

1. Lack of "Federal" Language

71. Although written in the same period as the federal Constitution, the Church's Constitution is strikingly bare of language of federation. That is, the Church's Constitution lacks any language suggesting that the Church exists as the result of the union of independent, autonomous dioceses, or that any governmental authority is reserved to the dioceses to the exclusion of the General Convention.³⁵ Although it was written by persons well versed in the U.S. constitutional discussions of the 1780s, including the concepts of a confederation of independent sovereign units and the reservation of rights to local units, the Church's Constitution in no way reflects those concepts.³⁶

72. The Church Constitution differed from the U.S. Constitution in its lack of language limiting national power or reserving authority to more local units. The Church Constitution had no language such as that found in the Tenth Amendment to the Federal Constitution:

"The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

Nor is there any language in the Church Constitution parallel to the following language of the Ninth Amendment to the Federal Constitution reserving rights and powers to the local levels:

³⁵ The most notable use of federal language in any discussion of the Church's polity is found in Clara O. Loveland in The Critical Years: The Reconstitution of the Anglican Church in the United States of America, 1780-1789 (Greenwich, CT: The Seabury Press, 1956) at 62-118, in which she refers to the entire agenda of William White as the "federal plan for reorganization." As early as the 1840s, commentators began referring to the Church as a federal system, but as Dator shows, this misuses the term "federal." The use of this term may reflect the "de-facto federalism" that I describe below and a desire to use common political terms to describe the Church.

³⁶ James Duane, one of the persons on the 1785 drafting committee of the Church Constitution, had been a signer of the Articles of Confederation and was a strong backer of the new federal Constitution.

“The enumeration in this Constitution, of certain rights, shall not be construed to deny or disparage others related by the people.”³⁷ Clearly this silence (so out of step with the political culture of the time) is remarkable and patently deliberate. As will be shown below, this distinctive aspect of the Church’s Constitution was recognized by Nineteenth-Century legal experts.

73. Thus, while the U.S. Constitution conceives of the Federal Government as one of limited powers with the residuum of authority remaining in the states, the Church Constitution assumes the plenary authority of the General Convention and is a mechanism through which the General Convention grants powers to, and sets limits on, the Church in the states and, later, dioceses. For example, concerning the episcopate the Constitution stated:

“Art. 4. The Bishop or Bishops in every State shall be chosen agreeably to such rules as shall be fixed by the Convention of that State.”

(This provision exists in Article II.1 today.) Here, the Convention gave to the state conventions a new power – the authority to select their own bishops (by means of election). That this was not understood as an inherent right in the state conventions is evident from the fact that it had not been so exercised in Anglicanism for over 700 years. There was thus no understanding that the

³⁷ Some have recently attempted to invent such a principle in the structure of The Episcopal Church by quoting one of the early resolves of the Episcopal Church in Pennsylvania, “That no powers be delegated to a general ecclesiastical government, except such as cannot be conveniently exercised by the clergy and laity, in their respective congregations.” Convention Journals of Pennsylvania, 1785-1814 at 6. (As described below, another attempt was made in 1895 to reserve powers to the dioceses, but it was also rejected.) They, however, fail to acknowledge that such language was never considered in any of the drafts of the Constitution, much less adopted as part of it, nor is there any language in the Constitution of power being “delegated” to General Convention by local bodies. Wantland in his affidavit for The Episcopal Church in the Diocese of Connecticut v. Ronald S. Gauss (¶ 5) makes the claim of the reservation of powers, but offers no evidence to support it.

state conventions reserved the right to elect bishops; rather, they were given the authority to elect bishops by the General Convention.

74. The absence of any language of federalism in the Church Constitution should not be surprising. In the secular realm, the framers of the U.S. Constitution had to balance carefully the necessary powers and privileges claimed by the national government and powers of sovereign states, which had exercised considerable, if not unlimited, legislative and judicial authority for well over a century as colonies. Such was not the case in the Church. As discussed above, during the colonial period, Church of England congregations did not legislate for themselves but received all their laws from the Church of England, where full authority to legislate lay at the national level.³⁸ Thus, the assumptions of the Church Constitution of 1789 were that the General Convention was to be the chief legislative authority and that state conventions would possess only that authority which the General Convention chose not to exercise itself, either expressly or implicitly.

75. The assertion has been made that the Constitutions of certain other religious bodies appear to use more intentional language of supremacy than that found in the Church's Constitution in articulating the superior authority of the national body and that this is an argument against the hierarchical nature of the Church.³⁹

³⁸ It is common knowledge that, as the result of the minimal attention that the English congregations in the colonies received from the Bishop of London, those congregations developed a habit of self-governance that was generally uncharacteristic of Church of England parishes. But clergy from those parishes looked to the Church of England as the ultimate governing authority before the Revolution, and then worked toward the creation of the unified American Church afterward.

³⁹ This is a major claim of McCall. See "Is the Episcopal Church Hierarchical?" pp. 26-30. The "Bishops' Statement" repeats this misunderstanding (pp. 13-14), as does Conger in his affidavit in The Episcopal Diocese of San Diego vs. St. John's Parish, Fallbrook (¶¶ 28-31). Indeed, a key part of McCall's argument (and a point taken up in the "Bishops' Statement" and

76. This is a misreading of the facts. In three often-cited Twentieth-Century church Constitutions, those of what is now the United Methodist Church, the Presbyterian Church USA, and the Evangelical Lutheran Church of America (“ELCA), explicit language of supremacy was necessary, because in each case the present church was a union of earlier churches with long traditions of legislative independence. The Methodist merger of 1939 represented the coming together of Southern and Northern branches (among others) that had been separate since 1844. Presbyterians similarly re-joined churches divided by the Civil War, while the ELCA represented the union of three churches (the Lutheran Church of America, the American Lutheran Church, and the Association of Evangelical Lutherans) that had been historically independent. When there have been competing traditions of legislative autonomy, language of supremacy may be necessary to delineate authority. But in the case of The Episcopal Church in the 1780s, where no such competing authorities existed, language of supremacy in the Constitution was unnecessary and, indeed, inappropriate.⁴⁰

by others), is the assertion that the Constitution of the Church lacks any language of supremacy. *E.g.*, McCall, “Is the Episcopal Church Hierarchical?” (pp. 1-11), and “Bishops’ Statement” (p. 8). Besides the obvious refutation of that argument in the consistent mandatory language of the Constitution and canons (to be discussed below), what these critics ignore is the far more striking fact that the document, composed by such legal experts as James Duane, has no principle of federalism or the reservation of powers to the state conventions. Moreover, despite the claims of Wantland and others that the Church is a “confederation” of dioceses, language of confederation is also conspicuously absent from the Constitution.

⁴⁰ As shown below, *e.g.* at ¶¶ 101 and 109, there are multiple instances of the mandatory language of supremacy in the Church’s canons. McCall dismisses this evidence entirely, on the erroneous premise that these canons are “unconstitutional” efforts by the General Convention to legislate beyond its constitutionally-defined authority (as we have seen above, the General Convention’s authority to adopt canons is inherent and does not derive from the Constitution).

2. Lack of Enumerated Powers

77. As is well known, the Federal Constitution carefully delimits the rights and powers of each branch of the U.S. Government. By contrast, the Church Constitution acknowledges a General Convention without specifically defining its authority, thus placing no limitations on that authority. Indeed, as noted, William White attested that the primary function of the Church Constitution was simply to describe the structure of the General Convention, define its membership, and mandate its continued existence. The Constitution was never intended to set or prescribe the scope of, and in that way set limits on, the General Convention's authority.

78. This concept of the inherent legislative authority of the General Convention was evident from the very beginning. As early as August of 1789, the General Convention asserted the right to legislate, not from constitutional mandate, but out of its very nature as representing the wider Church. At that meeting, the General Convention adopted a series of canons, even though the Constitution had not yet been finally ratified!

79. This action of legislating before there was a Constitution would be unusual from the perspective of contemporary secular politics. Yet, it was in keeping with understandings about the nature of the Church discussed in Sections I and II above. The authority to adopt canons was seen not as a privilege derived from a written Constitution, but rather as part of the fundamental nature of the Church. Since the early centuries, ecumenical councils had claimed the right to issue canons binding on the Church, and national churches had claimed the same right. As we have seen, the Church of England did so in 1603-1604 without possessing any written Constitution. Similarly, the General Convention of The Episcopal Church in August of 1789 was claiming this authority by adopting canons before the Constitution was in place.

B. Evidence in the 1789 Constitution of the Supremacy of the General Convention

80. The supremacy of the General Convention over the whole Church, including over the Church in the states (and, later, dioceses), was made clear in early constitutional provisions governing seven important aspects of Church governance and life.

81. The first was liturgical. The first Constitution reflected the General Convention's absolute authority in revising the Book of Common Prayer and in making use of the Prayer Book mandatory throughout the Church. Article 8 stated that "[a] Book of Common Prayer . . . when established by this or a future General Convention, shall be used in the Protestant Episcopal Church in these United States, which shall have adopted this Constitution." (Emphasis added.) The Book of Common Prayer had (and has) been seen as one of the foundations of Anglicanism, and the General Convention has always had sole authority to define its content for use in The Episcopal Church. As the General Convention of a "particular or national Church" (to use the language of the Articles of Religion), it alone had the authority "to ordain, change, and abolish, Ceremonies or Rites of the Church."

82. A second place was the establishment of compulsory requirements for admission to holy orders, including a mandatory declaration for ordination. Article 7 provided that "[n]o person shall be admitted to holy orders" unless certain requirements were met, "[n]or shall any person be ordained" until he subscribed to a specific oath:

"I do believe the holy scriptures of the Old and New Testament to be the word of God, and to contain all things necessary to salvation: And I do solemnly engage to conform to the doctrines and worship of the Protestant Episcopal Church in these United States." Art. 7 (emphasis added).

Thus, all clergy were held to a mandatory national standard and were required to promise conformity with the larger Church.

83. A third area was the binding nature of the General Convention's legislation. During the meetings leading up to the ratification of the Constitution in 1789, attendance was erratic. Hence, Article 2 of the Constitution provided that if any state Convention failed to send Deputies to the General Convention, "the Church in such State shall nevertheless be bound by the acts of such Convention." Art. 2 (emphasis added). Here again, submission to the decisions of the General Convention was not optional. This followed the principle stated in Canon CXL of the English Canons of 1603-1604.

84. It is important to note the mandatory language used in these provisions. There is no question but that all units of the Church – dioceses, parishes, clergy – had no option but to obey these Church rules.

85. A fourth area was the lack of a judiciary. The absence of any judiciary in the Church Constitution demonstrated that the General Convention was the final interpreter of the Constitution (as well as of the canons and the doctrine, discipline, and worship of the Church). In these circumstances, the General Convention – like the English Parliament – could legislate in areas on which the Constitution was silent.

86. The fifth and sixth areas involved the authority to ratify and amend the Constitution. As previously noted, one of the singular aspects of the Church Constitution was the manner of its own ratification. In 1786, the draft Constitution was amended so that ratification took place within the General Convention itself, and not by the state conventions, as had been proposed by an earlier version. Thus, the 1786 version stated:

"The Constitution of the Protestant Episcopal Church in the United States of America, when ratified by the Church in a majority of States assembled in General Convention, with sufficient power for the purpose of such ratification, shall be unalterable by the Convention of any particular State, which has been represented at the time of ratification." Art. 9. (Emphasis added.)

In the secular political process of the ratification of the federal Constitution, much weight was put on the participation of the states themselves. In the Church context, however, this power was vested in the General Convention. Similarly, Article 9 also committed the amendment power to the General Convention:

“This Constitution shall be unalterable, unless in General Convention, in a majority of States which may have adopted the same; and all alterations shall be first proposed in one General Convention, and made known to the several State Conventions, before they shall be finally agreed to, or ratified, in the ensuing General Convention.” Art. 9.

Unlike in the U.S. Constitution (or in a less hierarchical polity such as that of the Presbyterian Church), there is no step in the amendment process where an amendment needed to receive the approval of the states (or in the case of Presbyterians, the presbyteries) themselves. The General Convention had – and still has – sole power to amend its Constitution.

87. Finally, and perhaps most fundamentally, was what was required for a state convention to become a part of the General Convention. Article 5 provided:

“A Protestant Episcopal Church in any of the United States not now represented may, at any time hereafter, be admitted on acceding to this Constitution.” Art. 5.

For a state convention to join the General Convention, it had to acknowledge the powers of the General Convention. Accession was not optional. Indeed, as will be shown, in a number of instances state conventions were denied membership because they failed adequately to accede.

88. Some have recently argued that this language of accession is temporary and reversible.⁴¹ As will be shown below, in an extensive review of Nineteenth-Century commentary and practice I have found no evidence for such an interpretation.

⁴¹ This argument lies at the core of McCall’s paper. See “Is the Episcopal Church Hierarchical?” p. 20ff.

C. Evidence in the 1789 Canons of the Supremacy of the General Convention

89. The General Convention's legislative authority has from the very beginning been unrestricted. In practice, however, the Convention has historically been conservative in exercising its authority, and has acted only when it considered such action necessary for the well-being of the Church. Many decisions have been expressly delegated to the individual dioceses, thus giving to some the impression of a "de-facto" federalism. But this is not a true federal system. These diocesan functions were not inherent rights, but were powers granted by General Convention. Moreover, as will be shown, the General Convention has over time increased its direct mandates to dioceses and parishes.

90. The authority of the General Convention can be seen from the issuing of the earliest canons. As noted above, one compelling piece of evidence of the supremacy of the General Convention is in the fact that it passed canons before adopting the Constitution. But the early canons also reveal the supremacy of the General Convention in two other respects: From 1789, the General Convention asserted the right to pass canons in a number of areas that had no foundation in the Constitution itself, and in so doing often used mandatory language that confirmed the supremacy of the General Convention's authority.

91. The first such area concerned the selection of bishops. Although the Constitution delegated to state conventions the right to set the rules for electing their own bishops, the canons confirmed the General Convention's plenary authority in this area. Thus, Canon II of 1789 set out the mandatory requirement that "[e]very Bishop elect, before his consecration, shall produce" to the consecrating bishops certificates from the electing state convention and the General Convention. Canon II (emphasis added).

92. A second area in which the General Convention asserted its authority in a mandatory fashion on a subject not addressed by the Constitution involved the duties of bishops.

Canon III commanded that “[e]very bishop 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.”

Canon III (emphasis added).

93. A third area concerned requirements for ordination. The authority to dictate ordination requirements is nowhere made explicit in the Church Constitution, yet from the very beginning the General Convention assumed this responsibility. Four of the original canons passed by the same Convention that ratified the Constitution made mandatory certain details relating to ordination: Canon IV provided that “Deacon’s orders shall not be conferred” on anyone until he reached the age of 21, “nor Priest’s orders” until the age of 24; and “[n]o man shall be consecrated a Bishop of this church” until the age of 30. (Emphasis added.) Canon V commanded that “[n]o person shall be ordained” unless he produced a certificate showing a potential for gainful employment within the Church. (Emphasis added.) Canon VI required that “[e]very candidate for holy orders shall be recommended to the Bishop” by the convention’s Standing Committee and set out the precise language for the recommendation, which “shall be signed by the names of a majority of the committee.” (Emphasis added.) Finally, Canon VIII set the appropriate times for ordination: “the stated times of ordination shall be on the Sundays following the Ember weeks.” (Emphasis added.)

