishops for that purpose. Also, no provision was made in the former canon for the suspension of the renouncing bishop, nor any provision made for the case of the senior bishop renouncing his ministry. It was to remedy these defects in the canon that the amendments thereto were enacted by the Convention of 1874.

It was now provided, by the amended canon, that the Presiding Bishop, with the consent of the three bishops next in seniority, should suspend the bishop renouncing his ministry until such a time as the House of Bishops might take action in the matter.

In case the bishop abandoning his ministry be the senior bishop, provision was made that the bishop next in order of seniority should act as the Presiding Bishop for the purposes of the canon.

In order to remove any doubts as to the necessity of calling a meeting of the House of Bishops, and to prevent a recurrence of any such question of doubt as in the case of the deposition of Bishop Cummings, this canon provided that in case the offending bishop should not make a retraction, and demand a trial, within six months after notice to such bishop by the Presiding Bishop, it should be the duty of the Presiding Bishop to convene the House of Bishops, and if a majority of the whole number of bishops entitled to seats in the House of Bishops gave their consent thereto, the Presiding Bishop was to proceed to depose such offending bishop.

The amended canon also made it the duty of the abandoning bishop, if he desired to escape deposition, not only to make declaration that the facts alleged against him were false, but he must, at the same time, demand a trial.

Convention of 1904

In the revision of the canons by this Convention, this canon was renumbered as Canon 32.

The first paragraph of the former canon was made Section 1, and was amended to read as follows:

If a Bishop abandon the communion of this Church, either by an open renunciation of the Doctrine, Discipline, or Worship of the Church, or by formal admission into any religious body not in communion with the same, or in any other manner, it shall be the duty of the Standing Committee of the Diocese or the Council of Advice of the Missionary District of said Bishop to certify the fact to the Presiding Bishop, and with such certificate to send a statement of the acts or declarations which show such abandonment, which certificate and statement shall be recorded by the Presiding Bishop. The Presiding Bishop, with the consent of the three Bishops next in seniority, shall then suspend the said Bishop from the exercise of his office and ministry until such time as the House of Bishops shall investigate the matter.

The former second paragraph was made Section 2, and was amended to read as at present.

Convention of 1937

To conform the canon to the change made in the office of Presiding Bishop, which had been made elective, Section 1 was amended by changing the words “three Bishops next in seniority” to “three senior Bishops having jurisdiction in the United States.”

Convention of 1973

The canon, now Title IV, Canon 9, was amended by deleting the reference to missionary districts.

Convention of 1979

Section 1 was amended to read as at present.

The reasons for the amendments are discussed in the exposition of this canon.

EXPOSITION OF CANON IV.9

As the history of this canon indicates, it was originally adopted in response to the conduct of a particular bishop. The early amendments to it were occasioned by the conduct of another bishop, and by the need to remedy defects in the canon which existed as a result of the haste in which the legislation was enacted. The amendments made in 1979 were fully in accord with these precedents.

In this instance, the amendments were prompted by the conduct of a bishop who, in concert with others, consecrated four men to be bishops of the Anglican Church of North America, a schismatic body which had been formed in reaction to the decisions of the Convention of 1976 to accept a revised Prayer Book on first reading and to authorize the ordination of women to the priesthood.

The first major amendment made in 1979 was the replacement of the words “or in any other manner” by the present, very specific, item (c) in Section 1. While there is no question that the substitute language clearly describes the acts the amendment was designed to prohibit, the canon now lacks the “catch all” type of language which would prohibit other acts, not presently envisaged, which would nonetheless constitute abandonment. It would be appropriate for this omission to be corrected in the future.

The other major amendment removed from the standing committee of an offending bishop’s diocese the duty to certify the abandonment to the Presiding Bishop. Instead, this duty was assigned to the Advisory Committee to the Presiding Bishop, as provided for in the Rules of

Order of the House of Bishops. This body (see Canon I.8.6) consists of those bishops who are presidents of provinces, together with those bishops who are vice-presidents of provinces, and whose presiding officer is not a bishop.

The reason for this change, presumably, was the situation that had arisen. The offending bishop in this case was retired, and therefore did not have a diocesan standing committee which could take action. There was the obvious alternative of providing that the Advisory Committee would have the responsibility to certify in the case of retired bishops, while the diocesan standing committee continued to retain jurisdiction in the case of bishops who were not retired. The result of the 1979 amendment is that only bishops are involved in the procedure of suspending and deposing a bishop who abandons the communion of this Church. The wisdom of this decision, which removes all responsibility and involvement from those most immediately affected by what is taking place, is not self-evident.

It should be noted that this is the only canon in which the terms “suspend” and “suspension” are used to describe an act which takes place prior to a trial. To be conceptually consistent with the other canons, these terms should be replaced with the terms “inhibit” and “inhibition” as was done in all other places in 1969.



**CANON 10. Of the Abandonment of the Communion
of this Church by a Presbyter or Deacon**

*Standing
Committee
to certify the
Bishop of
the fact.*

Sec. 1. If any Presbyter or Deacon shall, without availing himself of the provisions of Canon IV.8, abandon the communion of this Church, by an open renunciation of the Doctrine, Discipline, or Worship of this Church, or by a formal admission into any religious body not in communion with the same, or in any other way, it shall be the duty of the Standing Committee of the Diocese in which the said Presbyter or Deacon is canonically resident, to certify the fact to the Bishop, or, if there be no Bishop, to the Bishop of an adjacent Diocese, and with such certificate to send a statement of the acts or declarations which show such abandonment; which certificate and statement shall be recorded, and shall be taken and deemed by the Ecclesiastical Authority as an equivalent to a renunciation of the Ministry by the Minister himself; and the said Bishop shall then inhibit the said Minister from officiating in said Diocese for six months. Notice shall be given by the Bishop to the Minister so inhibited that, unless he shall, within six months, transmit to the Bishop a retraction of such acts, or make declaration that the facts alleged in said certificate are false, he will be deposed from the Ministry.

*Deposition
after six
months.*

Sec. 2. If such retraction or declaration be not made within six months, as aforesaid, it shall be the duty of the Bishop to depose the said Minister from the Ministry, and to pronounce and record, in the presence of two or more Presbyters, that he has been so deposed.



This canon was Title II, Canon 6, in 1859. It became Canon 33 in 1904, Canon 36 in 1931, Canon 61 in 1943, and Title IV, Canon 10, in 1970.

Convention of 1853

This Convention enacted Canon 1 to meet the case of Bishop Ives of North Carolina, who had submitted himself to the Church of Rome, and thereby abandoned the communion of this Church. This canon was also made to apply, as far as possible, to priests and deacons, but as stated, it was concerned more especially with the case of a bishop abandoning the communion of the Church. As this canon is given in full in the consideration of Canon IV.9, it need not be set forth at this time.

This Convention also enacted another canon, Canon 2, on the "Abandonment of the Church by a Presbyterian or Deacon," which read as follows:

In any proceedings against a Presbyterian or Deacon under Canon 1 of 1853 by his Bishop, whenever the abandonment charged shall not be evidenced by writing signed by the party, he shall have three months' notice, to be given in such manner as may be prescribed by the Bishop, that his deposition will be pronounced unless cause be shown to the contrary.

This canon was enacted as a supplement to Canon 1, to provide that a minister proceeded against under that canon should have three months' notice before being deposed, in case the abandonment charged is not evidenced by his own written statement to that effect. This was to give the accused time in which to prove that such reported abandonment was not true, should such be the case.

Convention of 1859

In the revision of the canons by the Convention of 1859, Title II, Canon 6, was enacted to take the place of Canon 2 of 1853, and so much of Canon 1 of the same year as applied to presbyters and deacons, and read as follows:

Sec. 1. If any Presbyterian or deacon shall, without availing himself of the provisions of Canon 5 of this Title, abandon the Communion of this Church, either by an open renunciation of the doctrine, discipline, and worship of this Church, or by a formal admission into any religious body not in communion with the same, it shall be the duty of the Standing Committee of the Diocese to make certificate of the fact to the Bishop of the Diocese, or, if there be no Bishop, to the Bishop of an adjacent Diocese; which certificate shall be recorded, and shall be taken and deemed by the ecclesiastical authority as equivalent to a renunciation of the Ministry by the Minister himself. Notice shall then be given to the said Minister, by the said Bishop receiving the certificate, that unless he shall, within six months, make declaration that the facts alleged in said certificate are false, he will be deposed from the Ministry of this Church.

Sec. 2. And if such declaration be not made within six months as aforesaid, it shall be the duty of the Bishop to depose said Minister from the Ministry, and to pronounce and record in the presence of two or more Presbyters, that he has been so deposed.

Provided, nevertheless, that if the Minister so renouncing shall transmit, to the Bishop receiving the certificate, a retraction of the acts or declarations constituting his offence, the Bishop may, at his discretion, abstain from any further proceedings.

Two separate canons were enacted by this Convention, one to meet the case of a bishop abandoning the communion of the Church, and the other to apply only to presbyters and deacons for the same offense. Both canons were made more definite in their provisions than the former canons.

Convention of 1862

This Convention amended Title II, Canon 6, Section 2, by adding thereto a second proviso, reading as follows:

And provided also, That such Minister, after having renounced the Ministry, and having been deposed, should desire restoration thereto, may address a memorial to the Bishop of the Church in the Diocese wherein he resides, in which memorial he shall express such his desire, accompanied by a statement that he has abandoned the Ministry or Communion of any other Church or Society to which he may have attached himself, from an honest conviction of the errors in doctrine or discipline of such Church or Society, and also all doctrine, discipline, and worship inconsistent with those of the Protestant Episcopal Church in the United States; and that for the space of three years immediately preceding his memorial, he has been living in lay-communion with the Protestant Episcopal Church to whose Ministry he now asks restoration. Whereupon the Bishop to whom such memorial shall be addressed, together with two Bishops, to be selected by him by lot for that purpose, from the six nearest Bishops, and by and with the advice and consent of the Standing Committee of his Diocese, shall fully investigate all the facts connected with the case of the memorialist; and the Bishop shall have power, with the approbation of one or both of the Bishops assisting him in the case, and by and with the advice and consent of the aforesaid mentioned Standing Committee, to restore the memorialist to the Ministry of this Church, if he and they are satisfied that such restoration shall be for the glory of God and the edifying of the Church.

This provision was added to the canon in order to make provision for the restoration to the ministry of a minister who had renounced the ministry and had been deposed. The proviso seems to have failed to recognize the distinction between a minister who had renounced the ministry and one who had abandoned the same. Its language was "such Minister, after having renounced the Ministry." The word "such" here referred to a minister who had abandoned the ministry, which was a different offense from a "renunciation of the Ministry."

Convention of 1874

The Convention of 1874 amended the first section of the canon by the insertion of the words "or in any other way" after the words "not in

communion with the same." This amendment was made to cover every possible case of abandonment.

This Convention further amended the section by the insertion of the words "and the said Bishop may then proceed to suspend for six months the Presbyter or Deacon so certified as abandoning the Communion of this Church" at the end of the first sentence.

