

STANDING COMMITTEE CONSENTS TO EPISCOPAL ORDINATIONS^(c)

[Note: It has been common of late to refer to “consents” as being consents to “elections”. In fact, the actual Consent to be issued by a Standing Committee is not to the election, but, rather, a Consent to the ordination of the bishop-elect.]

THE POST-COLONIAL AND REORGANIZATION PERIOD

The power of electing a superior order of ministers ought to be in the clergy and laity together, they being both interested in the choice.
*William White, 1782*¹

As the disorganized and battered remnants of the Church of England in the former colonies sought to regroup, reorganize and obtain an indigenous episcopate following the War of Independence, there were several schemes proposed, ecclesiastical and philosophical views of the episcopate espoused and organizational principles debated. It is quite clear, however, that Pennsylvania's William White's basic principle that bishops were to be elected by the clergy and laity of the Church and not imposed by either a civil authority or by these “senior ministers” was widely accepted and little debated by those organizing the Episcopal Church.

Of all White's principles enunciated in his *The Case of the Episcopal Church in the United States Considered*, which fortuitously and cogently set the framework for the post-colonial debate, this principle was widely and all but unanimously (Connecticut being the singular early dissenting body) accepted from the beginning.² From a review of the colonial history, White concluded that:

“... it may be fairly inferred, that Episcopalians on this continent will wish to institute among themselves an episcopal government, as soon as it shall appear practicable, and that this government will not be attended with the danger of tyranny, either temporal or spiritual.”³

The consecration of Samuel Seabury by the Scottish Bishops on November 14, 1784, a unilateral affair initiated by Seabury and the high churchmen of Connecticut with the amenable participation of the nonjuring Scots,⁴ precipitated action both within the American Convention and its leadership and by the English Bishops.

At the American Convention of 1785, a plan for securing bishops for the American Church was completed and approved by the Convention. This was spurred on by the objections to Seabury's consecration that: he had been elected only by the clergy of Connecticut, that there was no definitely organized diocese over which he could hold jurisdiction, and, worst of all in New York's Samuel Provoost's view that was a mania to him, that he was a Tory and a nonjuror. It was clear that the 1785 Convention feared a Scottish nonjuror line of clergy loyal to Seabury alone that would take root and

possibly prevent any rapprochement with the Church of England and the establishment of an episcopal line from bishops of the Church of England.⁵

The plan took special care to avoid the objections which had been made to Seabury's consecration.⁶ The General Convention was to address the English bishops and request them to confer episcopal orders on such men as might be chosen by the state conventions, the state conventions were advised to take special pains to make it clear that candidates were elected with the concurrence of the laity, and the deputies present were desired to request their civil rulers to certify that the application was not contrary to the constitutions and laws of their several states.⁷

New York and Pennsylvania⁸ complied with these suggestions and elected Samuel Provoost and William White, respectively. The American secular authorities cooperated and White and Provoost departed for England and eventual consecration in 1787.

Parliament's *Act to Empower the Archbishop of Canterbury or the Archbishop of York to Consecrate to the Office of a Bishop, Persons being Subjects or Citizens of Countries out of His Majesty's Dominions* required certain Testimonials to be presented to the consecrating English bishops on behalf of the American bishops-elect, forms of which were provided to the American Church by the Archbishop of Canterbury on July 4, 1786, serendipitously on the tenth anniversary of the Declaration of Independence, to wit:

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 led his life, for the three years last past, piously, soberly, and honestly⁹ [Emphasis supplied.]

In addition, the Archbishop required the following Testimonial from the State Convention:

*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 honor of God and the edifying of his Church, and to be a wholesome example to the flock of Christ.¹⁰ [Emphasis supplied.]

It is important to take note of the distinctly different natures of the Testimonials required by the Archbishop of Canterbury. The Testimonial of the General Convention is a broad and general one that deals with general reputation. The last sentence of the Testimonial from the State Convention expands upon that theme and requires a declaration of qualifications based upon immediate and specific personal knowledge as opposed to mere reputation. This distinction and tradition continues to the present day.

Thus, the cornerstone principles of the foundation of the participation of clergy and laity acting together to elect bishops and the requirements as to formal Testimonials to be presented on behalf of bishops-elect are clearly established.