94. A fourth area concerned clergy education. The Constitution nowhere specifies that this was in the purview of the General Convention, yet Canon VII assumed the right of the General Convention to establish mandatory learning requirements, providing that “[n]o person shall be ordained in the Church” until he has “satisfied the Bishop and . . . two Presbyters . . . 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.”
(Emphasis added.)

95. A fifth area involved the duties of clergy. Here, too, the Constitution was silent, but the General Convention exercised authority by imposing mandatory requirements in this area. These included Canon XI (providing that ministers “shall” prepare and present confirmands to the Bishop and “shall” inform the Bishop of the state of the congregation); Canon XIV (all persons in the Church “shall” duly celebrate Sundays); and Canon XV (all ministers “shall” keep a register of baptisms, marriages, and funerals in the parish). In addition, Canon X expanded on the Constitutional requirement that the Prayer Book “shall be used,” mandating that “[e]very minister shall . . . use the Book of Common Prayer, as the same shall be set forth and established by the authority of this or some future General Convention...and no other prayer shall be used besides those contained in the said book.” (Emphasis added.)

96. A sixth area concerned clergy behavior and discipline. The right of the General Convention to establish rules of behavior and discipline for clergy was not specified in the Church Constitution, but from the very beginning the General Convention asserted its authority to do so. Canon XIII thus prohibited clergy from “resort to taverns,” “base or servile labor,” “drink or riot,” and “spending...their time idly,” and provided that offenders “shall be liable” to sanctions “according to such rules or process as may be provided either by the General Convention or by the Conventions of the different States.” (Emphasis added.)

97. Similarly, in Canon XII the right to discipline laity for “wickedness of life” is asserted, although nowhere found in the Constitution. Here again, the General Convention not only described a list of offenses for which laity could be punished, but required that offenders

“shall be repelled from the Holy Communion” and reserved the right to establish the process for prosecution of those offenses. (Emphasis added.)

98. In sum, the powers exercised in these original canons came not from enumerated powers found in the Constitution, but from the right of the Church to self-governance; and their mandatory nature reflected the nature of the General Convention’s authority. In this way, they reflect the same over-arching powers that lay behind the English Canons of 1603-1604.

IV. THE SUPREMACY OF THE GENERAL CONVENTION HAS CONTINUED TO BE REFLECTED IN GENERAL CONVENTION ACTIONS FROM 1790 TO THE PRESENT.

99. Since the promulgation of the Constitution and canons of 1789 and up to the present, the General Convention has continued to exercise its authority over bishops and other clergy and their dioceses and parishes and to legislate on such matters as requirements for ordination, clerical practice, discipline, and church property. These actions confirm that the Church Constitution (unlike the U.S. Constitution) was never intended to limit the actions of the General Convention. Rather, the Church has always regarded the General Convention as having full authority to legislate for the well-being of the Church.

100. At various times the General Convention has explicitly defined its understanding of its hierarchical authority to take such actions, as shown in the following two examples. In 1964, the General Convention formally defined the levels of authority in the Church:

“The Protestant Episcopal Church accepts as its authority the Holy Scriptures, the Nicene and Apostle’s Creeds and speaks through the Book of Common Prayer and the Constitution and Canons of the Church. The Protestant Episcopal Church speaks also through the Resolutions, Statements and actions of the General Convention. In these ways the Church speaks at the highest level of responsibility for the Church to the Church and to the world.” JGC 1964 at 312-313.

Likewise in 1994, the General Convention, in reordering its clergy disciplinary judicial system, made the following declaration:

“Disciplinary proceedings under this Title [IV] are neither civil nor criminal, but ecclesiastical in nature and represent determinations by this Church of who shall serve as Members of the Clergy of this Church and further represent the polity and order of this hierarchical Church. Clergy who have voluntarily sought and accepted ordination in this Church have given their express consent and subjected themselves to the discipline of this Church and may not claim in proceedings under this Title constitutional guarantees afforded to citizens in other contexts” Canon IV.14.1 (emphasis added).

A. Bishops

101. The General Convention, using the mandatory language of supremacy, has continued to exercise authority over the selection of bishops, providing for consents to be given by a majority of bishops and Standing Committees when the General Convention is not in session,⁴² and requiring that bishops-elect be ordained by no fewer than three bishops. Const. Art. II.2; Canon III.11(6). In 1832, it adopted Canon XXXII (“On Episcopal Resignations”) (now Canon III.12(8)) which required the General Convention’s consent for a bishop to resign; and in 1853, it adopted the Canon III (“Of Bishops absent from their Dioceses because of Sickness, or other sufficient reason”) authorizing bishops to take temporary leave from their dioceses provided they turn over ecclesiastical authority to the Standing Committee. Consent of the larger church is also required for the “translation” of a bishop, that is, the election as diocesan bishop of a person who is a diocesan bishop or bishop coadjutor of another diocese. Const. Art. II.8. These provisions reflect the teaching of the ancient canons that a bishop serves only with the consent of the larger Church.

102. Using similar language, the General Convention amended the Constitution in 1901 to provide a minimum age (30) for the ordination of bishops (Const. Art. II.2); to specify that consents to episcopal ordinations be given only by bishops with jurisdiction (in addition to

⁴² This provision was first adopted in 1799 as Canon II (“Of the Consecration of Bishops in Recess of General Convention”), and is now found in Canon III.11(4).

consents by the House of Deputies or Standing Committees as provided earlier) (*Id.*); and to provide that bishops may not resign without the consent of the House of Bishops (Const. Art. II.4, now II.6). In 1943, the General Convention went further and provided a mandatory resignation age for bishops (72) (Const. Art. II.9), and provided for the House of Bishops to declare a bishop's position "terminated" if this requirement was not obeyed (Canon 43.7(c), now III.12(8)(c)).

103. Further, in its amendment of Article I.2 of the Constitution in 1901, the General Convention expanded the membership of the House of Bishops beyond only diocesan bishops to include coadjutors and resigned bishops, so that membership in the House became based not on diocesan representation but episcopal status. No longer was the House of Bishops a house of diocesan bishops, but it now included other bishops as well. In the same vein, the General Convention authorized the ordination of suffragan bishops in 1910 and made them non-voting members of the House of Bishops (Const. Art. II.4); it gave the vote to suffragans in 1943 (Const. Art. I.2(1)); and in 1982, it created the position of "Assistant Bishop" with full membership in that House (*id.*).

104. The General Convention also has exercised authority over the selection of bishops by reversing the decisions of dioceses in a number of instances. In 1795, the consecration of the Bishop of Vermont was refused, on the ground that the state had not yet acceded to the Constitution. JGC 1795 at 1: 205. In 1801, consent to the consecration of the Bishop of New Jersey was withheld on account of questions about the election. JGC 1801 at 1: 264. In 1844, the House of Deputies refused to consent to the consecration of the Bishop of Mississippi because of financial concerns about the candidate in question. JGC 1844 at 71. In 1847, consent was refused in the case of an Assistant Bishop of Illinois because of canonical concerns.

JGC 1847 at 37. In 1874, consent to the consecration of the Bishop of Illinois was withheld on churchmanship grounds. JGC 1874 at 97-100. A majority of the Standing Committees refused to consent to the consecration of James DeKoven as Bishop of Illinois in 1875, also because of questions concerning his churchmanship. Four candidates have been rejected in the Twentieth and Twenty-First Centuries, the most recent in 2009 when the Bishops and Standing Committees rejected the consecration of the Bishop of Northern Michigan.

105. In each of these cases the diocesan choice for bishop was overturned according to canonical procedures established by the General Convention. Furthermore, in each case the diocese accepted the decision without protest.

106. The General Convention has also made bishops subject to discipline and removal by the general Church, as set forth in Title IV of the Church's canons. Grounds for such discipline or removal include "Abandonment of the Communion" of the Church under Canon IV.9 and violation of the Church's or diocese's Constitutions or canons or of the vows required of a bishop-elect in the Ordination Service for a bishop under Canon IV.1.

107. Yet another acknowledgment of the General Convention's authority to dictate to individual dioceses is clearly seen in an example relating to the trial of bishops. In the 1840s, the House of Bishops brought to trial the popular Bishop of New York on charges of "immorality and impurity" and suspended him from the office of Bishop.⁴³ Even though the clergy and laity of the diocese continued to be loyal to the bishop, and indeed refused to replace him, they accepted the decision stating, "The event, so unlooked for, and so distressing to the friends of the Church, has been patiently submitted to by the Diocese." JGC 1849 at 179. If ever there were a

⁴³ James Elliott Lindsley, This Planted Vine: A Narrative History of the Episcopal Diocese of New York (New York: Harper and Row, 1984) at 151-154.

place to expect arguments for diocesan autonomy or impassioned claims of the lack of a national hierarchy it would be here. But no such language has been found.

108. The General Convention has also dictated to bishops concerning the ordination process. In 1804, Canon IX (“Of Candidates who may be refused order”) stated that a bishop could not ordain a candidate until he had inquired whether the candidate had ever directly or indirectly applied for orders in another diocese and been turned down. Furthermore, the canon stated, “When any bishop rejects the application of any candidate for Orders, he shall immediately give notice to the bishop of every state or diocese.” JGC 1804 at 1: 324.

B. Dioceses

109. The General Convention has consistently exercised authority over the formation of dioceses, here too using the mandatory language of supremacy. In 1795, it set minimum sizes for the establishment of new dioceses (Canon I (“Of Episcopal Visitation”)); in 1835, it provided a mechanism for combined dioceses to be divided (Canon I (“Of the Election of Bishops”)); and in 1838, it provided for the division of existing dioceses with the General Convention’s consent (Canon VIII (“On the Organizing of New Dioceses Formed Out of Existing Dioceses”). It continued to exercise its authority to determine whether or not a diocese should be formed as part of the Church. In 1967, it provided a mechanism by which territory might be transferred from one diocese to another, and this too required the permission of the General Convention. Const. Art. V.6.

110. In 1835, the General Convention provided for the election by it of “Missionary Bishops” to exercise episcopal functions in areas in which the Church was not organized, asserting that the “jurisdiction of this Church extend[ed] in right, though not always in form, to all persons belonging to it within the United States” Canon II of 1835 (“Of Missionary

Bishops”). The canon further provided that “each Missionary Bishop shall have jurisdiction over the Clergy in the district assigned him.”

111. The General Convention has always had the authority to form and admit new dioceses to membership, and the admission and division of dioceses has been in no way automatic. In 1817, the Convention refused the petition of the proposed Diocese of Ohio for membership in Convention because there was not sufficient evidence that the proposed diocese had acceded to the Constitution of the Church. JGC 1817 at 1:459. In 1835, a petition from the Diocese of Indiana was rejected because there were doubts whether it would have sufficient number of clergy to warrant diocesan status. JGC 1835 at 2:614.

112. The case of the Church in California is particularly illuminating. The Constitution drafted by organizers there contained no mention of the Protestant Episcopal Church, and indeed there was talk of forming an independent church consisting of “California, Oregon, ... and the Sandwich [Hawaiian] Islands.”⁴⁴ Accordingly, in 1853, when the organizers had elected a bishop and petitioned General Convention to become a diocese, not only was the proposal rejected and the bishop denied consecration, but the Convention instead made California a missionary district and appointed a missionary bishop to oversee it.⁴⁵

113. There are also cases in which requests for division of a diocese have been rejected. In 1871, the petition of the Diocese of Illinois to subdivide into three dioceses was

⁴⁴ See D. O. Kelly, History of the Diocese of California from 1849 to 1914 (San Francisco: Bureau of Information and Supply, [1915]) at 9 through 11; Lionel U. Ridout, Renegade, Outcast, and Maverick: Three Episcopal Clergymen in the Californian Gold Rush (San Diego: San Diego University Press, 1973) at 58.

⁴⁵ JGC 1853 at 57-58. Conger misinterprets the case of the organization of the Diocese of California, and attempts to argue that it shows the decentralized nature of the formation of dioceses. See “The Concept of Hierarchy in the Episcopal Church of the Nineteenth Century” pp. 15-16.

rejected because of doubts that each of the new dioceses could adequately support a bishop (as called for in Art. V of the Constitution).⁴⁶

114. In 1979, the General Convention adopted Canon 1.10(3)(b) (“Transfer of Area Missions”) (now Canon I.11(3)(f)) providing that “Missionary Dioceses” outside of the United States could, with the consent of the General Convention, be released from union with the General Convention to form or become part of another province of the Anglican Communion – an opportunity never provided by the General Convention to any other dioceses of the Church.

115. Finally, an amendment to the Constitution in 1904 made explicit three principles. The first was that dioceses could only be formed with the consent of the General Convention. Art. V.1. Since 1835 this had been the case for the dioceses created from the division of existing dioceses, but now it was the case for all new dioceses. The second concerned the content of the diocesan accession to the Church’s rules. The Constitution of 1789 had required that in order for a new diocese to become part of the General Convention it must first accede to the Church’s Constitution. Art. 5. It had, however, always been assumed that accession to the Constitution implied accession to the Church’s canons, as well, and many dioceses explicitly acceded to both the Constitution and canons.⁴⁷ This requirement was made explicit in an amendment to the Constitution in 1901. Art. V.1. Third, the Convention in 1904 clarified that all new dioceses

⁴⁶ JGC 1871 at 231, 245, and 361.

⁴⁷ See, for example, the early Constitutions of Dallas, Colorado, Illinois, and Quincy. A number of writers have either misunderstood or misinterpreted this point. In particular see Wantland’s Affidavit in The Episcopal Diocese of San Diego v. St. John’s Parish, ¶ 11; and “Bishops’ Statement,” p. 5., both claiming that dioceses self-organize and then are admitted into union. An existing diocese, however, cannot begin the process of dividing and organizing a separate diocese without the permission of General Convention, and as we have seen above in the case of Illinois, this approval is in no way automatic. And, after subsequently organizing itself, the new diocese must submit its Constitution with its accession clause to the Church in order to become recognized as a diocese of the Church.

were required to make such an accession. Art. V.1. Until then a distinction had been made between new dioceses (which had never acceded) and dioceses created from the division of older dioceses (which were viewed as already having acceded). In 1904, the Constitution expressly required accession of every new diocese, including those created from existing dioceses. Thus, Art. V.1. now reads:

“When it shall appear to the satisfaction of the General Convention, by a certified copy of the proceedings and other documents and papers laid before it, that all the conditions for the formation of a new diocese have been complied with and that it has acceded to the Constitution and Canons of this Church, such new Diocese shall thereupon be admitted to union with the general Convention.”

116. The General Convention from its earliest days exercised authority over the relationship between bishops and their dioceses. In 1808, the Convention required that the bishop deliver a “Charge to the Clergy” at least every three years. Canon XXIII (“Of Episcopal Charges and Pastoral Letters”). In 1856, the Convention required that bishops visit their congregations at least once every three years, and a procedure for a panel of bishops to impose further requirements upon a bishop who failed to do so was established. Canon II.1 (“Of Episcopal Visitations”). The same canon also affirmed the authority of the bishop to administer both word and sacrament during such visits. Relations between bishops and their dioceses were further regulated by the Convention by requiring that each diocese have a Standing Committee to advise the bishop. Canons adopted in 1795 and 1808 stipulated certain tasks for Standing Committees. In 1832, however, the Convention dictated that each Standing Committee’s duties, “except so far provided by the Canons of the General Convention, may be prescribed by the Canons of the respective Dioceses.” Canon IV.1 (“Of Standing Committees”). This provision subordinating the canons of the dioceses to those of the Church was placed in the Constitution in 1901. Art. IV.