While the former canon allowed a period of six months to the accused before his deposition, during which time he might make a declaration that the facts alleged were false, no provision was made for his suspension from the ministry during that period, and therefore, no law to prevent such minister, after having abandoned the ministry of the Church, from continuing to perform the offices of the Church. The amendment was made to correct this, and was occasioned by the abandonment of the ministry of the Church by the Rev. Dr. Cheney of the Diocese of Chicago, who had connected himself with the Reformed Episcopal Church. It was feared at the time that there might be a number of defections from the Church because of the Reformed Episcopal schism, then beginning to manifest itself, and it was felt that ministers abandoning the ministry of the Church, and entering into this new movement hostile to the Church, ought not to be allowed to continue to act as ministers of this Church during the six months allowed them before deposition, but should be suspended during that period.

Another amendment made to this same first section was the striking of the word "and" in the words "doctrine, discipline and worship of this Church," and inserting in place thereof the word "or," so that it read "doctrine, discipline, or worship of this Church."

This amendment was due to the following circumstance:

After the organization of the Reformed Episcopal Church movement, a minister of the Church in the Diocese of Pittsburgh, having been certified to the bishop as having abandoned the ministry of this Church by entering into the said Reformed Episcopal movement, and notified that, unless he made the canonical declaration within six months, he would be deposed, made answer that he had not abandoned "the doctrine, discipline *and* worship of the Church," but that he still continued in the "worship" of the Church. It was to prevent this evasion of the canon that the word "or" was substituted for the word "and."

Convention of 1877

This Convention amended the second section of Title II, Canon 6, by striking the second proviso, and making it a part of Title II, Canon 11,

on “The Remission or Modification of Judicial Sentences,” to which canon it properly belonged.

Convention of 1904

The canon was renumbered as Canon 33 and was amended to read as follows:

Sec. 1. If any Presbyter or Deacon shall, without availing himself of the provisions of Canon 31, abandon the communion of this Church, by an open renunciation of the Doctrine, Discipline, or Worship of this Church, or by a formal admission into any religious body not in communion with the same, or in any other way, it shall be the duty of the Standing Committee of the Diocese or the Council of Advice of the Missionary District to certify the fact to the Bishop, or, if there be no Bishop, to the Bishop of an adjacent Diocese or Missionary District, and with such certificate to send a statement of the acts or declarations which show such abandonment; which certificate and statement shall be recorded, and shall be taken and deemed by the Ecclesiastical Authority as an equivalent to a renunciation of the Ministry by the Minister himself; and the said Bishop may then suspend the said Minister for six months. Notice shall then be given by the said Bishop to the Minister so suspended that, unless he shall within six months transmit to the Bishop a retraction of such acts, or make declaration that the facts alleged in said certificate are false, he will be deposed from the Ministry.

Sec. 2. If such retraction or declaration be not made within six months, as aforesaid, it shall be the duty of the Bishop to depose the said Minister from the Ministry, and to pronounce and record, in the presence of two or more Presbyters, that he has been so deposed.

Convention of 1907

The first section of the canon was amended by inserting the words “in which the said Presbyter or Deacon is canonically resident” before the words “to certify the fact to the Bishop” in the first sentence.

Convention of 1910

This Convention renumbered Canon 33 as Canon 34, and amended the first section by substituting the word “shall” for the word “may” at the end of the first sentence thereof, so that it read, “And the said Bishop shall then suspend the said Minister for six months.”

Special Convention of 1969

Section 1 of the canon, then Canon 62, was amended to read as at present.

The principal change was the substitution of the term “inhibit” for the term “suspend.” This was in conformity with other changes made in this Title, whereby a “suspension” pending final disposition of a proceeding would henceforth be known as an “inhibition.”

Convention of 1973

The references to missionary districts in the first section were dropped as no longer being necessary.

EXPOSITION OF CANON IV.10

A priest or deacon may abandon the communion of this Church by an open renunciation of the Church's doctrine, discipline, or worship; or by a formal admission into some other religious body; or by any act which shows that he or she no longer holds to the Church's system of doctrine, discipline, or worship. Whatever form the abandonment of the Church's communion by a minister may take, it is made the duty of the standing committee of the diocese in which such minister is canonically resident, when the fact of such abandonment is established, to certify the fact to the bishop, and also send him a statement of the acts or declarations which show such abandonment. Upon receipt of said certificate and statement, which are to be considered as equivalent to a renunciation of the ministry, it is made the duty of the bishop to inhibit the said minister for six months.

The bishop then must notify the minister in question of the inhibition, and of the fact that in six months, unless he or she shall have sent to the bishop a retraction of the acts charged, or a declaration that the facts alleged in the certificate are false, a sentence of deposition from the ministry will be imposed. If, at the end of the six months, no such retraction or declaration has been received, it is the duty of the bishop to depose the priest or deacon from the ministry, and to pronounce and record such deposition in the presence of two or more presbyters.

It is apparent from the provisions of Section 1 that a minister who abandons the communion of this Church quietly may renounce the ministry under Canon IV.8.



CANON 11. Of a Minister Absenting Himself from the Diocese, or Abandoning the Work of the Ministry

If without satisfactory reasons, to be presented for trial. Sec. 1. If a Minister shall have been absent for more than two years from the Diocese in which he is canonically resident without having given reasons satisfactory to the Bishop thereof; or if he shall engage in any secular calling or business without the consent of such Bishop, and shall refuse to engage in the work of the Ministry at the call of his Bishop, coupled with reasonable provision for his support, it shall be the duty of the Standing Committee of the Diocese, or of any two Presbyters of the same jurisdiction, the case being brought to their attention by the written statement of the Bishop, to present the offending Minister for trial for violation of his Ordination vows.

Name of Minister to be sent to Secretary of House of Bishops. Sec. 2 (a). Whenever a Minister of this Church shall have been absent from the Diocese for a period of more than two years, and has failed to make the annual report, so that his whereabouts are unknown, or who, being a Minister in secular employment, has omitted for a period of two years to comply with the provisions of Canon III.21, Section 4 (a), the Bishop may send the name of such Minister to the Secretary of the House of Bishops of this Church, who shall keep a list of such Ministers, noting in each instance the date when each such name was added to the List.

Restoration to diocesan roll. (b). On application either by the Bishop or the Minister himself, or at the discretion of the Presiding Bishop, such a Minister may be placed again on a diocesan clergy roll, with the approval of the Bishop of the said jurisdiction.

- While on List not canonically connected with Diocese.* (c). While a Minister's name remains upon the List of the Secretary of the House of Bishops he shall not be considered as canonically connected with his Diocese.
- Removal from List and deposition.* (d). Any Minister whose name shall have been added to the said List, as aforesaid, and who has not complied with Canon III.20, Section 4 (d) (3), for a period of ten years, may be considered to have abandoned the Ministry of this Church. The Presiding Bishop may, at his discretion, in the presence of two Presbyters, pronounce sentence of deposition upon such Minister, and authorize the Secretary of the House of Bishops to strike the name from the List and to give notice of the fact as provided in Canon IV.12, Sec. 4 (b).



This canon was Title II, Canon 7, in 1859. It became Canon 34 in 1904, Canon 37 in 1931, Canon 62 in 1943, and Title IV, Canon 11, in 1970.

Convention of 1841

The first canon on this subject was enacted by the Convention of 1841, as Canon 2, and read as follows:

When a Clergyman has been absent from his Diocese during two years, without reasons satisfactory to the Bishop thereof, he shall be required by the Bishop to declare in writing the cause, or causes of his absence; and if he refuses to give his reasons, or if these are deemed insufficient by the Bishop, the Bishop may, with the advice and consent of the Clerical Members of the Standing Committee, suspend him from the Ministry; which suspension shall continue until he shall give in writing, sufficient reasons for his absence; or, until he shall renew his residence in the Diocese; or until he shall renounce the Ministry, according to Canon 38th of 1832. In the case of such suspension, as above provided for, it shall be the duty of the Bishop to give notice thereof to every Bishop of this Church, and to the Standing Committee of every Diocese wherein there is no Bishop.

We are told that this canon was made necessary by reason of several clergymen giving up their work and removing from the diocese to which they canonically belonged, without giving any reasons therefor to the bishop, and also making no report to him of their life or work since leaving the diocese. As there was no canon covering such cases, it was necessary to enact one.

Convention of 1859

In the revision of the canons by this Convention, Canon 2 of 1841 was renumbered as Title II, Canon 7, and amended by striking the words “in writing the cause or causes of his absence” and inserting in place thereof the words “the cause or causes thereof in writing.”

Also, by changing the canonical reference therein from “Canon 38th of 1832” to “Canon 5 of this Title.”

Convention of 1862

This Convention amended Title II, Canon 7, by substituting the word “five” for the word “two” in the first phrase thereof.

Convention of 1901

This Convention amended Title II, Canon 7, to read as follows:

If a Minister shall have been absent for more than two years from the Diocese or Missionary District to which he belongs without having given reasons satisfactory to the Bishop thereof; or if he shall engage in any secular calling or business without the consent of such Bishop, and shall refuse to engage in the work of the Ministry at the call of his Bishop, coupled with reasonable provision for his support; it shall be the duty of the Standing Committee of the Diocese or the Council of Advice of the Missionary District, the case being brought to its attention by the written statement of the Bishop, or of any two Presbyters of the same jurisdiction to present the offending Minister for trial for violation of his Ordination vows.

The principal changes made by the amendments of 1901 were as follows: the time in which a minister may not be absent from his diocese without giving reasons satisfactory to his bishop was changed from five years to two years, the same as it was before 1862. A new provision was added, forbidding a minister to engage in any secular calling or business without the consent of his bishop, and refusing to resume the work of the ministry at the call of the bishop, if such call be accompanied by a reasonable provision for his support. Violation of this provision was made a presentable offense. The former canon provided the penalty of suspension for violation of the canon, the amended canon provided for a presentment preliminary to a trial.

Convention of 1904

This Convention renumbered Title II, Canon 7, as Canon 34, without amendment.

Convention of 1907

At this Convention, the words “in which he is canonically resident” were substituted for the words “to which he belongs” in the opening clause of the canon.

Convention of 1922

This Convention amended the canon by striking all of said canon after the words "Missionary District," and inserting in place thereof the following words:

or of any two Presbyters of the same jurisdiction, the case being brought to their attention by the written statement of the Bishop, to present the offending Minister for trial for violation of his Ordination vows.

This amendment was made to remove a former ambiguity in the canon. It was a question of whether the former canon provided that a minister absenting himself from the diocese, and abandoning the work of the ministry, was to be presented by the standing committee, the case being brought to their attention by the bishop, or by any two presbyters, or whether the presentment might be made by any two presbyters, the case being brought to their attention by the bishop. The canon now provides that either the standing committee or any two presbyters of the same jurisdiction may make the presentment, the case being brought to their attention by the bishop.

Convention of 1928

The canon was amended by the addition of a new Section 2, which read as follows:

Whenever a Minister of this Church shall have been absent from the Diocese or Missionary District for a period of more than two years, and has failed to make the annual report, so that his whereabouts are unknown, the Bishop may send the name of such Minister to the Presiding Bishop of the Church, who shall keep a list of such Ministers; but upon application of either the Bishop or the Minister himself, he shall be placed again upon the Diocesan list.

While the Minister's name remains upon the list of the Presiding Bishop he shall not be considered as canonically connected with the Diocese.

Convention of 1934

Section 2 was amended by substituting "Secretary of the House of Bishops" for "Presiding Bishop."

