

VOLUME II

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

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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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Commission on Constitution and Canons During the Preparation of the 1981
Edition of the Annotated Constitution and Canons

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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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F r e d C .

Scribner, Jr., Chairman
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.

CANON 1. Of Diocesan Commissions on Ministry

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.

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.

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.

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.

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.

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.

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

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.

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.

(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.

(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.

(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.

(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.

These reports shall be kept on file by the Bishop and shall be made available to the Commission on Ministry.

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.

(b). The Commission on Ministry shall lay before the Bishop, with regard to each applicant, the aforesaid recommendation, together with reasons therefor.

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.

A certificate from the Minister and Vestry of the Parish of 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.

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.

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.

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 _____.

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.

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.

(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.

(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.

(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.

(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.

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.

(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.

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 Candidatship.

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 ministrations 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 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." Form-erly, 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

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.

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:

(a). A space of six months shall have elapsed since his admission as a Postulant for Holy Orders.

(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.

(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.

(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, 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.

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.

(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.

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.

(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.

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.

(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.

(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.

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 Candidature, 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 Candidature, 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 candidatureship 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 candidatureship, said candidatureship 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 candidatureship, said candidatureship to continue for not less than one whole year; provided, that in no such case shall the whole term of candidatureship 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

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.

(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.

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.

(b). It shall be the privilege of the Bishop and of the Priest who is to present the Candidate for ordination to be pre-sent 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.

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; Exe-gesis;

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 Sacra-ments, 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 Conven-tion, 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 diacon-ate.

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 examina-tion 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 pre-sent 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

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.

(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.

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.

Sec. 3. it shall be the duty of each Theological Seminary of this Church, and of each other institution for the training 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

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.

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 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.

(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.

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.

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.

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 exam-ined 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 examina-tion.)

(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 Ecclesi-astical 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

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 Pres-byters, 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). 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.

(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.

(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.

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

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.

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.

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.

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.

(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.

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.

(b). No Candidate for Holy Orders shall sign any of the certificates prescribed in the Canons of Ordination.

(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.

(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.

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.

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.

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 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 or 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

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 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.

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.

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.

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 him-self, 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.

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.

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.

(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

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.

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 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:

(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.

(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.

(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.

(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.

(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 Presbyterian 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 Presbyterian 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 Presbyter 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 scholas-tic 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 exami-nations 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

Sec. 1. No one shall be ordered Priest until he be twenty-four years of age.

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.

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.

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.:

T o t h e S t a n d i n g C o m m i t t e e o f _____
_____ 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.

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.

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.

(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

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.

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.

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.

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 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.

(b). The Bishop or Ecclesiastical Authority shall satisfy 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 Presbyterian 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 Presbyterian 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

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:

- (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.

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.

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.

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.

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.

(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.

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 candidatedship 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

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.

(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.

(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.

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 dismissal 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 Presbyterian 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 "re-ceive."

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

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) _____

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.

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.

(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.

In all particulars the service at the consecration of a Bishop shall be under the direction of the Bishop presiding at such consecration.

(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 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 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 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 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.

(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.

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. Before any election of a Bishop Coadjutor, the Bishop of the Diocese shall read, or cause to be read, to the Conven-

tion 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.

(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.

(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.

(d). There shall not be in any Diocese at the same time more than one Bishop Coadjutor.

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.

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 meaning-less, 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 diocesan 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

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.

(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.

(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.

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.

(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.

(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.

(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.

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.

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.

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.

Sec. 6 (a). When a Diocese, entitled to the choice of a Bishop, shall elect as its Diocesan, or as its Bishop Coadju-tor, 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.

(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 electing 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 no-tice 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.

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. 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.

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 or-ganized 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 “consecra-tion 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 permissive 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 Dis-tricts.

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

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 (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.

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.

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.

Sec. 5. A Suffragan Bishop shall act, in all respects, as the assistant of the Bishop of the Diocese, and under his direction.

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.

(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.

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.

(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.

(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 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.

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.

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.

(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 date of his notice to them, he shall then give notice of such 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

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.

(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.

(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.

(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.

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.

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.

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

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.

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.

(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.

(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.

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.

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.

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.

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.

(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.

(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.

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.

(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.

(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.

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.

(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.

(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.

(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.

(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.

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.

(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.

(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.

(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.

(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.

(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.

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, independent-ly 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

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.

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-ary 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

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.

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.

Sec. 3. An Assistant Bishop so appointed shall serve at 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

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.

(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.

(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.

(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.

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.

(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.

(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.

(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.

(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.

(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.

(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.

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.

(b). The registry of every Baptism shall be signed by the officiating Minister.

(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.

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.

(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:

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.

(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.

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.

(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. 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. 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. 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.

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.

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.

This rule shall not apply to any Church, Chapel, or Orato-ry, which is part of the premises of an incorporated institu-tion, created by legislative authority, provided that such a place of worship is designed and set apart for the conve-nience and uses of such institution, and not as a place for public or parochial worship.

(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.

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 Dio-cese in which he last had canonical residence, which testi-monial shall set forth his true standing and character. The said testimonial shall be given by the Ecclesiastical Au-thority 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 Presbyterian [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)_____

(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.

(c). Letters Dimissory not presented within six months from the date of their transmission to the applicant shall become wholly void.

(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 excul-pated from the said charge.

(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:

I hereby certify that the Reverend A.B. has been ca-nonically transferred to my jurisdiction and is a Min-ister in good standing.

(Signed)_____

(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.

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.

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:

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 Presbyterian [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.

(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.

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.

(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.

(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.