THE DEVELOPMENT OF THE CONSENTS TO EPISCOPAL ORDINATIONS

Prior to the General Convention of 1799, Bishops could only be consecrated during a session of the General Convention or after the adjournment thereof so that the consent of the General Convention could be obtained for the consecration.

It was early recognized that this requirement might work unnecessary hardship under certain circumstances, so provision was made [Second Canon of Canons of 1789] that the consent of a majority of the Standing Committees of all the Dioceses might take the place of the consent of the House of Deputies. The choice of Standing Committees to take the place of the House of Deputies was due, undoubtedly, to the principle peculiar to the American Church, and which she clearly established at the beginning, of giving the Laity the right of participating in the legislation and Councils of the Church.¹¹

After 1799, the consent process has evolved to where the General Convention need only consent, if the election shall have taken place within six months until 1889 when it became three months prior to the meeting of the General Convention.

The Second Canon of 1789 required every Bishop-elect before consecration to produce a Testimonial from the Convention in the State and from the General Convention that were identical to the forms required by the Archbishop of Canterbury.

In 1792, in recognition of the fact that personal knowledge might not always be possible, the Convention enacted Canon 4 as a supplement to the Second Canon of the Canons of 1789, which read, in part as follows:

In regard to the first certificate required in favor of a Bishop elect, by the 2nd Canon of the last General Convention [Testimonial of the electing body], 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.

In 1808 the words "notable crime" were stricken out as being unnecessary to state an impediment to consecration. Also, the words "having personally known him for three years last past" were stricken from the Testimonial of the electing Convention.

Edwin Augustine White comments:

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.¹²

Thereafter, minor changes in verbiage were made that did not alter the substance of the Testimonials until 1904 when the electing Convention's Testimonial was amended so that the words "that we do not know or believe there is any impediment, etc.," was to read "that we know of no impediment." Also, the words "do, in our conscience," were stricken.

Also in 1904, the Testimonial from the Standing Committee, or the House of Deputies, as the case may be, was amended so that the words "we do not know or believe there is any impediment" was to read "That we know of no impediment." Also, the words "but that he hath, as we believe, led his life for three years last past, piously, soberly and honestly" were stricken.

The Convention of 1907 amended the Standing Committee Testimonial so as to start "We, being a majority of all the members of the Standing Committee of _____, and having been convened at _____."

In 1982,¹³ these Testimonials were amended to remove language deemed to be archaic, which on further consideration might still be of some guidance, and thereafter amended to provide for "inclusive language" and now constitute Canon III.11.3(a) and Canon III.11.4(b). to read as follows:

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, do, in the presence of Almighty God, testify, that we know of no impediment on account of which the Reverend *A.B.* ought not to be ordained to that Holy Office.

We do, moreover, jointly and severally declare that we believe the Reverend *A.B.* to have been duly and lawfully elected and to be of such sufficiency in learning, such soundness in the Faith, and of such godly character as to be able to exercise the Office of a Bishop to the honor of God and the edifying of the Church, and to be a wholesome example to the flock of Christ. [Canon III.11.3(a).]

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, do, in the presence of Almighty God, testify that we know of no impediment on account of which the Reverend *A.B.* ought not to be ordained to that Holy Order. [Canon III.11.4(b).]

THE NATURE OF THE STANDING COMMITTEE

The early bases for lay involvement in the life of the Church in the colonies came from the very salient fact that it was the laity (either those in the governing bodies of the South who established the Church in those colonies or the merchants of the North who subscribed to and built their churches) that provided the basic support for the Church. There was no hierarchical leadership indigenous to the colonies and the financial support from the Church of England did not intimidate those having oversight of the colonial church. These laity were not about to turn over control of their Church to White's "senior ministers".

A further principle of William White's *Case* was that the laity would be a major force in the reorganized American Church.

In [the Church of England], though whatever regards religion may be enacted by the clergy in convocation, it must afterwards have the sanction of all other orders of men, comprehended in the parliament. It will be necessary to deviate from the practice (though not from the principles) of that church, by convening the clergy and laity in one body. The former will no doubt have an influence proportioned to the opinion entertained of their piety and learning; but will never (it is presumed) wish to usurp an exclusive right of regulation... [Quoting Richard Hooker] "The most natural and religious course of making laws, is that the matter of them be taken from the judgment of the wisest in those things which they are to concern."¹⁴

Following the War of Independence and prior to 1789, Standing Committees were found in several States, for example: Virginia (considerable powers including complaints as to clergy conduct), New York (advisor to the Bishop), and Maryland (all matters of governance and discipline between conventions).¹⁵

William Wilson Manross sees a Standing Committee of the American Church as an institution peculiar to this Church.¹⁶ It had its origin in the need for providing some interim authority for the colonial convention before bishops had been obtained and as being a curb upon episcopal authority.

