# ANNOTATED CONSTITUTION AND CANONS

for the Government of the Protestant Episcopal Church in the United States of America otherwise known as

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Adopted in General Conventions 1789-1979

The Episcopal Church



# **CANON 21. Of Ministers and Their Duties**

Control of the worship and spiritual jurisdiction. Sec. 1 (a). The control of the worship and the spiritual jurisdiction of the Parish, are vested in the Rector, subject to the Rubrics of the Book of Common Prayer, the Canons of the Church, and the godly counsel of the Bishop. All other Ministers of the Parish, by whatever name they may be designated, are to be regarded as under the authority of the Rector.

Control of Church and Parish buildings. (b). For the purposes of his office and for the full and free discharge of all functions and duties pertaining thereto, the Rector shall, at all times, be entitled to the use and control of the Church and Parish buildings with the appurtenances and furniture thereof.

Assistant Ministers. (c). In case of the election of an Assistant Minister the name of the Clergyman whom it is proposed to elect shall be made known to the Bishop and sufficient time, not exceeding thirty days, shall be given him to communicate with the Rector and Vestry thereon.

Priest in charge to have control

(d). In a Missionary Cure the control and responsibility belong to the Priest who has been duly appointed to the charge thereof, subject to the authority of the Bishop.

in a Missionary

Cure.

Sec. 2 (a). It shall be the duty of Ministers of this Church who have charge of Parishes or Cures to be diligent in instructing the children in the Catechism, and from time to time to examine them in the same publicly before the Congregation. They shall also, by stated catechetical lectures and instruction, inform the youth and others in the Holy Scriptures and the Doctrines, Polity, History, and

Duties of Ministers in charge of Parishes or Cures.

Liturgy of the Church. They shall also instruct all persons in their Parishes and Cures concerning all the missionary work of the Church at home and abroad, and give suitable opportunities for offerings to maintain that work.

Duty at Baptisms of infants and children.

(b). It shall be the duty of Ministers before baptizing infants or children to prepare the sponsors by instructing both the parents and the Godparents concerning the significance of Holy Baptism, the responsibilities of parents and Godparents for the Christian training of the baptized child, and how these obligations may properly be discharged.

Duty in reference to Bishop's visitation. (c). It shall be the duty of Ministers to prepare young persons and others for Confirmation; and on notice being received from the Bishop of his intention to visit any Church, which notice shall be at least one month before the intended visitation, the Minister shall announce the fact to the Congregation on the first Sunday after the receipt of such notice; and he shall be ready to present for Confirmation such persons as he shall judge to be qualified, and shall deliver to the Bishop a list of the names of those to be confirmed.

At Bishop's visitation to give informationof the state of the Congregation.

(d). At every visitation it shall be the duty of the Minister, and of the Churchwardens, or Vestrymen, or of some other officer, to exhibit to the Bishop the Parish Register and to give information to him of the state of the Congregation, spiritual and temporal, under such heads as shall have been previously signified to them, in writing, by the Bishop.

Alms and offerings to the poor.

(e). The Alms and Contributions, not otherwise specifically designated, at the Administration of the Holy Communion on one Sunday in each calendar month, and other offerings for the poor, shall be deposited with the Minister of the Parish or with such Church officer as shall be appointed by him, to be applied by the Minister, or under his superintendence, to such pious and charitable uses as shall by him be thought fit. During a vacancy the Vestry shall appoint a responsible person to serve as Almoner.

Almoner.

PastoralLetters.

(f). Whenever the House of Bishops shall put forth a Pastoral Letter, it shall be the duty of every Minister having a pastoral charge to read it to his Congregation on some occasion of public worship on a Lord's Day, or to cause copies of the same to be distributed to the members of his Parish or Congregation, not later than one month after the receipt of the same.

Position Papers. (g). Whenever the House of Bishops shall adopt a Position Paper, it may by its own vote require the same procedure for communication of the contents of the Paper to the membership of the Church as is required in the case of a Pastoral Letter as provided in Clause (f) above.

To keep aregister of official acts.

Sec. 3 (a). It shall be the duty of every Minister of this Church to record in the Parish Register all Baptisms, Confirmations, Marriages, Burials, and the names of all Communicants within his Cure.

Register of baptisms to be signed by officiant.

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

Data to be recorded in Parish Register.