117. The Convention's exercise of authority over the conduct of the dioceses can be further seen in a wide variety of constitutional and canonical provisions. In 1795, it required that congregations could only be members of the diocese in which they were situated. Canon I ("Of Episcopal Visitation"). In 1856, Article II of the Constitution was amended to require that deputies elected by the dioceses to the General Convention be "Communicants in this Church."

118. The Convention has also set forth requirements and conditions for the formation and operation of parishes and other worshipping congregations under the oversight of the dioceses (such as in current Canon I.13, "Of Parishes and Congregation"), as well as detailed rules and procedures under which dioceses must select, train, ordain, deploy, and supervise the clergy of parishes and other worshipping congregations (found in current Const. Arts. VIII, X and Canons I.8, .12, .13; II.3; III.5-.12, .15).

119. The General Convention has also required each diocese to report regularly to the Church concerning its activities and official actions. Canon I.6(5)(a) requires dioceses to forward to the Secretary of the House of Deputies and to the Archives of the Church "immediately upon publication, two copies of the Journals of the Convention of the jurisdiction, together with Episcopal charges, statements, and such other papers as may show the state of the Church in that jurisdiction," while Canon I.6(4) requires dioceses to file annual reports "in the form authorized by the Executive Council" to that body. These canons date from 1804.

120. In 1916, the Convention implemented a series of provisions, first contained in Canon 50 ("On Business Methods in Church Affairs") and culminating in current Canon I.7, requiring parishes to adopt numerous business practices relating to such matters as audits of accounts, maintenance of adequate insurance for church property, ensuring the integrity of treasurers, and expanded reporting to the diocese.

121. In 1919, the General Convention required each diocese to establish a Finance Committee to ensure adequate fiscal oversight of the diocese and all its parishes and other congregations.

122. The General Convention in 1901 eliminated the last vestige of diocesan voting when it amended the Constitution to provide that amendments to the Constitution be adopted, not “in General Convention, by the Church in a majority of the States” as the Constitution of 1789 had provided (Art. 9), but by a majority in both Houses, the Deputies voting by orders. Art. XI.

C. Ordination Requirements

123. The Constitution was amended in 1901 to strengthen the clergy’s required “Declaration of Conformity” of 1789 by providing that each person to be ordained “solemnly engage to conform” to the “Discipline” of the Church in addition to its “Doctrine” and “Worship.” Art. VIII.

124. The General Convention has continually asserted its authority over ordination in other respects. In 1795, it established the procedures for candidates’ preparation for the ordained ministry. Canon VI (“Of the Preparatory Exercises of a Candidate for the Ministry”). In 1808, it set rules of conduct for candidates (Canon VIII (“Of the conduct required in Candidates for Orders”)); and in 1804, it first set rules, modified over time, regarding the ordination of candidates previously rejected for ordination (Canon IX (“Of Candidates Who May Be Refused Orders”)).

125. In 1795, the Convention also exercised authority over the education requirements for ordinands (Canon IV (“Of the Learning of those who are to be Ordained”)), further directing in 1801 that the House of Bishops establish a mandatory “Course of Ecclesiastical Study” for ordinands. JGC 1801 at 1: 268. Over time, those requirements have grown into an elaborate

system, reflected in Title III of the present canons, prescribing the required areas of theological education. Since 1970, every diocese has been required to have a Commission on Ministry to assist the bishop in the selection of persons for ministry, but here too, the power of such commissions is also limited by the Church's canons:

“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.” Canon III.2(3).

126. Numerous other ordination requirements set by the General Convention over time deal with such matters as age, health, prior education, testimonials, and minimum time frames for ordination. *See, e.g.*, Canons III.5, .6, .8.

D. Clerical Practices

127. The General Convention has continued to dictate clerical practices, adopting a canon in 1795 restricting clergy from ministering in the parish of other clergy without consent (Canon V (“Of the Officiating of Ministers of this Church in Churches or within the Parochial Cures of other Clergymen”)) and other canons in 1804 considerably expanding the requirement that clergy keep records of their sacramental actions (Canon XI (“Providing for an accurate view of the State of the Church from time to time”)); providing the required procedure for induction of rectors (Canon I (“Concerning the Election and Induction of Ministers into Parishes or Churches”)); and establishing rules for clergy desiring to move from one diocese to another (Canon III (“Concerning Ministers removing from one Diocese or State to another”)).

128. The Convention in 1804 also adopted canons governing procedures for resolving differences between clergy and congregations (Canon II (“Respecting the dissolution of all pastoral connection between Ministers and their Congregations”) and Canon IV (“Respecting differences between Ministers and their Congregations”)). The Convention's concern for the

responsibility of clergy with regard to Episcopal visitations culminated in a canon in 1832 setting forth their duties (Canon XXVI (“Of the duty of Ministers in regard to Episcopal Visitation”)).

129. The Twentieth Century brought important new requirements for clergy prescribed by the General Convention. In 1904, the Convention defined the role of parish rectors vis-à-vis lay vestry members stating:

“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 shall be designated, are to be regarded as under the authority of the Rector.” Canon 15.1(1) (“Of Ministers and their Duties”).

130. Finally in 1955, the General Convention adopted a mandatory retirement age (72) for all deacons and priests (having passed one for bishops earlier), and dictated the terms under which clergy could continue in limited employment thereafter. Canon 45.8 (“Of Ministers and their Duties”). Just as in the case for bishops, the General Convention claimed the authority to decide when and how ordained ministry should be ended as well as when and how it should begin.

E. Tenure of Church Property

131. Treatment of church property, a long-held Anglican concern, was incorporated into the early Church governance in a number of ways and has continued to be refined over the years.

132. The Anglican concern for the sanctity of Church property and its protection for the mission of the Church can be seen in the Church’s inclusion in its Book of Common Prayer in 1799 the service “The Form of Consecration of a Church or Chapel.” That rite, or “liturgy,”

formally set apart a church building for the sacred work of worship and has been included ever since.⁴⁸

133. The early versions of the Prayer Book adopted by the General Convention directed that the “Bishop, sitting in his chair, shall have the instruments of Donation and Endowment, if there be any, presented to him,” indicating that the property was being dedicated to the interests of the Church, and was being set apart from “all unhallowed, worldly and common use.” The “instruments of donation” that parishes used in the early Nineteenth Century stated that such property was being appropriated and devoted to the worship and service of God, according to the ministry and doctrine of The Episcopal Church and by a congregation in communion with the Church. BCP 1789 at 572.⁴⁹

134. These principles put into effect by the General Convention through the Prayer Book over time came to be expressed in the canon law of the Church as situations arose that required that such principles be made more explicit.

135. Thus, in 1868, the General Convention passed Canon I.21 (“Of the Consecration of Churches”), which provided as follows:

“I. No Church or Chapel shall be consecrated until the Bishop shall have been sufficiently certified that the building and ground on which it was erected have been fully paid for, and are free from lien or other incumbrance.

“II. It shall be not lawful for any Vestry, Trustees, or other body authorized by law of any State, or territory, to hold property for any Diocese, Parish, or Congregation, to incumber or alienate any consecrated Church or Chapel without the previous consent of the Bishop, acting with the advice and consent of the Standing Committee of the Diocese in which such Church or Chapel be situated.

⁴⁸ Massey Hamilton Shepherd, The Oxford American Prayer Book Commentary (New York: Oxford University Press, 1950) at 563-8.

⁴⁹ This ritual was removed from the Book of Common Prayer in 1979, but as will be shown, by that time the principle was firmly embedded in the Church’s canons.

“III. No consecrated Church or Chapel shall be removed, taken down, or otherwise disposed of for an “unhallowed, worldly, or common use,” without the previous consent of the Bishop, acting with the advice and consent of the Standing Committee of the Diocese in which such Church or Chapel may be situate.”

Section 1 of Canon I.21 was strengthened in 1871 to read as follows:

“I. No Church or Chapel shall be consecrated until the Bishop shall have been sufficiently certified that the building and ground on which it was erected have been fully paid for, and are free from lien or other incumbrance; and also such building and ground are secure, by the terms of the devise, or deed, or subscription by which they are given, from the danger of alienation from those who profess and practice the doctrine, discipline, and worship of the Protestant Episcopal Church in the United States of America.”

136. This language is currently found in Canon II.6. Three times during the Twentieth Century the General Convention acted to explicate rules concerning the tenure of Church property. In 1904, the Convention adopted a canon providing:

“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.” Canon 15.1(11) (“Of Ministers and their Duties”).

This language is currently found in Canon III.9.(5)(a).(2).

137. In 1940, the General Convention adopted Canon 57(4) (“Of Parishes and Congregations”) extending the earlier restrictions on alienation to all church real property:

“No Vestry, Trustee, or other Body, authorized by Civil or Canon law to hold, manage or administer real property for any Parish, Mission, Congregation, or Institution, shall encumber or alienate the same or any part thereof without the written consent of the Bishop and Standing Committee of the Diocese of which the Parish, Mission, Congregation or Institution is a part, except under such regulations as may be prescribed by Canon of the Diocese.”

This canon is now I.7(3).

138. A third canon concerning the treatment of property was set forth by the General Convention in 1979. New Canon I.6(4) (“Of Business Methods in Church Affairs”) (now Canon I.7(4)) clarified that all parish property was held in trust for the Church and the Diocese:

“All real and personal property held by or for the benefit of any Parish, Mission or Congregation is held in trust for this Church and the Diocese thereof in which such Parish, Mission, or Congregation is located. The existence of this trust, however, shall in no way limit the power and authority of the Parish, Mission, or Congregation otherwise existing over such property so long as the particular Parish, Mission or Congregation remains a part of, and subject to this Church and its Constitution and Canons.”

This canon is often referred to as the “Dennis canon” after its principle author, Walter Dennis, later Suffragen Bishop of New York, or “the 1979 Trust Canon.” Similar language was also added in what is now Canon II.6(4).

F. Clergy and Lay Discipline

139. In 1832, the General Convention in Canon XXXVII (“Of Offenses for which Ministers shall be tried and Punished”) amended earlier canons to specify the grounds on which priests and deacons could be disciplined, including “violation of the Constitution and Canons of [the] Church.” Dioceses were permitted to hold ecclesiastical trials, but only “until otherwise provided for by the General Convention”; thus, trial on the diocesan level was not an inherent right of dioceses, but a task delegated to them by the Convention. While such trials may still be conducted by diocesan courts, a plenary system for the diocese to follow is now prescribed by Title IV of the Church’s canons, and review of decisions of such trial courts has been conducted outside the dioceses by Courts of Review in the Provinces ever since the provincial system was established by canon (Canon 29 (“Of Courts of Review of the Trial of Presbyters and Deacons”)) in 1904.

140. In 1841, the General Convention by amendment to Article 6 removed the right to try bishops from the dioceses and gave it to the bishops themselves. It since has adopted Canon IV.5 (“Of the Court for the Trial of a Bishop”) and Canon IV.6 (“Of Appeals to the Court of Review of the Trial of a Bishop”) that set forth the procedure for trials of and appeals by bishops.

141. The General Convention has also made provision for the discipline of laity. The original Canon XII of 1789 (“Notorious Crimes and Scandals to Censured”) had provided that persons engaged in offensive conduct “be repelled from the Holy Communion”; and in 1817, Canon III (“For Carrying into Effect the design of the second Rubric before the Communion Service”) further specified the procedures to be followed in this regard, also providing that persons could be deprived of “all privileges of Church membership, according to such rules or process as may be provided by the General Convention.” Modern versions of the General Convention’s specifications are now set forth in the “additional directions” or “rubrics” of the Prayer Book (p. 409) and in Canon I.17(6).

142. The General Convention has exercised its authority over the laity through its rules concerning Holy Matrimony starting in 1808 when it passed a joint resolution determining that the Church “shall not unite in matrimony a person who is divorced, unless it be on account of the other party having been guilty of adultery.” JGC 1808 at 1: 348. A stronger statement was contained in the 1868 Canon II.13 (“Of Marriage and Divorce”); and in 1877, Canon II.13.3 added provisions against divorced persons receiving the sacraments without the consent of the bishop. Over time, such restrictions have been relaxed considerably, but the terms on which marriages can be performed in the Church are still prescribed in detail by the Convention in Canons I.17 and I.18.

143. Still another important way in which the Convention has exercised its authority over the laity is through the passage of non-discrimination legislation. In 1964, in the midst of the Civil Rights struggle, the canon respecting laity (“Of Regulations Respecting the Laity”) was amended to state:

“Every communicant or baptized member of the Church shall be entitled to equal rights and status in any Parish or Mission thereof. He shall not be excluded from the worship or Sacraments of the Church, nor from parochial membership, because of race, color, or ethnic origin.” Canon 16.

In 1994, the language was expanded to prohibit exclusion on the basis of “marital status, sex, sexual orientation, disabilities or age, except as otherwise specified by Canon.” Canon I.17(5). Similar language can be found in Title III.1(2) (“Of the Ministry of All Baptized Persons”), in which it is required that no person shall be denied access to the discernment for any ministry because of “race, color, ethnic origin, national origin, marital status, sex, sexual orientation, disabilities or age, except as otherwise provided by these Canons.”

G. The Church Pension Fund

144. The care of retired clergy and their families had been a long-standing concern for The Episcopal Church. Notwithstanding an ambitious capital campaign early in the Twentieth Century, the General Convention determined that a national pension system could not succeed unless contributions were mandated from every parish and other institution in the Church.⁵⁰ Hence, in 1916, Canon 56 (“Of the Church Pension Fund”) was adopted authorizing the newly-created “Church Pension Fund ... to levy upon and to collect from all parishes and congregations of the Church and any other societies or organizations in the Church ... assessments based upon the salaries of the clergymen employed by them respectively in the office and work of the

⁵⁰ Harold C. Martin, Outlasting Marble and Brass: The History of the Church Pension Fund (New York: Church Hymnal Corp., 1986) at 81ff.

Ministry.” The substance of this canon is now in Canon I.8(3). Contributions to the Pension Fund were thus not voluntary. Never before in its history had the Church mandated a payment from every congregation. Few actions by the General Convention show its authority over the temporal affairs of the Church as much as does the passage of the Canon forming the Church Pension Fund.

H. Conclusion

As demonstrated above, the General Convention has consistently acted as a body with supreme authority. Indeed, the recognition of the supremacy of General Convention was so taken for granted by 1901 that the revisers of the Constitution felt free to drop the language of the original Article 2 that bound dioceses to actions of General Convention even when their parties were not present. From their perspective, that passage from the old Constitution seemed anachronistic. With the exception (as will be seen) of the Civil War period, no diocese had failed to attend meetings of the General Convention since 1820, and the authority of the General Convention had never been challenged. The leading commentator on the revised Constitution, William J. Seabury, acknowledged as much:

“[The General Convention] has always, moreover, been regarded not only as a Legislature in the system, but as the Supreme Legislature therein. The inference was inevitable from provisions incorporated in Article 2, from the beginning, declaring that the Church in each Diocese adopting the Constitution shall be bound by the duly consummated acts of General Convention, whether such Diocese has been actually present by its Deputies in that body or not. No such provision appears in the amended Constitution. It is here presumed to have been taken for granted that, as this supremacy in legislation has been established from the beginning of the System, and had always been and still was acquiesced in by all the Dioceses, it was not necessary to continue the stipulation.”⁵¹

⁵¹ William J. Seabury, Notes on the Constitution of 1901 (New York: Thomas Whitaker, 1902) at 38 (emphasis added).