Judge Murray Hoffman comments that:

These bodies arose, in fact, from the necessities of the Church, and were 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 to the Church system.¹⁷

Standing Committees are first mentioned by the first General Convention in Canon 6 of the Canons of 1789, occurring with reference to the testimonials required of a candidate for Holy Orders.

In the years that followed 1789, the role of the Standing Committee clearly evolved in two distinct modes. First, there was the body that was to discharge constitutional and canonical responsibilities established by National and Diocesan Constitutions and Canons, for example: issuing recommendations in the ordination process, granting consents to episcopal elections and consecrations, advising in disciplinary proceedings, acting as the Ecclesiastical Authority, etc. Second, Standing Committees were to be councils of advice to diocesan Bishops either on the call of the Bishop or upon the initiative of the Standing Committee.

However, the common thread is that no matter in which of these capacities the Standing Committee functions, the Standing Committee is always the representative of the clergy and laity of a diocese acting jointly and it is, if you will, a body that represents the general corporate orthodoxy within and for the Church.

With but few exceptions, priests and deacons are ordained for service within the whole Church and not just in and for the ordaining diocese. It is the final recommendation from the Standing Committee that states to the Church and the Anglican Communion at large that the ordinand's *bona fides* have been established and that the ordination is in all respects correct and proper under the Canons. The Standing Committee of the ordaining diocese has passed upon the compliance with the ordination Canons and the general reputation of those to be ordained in and for the Church.¹⁸ Thereafter no ordinands should need to establish more than the fact of ordination for the acceptance of their orders.

So too a bishop is consecrated for the whole Church. The consents of a majority of the several Standing Committees serve not only as confirmation of the due election, but also as proof of the general acceptance of the bishop elect as a bishop of the whole Church to the standards set forth in the canonical Testimonial.

THE SCOPE OF THE STANDING COMMITTEE'S INQUIRY IN SUPPORT OF THE ISSUANCE OF ITS TESTIMONIAL

The threshold query is: "Ought a Standing Committee go beyond the record of the election in issuing or refusing to issue its Testimonial of consent to an episcopal consecration?" In 1924, this question was answered directly by Edwin Augustine White as follows:

The question, raised some years ago, whether Standing Committees had the right to go behind the record in considering confirmation of a Bishop-elect, has been settled in the affirmative. Several cases have occurred in which Standing Committees have gone behind the record of an Episcopal election as certified by the Diocesan Convention, in case the validity of the election was denied. The first two cases, those of the Rev. Dr. Ogden, elected Bishop of New Jersey in 1799 [doubts whether all clergy voting were qualified], and of Bishop Smith of Kentucky, elected Bishop of that Diocese in 1831 [defective canonical residency qualifications] have already been considered. The next case was that of Dr. DeKoven, elected Bishop of Illinois in 1874. The regularity and validity of the election in his case, however, was not questioned. The majority of the Standing Committees refused to consent to his election [sic] on the ground, as it was well understood at the time, of his publicly expressed views on the subject of Eucharistic Adoration. Several other cases have occurred in more recent years, where the validity of an Episcopal Election has been questioned, and where Standing Committees have felt themselves authorized to go behind the record of the election as certified by the Diocesan Convention holding the election.¹⁹

Whether or not the scholars approve or disapprove, common experience tells us that during the past twenty-five years, there have been numerous instances, usually in elections during which policies pertaining to the ordination of women and homosexual persons had become issues, where Standing Committees have not only gone behind the record, but have actively both led opposition to and sought support for consents to consecrations throughout the Church. Elections in San Joaquin, Quincy, Springfield, Fort Worth and Minnesota come quickly to mind.

In 1988, the General Convention went "beyond the record" regarding the election in San Joaquin to the extent that the House of Deputies Committee on Consecration of Bishops had extended confirmation hearings on that election along with the companion election in Southern Ohio, which Diocese's Standing Committee had been among the most vocal in opposition to the San Joaquin election.