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 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 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 minister 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 parish-es 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 pas-toral 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, vestry-men, 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 Congregation; 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 Clergy-men, 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 vestry-men, 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 dismissal 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 dismission 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 dismission 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 dismission 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 Ecclesiastical 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 permissive, 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, re-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

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.

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 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. And if such rectors or congregations refuse to comply with such recommendations, 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 invitio, 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, lv 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

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 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.

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, 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 "Clergy-man."

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 significancy 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 Eng-land, 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

Sec. 1. Every Deacon shall be subject to the direction of the Bishop of the jurisdiction for which he has been or-dained, or, if there be no Bishop, to that of the Clerical members of the Standing Committee, acting by their Pres-ident, 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 Com-mit-tee, 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.

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.

(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.

(c). A Deacon ministering in a Parish or Congregation not under the charge of a Priest, shall, if not under the imme-diate direction of the Bishop, be placed under the authori-ty of some neighboring Priest, by whose direction, in Subordination to the Bishop, he shall in all things be gov-erned.

Sec. 3. No Deacon who shall not have passed the examina-tions prescribed in Canon III.5, Sec. 1, shall be transferred to another jurisdiction without the written request of the Ecclesiastical Authority of the same.

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 begin-ning, 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 there-upon 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 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

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.

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.

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.

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 only at the request, and upon the recommendation, of the Member of the Clergy 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.

Provided further, that, under special circumstances, a lay person other than a Lay Reader may deliver the cup at the Holy Communion, with the permission of the Bishop.

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 Presbyter 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 statedly 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 Presbyterian 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 Noonday 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 necessary) 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

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.

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.

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.

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.

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.

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.

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

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.

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.

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).

ECCLESIASTICAL DISCIPLINE

CANON 1. Of Offenses for which Bishops, Presbyters, or Deacons May Be Tried

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 Gen-eral Convention.
- (5). Violation of the Constitution or Canons of the Dio-cese 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 Wor-ship, and of the Holy Communion, according to the order and use of this Church.
- (8). Conduct unbecoming a Member of the Clergy; Pro-vided, however, that in the case of a Presbyterian or Dea-con charged with this offense, before proceeding to a presentment, the consent of three-fourths of all the mem-bers of the standing committee of the Diocese in which the Presbyterian or Deacon is canonically resident shall be required.

Upon a Presbyterian or Deacon's being found guilty, such Presbyterian 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.

Sec. 2. In the case of a Bishop, Presbyterian, or Deacon con-victed 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 Presbyterian 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.

Sec. 3. No presentment shall be made or conviction had for any offense, unless the offense shall have been commit-ted 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 afore-said, 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.

Sec. 4. If presentment shall have been made against a Presbyterian or Deacon, or in the case of a Presbyterian 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 Presbyterian or Deacon, the Bishop in whose jurisdiction the Presbyterian or Deacon is canonically resi-dent may, upon probable cause, inhibit the Presbyterian 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 exis-tence, 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, pro-fanity, 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 misde-meanor 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 Bish-ops, 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 ad-judged 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 present-ed. 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

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.

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.

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.

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

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

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.

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.

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.

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.

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.

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.

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.

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.

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.

The Church Advocate shall be deemed to be the opposite party for the purpose of this and the succeeding Canons.

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 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.

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.

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, 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 Re-view, 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.

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

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 Con-vention, to serve until the adjournment of the third suc-ceeding regular meeting of General Convention. All judges shall serve until their successors are elected and qualify; Provided, however, there shall be no change in composi-tion of a court while a proceeding is pending, unresolved, before the Court.

(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.

(c). Not less than six of said judges shall constitute a quo-rum, but any less number may adjourn the Court from time to time.

(d) The Court of Review of the Trial of a Bishop

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 Gen-eral 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.

Sec. 16. The said Court of Review is vested with jurisdic-tion to hear and determine appeals from the determina-tion of the Court for the Trial of a Bishop.

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

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.

(b). The death, permanent disability, resignation, or refus-al 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.
- (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.

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 participate 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

Sec. 20 (a). The procedure in Diocesan Courts shall be as provided by the Canons of the respective Dioceses.

(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.

(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.

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.

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.

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.

The several Courts shall keep a record of all their proceedings.

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.

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.

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.

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 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.

In any Diocese in which the Civil Government shall have authorized the Ecclesiastical Courts therein to issue sub-poenas for witnesses or to administer an oath, the Court shall act in conformity to such law.

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.

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.

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.

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.

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 amend-ment 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 amend-ment 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 " t h e r e o f " 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. Crapsey 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, 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

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

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.

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 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.

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.

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.

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.

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 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 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.

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.

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.

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 Lay-men 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

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.

(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.

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.

(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 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.

(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 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.

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.

“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.”

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.

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.

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.

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.

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.

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.

(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 present-ed 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 un-known 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

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.

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.

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.

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.

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.

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.

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.

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 dismiss the appeal, the Clerk of the Court shall immediately give notice of such dismissal to

the Trial Court.

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 pre-scribed 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

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.

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 inhibition 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.

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

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).

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 counselled 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 "Presby-ters."

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 presby-ters. (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

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.

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 T i t l e 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 de-posed 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 renum-bered 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 abandon-ment, 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

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.

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 Presbyter or Deacon," which read as follows:

In any proceedings against a Presbyter 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 Presbyter 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

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.

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.

(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.

(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.

(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 individual'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

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.

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.

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.

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 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.

(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.

(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.

(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.

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.

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.

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.

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 clergy-man 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 ad-judged 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 Presbyter 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 immo-rality 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 refer-ences 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 deposition, 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

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.

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:

- (1). That he shall act with the advice and consent of two-thirds of all the members of the Standing Committee;
- (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;
- (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.

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.

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.

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 negated 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

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.

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.

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.

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 Canons, 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.

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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