Seabury acknowledged that from the perspective of 1901, the Church had so developed organizationally (particularly as exhibited by those organizational principles highlighted in the revised Constitution itself) that the specific sanction found in the Constitution of 1789 was now superfluous.⁵²

Some have suggested that it was through certain developments of the early Twentieth Century—such as the formalization of the Office of the Presiding Bishop and the establishment of the Executive Council and the Church Pension Fund—that the Episcopal Church’s hierarchical nature became more pronounced.⁵³ This is to confuse the principle of hierarchy with the way in which it is administered. Indeed, these developments underscore the conclusion that the General Convention’s authority has always been unlimited, because these changes (with the exception of the election of the Presiding Bishop) have occurred without any changes in the

⁵² Some have recently asserted that the removal from the Constitution in 1901 of the provision that dioceses absent from a meeting of the General Convention “shall nevertheless be bound” by the acts of the General Convention suggests that the General Convention’s authority since then has not been supreme. As noted, this was not the opinion of commentators at the time. Furthermore, as we have seen, in 1901 a number of new Constitutional provisions were added in which the General Convention assumed, and asserted, its supremacy over the entire Church. There was a self-conscious concern to show the authority of General Convention. Indeed, when the original version of the amendments to the Constitution that would be ultimately adopted in 1901 was presented in 1895, it included a proposal to insert into the Constitution a provision reserving rights to the dioceses, which stated: “The powers not committed to the General Synod or Provincial Synods by the Constitution, nor prohibited by it to the Dioceses are reserved to the Dioceses respectively.” JGC 1895 at 649. This language was pointedly rejected and viewed as “revolutionary.” See John H. Egar, “General Convention or General Synod – Which?” *The Churchman*, September 14, 1895, at 279. The rejection of the proposal in combination with the new provisions adopted in 1901 that so clearly assume the supremacy of the General Convention prove that the deletion of the “shall be bound” provision merely reflected the fact that such language was no longer necessary because the principle was so deeply embedded in the Church.

⁵³ This is the point argued by Robert Prichard in “The Making and Re-Making of Episcopal Canon Law” (2010), available at www.anglicancommunioninstitute.com/2010/02/the-making-and-re-making-of-episcopal-canon-law/ at 2-4.

Constitution or any actions by the dioceses to expand the Convention's authority. This is evidently because the authority has existed from the beginning.

V. NINETEENTH-CENTURY COMMENTATORS UNEQUIVOCALLY VIEWED THE GENERAL CONVENTION AS THE SUPREME AUTHORITY IN THE EPISCOPAL CHURCH AND DIOCESAN ACCESSION AS IRREVERSIBLE.

145. Given the background of the formation of the General Convention and its actions in adopting and amending the Church's Constitution and canons over the years, as described in the foregoing parts of this statement, it is not surprising that a survey of Nineteenth-Century commentators on the ecclesiastical law of the Church reveals an unequivocal and unanimous view of the hierarchical nature of the Church and the lack of independence of its dioceses.⁵⁴

A. Supremacy of the General Convention

146. Francis Hawks, the first historiographer of The Episcopal Church and author of the first commentary on the Church's Constitution and canons, wrote in 1841 of the authority of the General Convention as reflected in Article 2 of its Constitution:

“[T]he rights of the whole united Church were protected with equal care. The union was not sacrificed to diocesan independence. If any diocese sees fit to neglect its privilege of representation, and sends no delegates, it is nevertheless, as much bound by the acts of the General Convention, as if it had its full complement of representatives in the House.”⁵⁵

The supremacy of the General Convention over the dioceses was axiomatic for Hawks and is a basic theme in his volume.

⁵⁴ This historical evidence is addressed only by Conger, in “The Concept of Hierarchy in the Episcopal Church of the Nineteenth Century.” Unfortunately, he dismisses most of the sources without analysis, misreads one (John W. Andrews, by ignoring his recognition that the General Convention was the “highest Council” of the “National Church”), ignores another (Francis Wharton), and instead relies on a passing line in Thomas Vail's The Comprehensive Church, a minor work of apologetics and not an academic review of polity.

⁵⁵ Francis L. Hawks, The Constitution and Canons of the Protestant Episcopal Church in the United States (New York: Sword, Stanford and Co., 1841) at 21.

147. Murray Hoffman was the best-known authority on the laws of The Episcopal Church in the first half of the Nineteenth Century. His Treatise on the Law of the Protestant Episcopal Church in the United States (1850) was often cited as the standard authority on church law. In it he described the power of the General Convention as follows:

“[T]he power of the Convention of 1789 involved the power of rendering the system of government stable and enduring. Its office was not to establish a fugitive coalition, but a perpetual union. It possessed the right of instituting and providing for the continuance of a body in which should reside all authority necessary for the purpose and commensurate with the object of the Church; a body of superior ultimate jurisdiction.”⁵⁶

148. In 1870, Francis Vinton, another Nineteenth-Century commentator and Professor of Ecclesiastical Polity and Canon Law at the Church’s General Theological Seminary, published the first full commentary since Hawks. Using a question-and-answer style, he asked, “What is the relation of the General Convention to the Diocesan Conventions?” To which he answered:

“It is that of a Supreme Legislature, whose Constitution is the fundamental Law of the Protestant Episcopal Church in the United States, and whose Canons either overrule or sanction the Canons of the several Diocesan Conventions.”⁵⁷

149. A fourth authority, Francis Wharton, a legal scholar, clergyman, and expert in both civil and canon law, wrote in the 1880s, addressing the topic of “Distribution of Sovereignty” as follows:

“After a careful and anxious scrutiny of the constitution and canons of our General Church, the power of General Convention seems to me unlimited, while

⁵⁶ Murray Hoffman, A Treatise on the Law of the Protestant Episcopal Church in the United States (New York: Stanford and Swords, 1850) at 110 (emphasis added).

⁵⁷ Francis Vinton, A Manual Commentary on the General Canon Law and the Constitution of the Protestant Episcopal Church in the United States (New York: E. P. Dutton & Co., 1870) at 62.

that of the Diocesan Convention is only that which the General Convention is pleased to concede.”⁵⁸

Wharton contrasted the circumscribed powers of the U.S. government in the national Constitution with the virtually unlimited powers of the General Convention in the Church’s Constitution:

“It would have been easy for the constitution of our Church to have limited the powers of the General Convention. We have several examples of such limitations in the constitution of the United States. Congress can pass no law taking away jury trials, or destroying the liberty of the press, or interfering with the right of the people to assemble together, or restraining religious liberty. It would have been within the power of those who framed our ecclesiastical constitution to have provided that General Convention shall pass no law depriving the dioceses of certain enumerated rights, or conflicting with certain leading sanctions of our faith. It would have been within their power, also, to have provided, in analogy with corresponding clauses of the constitution of the United States, that all legislative powers not expressly granted to the General Convention be reserved to the dioceses. So far, however, from these or similar limitations on the power of the General Convention being introduced, that power on the face of the constitution is unlimited.” *Id.* at 2: 400.

150. Still another expert analyst of Episcopal Church law was John W. Andrews, a lawyer and leading layman from Ohio, whose work was regularly cited as authoritative. In an 1883 work, he wrote:

“From the foundation of Christianity there never has been a Church without a body in which resided the ultimate and absolute power of government....When then, in 1789 the whole Church of the United States, through its competent representatives, declared, ‘there shall be a General Convention of the Protestant Episcopal Church in the United States,’ it enunciated the great principle that it was a National Church, and that such a Convention was to be its highest Council.”⁵⁹

⁵⁸ This essay, “How Far We Are Bound by English Canons,” forms part of the appendix of William Stevens Perry, ed., The History of the American Episcopal Church 1587-1883, 2 vol. (Boston: James R. Osgood and Co., 1885) at 2: 400.

⁵⁹ John W. Andrews, Church Law: Suggestions on the Law of the Protestant Episcopal Church in the United States of America, Its Sources and Scope (New York: T. Whittaker, 1883) at 85.

151. Yet another legal expert was Hill Burgwin, the author of many learned articles on the polity and laws of The Episcopal Church and Chancellor of the Diocese of Pittsburgh from 1887 to 1895. In “The National Church and the Diocese,” he wrote, in 1885:

“1st. That our National Church within the proper scope of ecclesiastical legislation, and subject to the Divine law and that of the One Catholic Church is under no restriction or limitations, whatsoever, as to its power of legislation.

“2d. That our Dioceses are the creation of the National Church, and have no absolute, reserved or organic rights, nor any of which they may not be deprived in due legal course of legislation, by the National Church.”⁶⁰

152. Finally, in 1912, William J. Seabury, Professor of Ecclesiastical Law at the General Theological Seminary and author of An Introduction to the Study of Ecclesiastical Polity, described the power of the General Convention as follows:

“The common government [of the Church]...has direct and immediate authority over the individual members of its component parts and dependencies. This authority results from the provisions of the Constitution whereby the acts of General Convention, constitutionally performed, are made obligatory upon the Church in each Diocese, whether the consent of such church has been given or not (Art. 2); and whereby such acts so performed are declared to have the operation of law.”⁶¹

B. The Binding Nature of Diocesan Accession

153. The question of whether dioceses have the right to leave The Episcopal Church, or to nullify or withdraw their accession to the Constitution of the Church was a topic from time to time discussed by scholars in the Nineteenth Century. The following is a summary and

⁶⁰ Hill Burgwin, “The National Church and the Diocese,” American Church Review 45 (April, 1885) at 424.

⁶¹ William J. Seabury, An Introduction to the Study of Ecclesiastical Polity, 2nd ed. (New York, 1912) at 264.

analysis of these discussions – firmly and overwhelmingly rejecting any such right by the dioceses.

154. Francis Hawks, who, as noted above, wrote the first commentary on the Constitution and canons, explained that union was perpetual. In listing the rights surrendered when a diocese acceded to the Constitution and came into union with the General Convention, he named as the first:

“Such an exercise of independency as would permit them to withdraw from the Union at their own pleasure, and without the assent of other dioceses.”⁶²

While in other respects protective of diocesan authority, on the issue of secession he was adamant that dioceses could not leave without the consent of the General Convention.

155. Murray Hoffman in his Treatise on the Law of the Protestant Episcopal Church in the United States had emphasized the authority of the general Church and referred, as previously noted, to the work of 1789 as the creation of a “perpetual union.” He specifically addressed the question of secession in 1863 in a separate work in which he affirmed Hawks and added:

“Before the ratification of the Constitution, there was no bond holding the Churches of this continent together, but the bond of a common faith. The work begun in 1784, and consummated in 1789, constituted a National Church; bound every member of the Church in every diocese which then or hereafter adhered to it, to one strict system of duties and obligations.”⁶³

156. Francis Vinton addressed the question of secession in his 1870 work, and under the category, “Admission of New Dioceses,” he asked:

⁶² Hawks, The Constitution and Canons of the Protestant Episcopal Church in the United States at 10-11.

⁶³ Murray Hoffman, Remarks Upon the Question of What is Schism? According to the Law of the Protestant Episcopal Church in the United States of America (New York: Edmund Jones and Co., 1863) at 18-19.

“Q. How may a New Diocese be admitted into union with the other Dioceses and with General Convention?”

“A. By ‘acceding’ to the Constitution and Canons of the Protestant Episcopal Church in the United States.

“Q. Does the act of ‘acceding’ to the Constitution imply the right of any Diocese to secede from the union established by the Constitution?”

“A. No. Dr. Hawks says, ‘The several Dioceses surrendered...such an exercise of independency as would permit them to withdraw from the union at their own pleasure, and without the assent of the other Dioceses.’”⁶⁴

157. The expert analyst John W. Andrews in Appendix C (“Of the Constitution”) of his Church Law (at 101), also reiterated and quoted this principle enunciated by Hawks.

158. The same principle was articulated in an 1885 monograph by S. Corning Judd, a leading authority on Church law and Chancellor of the Diocese of Chicago, who wrote a commentary on Hawks, “Notes Upon Dr. Hawks’s Comments on the Constitution.” In it, he reprinted Hawks’s statement on dioceses being bound and approved of Hawks’s assertion that dioceses could not leave the Church by saying:

“The churches in the several States, having once united and consented to jurisdiction on the terms and conditions specified in the general constitution, the authority of the General Convention...became supreme save as otherwise provided in the constitution.”⁶⁵

159. One suggestion contrary to the assertion that dioceses could not secede appeared in a report to the Diocese of Virginia in 1878. Some in the Diocese during the decade of the 1870s had complained about the growth of ritualistic practices in the larger Church, and a study was commissioned, “On Diocesan Autonomy and Federal Relations,” in which it was asserted

⁶⁴ Vinton, A Manual Commentary on the General Canon Law and the Constitution of the Protestant Episcopal Church in the United States at 143 (emphasis added).

⁶⁵ William Steven Perry, The History of the American Episcopal Church, 2 vols. (Boston: James R. Osgood and Co., 1885) at 2: 404.

that the Diocese had the right to leave. In support of its assertion, this report invoked political principles of secession which were dear to the hearts of unreconstructed Virginians, but had little to do with the polity of the Church. This report was never approved or adopted by the Diocese, but, as shown below, ironically served to prompt others in the Church to state what would be the result of such an attempt.

160. The first such response is found in a study commissioned by the Diocese of Pennsylvania which carefully outlined the organization of the Diocese and its relationship to the General Convention and concluded:

“[W]e hold it to be a fundamental rule of law governing the Episcopal Church and every other religious body in Pennsylvania that while individual members may separate from our Church and decline any further communion with us, according to the dictates of their own consciences, no Congregation or Diocese can undertake to depart in form of worship, discipline, or essential Articles of Faith, as established by the General Convention ..., without imperiling not only their Church membership and organization as a part of the Episcopal Church, but also the rights of property in the Church edifices and other possessions which have been conferred upon them by members of our communion, which they hold in trust, to use the same for purposes of worship adopted by the General Convention..., which it would be a clear misappropriation to use for any other purpose.”⁶⁶

Thus, in this view, a diocese that attempted to sever its connection with the General Convention would lose its property, which was held in trust for the larger Church, and a diocese could no more secede from the larger Church than a parish could secede from its diocese.

161. A similar point was made by another legal expert referred to above, Hill Burgwin, Chancellor of the Diocese of Pittsburgh, in “The National Church and the Diocese.” Burgwin argued that the Virginia assertion was wrong on both historical and legal grounds and outlined

⁶⁶ Journal of the Proceeding of the Ninety-Fifth Convention of the Protestant Episcopal Church in the Diocese of Pennsylvania (Philadelphia, 1879) at 292-293.

what would be the consequences, including those relating to diocesan property, of any attempt for a diocese to withdraw from the larger Church:

“But suppose ... that the Convention of a Diocese...should...resolve to withdraw from Union with the National Church, and thereupon set up an independent organization, what would be the ecclesiastical and civil status of the different parties concerned? As to the former, all those who should remain faithful to the National Church, whether as individuals or Parishes, however small a remnant, ... would compose the Protestant Episcopal Church in that Diocese; if not strong enough to organize themselves as a Diocese, they would be taken under the fostering care of the National Church, and perhaps be organized temporarily as a Missionary Jurisdiction.