(c). Every Minister of this Church in charge of a congregation shall have recorded in the Parish Register a list of all persons who have received Holy Baptism; and a list of all persons who have received Confirmation. He shall indicate upon the Parish Register each year the names of those who have died in the past year or whose names have been removed by letter of transfer. He shall also indicate (1) those whose domicile is unknown, and (2) those whose domicile is known but are inactive. He shall maintain as far as practicable a list of all families and persons within his Cure, which list shall remain in the Parish for the use of his successor.

Procedurefor leaving ecclesiasticalemployment, but retaining Ministry.

Sec. 4 (a). A Minister of this Church desiring to enter other than ecclesiastical employment, without relinquishing his Ministry, shall make his desire known to the Bishop or the Ecclesiastical Authority of the Diocese in which he is canonically resident. The Bishop, with the advice and consent of the Standing Committee, after satisfying himself and them that the applicant will have and use, opportunities for the exercise of Christian Ministry, may give his approval, on the following condition: the Minister shall report annually, in writing, in a manner prescribed by the Bishop, his occasional services, as provided in Canon I.5, Sec. 1.

Condition.

Penalty for omitting reporting.

(b). Any such Minister who omits, for a period of two years, to comply with the above provision, may be removed by the Bishop from the roll of clergy canonically resident in the said Bishop's Diocese and transferred to the Special List maintained by the Secretary of the House of Bishops, as provided in Canon IV.11, Section 2, on the following conditions:

Graceperiod.

- 1. The Bishop shall give the Minister sixty day's written notice by registered or certified mail of his intention.
- 2. If, within the sixty-day period, the Minister shall report to the Bishop as provided in Section 4 (a) of this Canon, the Minister shall be retained on the roll of clergy canonically resident in the said Bishop's Diocese.

Procedure on moving to otherjurisdiction.

- (c). Any such Minister, removing to another jurisdiction, shall present himself to the Bishop of that jurisdiction within two months of his arrival in the jurisdiction. The Minister shall fulfill the following conditions:
  - 1. He shall officiate or preach in that jurisdiction only under the terms of Sec. 7 of this Canon.
  - 2. He shall in writing notify the Bishop of the Diocese of his canonical residence, within sixty days of removal.

Penalty.

If the Minister fails to comply with these conditions, the Bishop of the Diocese of his canonical residence may, upon sixty days' written notice, transfer the Minister to the Special List of the Secretary of the House of Bishops.

Options for Minister removing to different jurisdiction.

(d). Any such Minister, removing to another jurisdiction, shall notify both the Bishop of the Diocese of his canonical residence and the Bishop of the jurisdiction in which he resides, as to which of the following options he prefers:

1) Retain can onicalresidence.

1. The Minister may request to remain canonically resident in his present Diocese. In such case, the Bishop of that Diocese shall retain the Minister on his roll of clergy as long as the Minister fulfills the requirements of Sec. 4 (a) of this Canon.

2) Request Letters Dimissory. 2. The Minister may request to have his canonical residence transferred to the jurisdiction of his civil residence. In such case, the Minister shall, before requesting Letters Dimissory, secure a statement, in writing, from the Bishop of such jurisdiction (who may consult with his Council of Advice in the matter) that he is willing

to receive such a Minister and to enroll him among the clergy of his Diocese; and note that the provisions of Sec. 6 (d) of this Canon shall not apply in such a case.

3) Request removal to Special List.

3. The Minister may request the Bishop of the Diocese of his canonical residence that his name be placed on the Special List maintained by the Secretary of the House of Bishops. If the Minister complies with the requirements of Sec. 4 (a). of this Canon by reporting annually to the Presiding Bishop, he shall continue to be held as a Minister in good standing in this Church.

Not to officiate in another's Curewithout consent.

Sec. 5 (a). No Minister of this Church shall officiate, either by preaching, reading prayers in public worship, or by performing any other priestly or ministerial function, in the Parish, or within the Cure, of another Minister, without the consent of the Minister of that Parish or Cure, or of one of its Churchwardens if, in his absence or disability, the Minister fail to provide for the stated services of such Parish or Cure.

In case there are two or more Congregations or churchesin one Cure.