This first question is then followed by a second: "How far ought a Standing Committee go beyond the record?" In recent years, some Standing Committees have sought to all but re-elect the Bishop-elect through questionnaires, written interrogatories, inquiries as to theological and political positions, etc.: *a de facto*, if not *de jure*, mini-election. Such conduct and extensive investigations by individual Standing Committees have never been contemplated or promoted by the history, polity and Canons of this Church. If each and every Standing Committee were to so conduct itself, a Bishop-

elect and the electing diocese would be burdened to no end trying to comply in good faith with each and every particular demand for data or inquiry.

This sort of activity has usually been a reflection of a particular position on a particular issue rather than a reflection as to the other qualities of the Bishop-elect. For example, there are purportedly some Standing Committees, as a matter of those bodies' policies, that will not issue a Testimonial for a Bishop-elect who will not agree to ordain women to the priesthood. Evidently, such bodies view this as an automatic canonical "impediment" to ordination to the episcopate. In the 1993 election in Minnesota, the Bishop-elect's comments as to his possible future ordination practices concerning homosexual persons raised substantial opposition, with enough Standing Committees withholding consents so as to put into question the planned episcopal ordination until shortly before the scheduled ordination.

It is also apparent and fortunate that it has been rare for Standing Committees to make detailed inquiries into or to withhold Testimonials based upon the personal character of the Bishop-elect. Evidently, the electing diocesan convention is trusted to make these evaluations.

Edwin Augustine White comments further:

It is a question whether the intervention of Standing Committees are of any great value at present.

The Country has now [1924] become too large for them to make such investigations of disputed elections or the qualifications of the persons elected as Bishops, as will enable them to form a truly judicial opinion in such cases. It sometimes happens that Standing Committees refuse to go behind the returns sent to them from the Diocese concerned. A responsibility met in that way is of but little worth. Unsatisfactory, however, as the working of the present system is, it represents a fundamental principle, *viz*: that the Clergy and Laity of the Church, as represented in either the House of Deputies of the General Convention, or in the several Standing Committees, are entitled to vote in the election of Bishops, who are to exercise, among other things, the functions of Senators for life in our supreme legislative council.²⁰

White gets right to the issue that seems to be most troubling to Standing Committees today, which can be stated: "Is the issuance of a Testimonial as a consent to an episcopal consecration merely an administrative detail confirmed by evaluating the canonical correctness of the election or do the individual members of the Standing Committee have a further duty to make corporate and even personal inquiry as to the fitness of the Bishop-elect before issuing the Testimonial?" The clear and Anglican answer is both!

A Standing Committee that issues its Testimonial without confirming that the requisite elements of an election are in constitutional and canonical compliance is derelict in the discharge of its duties. The election of a person having patent canonical infirmities or an election conducted contrary to the national and diocesan constitutions and canons cannot be countenanced. The corporate orthodoxy of the Church requires that all essential elements of these processes be met to the end that

persons are not ordained to the episcopate with any canonical taint on their orders: a taint that could rise up in later years so as to raise questions on matters of authority, the ordinations of others, etc. This is fundamental to the order of this Church.²¹

The scope of the duty of the Standing Committee members to make any personal and corporate inquiry as to the qualifications and person of a Bishop-elect is the primary source of concern to many serving on Standing Committees as they try to be diligent in discharging their obligations. This role may be in practice active, passive or both, with either being a proper discharge of the duty.

In instances where a member or members of the Standing Committee have personal knowledge or reliable information as to the person and qualifications a Bishop-elect, it is right and proper to share this with the other members of the diocesan Standing Committee. Further, if this data is of substance and might make impossible the issuance of the Testimonial, consideration should be given to sharing this at least with the Standing Committee of the electing Diocese and, perhaps, even with other Standing Committees: always after due, careful and mature consideration of reputations and questions of defamation.

The more difficult decision comes in the more numerous cases where absolutely nothing is known by members of the Standing Committee about the Bishop-elect. How can Standing Committee members consent in such cases? This leads to what might be referred to as the "Lightning Rod Test". Remembering that the present Testimonial does not require personal knowledge of the Bishop-elect, the members of the Standing Committee signing the Testimonial are only required to state that they "know of no impediment on account of which [the Bishop-elect] ought not to be ordained ..." [Canon III.11.4(b).]