“As to the others, their act would be that of individuals only, being beyond the scope of their powers as members of the Convention. It would be of no legal effect, and the Diocese would still remain potentially, and when subsequently reorganized, actually in Union with the National Church, while any subsequent organization of the majority would be simply schismatical, especially after their Bishop had been deposed, as he would be at once.

“Not only would this be the ecclesiastical status of all the parties as held by the National Church, but they would be regarded in the same light by the civil law, and with this most important consequence, that all the property in the Diocese held in trust for Church purposes, whether by the Diocese at large, by Parishes, or by any other corporations or individuals, would remain for the use and benefit of those whom the law held to be, though in a minority, yet members of the ... Church ..., and her lawful representatives in the Diocese concerned. The Courts would permit no property to be diverted by any unlawful schism, ... from the purposes of the original trust,”⁶⁷

162. Even those commentators who argued for other rights of dioceses recognized that an attempted act of secession would be unavailing. A. S. Richardson, an Episcopal layman from the Diocese of Texas, in 1886 argued that if a diocese refused to accept a decision by the General Convention, the results would be severe, particularly as to diocesan property:

“The Diocese might be deprived of its church buildings and other property, as under the laws of the land it might, and probably would be held to belong to the

⁶⁷ Burgwin, “The National Church and the Diocese” at 454-455.

organization adhering to the General Convention, as being ‘the representative of the Protestant Episcopal Church in the United States of America.’”⁶⁸

163. So unthinkable has it been for Episcopalians for a diocese to claim the right to leave the Church that after the 1880s the topic was never again seriously discussed until the present period.

VI. THE CASE OF THE PROTESTANT EPISCOPAL CHURCH IN THE CONFEDERATE STATES OF AMERICA DOES NOT SUPPORT PRESENT-DAY SECESSIONIST CLAIMS.

164. Some have claimed that the experience of The Episcopal Church during the Civil War provides support for the right of dioceses to withdraw from the General Convention.⁶⁹ Such is not the case. From the Southern perspective, no right was ever asserted. Rather, Southern Episcopalians claimed that political changes had forced them to take action. The earliest statement by a Southern bishop on how the secession of the southern states would impact the Episcopalians in the South was by the Rt. Rev. Leonidas Polk, Bishop of Louisiana, and was issued in January of 1861. Far from invoking any principle of diocesan sovereignty, Bishop Polk noted that it was the political decision by Louisiana to separate from the Union that led to the present situation:

“The State of Louisiana having, by a formal ordinance, through her Delegates in Convention assembled, withdrawn herself from all further connection with the United States of America, and constituted herself a separate Sovereignty, has by that act, removed our Diocese from within the pale of ‘The Protestant Episcopal Church in the United States.’”⁷⁰

⁶⁸ A. S. Richardson, “Can the General Convention Prescribe the Qualifications of Members of Diocesan Convention?” Church Review 48 (August, 1886) at 141.

⁶⁹ This claim is found in Conger, “The Concept of Hierarchy in the Episcopal Church of the Nineteenth Century,” pp. 7-11; Wantland, Affidavit in The Episcopal Church in the Diocese of Connecticut v. Ronald S. Gauss ¶ 7.

⁷⁰ Journal of the Twenty-Third Annual Convention of the Protestant Episcopal Church in the Diocese of Louisiana (New Orleans, 1861) at 30.

Such a forced separation was based on secular political, not theological, factors. For Polk, it was like the situation that occurred at the end of the American Revolution. Political changes forced the reorganization of the Church so that the liturgy could be revised to reflect the new situation:

“Our separation from our brethren of ‘The Protestant Episcopal Church in the United States’ has been effected because we must follow our Nationality. Not because there has been any difference of opinion as to Christian Doctrine or Catholic usage. Upon these points we are still one. With us it is a separation, not division, certainly not alienation. And there is no reason why, if we should find the union of our Dioceses under one National Church impracticable, we should cease to feel for each other the respect and regard with which purity of manners, high principles and manly devotion to truth, never fail to inspire generous minds. Our relations to each other hereafter will be the relations we both now hold to the men of our Mother Church of England.” *Id.* at 31.

Although Polk was one of the leading Episcopal supporters of the Confederacy, eventually taking the rank of General and dying in combat in Georgia during the war, he nowhere invoked any inherent right of secession by a diocese of the Church.

165. The Bishop of South Carolina expressed a similar view of the Church in 1862:

“[I]t is my judgment that the Constitution of the Church in the United States made citizenship in the United States a condition precedent and necessary in membership in that body; that no citizen, holding and owing allegiance to a foreign power, could be a member of that General Convention....This idea of citizenship being necessary to jurisdiction, has always fully pervaded the English Church; and from that Church they, who sat in the Convention of 1789, and framed the Constitution.”⁷¹

166. Such language shunning church division should not be surprising. As has been noted, a prayer against schism or church division was one of the oldest in the Book of Common Prayer. It was liturgically recited at least once a week. This reinforcement of the sinfulness of

⁷¹ Journal of the Proceedings of the Seventy-Third Annual Convention of the Protestant Episcopal Church in South Carolina (1862) at 24.

willful church division lay behind Polk's distinction between a separation forced upon a church because of political factors and a voluntary decision to divide the Church.

167. Nor is there any evidence from the Northern side of any right of secession. Since Northern church leaders did not acknowledge the legitimacy of political secession, they did not recognize the organization of a Southern Episcopal Church. The actions of the General Convention clearly showed that it did not recognize the departure of the Southern dioceses. At the meeting of the General Convention in 1862, there was no recognition that the absent Southern Dioceses had separated from the Church - they were listed in the roll call (JGC 1862 at 26); their bishops were merely noted among the list of bishops as "absent," (*id.* at 16), and the Southern clergy were included in the appended list of clergy (*id.* at 282). In the House of Deputies, a claim that the Southern dioceses were absent because of willful separation (and hence guilty of the sin of schism) was formally rejected, and the absence of the Southern dioceses was left unexplained.⁷²

168. At the meeting of the General Convention in 1865, representatives of two Southern dioceses (North Carolina and Texas) were welcomed and resumed active participation, with no re-admission ritual that would have signified that the Church had been divided. JGC 1865 at 38. Furthermore, at this meeting, a proposal was made to divide the Church into geographical provinces, and the provinces proposed included other Southern dioceses that had not yet sent Deputies to the meetings of the General Convention. *Id.* at 49.

⁷² See Robert Bruce Mullin, "After Establishment What? The Paradox of the History of the Episcopal Church in America," in Douglas A. Sweeney and Charles Hambrick-Stowe, ed., Holding on to the Faith: Confessional Traditions in American Christianity (Lanham, MD: University Press of America, 2008) at 96-100.

169. In all this, there was no talk indicating that the oath of acceding to the Constitution could be or was abrogated.⁷³ The end of the Civil War led Southern Episcopalians not to accede anew, which might have made sense if accession were only like a voluntary treaty between equals, but simply to return to membership in the General Convention on the basis of their previous unbroken accession. The period of secession was a period of the forced separation of the Church, but not its division. Thus, we see that the Diocese of Virginia in its Convention of 1866 simply voted to resume its active “relations with” the General Convention:

“Whereas, the conditions which rendered necessary the separate organization of the Southern diocese no longer exist, and that organization has ceased by the consent and action of the Dioceses concerned; and whereas, the Diocese of Virginia, unchanged as are her principles, deems it most proper, under the existing circumstances, to resume her interrupted relations with the Protestant Episcopal Church in the United States: therefore,

“Resolved, That the Diocese do accordingly now resume its connection with the General Convention of the Protestant Episcopal Church in the United States, and that the Bishop be requested to send a copy of this preamble and resolution to the Presiding Bishop, and one to the Secretary of the house of clerical and lay deputies.⁷⁴

170. Thus, throughout the Nineteenth Century, both theory and practice rejected the idea that a diocese might willfully leave the larger Church on the basis of supposed diocesan independence.

⁷³ If, as McCall claims, that accession was like a treaty between two sovereign powers which could be broken by either party, one would expect to see some discussion of requiring anew the oath of accession.

⁷⁴ The Journal of the Seventy-First Annual Council of the Diocese of Virginia (1866) at 29 (emphasis added).

CONCLUSION

171. The Episcopal Church has been hierarchical from its very beginning, with the General Convention at its apex. The hierarchical principle has been more fully formulated over the years, but was present from the very beginning. The Church is the child of a hierarchical church, the Church of England, and has attempted to continue that sense of hierarchy in a way that reflected democratic political principles. It is also clear that from the beginning the hierarchical principle was understood in a different manner from that in other churches. Final ecclesiastical authority was not vested in a monarch, a primate, or even a Constitution, but in the General Convention. But it was a hierarchical principle nonetheless.

172. The General Convention – with its House of Bishops and House of Clerical and Lay Deputies – represents the highest authority within the Church. It determines the Book of Common Prayer and who shall be bishops in the Church. Its legislation instructs on education, clerical responsibilities, rules for ordination, discipline, and many other vital matters. Over the history of the Church, it has been the final authority. The relationship of the General Convention to the Constitution of the Church is fundamentally different from the relationship of the Federal Government to the U.S. Constitution. The General Convention was the author of the Church's Constitution and alone has the power to amend it, and its legislative actions are not limited by the Constitution, as is the case in the Federal system.

173. Contrary to those who stress the similarities between the Church's Constitution and that of the United States, what is far more striking are their dissimilarities. The Constitution contains none of the federal language found in the U.S. Constitution. It neither limits the power of the General Convention nor explicitly reserves any powers to the dioceses or states. From its very beginning, the General Convention has been free to legislate in areas not mentioned in the

Constitution. It has legislated on issues of education, discipline, and ordination requirements and has dictated how congregations and dioceses are to operate.

174. This sole unqualified authority of the General Convention was regularly recognized by earlier commentators. They affirm that the General Convention had supreme authority over every unit of the Church.

175. We have also seen that there is virtually no tradition in the history of the Church claiming the right of dioceses to voluntarily withdraw from the General Convention, and, indeed, the overwhelming testimony of the commentators surveyed rejected any such action. The Church was united and central by purpose, because in only that way could it be The Protestant Episcopal Church in the United States of America. It was to be “a perpetual union” according to the great legal expert Murray Hoffman, and only in so doing could it fulfill its mission.⁷⁵

176. The authority of the General Convention is the center of the hierarchical nature of The Episcopal Church. Its authority gives unity and leadership to the Church. It was the case in the 1780s. It has continued to develop over the course of intervening years, and it is the case today.

⁷⁵ Hoffman, A Treatise on the Law of the Protestant Episcopal Church in the United States of America at 114.

EXHIBIT D

CAUSE NO. 141-237105-09

THE EPISCOPAL CHURCH ET AL.,)	
)	IN THE DISTRICT COURT OF
Plaintiffs,)	
)	
AND)	
)	
MARGARET MIEULI ET AL.,)	
)	
Third-Party Defendants and)	
Counterclaimants,)	TARRANT COUNTY, TEXAS.
)	
v.)	
)	
FRANKLIN SALAZAR ET AL.,)	
)	
Defendants.)	141 st JUDICIAL DISTRICT

SECOND AFFIDAVIT OF MARK DUFFY

Before me, the undersigned authority, personally appeared **Mark Duffy**, who, being by me duly sworn, deposed and said:

1. My name is Mark Duffy. I am of sound mind, capable of making this Affidavit, and have personal knowledge of the facts herein stated.

2. I am the Canonical Archivist and Director for The Episcopal Church. It is my duty to acquire, organize, authenticate, and preserve various documents filed in the Archives of The Episcopal Church.

3. I am the custodian of the records of the Archives of The Episcopal Church. Each of the documents attached as an exhibit hereto is kept by The Episcopal Church in the Archives of The Episcopal Church in the regular course of business, and for each document it was the regular course of business of The Episcopal Church for an employee or representative of The Episcopal Church with knowledge of the act, event, condition, or opinion recorded to make the record or to transmit information thereof to be included in such record, and the record was made

at or near the time or reasonably soon thereafter. Pursuant to Canons of The Episcopal Church I.1(5), I.1(6), and I.5, each of the documents attached as an exhibit hereto is required to be filed in the Archives of The Episcopal Church. The records attached hereto are exact duplicates of the originals.

4. Attached hereto as Exhibit 1 is a true and correct copy of the Constitution & Canons for the Government of the Protestant Episcopal Church in the United States of America Otherwise Known as The Episcopal Church (Church Publishing Inc., 2009).

5. Attached hereto as Exhibit 2 is a true and correct copy of the revised Title IV in effect until July 1, 2011.

6. Attached hereto as Exhibit 3 are true and correct copies of excerpts from The Episcopal Church Annual (Morehouse Church Resources, 2010).

7. Attached hereto as Exhibit 4 are true and correct copies of 1785, 1786, and 1789 Journals of the General Convention, collected in Journals of the General Conventions of the Protestant Episcopal Church in the United States of America, from the Year 1784, to the Year 1814, Inclusive (Philadelphia: John Bioren, 1817).

8. Attached hereto as Exhibit 5 are true and correct copies of excerpts from *The Book of Common Prayer* (New York: The Church Hymnal Corporation, September 1979).

9. Attached hereto as Exhibit 6 are true and correct copies of excerpts from the 1979 Journal of the General Convention.

10. Attached hereto as Exhibit 7 are true and correct copies of excerpts from the 1868 Journal of the General Convention.

11. Attached hereto as Exhibit 8 are true and correct copies of excerpts from the 1940 Journal of the General Convention.

12. Attached hereto as Exhibit 9 are true and correct copies of excerpts from the 1904 Journal of the General Convention.

13. Attached hereto as Exhibit 10 is a true and correct copy of the Deposition of the Right Rev'd Robert W. Duncan dated September 19, 2008.

14. Attached hereto as Exhibit 11 is a true and correct copy of the Resolution adopted by the Executive Council at its meeting on June 11-14, 2007.

15. Attached hereto as Exhibit 12 are true and correct copies of excerpts from the 1838 Journal of the General Convention.

16. Attached hereto as Exhibit 13 are true and correct copies of excerpts from the 1895 Journal of the General Convention.

17. Attached hereto as Exhibit 14 are true and correct copies of excerpts from the 1895 Constitution of the Diocese of Dallas.

18. Attached hereto as Exhibit 15 are true and correct copies of excerpts from the 1896 Canons of the Diocese of Dallas.

19. Attached hereto as Exhibit 16 are true and correct copies of excerpts from the Minutes of the June 18, 1982, Special Convention of the Diocese of Dallas.

20. Attached hereto as Exhibit 17 are true and correct copies of excerpts from the 1982 Journal of the General Convention.

21. Attached hereto as Exhibit 18 is a true and correct copy of the Constitution & Canons for the Government of the Protestant Episcopal Church in the United States of America Otherwise Known as The Episcopal Church (Seabury Prof'l Servs., 1979).

22. Attached hereto as Exhibit 19 is a true and correct copy of The Proceedings of the Primary Convention of the Episcopal Diocese of Fort Worth (1982).

23. Attached hereto as Exhibit 20 is a true and correct copy of the Journal of the Eighty-Seventh Annual Meeting of the Diocese of Dallas (1982).