If there be two or more Congregations or Churches in one Cure, as provided by Canon I.12, Sec. 3 (b), the consent of the majority of the Ministers of such Congregations or Churches, or of the Bishop, shall be sufficient; *Provided*, that nothing in this Section shall be construed to prevent any Clergyman of this Church from officiating, with the consent of a Minister, in the Church or place of public worship used by the Congregation of such Minister, or in private for members of his Congregation; or, in his absence, with the consent of the Churchwardens or Trustees of such Congregation; and Provided, moreover, that the license of the Ecclesiastical Authority required in Sec. 7 be first obtained when necessary.

Exception.

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

Neglecting to perform services of the Church.

(b). If any Minister of this Church, from disability or any other cause, neglect to perform the regular services in his Congregation, and refuse, without good cause, his consent to any other duly qualified Minister of this Church to officiate within his Cure, the Churchwardens, Vestrymen, or Trustees of the Congregation shall, on proof before the Ecclesiastical Authority of the Diocese of such neglect or refusal, have power, with the written consent of the said Authority, to permit any duly qualified Minister of this Church to officiate.

To present a testimonial to Ecclesiastical Authority.

Sec. 6 (a). A Minister of this Church removing into a Diocese shall, in order to gain canonical residence within the same, present to the Ecclesiastical Authority thereof a testimonial from the Ecclesiastical Authority of the Diocese in which he last had canonical residence, which testimonial shall set forth his true standing and character. The said testimonial shall be given by the Ecclesiastical Authority to the applicant, and a duplicate thereof may be sent to the Ecclesiastical Authority of the Diocese to which he proposes to remove. The testimonial may be in the following words:

•	fy that the Reverend A.B., who has his desire to be transferred to the
<b>Ecclesiastical</b>	
	, is a Presbyter [or Deacon]
of	in good standing, and
has not, so far a	s I know or believe, been justly liable
to evil report, fo	or error in religion or for viciousness
of life, for three	years last past.
(S	igned)

Date when transfer shall take effect. (b). Such testimonial shall be called Letter Dimissory. The canonical residence of the Minister so transferred shall date from the acceptance of his Letters Dimissory, of which prompt notice shall be given both to the applicant and to the Ecclesiastical Authority from which it came.

When Letters
Dimissory
void.

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

When Letters Dimissory need not be accepted. (d). If a Minister, removing into another Diocese, has been called to a Cure in a Parish or Congregation therein, he Shall present Letters Dismissory in the form above given. It shall be the duty of the Ecclesiastical Authority of the Diocese to which he has removed, to accept them within three months unless the Bishop or Standing Committee

shall have heard rumors, which he or they believe to be well founded, against the character of the Minister concerned, which would form a proper ground of canonical inquiry and presentment, in which case the Ecclesiastical Authority shall communicate the same to the Bishop or Standing Committee of the Diocese to whose jurisdiction the said Minister belongs; and in such case, it shall not be the duty of the Ecclesiastical Authority to accept the Letters Dimissory unless and until the Minister shall be exculpated from the said charge.

Before removing into a Diocese, to obtain certificate.

(e). No Minister, removing from one Diocese to another, shall officiate as Rector or Minister of any Parish or Congregation of the Diocese to which he removes, until he shall have obtained from the Ecclesiastical Authority thereof a certificate in the words following:

No person refused ordination in any Diocese to be afterwards

transferred

thereto

without

consent of Bishop.

I hereby certify that the Reverend A.B. has been canonically transferred to my jurisdiction and is a Minister in good standing.

(Signed)

Limitation of transfer.

- (f). No person who has been refused ordination or reception as a Candidate in any Diocese, and who has afterwards been ordained in another Diocese, shall be transferred to the Diocese in which such refusal has taken place without the consent of its Bishop or Ecclesiastical Authority.
- (g). No person who has been ordained under the provision of Canon III.8 shall be transferred to another Diocese, save as provided in the said Canon.

License required to officiate. Sec. 7. No Minister of this Church shall officiate more than two months by preaching, ministering the Sacraments, or holding any public service, within the limits of any Diocese other than that in which he is canonically resident, without a license from the Ecclesiastical Authority.

To obtain testimonial when desiring to officiate abroad. Sec. 8 (a). Any Minister of this Church desiring to officiate temporarily without the confines of this Church shall, in order so to do, obtain from the Ecclesiastical Authority of the Diocese in which he has canonical residence, a testimonial which shall set forth his true standing and character, and may be in the following words:

Form of testimonial.