A concurrent resolution was adopted, which originated in the House of Bishops, as follows:

Whereas, Canon 37, Section 2 was not properly certified at the last General Convention and therefore has been inoperative. Therefore, Be it resolved, the House of Deputies concurring, That it be properly certified as the action of this Convention and the said Section be adopted as the action of this Convention and the said Section be adopted as Canon 37, Section 2, and further, that the words "Secretary of the House of Bishops" be substituted for "the Presiding Bishop."

The Committee to Certify Changes in the Canons then certified only the latter amendment.

There is no record in the Journal of 1931 of any amendment of this canon. As printed in the Journals of 1928 and 1931, Section 2 is the same. Accordingly, it is impossible to guess the purpose of the resolution as to certification of an amendment in 1931.

Convention of 1940

The canon was renumbered Canon 38, and Section 2 was amended by inserting the words “or at the discretion of the Presiding Bishop” after the word “himself.”

Special Convention of 1969

This Convention amended Section 2 of the canon and subdivided it into four clauses as follows:

Clause (a) read as at present, except for a reference to missionary districts, which was dropped in 1973.

Clause (b) read as at present.

Clause (c) read as at present.

Clause (d) read as follows:

Any Minister whose name shall have been added to the said List, as aforesaid, and whose name shall not, at the end of ten years, have been removed as provided in paragraph (b), above, shall be considered to have abandoned the Ministry of this Church. The Presiding Bishop shall, in the presence of two Presbyters, pronounce Sentence of Deposition upon such Minister, and authorize the Secretary of the House of Bishops to strike the name from the List and to give notice of the fact as provided in Canon 64, Section 3 (b).

The purpose of this amendment was to take into account the growing number of clergy in secular employment, and to make orderly provision for the removal of names which had long stood on the secretary’s list.

Convention of 1970

Clause (d) was amended to its present wording.

This change was made to bring the canon into conformity with Canon III.20.4.

Convention of 1973

The references to missionary districts were dropped as no longer needed.

EXPOSITION OF CANON IV.11

Through most of its history, this canon consisted entirely of what is now Section 1.

Under its provisions, a minister may be presented for trial on the following grounds: absence from the diocese for more than two years without giving satisfactory reasons therefor to the bishop, engaging in any secular business without the consent of the bishop, or refusal to engage in the work of the ministry at the call of the bishop when such call is accompanied by reasonable provision for support.

While under the canon a bishop could permit a minister to engage in secular work, such a situation was not regarded as either normal or desirable. The normal expectation was that ordained persons be in full-time ecclesiastical employment, and any who were not, were expected to relinquish their secular employment when called to an ecclesiastical position which made "reasonable" provision for support.

Section 2 of the canon, added in 1928, established what continues to be known as "the Presiding Bishop's list," though it is, in fact, maintained by the secretary of the House of Bishops. Its purpose was to establish a mechanism by which ministers whose whereabouts were unknown would not be counted among the clergy of a diocese.

The Convention of 1969, by the enactment of what is now Section 4 of Canon III.21, provided for a self-supporting ministry. Under its provisions, an ordained minister may be secularly employed and remain in good standing, provided that such minister will have and use opportunities to exercise the gifts and functions bestowed in ordination, and annually report his or her occasional services.

Accordingly, Section 2 of the present canon was amended to provide that such ministers, if they failed to make the required report, would also be subject to having their names placed on the secretary's list, and their canonical connection with their dioceses severed.

Two other substantive changes in Section 2 were made by the Convention of 1969.

Previously, this section had allowed a minister, or the minister's bishop, or the Presiding Bishop, to have the minister's name placed again on the diocesan clergy roll. The amendment requires that such placement have the approval of the bishop of the jurisdiction. Considering the nature of the polity of the Episcopal Church, it is appropriate that the Presiding Bishop not have the capability of replacing an indi-

vidual's name on a diocesan list without the consent of the bishop having jurisdiction. Similarly, it is logical that a minister should not, merely by applying, have the capability of placing his or her name back on the diocesan list.

The remaining substantive change resolves the issue of what happens after a minister's name has been placed on the list kept by the secretary of the House of Bishops. After ten years, if the minister's name has not been removed and added to a diocesan clergy roll, the minister may be deposed in accordance with the provisions of Canon IV.12, Section 4(b).



CANON 12. Of Sentences

- Sentences which may be imposed.* Sec. 1. There shall be three sentences which may be imposed; namely, *suspension, removal, or deposition*. A sentence of *suspension* may be imposed (a) after final conviction by a Trial Court, or (b) the filing of a waiver under Sec. 4 (d) of Canon IV.12. A sentence of *removal* may be imposed when there has been a renunciation under Canon IV.8 for causes which do not affect the moral character of the Minister. A sentence of *deposition* may be imposed (a) after final conviction by a Trial Court, (b) after the filing of a waiver under Section 4 (d) of Canon IV.12, (c) when there has been a renunciation under Canon IV.8 in cases where there may be a question of a foregoing misconduct or irregularity on the part of the Minister, or (d) abandonment of the communion of this Church as set forth in Canon IV.10.
- Terms and time of suspension to be specified.* Sec. 2. Whenever the penalty of suspension shall be inflicted on a Bishop, Presbyter, or Deacon, in this Church, the sentence shall specify on what terms and on what conditions and at what time the penalty shall cease.
- Deposition from Ministry.* Sec. 3. Whenever a Minister is deposed from the Sacred Ministry, he is deposed therefrom entirely, and not from a higher to a lower Order in the same.
- Time and place.* Sec. 4 (a). If a Presbyter or Deacon is liable to sentence upon conviction by a Trial Court or upon affirmation of such conviction by a Court of Review, sentence shall be imposed by the Bishop of the jurisdiction in which the original trial of the accused was had, or in case such Bishop is disqualified or there be no Bishop of that jurisdiction, by

Bishop may pronounce lesser sentence. another Bishop by the request of its Standing Committee, and it shall be lawful for the Bishop of the jurisdiction or for such other Bishop in his discretion to pronounce a lesser sentence than that adjudged by the Court. The Bishop to act shall appoint a time and place for pronouncing such sentence and shall cause notice thereof in writing to be served upon the accused in the manner provided in Canon IV.2 at least thirty days before the time appointed.

Notice to be given in writing.

Pro-nouncement and recording of sentence. (b). In the case of renunciation of the Ministry by a Minister as provided in Canon IV.8, and in case of the abandonment of the communion of this Church by a Presbyter or Deacon as provided in Canon IV.10, sentence of removal or deposition shall be entered in the official records of the Diocese in which the Presbyter or Deacon being removed or deposed is canonically resident. The Bishop who pronounces sentence of removal or deposition as provided in Canon IV.8 or Canon IV.10 shall give notice thereof in writing to the Presiding Bishop, the Recorder, the Secretary of the House of Bishops, the Secretary of the House of Deputies, and the Church Pension Fund. In giving such notice the Bishop who pronounces sentence of removal or deposition may request, for reason to be stated by him, that the sentence be held in confidence until the regular date of the next ensuing publication of the list of ordained Clergy of this Church. Unless the Presiding Bishop shall disapprove in writing, within thirty days, of the granting of the request that the sentence be held in confidence, those notified as above provided of the sentence of removal or deposition shall not publish or give notice of the same, but shall record the sentence in confidence in the official records kept by each of those to whom notice is sent as above provided.

Officers to be notified.

In the presence of two Presbyters.

In case trial right is waived.

(c). If the sentence to be pronounced upon a Presbyter or Deacon be deposition, the Bishop acting in the matter shall pronounce and record the same in the presence of two or more Presbyters.

(d). In case an accused Presbyter or Deacon confesses the truth of the charges made against him, and in writing waives the right to a trial and submits himself to disciplinary action, the Bishop may in his discretion proceed at once to pronounce sentence.

- May be inhibited.* (e). After a Presbyter or deacon shall have been convicted by a Trial Court of a crime or immorality rendering him liable to canonical sentence, the Bishop of the Diocese shall have the right to inhibit him from all public ministrations. Such inhibition shall continue until a final judgment upon the case. When the sentence is of a suspension or deposition, the Bishop who pronounces the same shall without delay give notice thereof in writing to every Minister and Vestry in the Diocese in which the accused was canonically resident; to all the Bishops of the Church, and where there is no Bishop, to the Standing Committee of the Diocese; to the Recorder; and to the Secretary of the House of Bishops, who shall deposit and preserve such notice among the archives of the House. The notice shall specify under what Canon the said Minister has been suspended or deposed.
- Notice to be given.*
- Opportunity to be given the accused.* Sec. 5. No sentence shall be pronounced until an opportunity shall have been given to the accused either on conviction or on confession to show cause, if any, why sentence should not be pronounced, and to offer any matter in excuse or palliation for the consideration of the Bishop to pronounce sentence.
- Pronouncing sentence on a Bishop.* Sec. 6. When a Bishop is liable to sentence under a judgment of a Trial Court or under a judgment of a Court of Review of the Trial of a Bishop on an appeal to said Court of Review, the sentence to be imposed, the Bishop to pronounce the same, and the procedure to be followed in imposing sentence shall be as provided in the several Canons governing the procedure of said Courts.
- Procedure.*
- Notice to be given.* Sec. 7. In the case of the suspension or deposition of a Bishop it shall be the duty of the Presiding Bishop to give notice of the same to the Ecclesiastical Authority of every Diocese of this Church, and to the Recorder and the Secretary of the House of Bishops, and to all Archbishops and Metropolitans, and all Presiding Bishops of Churches in communion with this Church.
- Bishop adjudged guilty of misconduct not to officiate.* Sec. 8. A Bishop found guilty upon a presentment for a crime or immorality shall not, on the rendering of such judgment, and while the same continues unreversed, perform any episcopal or ministerial functions, except such as relate to the administration of the temporal affairs of his Diocese.



This canon was Title II, Canon 10, in 1859. It became Canon 35 in 1904, Canon 38 in 1931, Canon 63 in 1943, and Title IV, Canon 12, in 1970.

Convention of 1792

The first canon enacted on the subject of sentences was the third canon of 1792, which read as follows:

Whenever a Clergyman shall be degraded, agreeably to the Canons of any particular Church in the union, the Bishop who pronounces sentence, shall, without delay, cause the sentence of degradation to be published from every pulpit where there may be an officiating minister, throughout the diocese or district in which the degraded minister resided; and also shall give information of the sentence to all the Bishops of this Church, and, where there is no Bishop, to the Standing Committee.

This canon provided only for the sentence of degradation, but other canons also stated what sentences should be pronounced for certain offenses. Thus, in Canon 13 of 1789, it was provided that, if any clergyman conducted himself in any manner that was unworthy of his calling, he “shall be liable to the ecclesiastical censure of admonition, or suspension, or degradation, as the nature of the case may require.”

In some of the other canons, the terms “deposition” and “displacing” were used when speaking of the sentence to be given in certain cases. Dr. Hawks tells us (*Constitution and Canons*, p. 349) that Bishop Ravenscroft held there was no difference between displacement and degradation, except that degradation implied a defect of moral character, which displacement did not.

Convention of 1808

In the revision of the canons by the Convention of 1808, Canon 3 of 1792 was renumbered as Canon 27, with no amendment.

Convention of 1832

The Convention of 1832, in its revision of the canons, renumbered Canon 27 of 1808 as Canon 39, and amended it to read as follows:

Sec. 1. When any Minister is degraded from the holy ministry, he is degraded therefrom entirely, and not from a higher to a lower order of the same. Deposition, displacing, and all like expressions are the same as degradation. No degraded Minister shall be restored to the ministry.