24. Attached hereto as Exhibit 21 are true and correct copies of excerpts from the 1982 Constitution and Canons of the Episcopal Diocese of Fort Worth.

25. Attached hereto as Exhibit 22 is a true and correct copy of the Declaration of Conformity executed by the Rt. Rev. A. Donald Davies.

26. Attached hereto as Exhibit 23 is a true and correct copy of the Declaration of Conformity executed by the Rt. Rev. Clarence C. Pope.

27. Attached hereto as Exhibit 24 is a true and correct copy of the Declaration of Conformity executed by the Rt. Rev. Jack Leo Iker.

28. Attached hereto as Exhibit 25 are true and correct copies of excerpts from The Proceedings of the Seventh Annual Convention of the Episcopal Diocese of Fort Worth (Oct. 6-7, 1989).

29. Attached hereto as Exhibit 26 are true and correct copies of excerpts from the Journal of the Special Diocesan Convention (Sep. 27, 2003).

30. Attached hereto as Exhibit 27 are true and correct copies of excerpts from the 1985, 1988, 1991, 1994, 1997, 2000, 2003, and 2006 Journals of the General Convention.

31. Attached hereto as Exhibit 28 are true and correct copies of excerpts from the Journal of the Twelfth Annual Meeting of the Diocese of Fort Worth (Oct. 7-8, 1994).

32. Attached hereto as Exhibit 29 are true and correct copies of excerpts from the Journal of the Episcopal Diocese of Fort Worth 2006.

33. Attached hereto as Exhibit 30 are true and correct copies of excerpts from the Journal of the Tenth Annual Meeting of the Diocese of Fort Worth (Oct. 2-3, 1992).

34. Attached hereto as Exhibit 31 are true and correct copies of excerpts from The Order of Service for the Ordination and Consecration of the Reverend Jack Leo Iker to be a Bishop in the Church of God and Bishop Coadjutor of the Diocese of Forth Worth.

35. Attached hereto as Exhibit 32 are true and correct copies of excerpts from the Journal of the Thirteenth Annual Meeting of the Diocese of Fort Worth (Nov. 3-4, 1995).

36. Attached hereto as Exhibit 33 is a true and correct copy of the Renunciation of Ordained Ministry and Declaration of Removal and Release of the Rt. Rev. Jack Leo Iker dated December 5, 2008.

37. Attached hereto as Exhibit 34 are true and correct copies of forms signed by Bishop Edwin F. Gulick (Oct. 15, 2009) and the members of the Standing Committee of the Diocese of Fort Worth (Nov. 12, 2009) consenting to the ordination and consecration of Scott A. Benhase to be the Bishop of the Diocese of Georgia.

38. Attached hereto as Exhibit 35 are true and correct copies of excerpts from The Episcopal Church Annual (Morehouse Church Resources, 2009).

39. Attached hereto as Exhibit 36 is a true and correct copy of the Constitution & Canons for the Government of the Protestant Episcopal Church in the United States of America Otherwise Known as The Episcopal Church (Church Publishing Inc., 2006).

40. Attached hereto as Exhibit 37 are true and correct copies of excerpts from The Episcopal Church Annual (Morehouse-Barlow Co., 1984).

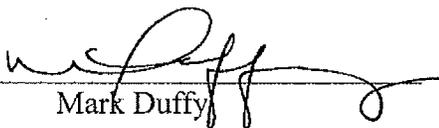
41. Attached hereto as Exhibit 38 are true and correct copies of excerpts from the Proceedings of a Convention of the Clergy and Laity of the Protestant Episcopal Church in the State of Texas, 1849.

42. Attached hereto as Exhibit 39 are true and correct copies of excerpts from the 1850 Journal of the General Convention.

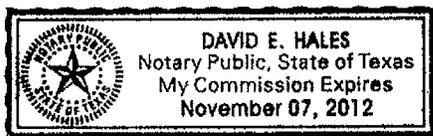
43. Attached hereto as Exhibit 40 are true and correct copies of excerpts from the Journal of the Twenty-Fifth Annual Council of the Protestant Episcopal Church in the Diocese of Texas, May 28-30, 1874.

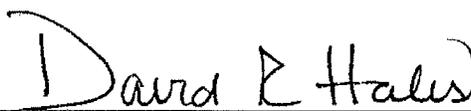
44. Attached hereto as Exhibit 41 are true and correct copies of excerpts from the 1874 Journal of the General Convention.

45. Attached hereto as Exhibit 42 are true and correct copies of excerpts from the Journal of the Fourth Annual Convocation of the Protestant Episcopal Church in the Missionary District of Northern Texas, May 30-June 1, 1878.


Mark Duffy

SUBSCRIBED AND SWORN TO BEFORE ME on this 13 day of October, 2010.

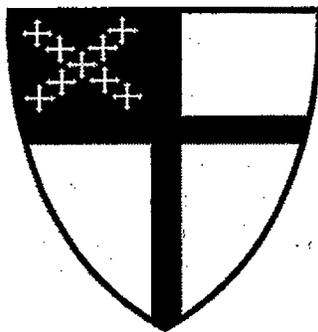



Notary Public in and for the State of Texas

TAB 1

The Episcopal Church Annual

2010



General Convention
Edition

HARRISBURG, PENNSYLVANIA

Table of Statistics of the Episcopal Church
 From 2008 Parochial Reports. Source: The Office of the General Convention as of January 2010

Province	DIocese	Parishes and Missions	Active Baptized Members	Commun. in Good Standing	Others Active in Cong.	Average Sunday Attendance	Church School Pupils	BAPTISMS Children Adults	CONFIRMATIONS Children Adults	Received	Marriages	Burials
Province 1	Connecticut	171	60,995	46,949	4,021	18,747	7,343	891 43	356 177	76	254	967
	Maine	66	13,189	11,006	922	4,804	1,200	179 16	34 57	39	83	305
	Massachusetts	179	66,866	52,953	3,571	19,351	8,039	1,182 49	313 136	97	325	1,133
	New Hampshire	47	14,501	10,971	870	4,234	1,419	211 27	41 78	58	101	258
	Rhode Island	58	22,455	16,734	1,997	6,078	2,116	410 24	67 82	28	147	410
	Vermont	47	7,488	5,986	960	2,765	736	108 20	16 36	35	72	185
	Western Massachusetts	67	18,727	12,683	1,182	5,611	1,794	322 20	73 109	67	99	401
Total		635	204,221	157,282	13,523	61,590	22,647	3,303 199	900 675	400	1,081	3,659
Province 2	Albany	118	18,391	13,647	750	6,991	1,776	289 48	76 123	50	116	384
	Central New York	94	16,754	12,471	980	5,260	1,292	246 39	82 84	41	112	395
	Churches in Europe	9	3,837	3,020	467	1,302	283	55 4	21 17	3	43	11
	Haiti	97	83,698	20,254	2,811	16,631	6,203	1,035 580	350 359	160	141	193
	Long Island	145	52,205	37,680	2,790	15,962	4,717	1,048 81	9 332	77	342	766
	New Jersey	155	49,496	36,630	3,917	15,412	5,501	834 94	443 193	238	305	817
	New York	198	62,684	46,820	6,285	20,459	5,829	1,108 115	445 251	142	439	902
	Newark	111	29,630	24,227	1,883	9,289	3,827	519 45	220 68	41	217	492
	Rochester	51	9,790	7,505	357	3,585	1,061	153 21	39 36	43	88	190
	Virgin Islands	14	5,034	3,711	35	2,041	823	123 0	95 7	37	21	104
	Western New York	63	12,809	9,802	377	4,452	1,187	199 19	58 58	45	110	309
	Total		1,055	344,328	215,767	20,652	101,384	32,499	5,609 1,046	1,838 1,528	877	1,934
Province 3	Bethlehem	60	12,654	9,396	962	4,121	1,231	194 26	62 66	62	85	255
	Central Pennsylvania	66	14,310	11,695	1,989	5,111	1,481	214 32	68 78	48	97	265
	Delaware	35	11,749	9,848	1,131	3,936	1,012	200 17	96 35	47	75	217
	Easton	39	8,723	7,072	1,004	3,112	895	164 16	70 45	28	96	185
	Maryland	113	42,726	32,067	2,971	11,878	4,913	635 71	210 158	54	284	673
	Northwestern Pennsylvania	34	4,145	3,519	218	1,761	365	82 15	8 24	10	48	131
	Pennsylvania	148	49,057	42,095	3,495	15,726	5,929	826 78	331 190	166	337	826
	Pittsburgh	66	19,148	15,726	1,618	7,193	2,119	194 13	78 27	21	96	214
	Southern Virginia	111	32,036	25,904	3,087	11,055	3,892	366 58	204 73	97	181	457
	Southwestern Virginia	57	11,210	9,709	1,824	4,408	1,339	142 8	60 688	37	75	210
	Virginia	183	79,167	65,717	10,243	25,026	9,624	1,166 74	688 198	281	451	887
	Washington	90	41,783	32,389	5,760	15,364	4,687	664 28	198 35	83	224	506
West Virginia	67	8,520	7,342	495	3,279	887	126 541	35 2,108	6	57	158	
Total		1,069	335,228	272,479	34,797	111,970	38,374	4,973 541	2,108 1,497	940	2,106	4,984

Province	DIOCESE	Parishes and Missions	Active Baptized Members	Commun. in Good Standing	Others Active in Cong.	Average Sunday Attendance	Church School Pupils	BAPTISMS		CONFIRMATIONS		Received	Marriages	Burials	
								Children	Adults	Children	Adults				
Province 6	Colorado	104	28,300	24,233	4,033	10,772	2,656	505	60	70	128	44	215	469	
	Iowa	62	10,188	7,652	347	3,193	1,142	163	21	39	62	34	79	207	
	Minnesota	106	23,806	19,714	1,670	7,935	2,960	344	37	45	135	58	174	377	
	Montana	41	5,357	4,442	455	1,827	517	56	13	27	31	11	34	120	
	Nebraska	57	8,235	6,987	329	3,153	873	119	17	42	49	40	74	161	
	North Dakota	21	2,596	2,058	97	804	430	45	1	25	3	17	18	44	
	South Dakota	77	9,733	5,367	277	2,224	594	247	11	48	23	44	37	223	
	Wyoming	45	7,385	6,406	511	2,220	645	108	19	39	44	43	85	158	
	Total	513	95,600	76,839	7,719	32,128	9,817	1,587	179	335	475	291	716	1,759	
	Province 7	Arkansas	56	13,559	11,696	832	4,684	1,263	150	17	66	110	29	78	190
		Dallas	69	32,580	28,632	2,186	11,826	4,451	564	62	341	223	87	151	339
		Fort Worth	55	17,457	13,600	1,268	6,745	2,099	190	25	76	82	13	40	144
		Kansas	45	11,668	10,405	952	4,311	1,052	179	21	64	98	34	73	188
		Northwest Texas	36	7,297	5,384	350	2,090	788	76	5	2	79	12	34	96
Oklahoma		71	16,141	13,959	1,036	5,697	1,426	256	38	43	147	74	114	324	
Rio Grande		53	12,306	10,204	1,636	4,572	810	166	41	40	91	33	63	236	
Texas		151	79,365	66,618	7,178	27,290	9,099	1,439	174	508	641	364	423	848	
West Missouri		50	11,501	9,457	1,043	4,289	1,116	150	40	58	99	64	83	188	
West Texas		90	27,565	20,653	2,296	9,907	2,868	418	64	239	233	122	155	404	
Western Kansas		31	2,113	1,710	291	801	174	35	6	8	15	4	12	49	
Western Louisiana		48	11,123	9,295	704	3,755	975	155	14	75	117	44	84	182	
Total		755	242,675	201,613	19,772	85,967	26,121	3,778	507	1,520	1,935	880	1,310	3,188	
Province 8		Alaska	50	7,208	5,581	319	1,783	540	149	19	13	13	4	48	159
	Arizona	59	24,945	20,412	3,890	9,044	2,116	497	78	95	124	56	101	373	
	California	81	27,142	23,633	1,889	9,001	3,208	489	51	105	74	36	232	366	
	Eastern Oregon	22	2,632	2,040	182	1,158	241	38	7	0	5	1	21	51	
	El Camino Real	50	13,750	11,386	915	4,750	1,313	211	31	103	63	71	86	223	
	Hawaii	38	7,761	6,348	440	3,321	686	189	35	39	66	25	81	186	
	Idaho	29	5,314	4,769	367	1,732	606	61	14	9	17	14	30	73	
	Los Angeles	144	64,953	49,119	6,230	19,991	5,630	1,028	152	320	293	99	410	632	
	Micronesia	4	555	221	12	138	31	4	0	0	0	0	4	2	
	Navajo Missions	8	612	429	27	200	71	40	3	0	0	0	5	20	
	Nevada	34	5,668	4,678	221	2,127	464	116	29	50	38	26	59	97	
	Northern California	69	14,008	12,236	884	5,694	1,310	253	46	43	84	19	112	278	
	Olympia	94	30,659	25,134	1,637	9,944	2,812	375	79	69	182	62	177	498	
	Oregon	74	18,791	14,714	1,313	6,924	1,793	234	52	75	80	57	107	326	
San Diego	51	18,330	15,728	1,718	7,204	2,028	298	30	49	77	43	98	290		
San Joaquin	19	2,246	1,795	298	896	169	28	10	1	13	6	14	43		
Spokane	41	6,792	5,811	431	2,293	538	91	13	5	26	1	50	159		
Taiwan	13	996	681	147	680	0	0	0	0	0	0	0	0		
Utah	23	5,250	4,301	318	1,612	561	90	23	22	44	20	44	87		
Total	903	257,612	209,016	21,238	88,492	24,117	4,191	672	998	1,199	540	1,679	3,863		

DIocese OF FORT WORTH

(PROVINCE VII)

Comprises 24 North Central counties

DIOCESAN OFFICE 3550 Southwest Loop 820 Fort Worth TX 76133

TEL (817) 921-4533 FAX (817) 926-8278

EMAIL edofw@att.net WEB www.episcopaldioocesefortworth.org

*Previous Bishops—*

A Donald Davies 1983-85,
 Clarence C Pope Jr 1986-94,
 Jack Leo Iker 1995-2008,
Edwin F Gulick Jr 2009
 (Provisional)

Provisional Bishop — Rt
Rev C Wallis Ohi (930)

Chanc K Wells PO Box 101174 Fort Worth TX
 76185-0174; *Dio Sec* Rev B Coggin; *Treas* P
 Allen III; *Hist* D Leedy; *Reg* L Johnson; *Ecum*
Off Rev JF Barber

Stand Comm— Cler: Pres C Jambor JF Barber D
 Madison; *Lay:* M Mieuli A Bass W Cabe

Admin Staff — Exec Sec Bp Joan McCauley;
Bookkeeper Linda Johnson; *Min Dev & Admin*
Off Demi Prentiss

Dio Conv: 13 Nov 2010 Fort Worth

PARISHES, MISSIONS, AND CLERGY

Arlington St Alban P holding services at
 Theatre Arlington 305 W Main St 76010
 (Mail: PO Box 13601 76079) Melanie Wright
 Sharla Marks (817) 715-2400

Fort Worth All Saints P § 5001 Crestline Rd
 76107-3699 Christopher N Jambor David
 Madison Melanie Barbarito Edwin Barnett
 Melvin A Bridge Johnson Shannon (817)
 732-1424