I hereby certify that the Reverend A.B. who has signified to me his desire to be permitted to officiate temporarily in churches not under the jurisdiction of the Protestant Episcopal Church, yet in communion with this Church, is a Presbyter [or Deacon] of \_\_\_\_\_\_ in good standing, and as such is entitled to the rights and privileges of his Order.

This testimonial is valid for one year from date of issuance and is to be returned to the Ecclesiastical Authority at the end of that period.

Record to be kept.

(b). The Ecclesiastical Authority giving such testimonial shall keep a record of issuance of such, in which the date of issuance and of return shall be recorded, together with the name of the Minister to whom the testimonial has been issued.

Chaplaincy duty.

Sec. 9 (a). Any Priest of this Church desiring to serve as a Chaplain in the Armed Forces of the United States of America or as Chaplain for the Veterans' Administration, with the approval of the Ecclesiastical Authority of the Diocese in which he is canonically resident, may be given ecclesiastical endorsement for such service by the Armed Forces Division of the Executive Council of the Church.

Canonical residence of Chaplains.

(b). Such Ministers serving on active duty with the Armed Forces shall retain canonical residence in a Diocese of this Church, and shall be under the ecclesiastical jurisdiction of the Bishop of said Diocese, even though his work as a Chaplain shall be under the general supervision of the Armed Forces Division, or such Bishop of the Church as the Presiding Bishop may designate.

Exceptions to canonical observances.

(c). Any such Minister serving on a military installation or at a Veterans' Administration facility shall not be subject to either Sec. 5 (a), or Sec. 7, of this Canon. When serving outside of military installations or of Veterans' Administration facilities, such Chaplains shall be subject to said Sections.

To resign position at age seventy-two. Sec. 10. Upon attaining the age of seventy-two years, every Minister of this Church occupying any position in this Church shall resign the same and retire from active service, and his resignation shall be accepted. Thereafter, he may accept any position in this Church, except the posi-

tion or positions from which he has resigned pursuant to this Section; *Provided*, that (a) the tenure in such position shall be for a period of not more than one year, which period may be renewed from time to time, and (b) service in such position shall have the express approval of the Bishop and Standing Committee of the Diocese in which such service is to be performed, acting in consultation with the Ecclesiastical Authority of such Minister's canonical residence. (c) A Minister who has served in a nonstipendiary capacity in a position before his retirement may, at the Bishop's request, serve in the same position for six months thereafter, and this period may be renewed from time to time.

Sec. 11. There shall accompany Letters Dimissory a statement of the record of the payments to The Church Pension Fund of the Minister concerned.



This canon was Title I, Canons 12 and 19, in 1859. It became Canon 15 in 1904, Canon 44 in 1943, and Title III, Canon 20, in 1970.

# Section 1

# **Convention of 1904**

This section was enacted by this Convention, and consisted of the present clauses (a), (b), and (d).

## Convention of 1979

This Convention transferred Section 5 of Canon III.22 [now Canon III.23] to Section 1 of this canon as clause (c).

Former clause (c) was made clause (d).

#### Section 2

## Convention of 1789

This first legislation by General Convention on the subject of duties of ministers in their parishes, as set forth in Section 2, was by the Convention of 1789, which enacted Canon 11 of that year, "Of the Duty of Ministers in regard to Episcopal Visitation," as follows:

It shall be the duty of ministers to prepare children and others for the holy ordinance of Confirmation. And on notice being received from the Bishop of his intention to visit any Church, which notice shall be at least one month before the intended visitation, the minister shall be ready to present for Confirmation those who shall have been previously instructed for the same, and shall have delivered to the Bishop a list of the names of those presented.

At every visitation it shall be the duty of the minister and of the church wardens, to give information to the Bishop of the state of the congregation, under such heads as shall have been committed to them in the notice given as aforesaid.

And further, the ministers and church wardens of such congregations as cannot be conveniently visited in any year, shall bring or send to the Bishop, at the stated meeting of the Convention of the diocese or district, information of the state of the congregation, under such heads as shall have been committed to them at least one month before the meeting of the Convention.

#### Convention of 1808

A slight amendment was made by this Convention to the above canon by inserting the words "or vestry," after the words "church wardens," in the second paragraph.