Sec. 2. Whenever a Clergyman shall be degraded, the Bishop who pronounces sentence shall, without delay, give notice thereof to every Minister and Vestry in the Diocese, and also to all Bishops of this Church, and where there is no Bishop, to the Standing Committee.

The first section of this canon was entirely new, while the second section contained the substance of the former canon on the subject.

Various terms are used in the ancient canons to signify a removal from the ministry. Bingham states these terms (*Lib. 4, Cap. 4*) as degraded, deprived, deposed, inordained, disordained, reduced to lay communion, etc., and these terms, we are told, meant the same thing.

The Canon of 1832 followed the rule of the ancient canons in considering removal from any of the degrees of the ministry as a deposition therefrom entirely, and not from a higher to a lower office.

When, however, the canon declared that no degraded minister should be restored to the ministry, it became more strict than were the ancient canons, which permitted the restoration of a deposed clergyman under certain circumstances. We have the instances of the restoration of the Novatian clergy by the Council of Nicea, when they signified their willingness to return to the Church, and the restoration of the Donatists by the African Bishops.

Convention of 1847

This Convention enacted Canon 3 as an additional canon on the subject of sentences, which read as follows:

Whenever the penalty of Suspension shall be inflicted on a Bishop, Priest, or Deacon, in this Church, the sentence shall specify on what terms, or at what time said penalty shall cease.

The indefinite suspension of Bishop Onderdonk of New York led to the enactment of this canon. Two points in the case of that suspension gave rise to much discussion, and to a decided difference of opinion between the General Convention and the Convention of the Diocese of New York. The first point raised was as to the validity of a sentence of indefinite suspension, and the second point, as to the powers of the standing committee in such a case. The question being, whether an absolute vacancy was thereby created in the episcopate of New York, and if not such a vacancy, then to what extent.

Judge Hoffman, in a note on this canon, says (*Law of the Church*, p. 420), "Amid the profusion of learning with which the question of suspension was discussed in the General Convention of 1847, less attention, it appeared to the author, was given to the English authorities than they deserved." He then proceeds to give citations from the English authorities, especially upon the question of the effect of a suspension upon rights of salary, etc.

He quotes Lynwood as stating the various kinds of suspension known to canon law, twenty-four in number, but that only four are known in the English law, viz.: *Ab officio*, *ab beneficio*, from the two combined, and *ab ingressu ecclesiae*.

He also states that “every sentence of suspension to be found in the English reports of cases decided since the commencement of the time of Sir George Lee, is for a definite period, or on definite terms.”

The canon enacted by the Convention of 1847 recognized the principle of a mere *quasi* vacancy existing in all cases of suspension.

Convention of 1859

Canon 3 of 1847 was made Title II, Canon 10, Section 1, and Canon 39 of 1832 was made Section 2 of the same canon, in each case without amendment.

Convention of 1862

This Convention amended Title II, Canon 10, Section 2 (i), by striking the last sentence, reading “No degraded Minister shall be restored to the Ministry,” and inserting in place thereof the following:

No deposed Minister shall be restored to the Ministry, except in cases provided for in the second *Proviso* of Section 2, of Canon 6, of Title II, of the Digest.

The proviso referred to in this amendment provided how a minister who had renounced the ministry of the Church might be restored thereto.

Until the enactment of this amendment, no deposed clergyman could be restored to the ministry. Under the two amendments to the two canons above noted, a clergyman who had renounced the ministry of the Church might be restored under certain conditions.

Convention of 1871

This Convention amended Title II, Canon 10, Section 2 (i), by striking the last sentence thereof, added by the Convention of 1862, providing for the restoration of a deposed minister. The same Convention, however, enacted an amendment to Title II, Canon 11, providing for the termination of any sentence of deposition or degradation upon certain conditions. This amendment is noted under our consideration of the next canon.

Convention of 1877

This Convention amended Title II, Canon 10, Section 2 to read as follows:

(i) When a Minister is deposed from the Holy Ministry, he is deposed therefrom entirely, and not from a higher to a lower Order in the same; And whenever a Minister shall be deposed, the Bishop who pronounces sentence shall, without delay, give notice thereof to every Minister and Vestry in the Diocese, and also to all the Bishops of this

Church, and where there is no Bishop, to the Standing Committee; and the notice shall specify under what Canon the said Minister has been deposed.

(ii) Deposition, displacing, and all like expressions, are the same as degradation.

The principal changes made by this amendment were the combining of the two clauses of the former Section 2, with the exception of the last sentence of clause (i), as clause (i), and making the said last sentence of former clause (i) clause (ii). Also, by the substitution of the term “deposed” for the term “degraded.”

Convention of 1904

Title II, Canon 10 was renumbered as Canon 35.

Section 1 was amended to read as follows:

Whenever the penalty of suspension shall be inflicted on a Bishop, Priest, or Deacon, in this Church, the sentence shall specify on what terms or conditions, and at what time the penalty shall cease.

In the second section, the word “Holy” before the word “Ministry” was changed to “Sacred.” References to missionary districts were inserted.

Clause (ii) of former Section 2, defining deposition, displacing, and degradation as synonymous terms, was stricken as being no longer necessary, the word “deposition” being the only term employed in the canons, although both deposition and degradation continued to be used in Article IX of the Constitution.

Convention of 1913

Section 2 was amended by inserting the words “and to the Recorder” at the end of the second clause thereof.

Convention of 1916

This Convention amended the canon, then Canon 37, very materially. Section 1 remained the same. Section 2 was amended by striking all of said section except the first clause, making the section to read:

Whenever a Minister is deposed from the Sacred Ministry, he is deposed therefrom entirely, and not from a higher to a lower Order in the same.

A new section, numbered Section 3, was added to read as follows:

Whenever a canonical sentence is to be pronounced, the Bishop of the jurisdiction in which the trial was had shall appoint a time and a place for pronouncing such sentence, and shall cause a notice thereof in writing to be served on the accused personally, or by registered mail, at least thirty days before the time appointed. But before the time so appointed, opportunity shall be given to the accused to show cause, if any, why

sentence should not be pronounced and to offer any matter in excuse or palliation for the consideration of the Bishop. in case the Bishop of the jurisdiction is disqualified, or if there be no Bishop, the Standing Committee thereof shall designate another Bishop, who shall proceed to pronounce sentence. When the sentence is of suspension or deposition, the Bishop who pronounces the sentence shall, without delay, give notice thereof, in writing, to every Minister and Vestry in the Diocese or Missionary District in which the trial was had; and to all the Bishops of the Church, and where there is no Bishop, to the Standing Committee of the Diocese or to the Council of Advice of the Missionary District, as the case may be; to the Recorder, and to the Secretary of the House of Bishops, who shall deposit and preserve such notice among the archives of the House. The notice shall specify under what Canon the said Minister has been suspended or deposed.

The purpose of the amendment was to combine in one canon all matters relating to sentences, and Section 3 is largely composed of portions of former canons, which were repealed, and, in place thereof, reference was made in such canons to this section.

The provision of Section 3, directing that the bishop must give to the accused thirty days' notice of the time and place for pronouncing sentence upon him was taken from Canon 31, Section 18 [Canon 29, Section 20, in 1904], which was the only canon which provided for the giving of such notice to the accused. As the canon related to the court of review, it was questioned whether the bishop was obliged to give such notice to the accused on conviction by a trial court, where there was no appeal to the court of review. The transfer of this provision to the canon "Of Sentences" removed all doubt in the matter, and made it the duty of the bishop to give such notice in all cases before pronouncing sentence.

Convention of 1919

The Convention of 1919 amended Section 3 of Canon 37, now Canon 39, by the insertion, after the first sentence of said section, of the following words:

In case the accused Clergyman confesses the truth of the charges made against him, and in writing waives the right to a trial and submits himself to disciplinary action, the Bishop may, in his discretion, proceed at once to pronounce sentence.

This amendment was due to a case which occurred in the Diocese of Washington, where a clergyman was charged with an offense which amounted to conduct unbecoming a clergyman, but nothing more serious. The clergyman in question pleaded guilty to the charges preferred against him, and agreed to submit himself to such discipline as the bishop might see fit to inflict. A question then arose as to the subsequent procedure. Had he been guilty of an offense justifying deposition, he could, under the canons, have renounced the ministry, and the bishop

could then have deposed him. The canons, however, seemed to have made no provision for a case where the charge would justify only a sentence of admonition or suspension. A strict construction of the canon "Of Offenses" seemed to prevent a bishop from imposing any penalty except after trial and conviction. As a trial would involve unnecessary delay and expense, it seemed wise to provide that, in the case of a clergyman who pleads guilty to the charge made against him, and in writing waives his right to a trial and submits himself to such discipline as the bishop may see fit to impose, the bishop should be given the right to pronounce sentence at once.

The same Convention further amended Section 3, by the addition of a new sentence, after the former third sentence, to read as follows:

It shall be lawful for the Bishop of the jurisdiction, or for such acting Bishop, in his discretion, to pronounce a lesser sentence than that adjudged by the Court.

This amendment was enacted by the Convention of 1916 but, through some oversight, failed to be incorporated in the Digest of the Canons of that year. The former canons required the bishop to pronounce the sentence adjudged by the trial court, although the section under review presupposed the bishop's right to reduce the severity of the sentence adjudged by such trial court. The second sentence preceding the amendment made in 1919 reads: "But before the time so appointed opportunity shall be given to the accused to show cause, if any, why sentence should not be pronounced and to offer any matter in excuse or palliation for the consideration of the Bishop." This provision was meaningless in view of the requirement of former Section 1 of the canon "Of Offenses," that the clergyman found guilty "shall be admonished, or shall be suspended or deposed from the Ministry, as shall be adjudged by the Trial Court."

If the bishop must pronounce the sentence presented by the trial court, why compel the bishop to listen uselessly to matters in excuse or palliation which the convicted clergyman might offer?

The amendment of 1919 removed the apparent conflict between the two canons, as the amendment made by the Convention of 1916 to the canon "Of Offenses" provided that the sentence shall be such as adjudged by the trial court "except as provided in Canon 39, Section 3."

A still further amendment was made to Section 3 by the Convention of 1919, by the insertion of a new sentence, immediately following the last amendment noted, and as follows:

After a Presbyterian or Deacon shall have been convicted by a Trial Court of a crime or immorality rendering him liable to a canonical sentence, the Bishop of the Diocese shall

have the right to suspend him from all public ministrations. Such suspension to continue until final judgment upon the case.

This amendment was occasioned by a case which occurred in the Diocese of Los Angeles, where a clergyman had been convicted of an offense rendering him liable to deposition in the opinion of the trial court. Under the canons, the bishop could not pronounce the sentence of deposition until after thirty days had elapsed, the time granted to him by the canons in which to appeal to the court of review, and thus the convicted clergyman was free to continue the public ministrations of his office. The clergyman in question did continue to conduct such ministrations, causing much scandal in the diocese. It was to prevent such occurrences in the future that the amendment was enacted, giving the bishop power to suspend a clergyman convicted of crime or immorality until the pronouncing of the sentence.

Convention of 1922

This Convention amended Section 3 of the canon by inserting after the first sentence thereof the following words:

If the sentence to be pronounced be deposition, the Bishop acting in the matter shall pronounce and record the same in the presence of two or more Presbyters.