Neither the Testimonial itself nor the tradition or polity of this Church require that members of the Standing Committees exhaust all possible avenues of inquiry to satisfy themselves beyond any doubt as to the lack of impediments to the ordination of a Bishop-elect. However, as the elected Clergy and Laity of a Diocese acting jointly on its behalf as to the election of William White's "superior order of ministers" or Edwin Augustine White's "Senators for life in our supreme legislative council", they become the "lightning rod" in that jurisdiction for information as to the existence of any such impediments concerning the election and the person elected. It can be fairly presumed that if no one on a Standing Committee (being persons raised up by and fully known to the local diocese and its political processes) has personal knowledge or does not receive information from sources within or without the Diocese that there are or may be impediments to the ordination, then a Testimonial can issue in good conscience and with a fair discharge of the duty imposed by canon. This ecclesiastical body and its members in corporate being is always in place to receive the "lightning" of possible impediments, if such are believed to exist by persons who could communicate the same to the Standing Committee.

Finally, there is resort to the distinction between the Testimonial of the electing Convention, which requires the affirmative portion of the Testimonial to declare:

We do, moreover, jointly and severally declare, that we believe the Reverend A.B. to have been duly and lawfully elected and to be of such sufficiency in learning, such soundness in the faith, and of such godly character as to be able to exercise the Office of

a Bishop to the honor of God and the edifying of the Church, and to be a wholesome example to the flock of Christ. [Canon III.11.3(a).]

and that of the consenting Standing Committee, which today and historically has not required the same depth and scope of inquiry or personal knowledge as the electing Convention, and which is clearly as it should be.

It is respectfully suggested also that a Standing Committee can take not only comfort from the declarations in the Testimonial from the electing Convention, but, absent patent defects, can accept this Testimonial in comity, if not the full faith and credit, as the good faith declarations of brothers and sisters in Christ acting for and on behalf of the Church.

AN EVALUATION OF THE STANDING COMMITTEE'S CONSENT AND ISSUANCE OF ITS TESTIMONIAL

What then is the nature of the "consent" by a Standing Committee to an episcopal ordination? Canon III.11.4. provides in part:

- (a) ... If a majority of the Standing Committees of all the Dioceses consents to the ordination of the Bishop-elect ...
- (b) Evidence of the consent of each Standing Committee shall be a testimonial in the following words signed by a majority of all the members of the Committee:

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 our testimony on this solemn occasion without partiality, do, in the presence of Almighty God, testify, that we know of no impediment on account of which the Reverend A.B. ought not to be ordained to that Holy Order. [Canon III.11.4(b).]

It is clear that the Canons anticipate and require an affirmative consenting process and which contemplates that a majority of the Standing Committee be in support of and issue the Testimonials for the ordination of the Bishop-elect. There is no canonical provision for active dissent other than the possibility of the nullity of the election, if a majority of Standing Committees fail to issue Testimonials.

In cases where there is no personal knowledge as to impediments or where no "lightning" has struck the "rod", how does a Standing Committee evaluate its consent to an episcopal ordination through the issuance of its Testimonial? This is the sticky issue that arises when it is generally agreed that the election was canonically and properly conducted and that the Bishop-elect may be a splendid person, but one whose politics or theological positions (or the politics or theological positions of the

majority of the electing Diocese) are at variance with those of the majority of the members of the Standing Committee now being asked to consent. Be this framed as a question of principle²² or an issue of personal conscience, how does a member of the Standing Committee evaluate the existence of a possibility of an "impediment" on such grounds?

Both the canons and the commentators all presume that members of Standing Committees will be acting reasonably and in good faith and conscience, and that they will not be mere automatons discharging a dry canonical process, but are entitled to evaluate and express their personal principles and consciences. This is a given. What then might be the steps to guide such persons in fairly evaluating the granting or withholding of an individual member's consent in such cases?

A fine starting point would be to individually and collegially adopt Edwin Augustine White's admonition "to form a truly judicial opinion", that is to say be prepared to proceed with an informed, fair and open mind and as the early Testimonial required "without partiality or affection."

The next step would be the application of the undefined canonical term "impediment". Again, going back to the early Testimonials devised by Canterbury and immediately adopted by the American Church, impediments were generally "evil report, either for error in religion or for viciousness of life", "notable crime" and with the piety, sobriety and honesty of the Bishop-elect being fundamental virtues. These are pretty good beginning broad considerations to be tested as "impediments".