This Convention also enacted Canon 22 of that year, setting forth the duty of ministers to instruct the children of their parishes in the catechism, and in the doctrines, polity, history, and liturgy of the Church, corresponding to the first clause of the section we are considering. This canon read as follows:

The Ministers of this Church who have charge of parishes or cures, shall not only be diligent in instructing the children in the catechism, but shall also, by stated catechetical lectures and instruction, be diligent in informing the youth and others in the doctrines, constitution, and liturgy of the Church.

#### Convention of 1814

The subject of clause (e), concerning the alms and offerings for the poor, was first made the subject of canonical enactment by the Convention of 1814, which enacted Canon 1, reading as follows:

Whereas it appears that no direction has been made, as to the mode in which the alms and contributions at the administration of the Holy Communion are to be applied, it is hereby declared, that they shall be deposited with the minister of the parish, or with such Church officer as shall be appointed by him, to be applied by the minister, or under his superintendence, to such pious and charitable uses as shall be thought fit.

This canon was enacted to carry out the provisions of the offertory rubric in the Book of Common Prayer, which at that time read:

The Deacons, Church-wardens, or other fit persons appointed for that purpose, shall receive the Alms for the Poor, and other Offerings of the People, in a decent Basin to be provided by the Parish; and reverently bring it to the Priest, who shall humbly present and place it upon the Holy Table.

## Convention of 1820

Canon 3, enacted by this Convention, related to the subject matter now contained in clause (f) of Section 2, and was as follows:

Whereas there is reason to fear that the Pastoral Letters issued, from time to time, by the House of Bishops, and addressed to the members of the Episcopal Church, fail of their intended effect for want of sufficient publicity: It is hereby made the duty of every clergyman having a pastoral charge, when any such letter is published, to read the same to his congregation on some occasion of public worship.

Under Canon 45 of 1808, the parochial reports of each parish in the United States, together with the several bishops' addresses and charges to their conventions, were required to be read in the House of Deputies. A report on the state of the Church then was drawn up by a committee appointed for that purpose, and sent to the House of Bishops, with a request that they draw up a pastoral letter to the members of the Church. No provision, however, was made to place these letters within reach of the people for whom they were intended. It was soon found that these parochial reports were so numerous as to make it exceedingly inconvenient to read them in the House of Deputies. The Canon of 1808 was amended by the Convention of 1814, so as to provide that these parochial reports should not be read in the House of Deputies. Then in 1820, the above canon was set forth, for the reasons stated in the canon.

#### Convention of 1832

In the revision of the canons by this Convention, the first paragraph of Canon 11, of the Canons of 1789, relating to the duty of preparing young persons for Confirmation, was made Section 1 of Canon 26, and amended to read as follows:

It shall be the duty of Ministers to prepare young persons and others for the holy ordinance of Confirmation. And on notice being received from the Bishop, of his intention to visit any Church, which notice shall be at least one month before the intended visitation, the Minister shall give immediate notice to his parishioners individually as opportunity may offer, and also to the congregation on the first occasion of public worship after the receipt of said notice. And he shall be ready to present, for Confirmation, such persons as he shall think properly qualified; and shall deliver to the Bishop a list of the names of those confirmed.

The principal changes made by the amendment were as follows:

First, the word "children" was changed to "young persons," in the first sentence thereof, but the most important change made, was requiring the minister to give immediate notice of the bishop's intended visitation to his parishioners, individually, as opportunity might offer, and also to the congregation, on the first occasion of public worship after the notice had been received. Another change made was that the minis-

ter was to present "such persons as he shall think properly qualified," instead of "those who shall have been previously instructed for the same."

The names of those confirmed were to be given to the bishop, for the reason that, when these canons were first enacted, the bishop was required, under another canon, to send these names to the General Convention.

The second paragraph of Canon 11 of 1789, as amended by the Convention of 1808, was made Section 2 of Canon 26, without further amendment.

The third paragraph of Canon 11 of 1789, was made Section 3 of Canon 26, without amendment.

The Convention of 1832 re-enacted Canon 22, of the Canons of 1808, regarding the duty of parochial instruction, as Canon 28, and without amendment.

The same Convention amended the first canon of 1814, regarding the alms and contributions at the Holy Communion, by striking the descriptive matter at the beginning of the canon, giving the reasons for its enactment, but making no change in the meaning of the canon. This canon became Canon 52.

The same Convention amended Canon 3 of 1821, relating to pastoral letters, by striking the first sentence thereof, explanatory of the reason why the canon was enacted, and made it the last sentence of Canon 51, Section 3.