While other canons providing for deposition in certain specified cases required that the sentence of deposition must be pronounced in the presence of at least two presbyters, this canon "Of Sentences" omitted this provision. As this was clearly an oversight, the canon was amended to correct this omission.

Convention of 1931

The canon was renumbered Canon 38 and a substantial amendment of it was adopted on the recommendation of a joint commission appointed in 1925.

The canon as amended, except for differences in cross-references which reflect changes made in the numbering of the canons, and references to missionary districts deleted in 1973, was as follows:

Section 1 was identical to the present Section 2.

Section 2 was the same as the present Section 3.

Section 3 (i) was the same as the present Section 4 (a).

Section 3 (ii) read as follows:

In the case of renunciation of the Ministry as provided in Canon 34, and in case of the abandonment of the communion of this Church by a Presbyter or Deacon as provided in

Canon 36, sentence of deposition shall be pronounced and notice thereof given as in said Canon respectively provided.

Section 3 (iii) was the same as the present Section 4 (c).

Section 3 (iv) was the same as the present Section 4 (d).

Section 3 (v) was identical to the present Section 4 (e), except that the terms “suspend” and “suspension” stood where “inhibit” and “inhibition” now stand.

Sections 4 through 7 were identical to the present Sections 5 through 8.

Convention of 1949

Clause (b) [formerly clause (ii)] of Section 3 was amended to read as at present.

The effect of the amendment was to provide that the bishop pronouncing sentence of removal or deposition shall notify the Presiding Bishop, who then gives the further notices. In giving notice to the Presiding Bishop, the sentencing bishop may request that the sentence be held in confidence until the regular date of the next ensuing publication of the list of ordained clergy. Unless the Presiding Bishop disapproves of the request, those to whom notices are sent are to hold the sentence in confidence.

Special Convention of 1969

A new Section 1, listing the sentences that may be imposed, and the conditions under which they are appropriate, was added to the canon.

Former Sections 1 through 7 were renumbered as Sections 2 through 8.

Clause (e) of Section 4 [formerly Section 2] was amended to its present wording. The effect was to make a suspension pending final judgment an “inhibition,” and thereby to avoid two usages in the canons of the term “suspension.”

Convention of 1973

The references to missionary districts were dropped as no longer needed.

EXPOSITION OF CANON IV.12

The first section of this canon lists the three sentences which may be imposed and the circumstances under which they may be imposed. (For the meaning of the terms employed, *suspension*, *removal*, and *deposi-*

tion, as well as the terms *admonition* and *inhibition*, see the Note on the Ecclesiastical Discipline of the Clergy which follows this exposition.)

The second section is practically the same as the last sentence of Article IX of the Constitution, and provides that the sentence of suspension must state the terms and conditions thereof, and at what time the said sentence shall terminate. This provision is to prevent a sentence of indefinite suspension, such as was imposed upon Bishop Onderdonk, and which was the cause of endless trouble.

Section 3 was enacted to prevent any question as to the nature of a sentence of deposition, that such a sentence did not "reduce" a presbyter to the rank of a deacon, but that he was deposed entirely from the sacred ministry.

It may not be amiss to state why the sentence of deprivation, which is the most familiar sentence in the English canon law, taking the place of deposition, has found no place in American ecclesiastical jurisprudence.

Deprivation is an ecclesiastical censure whereby a clergyman is deprived of his benefits. It affects all benefices and promotions, but not the ministerial character, nor the exercise of ministerial functions. The distinction between the benefice in the English law and the right of a minister to his salary and the emoluments pertaining to a rectorship would seem to be one in name only. It would also seem that the reason why the terms "benefice" and "deprivation" are not found in our law is due to the principle adopted, that it was not competent for our church tribunals to pass on questions pertaining to the rights of real or personal property, as such questions are to be adjudged by the civil courts.

The canon provides that before a bishop can pronounce sentence upon a minister, he must appoint a place and a time for the pronouncing of such sentence, and cause a notice thereof in writing to be served on the accused personally, or by registered mail, thirty days before the time appointed. The question arises as to the legality of a sentence pronounced by a bishop who fails to serve such notice upon the minister to be sentenced. The duty of pronouncing sentences being imposed upon a bishop implies that he has that power. Therefore, it may be that a sentence of suspension pronounced by a bishop is effectual and binding, even though the bishop should pronounce the sentence without heeding the restrictions imposed upon him by the canons. If the power is given him by the canons, then, indeed, he may not effect a sentence except in accordance with the provisions of such canons. But if the

power inheres in the office of a bishop, and the bishop violates the provisions of these canons, he subjects himself to the penalties provided for such violation, but the effect of his sentence may be, nevertheless, complete. Even though a clergyman was sentenced uncanonically, his sentence would be valid until revoked.

This would seem to be the gist of the decision of the Supreme Court of Illinois in the case of Dr. Cheney (*Chase vs. Cheney*, 58 Ill. 540).

The case of Dr. Cheney is one of the most celebrated cases in the American Church. He was tried and convicted of wilfully omitting the word "regenerate" in the baptismal office, and the sentence pronounced upon him was that he be "suspended from the exercise of all the offices and functions of the Priesthood and Ministry of the Church of God until such time as assurance should be given to the Bishop, of contrition for the past and conformity in the matter wherein he had offended for the future."

Refusing to obey the judgment of the bishop, and continuing to exercise the functions of the ministry, he was tried for contumacy and disobedience to the admonition of the bishop, and convicted thereof. The sentence of degradation was pronounced upon him by the bishop.

Another case that later aroused much controversy in the Church, because it was thought by many that the accused had not had a fair trial and had been unjustly sentenced, and also because of the tragic end of the convicted minister, was that of the Rev. Mr. Jardine, who was accused of the intemperate use of chloroform, and of immorality. He was found guilty by the ecclesiastical court and received the sentence of deposition. He died of an overdose of chloroform and was buried on the very day that the bishop had appointed for his sentence to be pronounced. It was believed by many of his friends that his mind had become unbalanced by the ignominy that he felt had been unjustly laid upon him, and, unable to endure it longer, had taken his own life.

The exposition of the several amendments enacted by the Convention of 1919 has already been made in the discussion of said amendments.

The rest of the canon is so clear as to require no further exposition.

NOTE ON THE ECCLESIASTICAL DISCIPLINE OF THE CLERGY

The entire question of the ecclesiastical discipline of the clergy (for the purposes of this note the term “clergy” is used to refer to priests and deacons only) is relatively simple and clearly stated in the Constitution and Canons. However, as the ministry of this Church is a combination of several distinct relationships, any misunderstanding of these relationships can lead to inappropriate, and even improper, applications of the disciplinary canons. Distinctions must be drawn as to the particular relationship in question before attempting to apply canonical discipline.

There are three primary areas that carry with them the possibility of the enforcement of ecclesiastical discipline: administrative relationships, rights and duties flowing from the inherent nature of the apostolic ministry as between bishop and priests or deacons, and the Church’s corporate orthodoxy as expressed in its canons.

The question, simply put, is: When and how may a bishop impose sanctions on clergy whose conduct violates the canons and standards of the Church or the proper directions of a superior?

Care must be taken to define the particular relationship clearly before attempting to resort to the canons for resolution of the problem. Further, distinctions must be drawn between whether the proposed course of disciplinary action is available prior to commencing canonical proceedings, or becomes available only after a trial.

Administrative Relationships

Where a member of the clergy is an employee of the bishop, the relationship is primarily administrative, the bishop holding the usual powers of a chief executive corporate officer with the power to discharge the employee, or otherwise censure the employee in clearly secular terms. In the case of a priest appointed to a missionary cure (Canon III.21.1[d]), the relationship is partly administrative and partly the extension of the bishop’s ministry to that cure. Subject to local law and canons, a bishop can discharge or suspend a priest from this position, but not from the ministerial office. In exercising episcopal authority in such cases, the bishop must be certain to distinguish between a suspension from a position or appointment, and suspension of the right to exercise the gifts and spiritual authority conferred by ordination. The latter is a sentence that can be imposed only after final conviction by a trial court.

Admonition

Admonition, as a disciplinary concept in the canon law of this Church, has been a source of some confusion. Traditionally, admonition has been a warning: the first and lightest form of ecclesiastical censure. It is no longer a technical condition precedent to suspension or deposition. However, admonition, or the “godly admonition” of the Ordinal prior to 1979, is a warning from the bishop to a member of his clergy, the authority for which flows from the ordination vows and the relationship of these orders in the apostolic ministry.

Article IX of the Constitution provides that “none but a Bishop shall admonish any Bishop, Presbyter, or Deacon.” Canon IV.12.1 clearly excludes admonition as a sentence to be imposed after trial. However, Canon IV.1.1 implies that, upon being found guilty, a presbyter or a deacon may be admonished. It would appear that admonition as a sentence could be imposed by a bishop only under his discretion to pronounce a lesser sentence than suspension or deposition (IV.12.4[a]). In any event, admonition as a warning in the traditional sense, apparently can rise to the level of post-trial censure through the application of Canon IV.1.1. However, any bishop issuing an admonition to a member of his clergy, prior to final conviction and sentencing, should take great care so as to frame the admonition as a warning, and not as a conclusory sentence or as the imposition of punitive terms.

Further, it must be presumed that the admonition, as issued, represents the doctrine, discipline, and worship of this Church, and is a warning that the member of the clergy is under a duty to heed and obey.

Once an admonition has issued from a bishop to a member of the clergy, disobedience to it entails the possible violation of ordination vows, which is a canonical offense and a ground for presentment.

Inhibition

Inhibition is nowhere defined in the Constitution or Canons. Traditionally, inhibition has been the command of a bishop that a priest or deacon shall cease from exercising the gifts and spiritual authority conferred by ordination, and from public ministry. Inhibition functions as an ecclesiastical counterpart to a civil temporary injunction, to prevent that member of the clergy from functioning until the controversy is resolved. It is an interim measure, a prohibition to protect the Church, pending the final resolution of some serious matter of Church discipline. Inhibition is not a sentence, nor is it a device which may be used by bishops to discipline or punish the clergy. As it is one of the few *ex parte*

grants of disciplinary authority under the canons, without the opportunity for a hearing, it should be strictly construed and applied only as specifically permitted by the canons.

After a presentment has been made, or after conviction for a crime or misdemeanor involving immorality, or after judgment in a civil court of record involving immorality, the bishop of canonical residence, upon probable cause, *may* inhibit the priest or deacon from officiating in that bishop's jurisdiction until after the judgment of the trial court becomes final or sentence is pronounced (IV.1.4). It should be noted that the authority to inhibit is discretionary and not mandatory.

In Canon IV.7.2, similar authority is granted to a bishop of any other jurisdiction where the priest or deacon may be temporarily present. Any inhibition so issued remains in full force until the bishop of canonical residence is satisfied of the innocence of the member of the clergy, or an acquittal follows a trial.

A bishop also has the right to inhibit where there is a conviction, by a trial court of the Church, rendering the accused liable to canonical sentence, until final judgment (IV.12.4[e]). Thus, even if a bishop has not inhibited a member of the clergy prior to conviction, he may do so after conviction.

It should be noted that, unless a presentment has been made, or an adverse determination in a matter involving crime or immorality has been rendered, or until after abandonment, inhibition shall not issue, except as an extraordinary measure by a bishop of a diocese where the priest or deacon is visiting but not canonically resident.