But what of the possibility of theological, ecclesiological or political "impediments" in the eyes, minds and hearts of individual members of Standing Committees, even after forming a truly judicial opinion? In such instances, there is a further test that might be applied and to which resort may be fairly taken.

Article VIII of the Constitution provides that at ordination, every ordinand must 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 contain all things necessary to salvation; and I do solemnly engage to conform to the Doctrine, Discipline and Worship of the Episcopal Church.²³

It is suggested that, if in the reasonable and judicially formed opinion of a majority of the members of Standing Committees, they do not or cannot conclude that a Bishop-elect can fairly subscribe to and make that declaration or that prior statements and/or acts of the Bishop-elect would be contradictory to or subversive of this declaration, as the terms and concepts used therein are generally understood by the members of that Standing Committee, it would be appropriate not to consent or issue the Testimonial.

IN CONCLUSION
Noli Aemulari

William White opined in 1782:

The primitive churches were generally supplied by popular elections; even in the city of Rome, the privilege of electing the bishop continued with the people to the tenth or eleventh century; and near those times there are resolves of councils, that none should be promoted in ecclesiastical dignities, but by the election of the clergy and people. It cannot be denied that this right vested in numerous bodies, occasioned great disorders; which it is expected will be avoided, when the people shall exercise the right by representation.²⁴

Bishop White is both right in that great disorders can be occasioned, but also wrong in that representative episcopal elections will be free of disorder. Contentious and uneasy times in the life of the Church will play out in episcopal elections and lead to some disorders: disorders that will mirror the issues and concerns of the times.

There may well be in any particular consenting process a minority of Standing Committees that for any number of reasons or purposes either act strangely or imperfectly or are wrong headed or foolish or even act more wisely than others. However, given the need for the consents of fifty-seven dioceses, minor or even sizeable aberrations in the numbers of Standing Committees refusing to consent will neither distort nor impede the episcopal ordination process.

Conversely, if a majority of the members of a Standing Committee, representing individual clergy and laity of all persuasions, piety, political parties, and personal preferences, and a majority of all the Standing Committees of the one hundred domestic and twelve foreign dioceses entitled to issue Testimonials consenting to an episcopal ordination, all acting in prayer and good faith and all exercising personal and corporate common sense with a judicially formed opinion, cannot consent to the ordination of a Bishop-elect, then it is probably a very good conclusion that the Bishop-elect not be ordained to the episcopate of this Church and the Anglican Communion. Perhaps, this result leads to an unhappy event for the electing Convention and for the Bishop-elect, but it is a far better result for the whole Church.

So, the Church need not fret because of the possibility for imperfection in the consenting process. The Episcopal Church may at times suffer some disorder in episcopal elections and we might fret that there are no absolute, empirical, fail-safe guidelines for the issuing of Testimonials consenting to episcopal ordinations. But this is not all bad. The Episcopal Church's tradition and polity is one of broad participation by Clergy and Laity in the election of its Bishops and the system is a good and proven one, whatever imperfections or untidy processes may arise from time to time. All will be perfect in the Church only in the final reunion with its Head and all in good time and due season.

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END NOTE

This paper was originally prepared for and issued to the Standing Commission on Constitution and Canons and the Council for the Development of Ministry in 1995 to assist these bodies in responding to the charge of the 1994 General Convention to review and consider the canonical duties of Standing Committees in matters of consents to episcopal consecrations. This paper has been updated primarily to bring current canonical references.

These bodies issued the following recommendation in 1996 to the General Convention.

RECOMMENDATIONS

It is the opinion of the Standing Commission on Constitution and Canons (SCCC) and the Council for the Development of Ministry (CDM) that *no benefit would be gained by beginning a list of canonical impediments*. The Bishop-elect is being chosen and bishop for the whole Church, not just the electing diocese, and both SCCC and CDM affirm the solemn responsibilities of Standing Committees to exercise good judgment in determining when consent should be withheld.

If a majority of the members of a Standing Committee, representing individual clergy and laity of all persuasions and piety, in a majority of the Standing Committees of the one hundred domestic and twelve foreign dioceses entitled to issue Testimonials consenting to an episcopal [ordination], all acting in prayer and good faith, cannot consent to the ordination of a Bishop-elect, then it is probably a very good conclusion that the Bishop-elect not be ordained to the episcopate of this Church.