## Convention of 1859

In the revision of the Digest of Canons by this Convention, Canon 26, of the Canons of 1832, became Title I, Canon 12, Section 4 (i), (ii), and (iii), without amendment.

The same Convention re-enacted Canon 28, of the Canons of 1832, as Title I, Canon 19, "Of Parochial Instruction," without amendment.

Canon 52, of the Canons of 1832, regarding the alms at the Holy Communion, became Title I, Canon 12, Section 3, also without amendment.

The last sentence of Canon 51, Section 3, relating to pastoral letters, became the last sentence of Title I, Canon 15, Section 3, unamended.

# **Convention of 1886**

This Convention renumbered Title I, Canon 19 of the Canons of 1859, "Of Parochial Instruction," making it Section 3 (i) of Canon 14 [formerly Canon 12], "General Regulations of Ministers and their Duties," and amended the same by inserting the word "History" after the word "Constitution" in the first sentence, thereby requiring the clergy to instruct their people in the history of the Church, as well as in its doctrine, constitution, and liturgy.

A further amendment was made by adding at the end thereof the following:

They shall also diligently instruct all in their cures concerning the missionary work of the Church at home and abroad, and offer suitable opportunities for contributions from time to time for the maintenance of that work.

This amendment was made at the request of the Board of Missions, in order that an opportunity might be given, in times of divine service, for the people to make offerings for missions.

Section 3 of Title I, Canon 12, of the Canons of 1859, relating to the alms and contributions for the poor, was renumbered as clause (ii) of Section 3, Canon 14, Title I, without amendment.

Section 4 of said Canon 12, was made Section 4 of Canon 14, also without amendment.

#### Convention of 1904

In the revision of the Digest of Canons made by the Convention of this year, the several canons, heretofore noted, were combined into one section of the same canon, Canon 15.

The first clause of Section 3, concerning parochial instruction, was made Section 2 (i) of Canon 15, "Of Ministers and their Duties," and amended to read as at present constituted, except for an addition made in 1955.

The principal changes made by the amendment of 1904 were as follows:

First, the clergy were not only to instruct the children in their parishes in the catechism, but also, "from time to time examine them in the same publicly before the Congregation." Second, the word "Polity" was substituted for the word "Constitution," as one of the subjects concerning which the clergy were to instruct their people. Third, the last sentence was amended to read as follows:

They shall also instruct all persons in their Parishes and Cures concerning the missionary work of the Church at home and abroad, and give suitable opportunities for offerings to maintain that work.

Section 4 (i), regarding the duty of the clergy on episcopal visitations, was made clause (ii) of Section 2 of Canon 15, and amended to read as the present clause (c). The former canon made it the duty of the clergy to prepare their people for "the holy ordinance of Confirmation;" this was amended by striking out all except the word "Confirmation."

# The next amendment was the striking of the words

the Minister shall give immediate notice to his parishioners, individually, as opportunity may offer, and also to the Congregation on the first occasion of public worship after the receipt of said notice.

and inserting in place thereof the following words:

the Minister shall announce the fact to the Congregation on the first Sunday after the receipt of such notice.

Another amendment made was the substitution of the words "a list of the names of those to be confirmed," for the words, "a list of the names of those confirmed."

Formerly, the clergyman was required to give a list of those confirmed to the bishop after the service of Confirmation was completed. Under this canon, the clergyman was required to give to the bishop, before the service, a list of the names of the persons to be confirmed.

Clause (ii) of former Section 4, relating to the duty of giving information to the bishop of the state of the congregation, was made clause (iii) of Section 2, and amended to read as the present clause (d).

The amendment was as follows:

After the words "or Vestrymen," were added the words "or of some other officer, to exhibit to the Bishop the Parish Register."

Clause (ii) of former Section 3, relating to the alms and contributions. was made clause (iv) of Section 2, and amended to read as the present clause (e). The changes made in this clause by the amendment were as follows:

The former provision of the canon on this subject directed that all the alms and contributions of every administration of the Holy Communion were to be applied to such charitable objects as the minister might designate; it was now provided that only such alms and contributions "not otherwise specifically designated," and only on one Sunday in each month, should be so applied.