Fort Worth Christ the King P meeting at St
 Giles Presbyterian 8700 Chaplain Rd 76116
 (Mail: 2630 West Freeway #218 76102)
 ClayOla Gitane (817) 335-3838

Fort Worth Holy Apostles P meeting at McCall
 Elementary School 400 Scenic Trail Willow
 Park Texas 76087 (Mail: 1118 Fox Hunt Tr
 Willow Park 76087) ClayOla Gitane Dana
 Wilson

Fort Worth St Anne P Fort Worth 76179 (Mail:
 c/o Linda Johnson 7905 Sandy Shore Court)
 (817) 301-2942

Fort Worth St Christopher P § 3550 SW Loop
 820 76133 William T Stanford (817) 926-
 8277

Fort Worth St Elisabeth M 5910 Black Oak Ln
 76114 James Horton (817) 738-0504

Fort Worth St Lukes-In-The-Meadow P 4301
 Meadowbrook Dr 76103 Susan Slaughter
 (817) 534-4925

Fort Worth St Simon of Cyrene P meeting
 at St Christopher Episcopal Church 3550
 Southwest Loop 820 76133 (Mail: 5629
 Conlin Dr 76134) (817) 939-6693

Fort Worth Trinity P § 3401 Bellaire Dr S 76109
 J Frederick Barber Michael Caldwell Janet G
 Nocher (817) 926-4631

Granbury Good Shepherd P meeting at The
 Wednesday Women's Club 306 N Travis St
 76048 (Mail: PO Box 232) Frank Reeves
 (817) 326-3464

Hamilton St Mary M meeting at 600 E Main
 St 76531 (Mail: 830 CR 109) Stan Sullivan
 Linda Sutherland (254) 386-4412

Hillsboro St Mary M 206 N Abbott St 76645
 (Mail: 109 Corsicana) (254) 582-2255

Hurst St Stephens P meeting at Northeast
 Wedding Chapel 1843 Precinct Line Rd
 76054 (Mail: PO Box 54864) Vernon Gotcher
 (817) 688-2813

Keller St Martin P § 223 S Pearson Ln 76248
 James Reynolds (817) 431-2396

Stephenville St Luke P 595 N McIlhaney St
 76401 Calvin Girvin (254) 968-6949

Weatherford All Saints P meeting at McCall
 Elementary School 400 Scenic Trail Willow
 Park 76087 (Mail: 1118 Fox Hunt Tr Willow
 Park 76087) ClayOla Gitane Dana Wilson
 (817) 637-1820

Wichita Falls All Saints P meeting at the ARC
 3115 Buchanan 76308 (Mail: 2414 Lou Ln
 76301) (940) 692-0824

Wichita Falls Good Shepherd P meeting at
 St Stephen Episcopal Church 5023 Lindale
 76310 (Mail: 2851 Judson 76308)

Wichita Falls St Stephen M 5023 Lindale Dr
 76310 John Payne (940) 692-3982

Willow Park St Francis of Assisi P meeting at
 McCall Elementary School 400 Scenic Trail
 76087 (Mail: 1118 Fox Hunt Trail) ClayOla
 Gitane Dana Wilson (817) 637-1820

*The following congregations are in the process of
 reorganization, with temporary mail c/o Episcopal
 Diocese of Fort Worth, 3550 Southwest Loop 820,
 Fort Worth, Texas 76133:*

Alvarado St Anthony M

Arlington St Mark M

Arlington St Peter & St Paul M
 Arlington St Philip M
 Bedford St Vincent's M
 Bowie St Patrick M
 Breckenridge St Andrew M
 Bridgeport Ascension and St Mark M
 Brownwood Good Shepherd M
 Brownwood St John M
 Burkburnett St John the Divine M
 Cleburne Holy Comforter M
 Comanche St Matthew M
 Dublin Trinity M
 Eastland Holy Trinity M
 Fort Worth Iglesia San Juan Apostol M
 Fort Worth Iglesia San Miguel M
 Fort Worth St Andrew M
 Fort Worth St John M
 Fort Worth St Michael M
 Fort Worth St Timothy M
 Gainesville St Paul M
 Graham Holy Spirit M
 Grand Prairie St Andrew M
 Grand Prairie St Joseph M
 Grapevine St Laurence M
 Henrietta Trinity M
 Hubbard St Alban M
 Jacksboro St Thomas the Apostle M
 Keller St Barnabas M
 Laguna Park Our Lady of the Lake M
 Mansfield St Gregory M
 Mineral Wells St Luke M
 Possum Kingdom Lake St Peter-by-the-Lake M

NON-PAROCHIAL CLERGY

Allen RB *ret* Ft Worth TX
 Clark RN *ret* Ft Worth TX
 Coggin BW *ret* Fort Worth TX
 Fisher RE *ret* Santa Anna TX
 Hayden L *ret* Germantown TX
 Hazel JA Ft Worth TX
 Heverly E *ret* Roselle IL
 Honea B *ret* Ft Worth TX
 Huerta E *ret* Houston TX
 Keene J *ret* Lakeside TX
 Kesler WW *ret* Fort Worth TX
 Komstedt W *ret* The Villages FL
 Kreymer DN *ret* Santa Maria CA
 McClain S *ret* Ft Worth TX
 Moffat AD *ret* Wichita Falls TX
 Moore C *ret* Plano TX
 Morrow Q *ret* Lakeside CA
 Norwood JU *ret* Arlington TX
 Pool G Ft Worth TX
 Powell T *ret* Ft Worth TX
 Smith J *ret* Hurst TX
 Stanley JH *ret* Ft Worth TX

TAB 2

to the members of the Church in this country, through the medium of the Missionary Record. It is, however, painful to report that in answer to it, the sum of ——— only has been received.

In the month of June, of the current year, the Executive Committee resolved upon the establishment of a mission school in Liberia, for the education of the children of native Africans, and appointed Mr. James Thompson and wife, at present residing in Maryland, Liberia, teachers in the same.

Mr. Thompson is the author of the appeal from the Episcopalians at Monrovia for aid in the erection of their church. He is now acting as Secretary to the Colonial Agent, is a native of Demerara, was educated in England, and is represented by Dr. Hall as an uncommonly intelligent and truly pious man. He is evidently attached to the distinctive principles of the Episcopal Church, and for a considerable time past has officiated as a Lay Reader among the Colonists.

Mrs. T. was educated and brought up in the family of Mr. Galloway, of Hartford, Conn., is perfectly acquainted with the infant school system of education, and has acted as teacher in one of these schools in Philadelphia, with credit to herself and satisfaction to her employers. She also is a member of the Episcopal Church.

MISSION TO CHINA.

At the meeting of the Board in 1834, a resolution was adopted authorizing the establishment of a Mission to China.

On the 14th of July, 1834, the Rev. Henry Lockwood became connected with the Society as a Missionary to this station; and on the 23d of March, 1835, the Rev. Francis R. Hanson was appointed to the same field of labor.

On Tuesday, June 2d, the Missionaries embarked from New York in the ship Morrison, bound to Canton.

JOURNAL

OF THE PROCEEDINGS

OF THE BISHOPS, CLERGY, AND LAITY

OF THE PROTESTANT EPISCOPAL CHURCH

IN THE UNITED STATES OF AMERICA,

IN A GENERAL CONVENTION,

Held in the City of Philadelphia, from September 5, to September 17, Inclusive, A. D. 1838.

TOGETHER WITH

THE CONSTITUTION AND CANONS

FOR THE GOVERNMENT OF THE PROTESTANT EPISCOPAL CHURCH.

NEW-YORK: SWORDE, STANFORD & CO., No. 122 Broadway. 1838.



Wednesday, September 12, 1888, 9.50 A.M.

The House met pursuant to adjournment, and attended Divine service with the House of Clerical and Lay Deputies. Present, all the Bishops, except Bishop Hopkins.

The minutes of yesterday were read and approved.

A message was received from the House of Clerical and Lay Deputies, that they have appointed on their part: Rev. Dr. Hawks, Rev. Mr. McGuire, Rev. Dr. De Lancy, Mr. Eccleston, Mr. Tuckerman, and Mr. Stuyvesant, on the Joint Committee of Nomination for a Board of Missions.

A message was also received from that House, that they had concurred in the resolution of the Bishops, touching the time and place of the next General Convention, with the following amendment, in which they requested the concurrence of the House of Bishops:—"Resolved, That the next Triennial Convention of this Church be held in the city of New-York, on the first Wednesday of September, 1841." Whereupon, on motion of the Right Rev. Bishop McIlvaine, resolved, That this House do not concur in the proposed amendment. Information which was sent to the House of Clerical and Lay Deputies.

The Joint Committee on the memorials from Georgia, Florida, &c., reported as follows:

"The Joint Committee of both Houses, to whom have been referred the memorials from the Diocese of Georgia, and from the Delegates jointly of Georgia, Alabama, Louisiana, Mississippi, and Florida, after most attentive consideration of the matter committed to them, respectfully report, as follows:—

"Whereas, the Convention of the Diocese of Georgia, and the Delegation of that Diocese, and those of Alabama, Mississippi, Florida, and Louisiana, to this Convention, have submitted to the House of Bishops memorials, praying for Episcopal supervision, through the agency of Missionary Bishops; and whereas, the House of Bishops are not authorized by Canon to nominate Missionary Bishops for organized Dioceses, and at the same time are unwilling to withhold the means within their power of supplying them with Episcopal supervision; therefore, That a Missionary Bishop be appointed for the State of Arkansas, with permission to extend such provisional services to any or all of the Dioceses, as they may respectively request. And furthermore, That of these Dioceses be encouraged to ask for a Bishop, under the sanction of Canon I. of 1835; and that in every case of a Bishop being asked, where the Diocese making the petition is unable to give adequate support, the Missionary Board be hereby authorized to provide the deficiency till such time as the said Diocese shall have acquired support its Episcopate. Provided, that in all such cases, the Diocese receiving aid, shall contribute to the support of the Bishop a sum equal at least to that which is received from the Missionary Board.

"Respectfully submitted, and signed in behalf of the Joint Committee,
N. Bowen, Chairman.

The House proceeded to consider this report. Whereupon, resolved, That the preamble and resolutions reported be adopted. This resolution was sent, with the report, to the House of Clerical and Lay Deputies for concurrence.

The four following resolutions were then proposed by the Right Rev. Bishop Kemper, seconded by the Right Rev. Bishop McCoskry:—

I. Resolved, That the present Missionary Bishop exercise episcopal jurisdiction in the State of Missouri and the Territories of Wisconsin and Iowa, and in all other parts of the United States north of latitude 36½°, where the Church is as yet unorganized.

II. Resolved, That the Missionary Bishop to be appointed for the State of Arkansas, be authorized to extend his jurisdiction over all parts of the United States south of latitude 36½°, where the Church is as yet unorganized.

III. Resolved, That the application of the Church in Indiana, now before the Convention, be granted, and that that Diocese be placed under the jurisdiction of the Missionary Bishop of Missouri, &c., in the same manner that the southern Dioceses are authorized to place themselves under the jurisdiction of the Missionary Bishop of Arkansas.

IV. Resolved, That in case of the death or resignation of a Missionary Bishop, the presiding Bishop of this Church shall be authorized to request one of the neighbouring Bishops to take charge of the vacant Missionary Episcopate, until the meeting of the next General Convention.

These four resolutions were severally passed by this House, and sent to the House of Clerical and Lay Deputies for concurrence.

A message was received from the House of Clerical and Lay Deputies, that they have had under consideration the message of the Bishops, stating their non-concurrence in the amendment touching the time of meeting of the next Convention, and have resolved to request a Committee of Conference on the subject; and should the House of Bishops assent, the Committee of that House appointed are Dr. Hanshaw, Dr. Lyell, Mr. Freeman, Messrs. Meredith, Donaldson, and Ogden. This House agreed to the conference, and appointed on their part the Right Rev. Bishops Bowen, Brownell, and McIlvaine: notice of which was sent to the House of Clerical and Lay Deputies.

A message was received from the House of Clerical and Lay Deputies, that they have had under consideration the message of the Bishops, proposing the appointment of a Joint Committee, to report at the next General Convention a Canon prohibiting Mar-

TAB 3



JOURNAL OF THE GENERAL CONVENTION

of the Protestant Episcopal Church
in the United States of America

-otherwise known as

the episcopal church

Held in New Orleans, Louisiana, from September Fifth to Fifteenth,
Inclusive, in the Year of Our Lord 1982

1982



A120

STRUCTURE

The President recognized Bishops Sanders and Gates.

Division of the Diocese of Dallas

House of Bishops

On the fourth day, the Bishop of West Virginia, Chairman of the Committee on the Admission of New Dioceses, moved the adoption of Resolution B-18 (Division of Dallas).

Seconded by the Bishop Suffragan of Dallas.

Motion carried
HB Message #56

On a point of personal privilege, the Bishop of Dallas announced his intention to be the Diocesan of the new diocese.

House of Deputies

On the seventh day, the Chairman of the Committee on New Dioceses, under Rule XII.45, requested that the House proceed immediately to consider its Report #7, on Resolution B-18 (Division of the Diocese of Dallas). The Committee recommended concurrence with House of Bishops Message #56, and that the resolution be adopted without amendment.

[B-18]

Whereas, the Diocese of Dallas, in a special convention assembled in the City of Dallas on 19 June, 1982, adopted a resolution to divide the Diocese and form a new Diocese; therefore be it

Resolved, the House of Deputies concurring, That this 67th General Convention ratifies the division of the Diocese of Dallas to create a new Diocese which, until the new Diocese adopts a name, shall be referred to as the Western Diocese with the continuing Diocese to be known as the Diocese of Dallas.

The boundaries of the two Dioceses shall be as follows:

a) The Diocese of Dallas shall include 25 counties: Grayson, Denton, Collin, Dallas (excluding the portion of the city of Grand Prairie that is in Dallas county), Rockwall, Ellis, Navarro, Henderson, Kaufman, Van Zandt, Hunt, Fannin, Lamar, Delta, Hopkins, Rains, Wood, Upshur, Camp, Franklin, Titus, Red River, Morris, Bowie, Cass.

b) The Western Diocese shall include 23 counties: Wichita, Archer, Young, Stephens, Eastland, Brown, Mills, Hamilton, Comanche, Erath, Somervell, Palo Pinto, Jack, Clay, Montague, Wise, Parker, Hood, Bosque, Hill, Johnson, Tarrant, Cooke, and the portion of the City of Grand Prairie located in Dallas County.

and be it further
Resolved, the House of Deputies concurring, That this 67th General Convention receive the following evidence supporting this resolution:

1. Certified copy of the resolution, duly approved by the Diocese of Dallas, committing the Diocese to its division and to the formation of a new Diocese;
2. The consent of the Bishop of Dallas;
3. Certificate of the Secretary of the Convention of the Diocese of Dallas concerning the number of Parishes, Missions, Institutions and Presbyters in the continuing Diocese and in the new Diocese;
4. Map of the existing and proposed continuing and new Diocese;
5. Certificate of the Treasurer of the Diocese of Dallas concerning the financial abilities of the continuing Diocese and of the new Diocese, together with supporting financial data;

C-169

CONCURRENT ACTIONS

6. Certificate of the Chancellor of the Diocese of Dallas that all aforesaid documents have been duly executed, are accurate, and are entitled to full faith and credit, and further that all of the appropriate and pertinent provisions of the Constitution and Canons of the General Convention of the Episcopal Church in the USA and the Constitution and Canons of the Diocese of Dallas have been fully complied with in respect of this submission.