In a case of personal misconduct (IV.1.1[8]), inhibition would not be available to the bishop having canonical jurisdiction until consent of three-fourths of all the members of the standing committee of the diocese is obtained.

Upon certification to the bishop by the standing committee of an abandonment of communion, the bishop is required to inhibit the priest or deacon from officiating in his diocese for six months, or until retraction or declaration that the facts relied upon are false, or, presumably, until the eventual deposition.

The canons provide that inhibition will issue primarily in cases involving matters of crime or immorality, or other acts that have been sufficiently established as would adversely affect the reputation of the Church and its ministry. It is generally discretionary in the bishop's judgment, except in cases of abandonment, where it is mandatory.

Suspension

As has been noted earlier, suspension is a canonical sentence that may be imposed only after final conviction by a Church trial court, or the filing of a waiver by the accused (IV.12.1). Suspension from the ministerial office cannot be imposed prior to such conviction or waiver, and must specify the terms, conditions, and time limit of the sentence (IV.12.2). Canonical suspension is not an administrative remedy to be imposed by a bishop at will or discretion.

In recent years, “inhibition” has been substituted for the term “suspension” at all the appropriate places in the Canons (except for Canon IV.9), so as to make it clear that suspension is a sentence after trial, and that the power to inhibit is but an interim measure, not intended to be a punishment or sentence. The previous inconsistent use of the term “suspension” led to some misunderstandings and misapplications.

Removal

In cases where clergy desire to renounce the ministry and be removed therefrom, so long as that person is not under presentment or amenable for any canonical offense, and the renunciation is not occasioned by foregoing misconduct, but is voluntary, and for causes which do not affect the person’s moral character, then, upon the advice and consent of the clerical members of the standing committee, the bishop may accept such renunciation.

The effect of such acceptance is to “release” that person “from the obligations of the Ministerial office, and that he be deprived of the right to exercise the gifts and spiritual authority conferred on him in his ordination.” The term “release” is applicable only as to the obligations of the ministerial office. It is not a sentence or determination which may be imposed. The appropriate sentence in such cases of renunciation is removal (IV.12.1). In all other cases of renunciation, the appropriate sentence is deposition (IV.12.1). Further, the bishop is required to obtain the consent of the standing committee prior to pronouncing a sentence of deposition following a renunciation where there are questions of foregoing misconduct or irregularity (IV.8.1).

If the person renouncing is under presentment, or, if the person be placed on trial for any canonical offense, the ecclesiastical authority may not act upon the renunciation until after the presentment is dismissed, or the trial concluded and sentence, if any, has been pronounced. In addition, the ecclesiastical authority has the discretionary authority to require that the person be presented and tried, if there are grounds for supposing that the person is liable for presentment for any canonical offense (IV.8.2).

This canon may have been subject to more abuse than any of the other disciplinary canons. It is obvious that it is susceptible of being used to force resignations and renunciations, where neither the bishop, nor the person renouncing, wishes to make public the facts of the case. Unfortunately, this sometimes commendable desire to protect the reputations of both the Church and the persons involved, not only flies in the face of the clear intent of the canons, but also puts the clergy in the difficult position of being required to “resign under fire,” or face public disciplinary proceedings in derogation of their rights as established under the canons. This is a very difficult situation, as the demands for “resignations and renunciations” usually follow serious questions of public misconduct, and often occur at times of great pressure and stress for all concerned. In such cases, it is unlikely that the ecclesiastical authority will even proceed to obtain the advice and consent of the clerical members of the standing committee before accepting the renunciation.

The canons of the Church, as they are presently constituted, require that the discipline of the Church be enforced in matters of misconduct and irregularity, as distasteful as it may be. Until General Convention adopts alternative provisions, it is inappropriate for the renunciation canon to be used as a device to resolve quietly matters of misconduct and irregularity.

Provision for renunciation in the canons was not intended to be disciplinary in any punitive sense. Renunciation, and subsequent removal, is intended to reach those cases where a member of the clergy determines to renounce the ministry of this Church and desires to be removed therefrom. The reasons for such a declaration are many and varied, ranging from doctrinal disputes to crises of faith and/or vocation. This canon was intended to make it possible for a priest or deacon, not involved in a matter of irregularity or misconduct, voluntarily, and for causes not affecting moral character, to be released from the rights and obligations of the ministry, without having to abandon the communion of this Church or force a presentment, waiver, and sentence.

The use of Canon IV.8 to solve difficult pastoral situations of misconduct or irregularity contravenes the intent of this canon, and can reflect adversely and unfairly upon those who have renounced and been removed for causes other than misconduct or irregularity.

Deposition

Deposition of a priest or deacon is a sentence after trial and final conviction, or after waiver, in cases involving canonical offenses (IV.1.1,

IV.12.1); after abandonment of the communion of this Church (IV.10.2); after abandoning the work of the ministry (IV.11.2[d]); or where there is a renunciation in cases of irregularity or misconduct (IV.8.1, IV.12.1).

Deposition is from the Sacred Ministry entirely, and not from a higher to a lower order (IV.12.3).

Summary

Obviously, canonical discipline of the clergy is a grave matter, and not for casual application. The canons are designed to provide a balance between the need of the Church to maintain its discipline and good order, and a duty to deal with the clergy fairly and equitably, with due regard for their rights.

An improper or irregular application of the disciplinary canons leads not only to an unjust application to a particular priest or deacon. Such action also risks disciplinary action that is not only painful for those involved, but may also lead to an action that is defective or null and void. The good order and discipline of the Church, as well as its reputation and the reputations and rights of its clergy, requires strict adherence to the canons and their just application.



CANON 13. Of the Remission or Modification of Judicial Sentences

In case of a Bishop. Sec. 1. The House of Bishops may remit and terminate any judicial sentence which may have been imposed upon a Bishop, or modify the same so far as to designate a precise period of time, or other specific contingency, on the occurrence of which such sentence shall utterly cease, and be of no further force or effect; *Provided*, that no such remission or modification shall be made except at a meeting of the House of Bishops, during the session of some General Convention, or at a special meeting of the said House, which shall be convened by the Presiding Bishop on the application of any five Bishops, three months' notice, in writing, of the time, place, and object of the meeting being given to each Bishop; *Provided, also*, that such remission or modification be assented to by not less than a majority of the whole number entitled at the time to seats in the House of Bishops; and *Provided*, that nothing herein shall be construed to repeal or alter the provisions of Canon IV.12.

In case of another Minister. Sec. 2. A Bishop of this Church may, for reasons he shall deem sufficient, and with the advice and consent of two-thirds of all the members of the Standing Committee, remit and terminate a sentence of suspension pronounced in his jurisdiction upon a Minister. He may also, for reasons which he shall deem sufficient, remit and terminate any sentence of removal or deposition pronounced in his jurisdiction upon a Minister, but he shall exercise this power in the case of the removal or deposition only upon the following conditions:

- Consent of Standing Committee.* (1). That he shall act with the advice and consent of two-thirds of all the members of the Standing Committee;
- Submit his proposed action to five Bishops.* (2). That he shall submit his proposed action, with his reasons therefor, to the judgment of five of the Bishops of this Church, whose Dioceses are nearest to his own, and shall receive in writing, from at least four of the said Bishops, their approval of the said remission, and their consent thereto;
- Declaration.* (3). That before remitting such sentence, he shall require the person so removed or deposed, who desires to be restored to the Ministry, to subscribe to the declaration required in Article VIII. of the Constitution.
- The case of one deposed for abandoning the communion of the Church.* Sec. 3. In case such person was deposed for abandoning the communion of this Church, or, having been deposed by reason of his renunciation of the Ministry of this Church, or for other causes, he have also abandoned its communion, the Bishop, before granting such remission, shall be satisfied that such a person has lived in lay communion with this Church for one year next preceding his application for such remission.
- If residing out of the Diocese.* Sec. 4. In case the person applying for such remission shall be domiciled beyond the Diocese in which he was removed or deposed, the Bishop, before granting such remission, shall be furnished with written evidence of the approval of such application by the Bishop of the Diocese in which such person is domiciled.
- Bishop to give notice of remission of sentence.* Sec. 5. Whenever a Bishop shall remit and terminate any sentence of removal or deposition, he shall, without delay, give due notice thereof under his own hand, sending said notice in a sealed envelope to the Ecclesiastical Authority of every Diocese of this Church, and to the Recorder, giving, with the full name of the person restored, the date of the removal or deposition, and the Order of the Ministry to which he is restored.



This canon was Title II, Canon 11, in 1859. It became Canon 36 in 1904, Canon 39 in 1931, Canon 64 in 1943, and Title IV, Canon 13, in 1970.

Convention of 1832

The first enactment of the General Convention on the subject of the remission or modification of judicial sentences was contained in Canon 39, Section 1, of the Canons of 1832, the last sentence of which read as follows: "No degraded Minister shall be restored to the ministry."

Convention of 1847

This Convention enacted Canon 2, which read as follows:

The Bishops of this Church who are entitled to seats in the House of Bishops, may altogether remit and terminate any Judicial Sentence which may have been imposed, or may hereafter be imposed, by Bishops acting collectively as a Judicial Tribunal, or modify the same so far as to designate a precise period of time or other specific contingency, on the occurrence of which, such sentence shall utterly cease and be of no further force or effect: *Provided*, that no such remission or modification shall be made, except at a Meeting of the House of Bishops during the session of some General Convention, or at a Special Meeting of the said Bishops, which shall be convened by the Presiding Bishop on the application of any five Bishops, three months notice in writing of the time, place and object of the meeting being given personally to each Bishop, or left at his usual place of abode: *Provided, also*, that such remission or modification be assented to by a number of said Bishops, not less than a majority of the whole number entitled at the time to seats in the House of Bishops: *and Provided further*, That nothing in this Canon shall be understood to repeal or alter the provisions of Canon 39 of 1832.

It will be noted that this canon applies only to the remission or modification of a sentence imposed by the House of Bishops, and therefore, provides only for such remission or modification of a sentence pronounced upon a bishop. That the canon was not to apply to the case of a degraded presbyter or deacon is expressly stated in the third proviso, which declares that nothing on the canon shall be understood to repeal or alter the provisions of Canon 39. One of the provisions of said Canon 39 was that no degraded minister should be restored to the ministry. A question which arises in the construction of the canon is whether a bishop is a minister or not.

This canon was enacted to provide for the possible remission of the sentence of suspension imposed upon Bishop Onderdonk of New York and, also, that imposed upon Bishop Onderdonk of Pennsylvania.

Convention of 1859

The Convention of 1859, in its revision of the canons, renumbered Canon 39 of 1832 as Title II, Canon 10, without amendment.

Canon 2 of 1847 was renumbered as Title II, Canon 11, and the canonical reference therein was amended to read "Canon 10 of this Title."

Convention of 1862

This Convention amended Title II, Canon 10, Section 2 (i), by making the last sentence thereof to read as follows:

No deposed Minister shall be restored to the Ministry, except in cases provided for in the second *Proviso* of Section 2 of Canon 6 of Title II of the Digest.

This second proviso of Canon 6, herein referred to, provided for the restoration of the ministry of a minister who had been deposed, provided certain conditions were fulfilled.

It will be noted that only ministers who have renounced the ministry are entitled, under the provisions of this canon, to be restored thereto. The prohibition of any remission of sentence is still denied to those deposed on conviction of crime or immorality.