When this provision was first enacted as a canon, it was the custom in most of the parishes to have only one celebration of the Holy Communion in each month. As time went on, celebrations of the Holy Eucharist became more frequent until it was the custom, in most of the parishes, to have at least one celebration every Sunday, and two celebrations on the first Sunday in each month. Under the former canon, the minister had the right to claim all the offerings at all of those services, with the result that, when this was done, the parishes were deprived of a large part of the offerings for use in meeting current expenses. Also, under the former canon, no offerings could be otherwise specifically designated at any service when there was a celebration of the Holy Communion. This led to much dissatisfaction with the canon as it then stood, and was the cause of its being amended. These words were also added at the end of the clause: "During a vacancy the Vestry shall appoint a responsible person to serve as Almoner."

The last sentence of Section 3 of former Canon 20 [Title I, Canon 15, of the Canons of 1859], relating to pastoral letters, was made clause (v) of Section 2, and amended to read as follows:

Every Minister having a pastoral charge shall read to his Congregation on some occasion of public worship on a Lord's Day, not later than one month after the receipt of the same, the Pastoral Letter of the House of Bishops in accordance with the Canons.

The principal change made in this clause was the requiring of the minister to read the pastoral letter "within one month after the receipt of the same."

#### Convention of 1910

This Convention amended clause (v) to read as follows:

Whenever the House of Bishops shall put forth a Pastoral Letter, it shall be the duty of every Minister having a pastoral charge to read it to his congregation on some occasion of public worship on a Lord's Day, not later than one month after the receipt of the same.

Owing to certain circumstances which happened at the previous Convention, and which, in the opinion of the House of Bishops, made it inadvisable to issue the pastoral letter which had been prepared, the provision relating to such letters was amended so as to provide that, whenever such a letter was issued, it was then to be read as before provided.

## **Convention of 1949**

Section 2 was amended by inserting a new clause (b), prescribing the duty at baptisms of infants and children to prepare and instruct sponsors.

The succeeding clauses were relettered.

#### Convention of 1955

Clause (a) of Section 2 was amended by inserting the words "Holy Scriptures and" at the beginning of the list of subjects on which stated catechesis is to be given.

#### Convention of 1967

Clause (f) was amended to read as at present and clause (g) was added.

By these amendments, an alternative method of communicating pastoral letters was provided and, for the first time, provision made for position papers, adopted by the House of Bishops, to be communicated to congregations.

## Section 3

## Convention of 1789

The first canon enacted by General Convention on the subject matter contained in this section was Canon 15 of 1789, which read as follows:

Every minister of this Church shall keep a register of baptisms, marriages, and funerals within his cure, agreeably to such rules as may be provided by the ecclesiastical authority where his cure lies; and if none such be provided, then in such a manner as in his discretion he shall think best suited to the uses of such a register.

And the intention of the register of baptisms is hereby declared to be, as for other good uses, so especially for the proving of the right of church membership of those who have been admitted into this Church by the holy ordinance of Baptism.

And further, every minister of this Church shall, within a reasonable time after the publication of this Canon, make out and continue a list of all adult persons within his cure, to remain for the use of his successor, to be continued by him and by every future minister in the same parish.

And no minister shall place on the said list the names of any persons except of those who, on due enquiry, he shall find to have been baptized in this Church; or, who, having been otherwise baptized, shall have been received into this Church, either by the holy rite of Confirmation, or by receiving the Holy Communion, or by some other joint act of the parties and of a minister of this Church, whereby such persons shall have attached themselves to the same.

## Convention of 1808

In the revision of the canons by this Convention, this canon was reenacted without amendment as Canon 40 of that year.

#### Convention of 1832

In the revision of the canons by this Convention, Canon 40 of the Canons of 1808 was made Canon 29, and amended as follows:

After the word "baptisms" in the first paragraph, now made Section 1, were added the words, "confirmations, communicants," which the minister was now to record.

In the third paragraph, the words "within a reasonable time after the publication of this canon," were stricken out as no longer necessary, their use obviously being confined to the time immediately after the canon was first enacted.

The final paragraph was stricken as no longer needed. When the canon was first enacted in 1789, the great majority of the persons connected with the Church and receiving the Holy Communion had never been confirmed, owing to the fact that, for so many years previous, there were no bishops in this country to administer Confirmation. This condition of affairs, of course, no longer existed when this canon was amended in 1832.