Motion carried
The House concurred

Communicated to the House of Bishops in HD Message #89.

Bishop Coadjutor for Panama

House of Bishops

On the seventh day, the Bishop Suffragan of New York (Dennis), Chairman of the Committee on the Consecration of Bishops, moved the adoption of Resolution B-40 (Panama).

Seconded by the Bishop of Albany.

Motion carried
HB Message #138

House of Deputies

On the ninth day, the Chairman of the Committee on Consecration of Bishops presented Report #3 and recommended that the House concur with Message #138 of the House of Bishops on Resolution B-40 (Bishop Coadjutor for Panama).

[B-40]

Resolved, the House of Deputies concurring, That the Diocese of Panama be granted permission to elect a Bishop Coadjutor. This will allow for a smooth transition on the retirement of the present Diocesan and expresses the will of the Diocese. No date has been set for retirement, but all provision has been made for election in keeping with the general as well as the diocesan Canons.

Motion carried
The House concurred

Communicated to the House of Bishops in HD Message #167.

Autonomy for Province IX

House of Bishops

On the fifth day, the Bishop of Hawaii, Chairman of the Committee on World Mission, moved the adoption of Resolution (M-51S) B-52 (Autonomy for Province IX).

Seconded by the Bishop of Eastern Oregon.

Motion carried
HB Message #102

House of Deputies

On the ninth day, the Chairman of the Committee on World Mission presented Report #5 and recommended that the House concur with Message #102 of the House of Bishops on Resolution B-52 (Autonomy for Province IX).

C-170

TAB 4

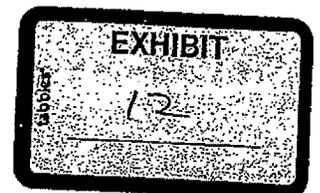
ARCHIVES OF THE
EPISCOPAL CHURCH
AUSTIN, TEXAS

THE PROCEEDINGS
OF THE
PRIMARY CONVENTION
TOGETHER WITH THE
CONSTITUTION AND CANONS
OF THE
EPISCOPAL DIOCESE
OF
FORT WORTH

All Saints' Episcopal Day School
Fort Worth, Texas

November 13, 1982

Ad-G-83



A123

2. "Whereas, All Saints' Parish, Fort Worth, has long served that which is now the Diocese of Fort Worth,

"BE IT, THEREFORE, RESOLVED that we express our gratitude to the Reverend Canon James P. DeWolfe and his staff for their dedicated assistance in this Convention, and that the Secretary convey this Resolution."

3. "Whereas, the members of the Diocese of Fort Worth have long loved and honored Mrs. William Paul Barnds,

"NOW, THEREFORE, BE IT RESOLVED that the Clergy and Laity of the Diocese of Fort Worth on the occasion of the Primary Convention of this Diocese send its greeting to Mrs. Barnds, and that the Secretary of this Convention send her our greetings."

4. "Whereas, the Diocese of Fort Worth derives itself from the Diocese of Dallas,

"BE IT RESOLVED that the Diocese of Dallas be informed that the Diocese of Fort Worth has organized, and that we send our greetings and our appreciation to the Diocese of Dallas for all of its help and assistance, and that the Secretary of this Convention forward a copy of this Resolution."

5. "Whereas, the Diocese of Dallas, whence the Diocese of Fort Worth derives, is an owning Diocese of the University of the South, and it is the desire of the Diocese of Fort Worth to continue to stand in the same relationship to the University of the South as it has previously done as a portion of the Diocese of Dallas,

"NOW, THEREFORE, BE IT RESOLVED that the Diocese of Fort Worth be an owning Diocese of the University of the South in the same relationship to such University as the Diocese of Dallas and other owning Dioceses, and that the Secretary of this Convention send a copy of this Resolution to the Vice Chancellor of such University."

The motion was seconded, and the Convention voted unanimously for the adoption of all the resolutions.

RESOLUTION FOR ACCESSION TO THE CONSTITUTION AND CANONS OF THE EPISCOPAL CHURCH IN THE UNITED STATES OF AMERICA

The Secretary of the Convention, the Rev. Logan Taylor, read the Resolution for Accession to the Constitution and Canons of the Episcopal Church in the United States of America. The Convention concurred unanimously by signing the Resolution as follows:

RESOLUTION

WHEREAS, the Primary Convention of the Diocese of Fort Worth, meeting at All Saints Episcopal Day School, in Fort Worth, Tarrant County, Texas, on Saturday, 13 November 1982, pursuant to approval of the 67th General Convention of The Episcopal Church, does hereby fully subscribe to and accede to the Constitution and Canons of The Episcopal Church, and;

IN SO DOING, we unanimously hereunto set our hand this 13th day of November in the year of our Lord, One Thousand Nine Hundred Eighty-two; and the Secretary of Convention is hereby instructed to promptly inform the Secretary of General Convention by copy of this Resolution with all signatures, in accordance with Canon I, 9 (4) of General Convention; and with copies of the Constitution and Canons of the Diocese of Fort Worth adopted this day.

Attested this 13th day of November, 1982.

L. Honora Haines
Bishop of Fort Worth

Logan E. Taylor
Logan E. Taylor, Secretary

+++

CLERGY

<u>Name</u>	<u>Parish/Diocese</u>
<i>James T. Durbey</i>	<i>All Saints, Ft Worth</i>
<i>William R. Bishop</i>	<i>Canon to THE ORDINARY</i>
<i>Ted Kerpff</i>	<i>St. Pauline, Grand Prairie</i>
<i>Jim Pugh</i>	<i>Trinity, F.W.</i>
<i>Bonnie C. Kattell</i>	<i>St. John, Grand Prairie</i>
<i>Donald E. White</i>	<i>St. Elizabeth's - Ft. Worth</i>
<i>Benedict R. Robinson</i>	<i>St. Mark - Arlington</i>
<i>James J. Pugh</i>	<i>Epiphany, Sulzer</i>
<i>John Cottrill</i>	<i>St. Mark's, Arlington</i>
<i>Charles E. Jenkins</i>	<i>St. Vincent, Euless, Tex</i>
<i>W. A. Cooney Jr</i>	<i>Holy Comfort, Cleburne, TX</i>
<i>Robert W. White</i>	<i>St. Stephen, Garland, TX</i>
<i>Augustus S. Alford</i>	<i>St. Christopher, Ft. Worth</i>
<i>George C. Luck</i>	<i>St. Luke, Ft. Worth</i>
<i>James T. Hahn, Jr</i>	

COPY: Material located in the Archives of the Episcopal Church

CLERGY (Continued)

Name	Parish/Mission
John Esmond +	Holy Spirit
Harrison Bente +	Holy Spirit
Sam Mitchell +	St. Alban's, Raleigh
Robert Williams +	St. Mark's, Raleigh
Laura Williams +	All Saints, Westleyford
Allen Beckwith	Episcopal Pastoral Center, Raleigh
Thomas P. Kennedy +	St. Timothy's, Fort Worth
Stephen W. Wooten	St. Albans, Raleigh
Allen R. G. Harkin +	St. Bartholomew's, Raleigh, NC
John A. Holmes +	Holy Trinity, Eastland, Texas
Patrick L. Cooke +	St. John's, Fort Worth
Frank B. Weaver	St. Christopher's, Fort Worth
Christopher Gage Colby +	St. Peter + St. Paul's, Arlington
David Smith	St. Basil's, Raleigh
Edward Beaul	St. Christopher's, Ft Worth
Richard D. Neal	St. Mark's, Bridgeport
Samuel M. Stewart	St. Luke's, Jacksonville, FL
Michael B. Carr	St. Ann's - Ft. Worth
W. S. McCarly	All Saints - Ft Worth
J. Michael Minner +	Christ the King, Fort Worth
John D. Payne +	All Saints, Wichita Falls
John H. Thomas	St. Andrew's, Ft. Worth
Charles A. Hanger +	Good Shepherd, Cuyahoga Falls, OH
Thomas V. Hollen +	St. Ann's, Fort Worth
Stephen D. Carter +	St. Andrew's, The Woodlands
David E. Stewart	Holy Spirit, Graham
Michael Altman	St. John the Divine, Bensenville, IL
Thomas A. Harris	
Wm. Risen +	St. Michael's, Fort Worth
David W. Jones +	St. Paul's, Olney
Clarence Brown +	
Alma J. Pearson +	St. Andrew's, Ft. Worth
John H. ...	St. Andrew's, Ft. Worth
James A. Rupp	Good Shepherd, Wichita Falls
Andrew ...	Holy Cross Academy, Dallas
Vern Koschke	St. Stephen's, Wichita Falls

LAY DELEGATES

Name	Parish/Mission
Michael K... [unclear]	St. Vincent's
George Middleton	St. Vincent's - Enclave
Marylin E. [unclear]	HOLI COMFORTER - CHERBONE
W. [unclear]	St. Simon's Ft. Worth
M. [unclear]	Holy Comforter Cleburne
[unclear]	St. Vincent's Glass
[unclear]	St. Matthews, Pampa
[unclear]	St. Martin's Keller
[unclear]	Good Shepherd Acton-Danby
[unclear]	St. Christopher's, Ft. Worth
[unclear]	St. James Meridian
[unclear]	St. Christopher's Ft. Worth
[unclear]	St. Alban's ALLYATEX
[unclear]	All Saints Fort Worth
[unclear]	Holy Spirit Ft. Worth
[unclear]	ST. STEPHEN'S WICHITA FALLS, TEX
[unclear]	Trinity, Henrietta
[unclear]	St. Andrew's Fort Worth
[unclear]	St. Andrew's Ft. Worth
[unclear]	St. John's Ft. Worth
[unclear]	St. Alban's Arlington
[unclear]	St. John's Ft. Worth
[unclear]	St. John's Fort Worth
[unclear]	Church of the Holy Spirit Denton
[unclear]	All Saints WICHITA FALLS
[unclear]	All Saints - Wichita Falls
[unclear]	Grand Prairie
[unclear]	St. Andrew's Grand Prairie
[unclear]	All Saints WICHITA FALLS

LAY DELEGATES

Name	Parish/Mission
<i>Ann Patton</i>	<i>St. Vincent's E. Wood, Tex.</i>
<i>Melina Beederman</i>	<i>St. John Brownwood</i>
<i>Ann Beederman</i>	<i>St. John Brownwood</i>
<i>Richard Thomas J</i>	<i>St. John's Brownwood</i>
<i>John C. Hays</i>	<i>St. Marks Arlington</i>
<i>Robert J. Allen</i>	<i>St. Marks Arlington</i>
<i>Shirley S. Sprague</i>	<i>St. Joseph's Grand Prairie</i>
<i>Harry C. Murray</i>	<i>St. Joseph's Grand Prairie</i>
<i>Paul H. Quinn</i>	<i>St. Andrew's Arlington</i>
<i>Benny Atwater</i>	<i>St. Marks Arlington</i>
<i>Glenn Head</i>	<i>St. Marks - Arlington</i>
<i>Howard W. Bates</i>	<i>St. Andrew's - P. Woodville</i>
<i>Catherine Long Randolph</i>	<i>St. Mary's Hamilton</i>
<i>Nancy H. Chadwick</i>	<i>St. Luke in the Meadow</i>
<i>Violet D. Wickes</i>	<i>Trinity - Fort Worth</i>
<i>Caroline M. Kline</i>	<i>St. Luke in the Meadow Ft. W.</i>
<i>Dow Lucas</i>	<i>Holy Spirit - Ft. Worth</i>
<i>Robert M. S. Zelle</i>	<i>St. Luke in the Meadow</i>
<i>William F. Young</i>	<i>St. Andrew's Grand Prairie</i>
<i>William E. Perry</i>	<i>Trinity - Fort Worth</i>
<i>Wesley</i>	<i>St. Timothy Ft. Worth</i>
<i>Charles G. Young</i>	<i>St. Timothy Church Ft. Worth</i>
<i>James S. Calvert</i>	<i>St. Timothy Church Ft. Worth</i>
<i>C. Edwin Booth</i>	<i>All Saints Fort Worth</i>
<i>Maria H. Hubert</i>	<i>All Saints Fort Worth</i>
<i>Carlynn Ballard</i>	<i>St. Paul's - Olmen</i>
<i>Gayle Hayman</i>	<i>All Saints - Weatherford</i>
<i>Robert Howard</i>	<i>St. Anne's - Ft. Worth</i>
<i>Kary J. Paris</i>	<i>St. Anne's Ft. Worth</i>
<i>Mable W. Wood</i>	<i>St. Anne's Ft. Worth</i>
<i>Pat Drew</i>	<i>Trinity Ft. Worth</i>
<i>Dorothy F. Mastin</i>	<i>St. Michael's Ft. Worth</i>
<i>Nancy Ford Mastin</i>	<i>St. Michael's Ft. Worth</i>
<i>Susan Rogers</i>	<i>St. Christy's Ft. Worth</i>
<i>Robert A. Campbell</i>	<i>Trinity Ft. Worth</i>
<i>Frederick R. Lippitt</i>	<i>St. Michael's Ft. Worth</i>

CONFIDENTIAL

LAY DELEGATES

Name	Parish/Mission
Mary Bryant	St Elizabeth Ft. W.
James Paul	St Elizabeth's Ft. Worth
Carl D. Noel	Christ the King Ft W
Evan W. Krummer	St Bartholomew's Arlington
Joseph A. Bell	St Timothy's Ft Worth
James D. Crow	St Peter & St. Paul, Arlington
Betty Thomas	St Gregory, Mansfield
Kelvin J. Meyer	St. Luke, Mansfield
Evan J. Meyer	All Saints, Hudson
Frank D. Stahl	St. Andrew's Ft Worth
George J. Komechuk	St. Agatha, Fort Worth
Joe G. Gager	St. PETER'S BY-THE-LAKE
Howard S. Newman	St. Mark's Bridgeport, TX
Mark W. Smith	St. Charles's Ft. Worth, TX
St. Raymond J.	St. Luke's, Ft. Worth
St. Key Cash	Trinity, East West, Texas
James W. Summers	Trinity, Fort Worth, Texas
Norman E. Brown	All Saints, Fort Worth, Texas
W. Frank, Jamie	St. Andrew's, Ft. Worth, TX
Robert A. Brown	St. Andrew's, Fort Worth, TX
John Stewart	St. Patrick's, Dallas
Wesley Bradel	Good Shepherd, Brownwood
Raymond	Good Shepherd, Brownwood
William N. Welch	St. Michael's, Ft. Worth
Edith Branch	St. Mary's, Dallas
Paul Bruders	St. Mary's - Benton, TX
Bill Pattoff	Alexandros - St. Anthony's
Conrad Davis	Oceanian - Decaturville
Joseph M. Eason	Good Shepherd, Wichita Falls
Layne B. Moore	St. Michael's - Ft. Worth
Alfred P. White Sr.	St. Andrew's - Brownwood
Virginia K. Rogers	Christ the King
Alvin K. Kelly	St. John's Brownwood
Chas. Clay F. Kelly	St. Bartholomew, Aubrey

TAB 5