Convention of 1871

This Convention amended Title II, Canon 10, by making the former canon Section 1; and Canon 11, by adding a new section thereto, numbered 2, to read as follows:

A Bishop of this Church may remit and terminate any sentence of deposition or degradation judicially pronounced by him upon a Presbyter or Deacon, within his jurisdiction, if, upon reasons which, with unanimous advice and consent of the Standing Committee of his Diocese, he shall deem sufficient, he shall receive from any five Bishops of this Church, to whose judgment he shall submit his proposed action, with his reasons for the same, their unanimous consent and approval for the proposed remission.

This section was known as the Cheney Section at the time of its enactment. The Rev. Dr. Cheney of the Diocese of Chicago had renounced the ministry of the Church, and was deposed therefrom by the Bishop of Chicago. As it was feared at the time that there might be a considerable number of defections, owing to the fact that it was known that a number of the clergy sympathized with Dr. Cheney, the Convention of 1871, which met a few months after the deposition of Dr. Cheney, deemed it expedient to enact this canon in view of such possible defections from the ministry, in order to make possible their return to the ministry of the Church.

The former provision of Title II, Canon 10, Section 2 (i), that "No deposed Minister shall be restored to the Ministry" was stricken.

Convention of 1877

The Convention of 1877 amended Title II, Canon 11, Section 2, to read as follows:

A Bishop of this Church may, for reasons which he shall deem sufficient, remit and terminate any sentence of deposition or degradation pronounced by him upon a Presbyter or Deacon; but he shall exercise this power only upon the following conditions;—

First, That he shall act with the unanimous advice and consent of his Standing Committee.

Second, That he shall first submit his proposed action, with his reasons therefor, to the judgment of five of the Bishops of this Church, whose Dioceses or Missionary Jurisdictions are nearest to his own, and shall receive in writing, from at least four of said Bishops, their approval of the said remission and their consent thereto.

Third, That before remitting such sentence he shall require the person to be restored to the Ministry to subscribe the declaration set forth in Article 7 of the Constitution.

Fourth, That in case such person was deposed for abandoning the Communion of this Church, or having been deposed by reason of his renunciation of the Ministry of this Church, or for other cause, he have also abandoned its Communion, the Bishop, before granting such remission shall be satisfied that such person has lived in lay-communion with this Church for three years next preceding his application for such remission; and

Fifth, That in case the person applying for such remission shall reside out of the Diocese or Missionary District in which he was deposed, the Bishop, before granting such remission, shall be furnished with written evidence of the approval of such application by the Bishop of the Diocese or District in which such person resides.

This same Convention also repealed the second proviso of Title II, Canon 6, Section 2, providing for the restoration of a minister deposed for abandoning the ministry of the Church, as the subject matter thereof was incorporated in the amended Section 2 of Canon 11.

The first two paragraphs of the amended section were practically the same as in the former section, except that in selecting the bishops by whose judgment the bishop of the diocese is to be guided, such bishops must now apply to the five bishops whose dioceses or districts were nearest to his own. He could not make a selection of the bishops who were to pass upon his application. While under the former section he was obliged to have unanimous approval of the five bishops, under the amended section the consent of only four of the five was required.

The third paragraph, requiring the minister seeking restoration to subscribe the declaration of conformity contained in Article VII of the Constitution was a new requirement, and an eminently wise one.

The fourth paragraph contained much of the matter that was formerly in the second proviso of Canon 6, Section 2, but somewhat altered. The said proviso required the consent of only two other bishops besides the bishop acting in the matter, while the amended section required the consent of at least four bishops. Also, before the bishop could grant the remission desired, he must first be satisfied that the minister seeking restoration to the ministry, after having been deposed for abandoning

the ministry, had lived in lay communion with the Church for the three years next preceding his application for restoration.

The fifth paragraph, which made provision for the restoration of a minister who might be living outside the diocese in which he was canonically resident when deposed, by requiring the consent of the bishop of the diocese in which he resided, was a new provision.

The provisions of the amended section made it a little more difficult for a minister deposed for abandoning the ministry to be restored, and for this reason it met with some objection in the House of Deputies when it was enacted, as some of the deputies desired to make the way easy for those who had gone into the Reformed Episcopal Church movement to return to the Church.

Convention of 1904

Title II, Canon 11 was renumbered as Canon 36, and amended as follows:

Section 1 was amended to read as at present, except that the canonical reference at the end thereof read "of Canon 35."

The remaining sections were amended to read as follows:

Sec. 2. A Bishop of this Church may, for reasons which he shall deem sufficient, remit and terminate any sentence of deposition pronounced in his jurisdiction upon a Minister; but he shall exercise this power only upon the following conditions:

(a). That he shall act with the unanimous advice and consent of his Standing Committee.

(b) That he shall submit his proposed action, with his reasons therefor, to the judgment of five of the Bishops of this Church, whose Dioceses or Missionary Districts are nearest to his own, and shall receive in writing, from at least four of the said Bishops, their approval of the said remission, and their consent thereto.

(c) That before remitting such sentence, he shall require the person to be restored to the Ministry to subscribe to the declaration required in Article VIII. of the Constitution.

Sec. 3. In case such person was deposed for abandoning the communion of this Church, or, having been deposed by reason of his renunciation of the Ministry of this Church, or for other cause, he have also abandoned its communion, the Bishop, before granting such remission, shall be satisfied that such person has lived in lay communion with this Church for three years next preceding his application for such remission.

Sec. 4. In case the person applying for such remission shall be domiciled beyond the Diocese or Missionary District in which he was deposed, the Bishop, before granting such remission, shall be furnished with written evidence of the approval of such application by the Bishop of the Diocese or Missionary District in which such person is domiciled.

Sec. 5. Whenever a Bishop shall remit and terminate any sentence of deposition, he shall, without delay, give due notice thereof under his own hand to the Ecclesiastical Authority of every Diocese and Missionary District of this Church.

The principal change was in the opening words of Section 2. Under the language of the former section, if the bishop deposing a minister died before the minister so deposed sought to be restored, such minister could not be restored to the ministry, as the canon required that the bishop pronouncing the sentence of deposition must be the bishop to restore him. Under the amended Canon of 1904, the bishop of the jurisdiction in which the minister was deposed might restore him, even though he was not the bishop who deposed him.

Section 5 was new. It seems singular that the omission of any provision in the canon requiring this notice to the Church at large of the remission of a sentence of deposition should have remained so long unrectified.

Convention of 1910

This Convention renumbered Canon 36 as Canon 37, and amended Section 5 to read as follows:

Whenever a Bishop shall remit and terminate any sentence of deposition, he shall, without delay, give due notice thereof under his own hand, sending said notice in a sealed envelope to the Ecclesiastical Authority of every Diocese and Missionary District of this Church, giving, with the full name of the person restored, the date of the deposition and the Order of the Ministry to which he is restored.

Convention of 1913

This Convention renumbered Canon 37 as Canon 38, and amended Section 5 by inserting the words "and to the Recorder" after the word "Church."

Convention of 1919

The Convention of 1919 renumbered Canon 38 as Canon 40, and amended paragraph (a) of Section 2 to read as follows:

That he shall act with the advice and consent of two-thirds of all the members of the Standing Committee.

Convention of 1925

Section 2 was amended by inserting the words "or removal" after the word "deposition," which brought the canon into accord with Canon 36 [now Title IV, Canon 8] as amended by this Convention.

Special Convention of 1969

The opening paragraph of Section 2 was amended to distinguish clearly the procedure to be followed in remitting a sentence of suspension from that of remitting a sentence of removal or deposition.

For the same reason, the words “so removed and deposed” were inserted in item (3) of the same section.

Section 3 was amended to reduce the number of years of lay communion required before a restoration to the ministry of a person who had abandoned the communion of the Church from three years to one.

Sections 4 and 5 were amended by adding references to the sentence of removal.

Convention of 1973

The references to missionary districts and to councils of advice thereof were deleted as no longer necessary, thus bringing the canon to its present form.

EXPOSITION OF CANON IV.13

The subject of the restoration of presbyters and deacons who had been deposed first occupied the attention of the General Convention in 1844, when it was feared that, on account of certain doctrinal difficulties which had entered into the minds of some of the clergy, a number of them might abandon their ministry. Before 1844, the canon had prescribed that no deposed minister could ever be restored to the ministry. Continually, from that time, in convention after convention, attempts were made to amend the canon so as to permit the restoration of deposed ministers, until, in 1859, the House of Deputies adopted an amendment to the canon permitting the restoration of deposed ministers in certain cases, but the House of Bishops refused concurrence therein. In 1862, the House of Deputies again adopted the same proposed amendment, and again it was negatived by the House of Bishops, but after consideration by a committee of conference of the two houses, it was finally enacted.

The old principle of the Church was that those who had departed, or had been thrust out, should not be allowed to return. There were a few notable exceptions to this rule, as in the case of Maximus, and of the Donatists. Cornelius, the Bishop of Rome, restored Maximus, the celebrated confessor (he had confessed Christ in the face of persecution) who had gone over to the Novatians. He decided that Maximus should be restored because he had been so great a confessor, and because he

would bring with him a great multitude of those who had believed with him in his error.

The Council of Nicea restored the Novatians under the same circumstances, in order to break up, if possible, what seemed likely to be an interminable schism. The same may be said of the fathers of the African Church who restored those who had gone over to the Donatists. But in all these instances the principle was recognized that they were exceptions to the general rule, and that the Church was departing from the principle, universally recognized, that the purity of its ministry was to be sustained by the rule of the Church that those who departed from its ministry, or who were thrust out of it, should not be restored.

The first section of the canon relates to the restoration of a bishop who has received a judicial sentence, and, as before stated, was first enacted to provide for the possible remission of the sentence of suspension which had been pronounced upon Bishop Onderdonk of Pennsylvania and Bishop Onderdonk of New York.

The only case of the remission of a judicial sentence imposed upon a bishop was that of Bishop Onderdonk of Pennsylvania, who had been suspended by the House of Bishops, and who was restored to his proper functions as a bishop in 1856.

The remaining sections of the canon relate to the restoration of a presbyter or deacon who has received a judicial sentence.

A presbyter or deacon may receive a remission and termination of a sentence only by the bishop of the jurisdiction in which he or she was deposed.

A bishop desiring to terminate a sentence of suspension must first seek the advice and consent of two-thirds of all the members of the standing committee of the diocese.

Before a bishop can remit and terminate a sentence of deposition or removal, there are three prerequisites: first, he must act with the advice and consent of two-thirds of all the members of the standing committee of the diocese; second, he must submit the case to the judgment of five bishops whose jurisdictions are nearest to his own, and receive from at least four of them, in writing, approval of such remission, and their consent thereto; and third, after receiving such consent, he must require the person to be restored to the ministry to subscribe to the declaration required in Article VIII of the Constitution.

If the person seeking to be restored to the ministry was deposed for abandoning the communion of the Church, or for renunciation of the

ministry, in addition to the requirements prescribed in Section 2, the bishop must be satisfied that such person has lived in lay communion with the Church for one full year immediately preceding his application. Also, if the person is domiciled in some other diocese than that in which he or she was deposed, the bishop must be furnished with written evidence of the approval of such application by the bishop of the diocese in which such person is then domiciled.

Provision is made that when a bishop remits and terminates any sentence of removal or deposition, he must immediately give due notice thereof, under his own hand, to the ecclesiastical authority of every diocese and to the recorder, stating the full name of the person restored, the date of removal or deposition and "the Order of the Ministry to which he is restored."