FOOTNOTES

1. White, William, *The Case of the Episcopal Churches in the United States of America Considered*, Church Historical Society Publications, Church Historical Society, 1954, p. 23.
2. See for example: Mills, Frederick V., *Bishops By Ballot*, Oxford University Press, New York, 1978, p. 189.
3. White, William, *op. cit. supra*, p. 29.
4. The nonjurors in 1784 had decreased to four bishops and some forty clergy serving about 10,000 constituents, mainly in home worship services, and were the remainder of the bishops and clergy who had refused to renounce their loyalty to the House of Stuart and who refused to take the oath of loyalty to William and Mary. While laws against them had been relaxed in 1784, they were not repealed inasmuch as their personal political and ecclesiastical loyalties rendered them thoroughly obnoxious to the English government and the Church of England. Seabury's consecration made it impossible for the English bishops to accept him and Anglican clergy closed their pulpits to him on his return from Scotland. Mills, *op. cit. supra*, pp. 221-223.
5. Concern was had about Seabury, White and Provoost acting to consecrate a fourth bishop and what effect this might have on the American line and relations with the Church of England. The 1789 General Convention resolved this by a resolution "that it is the opinion of this Convention that the consecration of the Right Rev. Dr. Seabury to the episcopal office is valid." However, Virginia subsequently elected James Madison, the President of the College of William and Mary, and sent him to England for consecration. The four bishops joined in consecrating Thomas John Claggett first Bishop of Maryland in 1792, thus establishing the English line for certain. (See: *A History of the American Episcopal Church, infra*, pp. 199-201.)
6. Seabury's unilateral action seeking consecration first in England and thereafter successfully in Scotland had been precipitated by Connecticut's desire to be sure that there would be a hierarchical scheme in the former colonies and to head off the innovation of the American Church being organized on the basis of state and national conventions with no bishop. (See: Mills, *Bishop's By Ballot, op. cit. supra*, pp. 212-213.
7. Manross, *A History of the American Episcopal Church*, Morehouse Publishing Co., New York, 1935, pp. 195-196.
8. Virginia elected as its bishop the Rev. David Griffith prior to the American Convention of 1785. However, allegations of drunkenness were raised at the American Convention and the Deputies refused to sign his Testimonials. Subsequently, Griffith was unable to obtain the funds for the voyage or the calling of a diocesan convention to sign his testimonials and did not sail for England. *Id.*, p. 198.
9. White, William, *Memoirs of the Protestant Episcopal Church*, 1880, E. P. Dutton & Company, New York, 1880, p. 366.
10. *Id.*, p. 366.
11. White, Edwin Augustine, *Constitution and Canons for the Governance of the Protestant Episcopal Church in the United States of America Adopted in General Conventions 1789-1922*, Edwin S. Gorham, New York, 1924, p. 31. [See also: Second Edition, Revised, 1954 by Jackson A. Dykman, Vol. I, p. 49. and 1981 Edition, Revised and Updated by the Standing Commission on Constitution and Canons of the General Convention, Vol. I., p. 53.]
12. *Id.*, pp. 336-337.
13. Journal of the General Convention, 1982, pp. C-79-80.

14. White, William, *op. cit. supra*, pp. 22-23.
15. White, Edwin Augustine, *op. cit. supra*, p. 852. Hoffman, *op. cit. supra*, pp. 211-212.
16. Manross, *op. cit. supra*, p. 208.
17. Hoffman, Murray, *Treatise on the Law of the Protestant Episcopal Church in the United States*, Stanford and Swords, New York, 1850, p. 212.
18. *White & Dykman*, Annotated Constitution and Canons, 1981, Vol. II, p. 493.
19. White, Edwin Augustine, *op. cit. supra*, p. 856.
20. *Id.*, pp. 856-857.
21. Even Samuel Seabury in his campaign for ordination refused ordination by an "irregular" nonjuror Bishop, who had only been ordained by one bishop instead of the canonical number of three, for fear that questions would be raised as to the validity of Seabury's orders. Mills, *op. cit. supra*, p. 220.
22. The Church might heed the warning that it is in peril when leaders of principle begin to outnumber leaders of honor.
23. *Constitution and Canons*, 1994, p. 7.
24. White, William, *The Case*, *op. cit. supra*, pp. 23-24.