The question arises in this connection whether a bishop could restore a priest to the diaconate, or whether he must restore him to the order of ministry from which he was deposed. The canon prescribes that a bishop may "remit and terminate any sentence of removal or deposition, etc.;" the word "terminate" would seem to settle the question. If the sentence be terminated, it would restore the person deposed to the order which he held when he was deposed.



GENERAL PROVISIONS

CANON 1. Of Enactment, Amendment, and Repeal

Procedure required. Sec. 1. No new Canon shall be enacted, or existing Canon be amended or repealed, except by concurrent Resolution of the two Houses of the General Convention. Such Resolution may be introduced first in either House, and shall be referred in each House to the Committee on Canons thereof, for consideration, report, and recommendation, before adoption by the House; *Provided*, that in either House the foregoing requirements of reference may be dispensed with by a three-fourths vote of the members present.

Repeal of repeal no re-enactment. Sec. 2. Whenever a Canon which repealed another Canon, or part thereof, shall itself be repealed, such previous Canon or part thereof shall not thereby be revived or re-enacted, without express words to that effect.

Form of amendment. Sec. 3. In all cases of future enactment, the same, if by way of amendment of an existing provision, shall be in substantially the following form: "Canon... (or Section..., or Clause... of Section..., of Canon...) is hereby amended to read as follows: (*here insert the new reading*).” And in the event of insertion of a new Canon, or of a new Section, or Clause, in a Canon, or of the repeal of an existing Canon, or of a Section or Clause, the numbering of the Canons, or of division of a Canon, which follow shall be changed accordingly.

Certification of changes. Sec. 4 (a). The Committee on Canons of each House of the General Convention shall, at the close of each regular meeting of the General Convention, appoint two of its members to certify the changes, if any, made in the Can-

ons, including a correction of the references made in any Canon to another, and to report the same, with the proper arrangement thereof, to the Secretary, who shall publish them in the Journal.

(b). The Committee on Amendments to the Constitution of each House of the General Convention shall, at the close of each regular meeting of the General Convention, appoint a similar committee of two of its members to certify in like manner the changes, if any, made in the Constitution, or proposed to be made therein under the provisions of Article XI. of the Constitution, and to report the same to the Secretary, who shall publish them in the Journal.

*When
Canons take
effect.* Sec. 5. All Canons enacted during the General Convention of 1943, and thereafter, and all amendments and repeals of Canons then or thereafter made, unless otherwise expressly ordered, shall take effect on the first day of January following the adjournment of the General Convention at which they were enacted or made.



This canon was Title IV, Canons 1 through 3, in 1859. It became Canons 54 through 57 in 1904, Canon 65 in 1943, and Title V, Canon 1, in 1970.

SECTION 1

Convention of 1943

This Convention adopted Canon 65, Sections 2 through 5 of which were revisions of what had previously been four separate canons.

Section 1 was new and read as at present.

The effect of the section is not only to give the committee on canons opportunity to consider and report, but to guarantee that proposed new canons, and changes in canons, are in proper form before being acted upon.

SECTION 2

Convention of 1838

This Convention enacted Canon 11, "Of Repealed Canons," which read as follows:

Sec. 1. Whenever there shall be a repealing clause in any Canon, and the said Canon shall be repealed, such repeal shall not be a re-enactment of the Canon or Canons repealed by the said repealing clause.

Sec. 2. The provisions of this Canon shall also apply to Canons heretofore passed having repealing clauses.

The early Conventions of the Church set forth canons numbered according to the particular Convention. Thus, there were Canons 1 through 17 of 1789, Canons 1 through 6 of 1792, and Canons 1 through 9 of 1795. The Convention of 1832 reduced the accumulation of canons (some of which simply repealed canons of earlier Conventions) to fifty-five serially numbered ones, and declared—in a fifty-sixth canon—that “all former Canons of this Convention, not included in these Canons, are hereby repealed” (*Journal*, 1832, p. 81).

The canons of subsequent Conventions, however, were again numbered by the year of their adoption, and printed as appendices to the basic corpus of 1832.

This canon was originally enacted because it was questioned at the time whether a repealing clause in a canon that was repealed did not re-enact the canon repealed by such repealing clause. In order to settle the question and remove all doubt in the matter, this canon was enacted.

Convention of 1859

The canon of 1838 was renumbered as Title IV, Canon 1, and was amended by striking Section 2 thereof, as no longer being necessary.

The canon was renumbered as Canon 54 in 1904.

Convention of 1943

The canon was made Section 2 of new Canon 65, and was amended to read as at present.

SECTIONS 3 AND 4

Convention of 1859

This Convention enacted Title IV, Canon 2, “Of the Repeal, Amendment and Enactment of New Canons,” which read as follows:

In all cases of future enactment, the same, if by way of amendment of existing provisions, shall be in the following form: “Canon — (or Section — of Canon —, or Clause — of Section — of Canon —) of Title —, is hereby amended so as to read as follows: And if the enactment is of an additional Clause, Section, or Canon, it shall be designated as the next Canon, or next Section, or next Clause, of a Canon, or Section, in the order of numbering, of the Title to which the subject properly belongs; and if a Canon or Section or Clause be stricken out, the existing number shall be retained, until a new edition of the Canons be directed.

The Committee on Canons of each House of the General Convention shall, at the close of each Session of the General Convention, appoint two of their number to certify the changes, if any, made in the Canons, and to report the same, with the proper arrangement thereof, to the Secretary, who shall print the same in the Journal.

Convention of 1877

This Convention amended the canon by striking all of the first sentence after the words “following form” and inserting in place thereof the following:

“Title —, Canon —, Section —,” or “Title —, Canon —, Section —, Clause —,” is hereby amended so as to read as follows:

Also, by adding at the end of the first paragraph the words “or, until changed, as in the next Section provided.”

In the second paragraph, now made Section 2, after the words “made in the Canons,” were inserted the words “including a correction of the references made in any Canon to another.”

These changes were made in order to make more certain the references in one canon to another.

Convention of 1904

This Convention amended the canon, now Canon 55, by striking the word “Title,” and also by striking the words “in the order of numbering of the Title to which the subject properly belongs.”

These amendments were made necessary because of the doing away with the division of the canons into titles.

Convention of 1922

This Convention amended Section 2 by striking the word “same,” and inserting in place thereof the words “said certified copy of changes.”

This amendment was made in order to provide that the Committee on Certification of Changes in the Canons should make a certified copy of such changes, and also to provide that the secretary must print such certified copy in the Journal, something which had been too often neglected.

Convention of 1925

At this Convention a new Section 3 was added, as follows:

The Committee on Amendments to the Constitution of each House of the General Convention shall, at the close of each regular meeting of the General Convention, appoint two of its members to certify the changes, if any, made in the Constitution, and to report the certified copy of changes to the Secretary, who shall print the same in the Journal.

Convention of 1943

Section 1 of the canon was made Section 3 of new Canon 65, and was amended to its present reading.

Sections 2 and 3 were made into Section 4 of the said Canon 65, and were amended to read as at present.

SECTION 5

Convention of 1832

This Convention enacted Canon 56, which read as follows:

All former Canons of this Convention not included in these Canons are hereby repealed.

We are told by Dr. Hawks (*Constitution and Canons*, p. 409) that

The revision of the canons in 1832 was made with great care, and after long consideration, by a very able committee, including some of the first jurists in the country. The purpose was to include in the revision all that it was desirable to retain in any former canons, and therefore they concluded their labors by this general repeal of all previous canons, thus simplifying greatly the body of our canon law.

Convention of 1859

The next complete revision of the canons was made by the Convention of 1859, which renumbered Canon 56 as Title IV, Canon 3. "Of the Time of these Canons taking Effect," and amended it to read as follows:

These Canons shall take effect on the first day of January, in the year of our Lord, 1860; from and after which day all other Canons of this Church are hereby, and shall be deemed to be, repealed; *Provided*, that such repeal shall not affect any case of a violation of existing Canons committed before that date; but such case shall be governed by the same law as if no such repeal had taken place.

Convention of 1871

This Convention enacted Title IV, Canon 4, "Of the Time when New Canons shall take Effect," which read as follows:

All Canons hereafter enacted, unless otherwise specially ordered, shall take effect on the first day of January following the adjournment of the General Convention at which they are made.

This was the first general provision about when new canons should take effect.

If for any reason it is desired that a canon or an amendment to a canon shall take effect at once, a section is added to the canon, stating that this canon shall take effect immediately.

Convention of 1904

This Convention made another complete revision of the canons, renumbering Title IV, Canon 3, as Canon 57, and amending said canon by striking out the figures "1860" and inserting in place thereof the figures "1905."

Title IV, Canon 4, was made Canon 56, and was amended by changing the second to the last word from "are" to "were."

Convention of 1943

At this Convention, the provisions of the two former canons were combined into Section 5 of new Canon 65, reading as the present Canon V.1.

EXPOSITION OF CANON V.1

The provisions of this canon do not appear to require further exposition.



CANON 2. Of Terminology Used in these Canons

Sec. 1. Whenever the term “Diocese” is used without qualification in these Canons, it shall be understood to refer both to “Dioceses” and to “Missionary Dioceses,” as these terms are used in the Constitution, and also, whenever applicable, to the “Convocation of the American Churches in Europe.”

Sec. 2. The masculine pronoun whenever used in these Canons shall be deemed to include the feminine pronoun.



This canon, numbered as at present, was enacted in 1973.

Convention of 1973

The Convention of 1970 amended Article I, Section 4, of the Constitution to provide that jurisdictions formerly called missionary districts would henceforth be known as missionary dioceses, and would have parity in representation and voting in the House of Deputies.

The Convention of 1973, rather than change the many references throughout the canons from “district” to “diocese,” simply dropped many of the references to missionary jurisdictions and enacted Section 1 of the present canon.

Convention of 1979

The Conventions of 1976 and 1979 made changes in a large number of the canons for the purpose of eliminating generic terms perceived to have exclusively masculine overtones.

In addition, the Convention of 1979 enacted the present Section 2 of this canon.

EXPOSITION OF CANON V.2

In 1970, the General Convention amended Article I, Section 4, of the Constitution, designating missionary districts as missionary dioceses and providing for parity in representation and voting in the House of Deputies. Accordingly, the 1973 General Convention added a new Canon 2, Section 1, to provide for this terminology throughout the Canons, and included the Convocation of American Churches in Europe within the definition.

The Joint Commission on Constitution and Canons, created at the 1976 General Convention, pursuant to its charge to review the canons to remove any unnecessary distinction between male and female, recommended, and the 1979 General Convention adopted, a new Section 2 to Canon 2 to provide that the masculine pronoun shall be deemed to include the feminine pronoun.



CANON 3. Of a Quorum

Sec. 1. Except where the Constitution or Canons of the General Convention provide to the contrary, a quorum of any body of the General Convention consisting of several members, the whole having been duly cited to meet, shall be a majority of said members; and a majority of the quorum so convened shall be competent to act.



This canon, numbered as at present, was enacted in 1979.

Convention of 1979

This canon, the first general provision on the subject of quorums that the canons have contained, was adopted on the recommendation of the Joint Commission on Constitution and Canons.

Earlier, more specific, legislation on the subject is included in Article I of the Constitution and in Canon I.11.2.

The provision of this canon requires no exposition.

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