## **Convention of 1859**

In the revision of the Digest of Canons by this Convention, Canon 29, of the Canons of 1832, was made Title I, Canon 12, Section 5, "General Regulations Of Ministers and their Duties." No amendments were made thereto by this Convention.

## **Convention of 1904**

In the revision of the canons by the Convention of 1904, the section we are considering was made Section 3 of Canon 15, "Of Ministers and their Duties," and amended to read as at present constituted, except for the changes made in 1949 in clause (c), hereafter noted.

Clause (i) was changed by striking all after the words "within his Cure." The wording of the first paragraph was changed to read "It shall be the duty of every Minister in this Church to record in the Parish Register," instead of the words "Every minister of this Church shall keep a register…"

Clause (ii) of the former section was stricken, and the present clause inserted in its place, which simply declares that the registry of every baptism should be signed by the officiating minister.

It no longer seemed necessary to state the purpose of the register of baptisms, but it did seem wise to provide that the officiating minister should sign the registry of a baptism performed by him, as this registry of baptisms in a parish register is often required to prove questions of age, and in many courts, it is held as the best evidence in cases involving questions of relationships, especially where property interests are involved.

Clause (iii) was amended by striking the words "to be continued by him and by every future Minister in the same Parish."

Provision is made in another canon that the minister shall sign the record of every marriage performed by him.

## **Convention of 1949**

Section 3 (c) was amended to its present form.

#### Section 4

# **Special Convention of 1969**

This Convention adopted a new Section 4, providing for a self-supporting ministry, and reading as follows:

- (a). A Minister of this Church desiring to enter other than ecclesiastical employment, without relinquishing his Ministry, shall make his desire known to the Bishop or the Ecclesiastical Authority of the Diocese in which be is canonically resident. The Bishop, with the advice and consent of the Standing Committee or Council of Advice, after satisfying himself and them that the applicant will have, and use, opportunities for the exercise both of the sacramental and pastoral functions of the Ministry, may give his approval, on the following conditions:
- (1). The Minister shall report annually, in writing, in a manner prescribed by the Bishop, his occasional services, as provided in Canon 5, Section 1.
- (2). The Minister shall, on his own initiative, present himself to the Bishop semiannually, at a time to be mutually agreed upon, to receive the Holy Communion with his Bishop and to satisfy the said Bishop concerning his ministerial activities.
- (b). Any such Minister who omits, for a period of two years, to comply with the above provisions may be removed by the Bishop from the roll of clergy canonically resident in the said Bishop's Diocese and transferred to the Special List maintained by the Secretary of the House of Bishops, as provided in Canon 63, Section 2.
- (c). Any such Minister, removing to another jurisdiction, shall, before requesting Letters Dimissory, secure a statement, in writing, from the Bishop of such jurisdiction (who may consult with his Council of Advice in the matter) that he is willing to receive such a Minister and to enroll him among the clergy of his Diocese; and *Note*, that the provisions of Section 5 (d) of this Canon shall not apply in such a case. If the said Bishop be unwilling to receive Letters Dimissory in respect of such a Minister, the said Minister shall so notify the Bishop of the Diocese of his canonical residence. It shall be competent for the said Bishop, at his discretion, either to retain the said Minister on his roll of clergy, or, after one year, to transfer him to the Special List of the Secretary of the House of Bishops. If the Bishop chooses to retain oversight of a Minister so removed geographically from the Diocese, the provisions of paragraph (a) (2), above, may be modified as the circumstance may require.

The remaining sections of the canon were renumbered.

#### Convention of 1970

The section was amended to read as at present, specifying more fully the procedures to be followed, and providing certain options.

Paragraph (2) of clause (a) was deleted, it having been found impractical in some jurisdictions.

#### SECTION 5

## **Convention of 1792**

The subject of this section was first legislated upon by the Convention of 1792, which enacted Canon 6, reading as follows:

No clergyman belonging to this Church shall officiate, either by preaching or by reading prayers, in the parish, or within the parochial cure of another clergyman, unless he has received express permission for that purpose from the minister of the parish or cure, or, in his absence, from the churchwardens, vestrymen, or trustees of the congregation.

This canon was enacted, no doubt, from knowledge of its necessity, based on experience. Dr. Hawks tells us (*Constitution and Canons*, p. 288) that

In the infancy of our Church, when parishes were not very numerous, and their boundaries not very well defined; and when, besides, livings were for the most part very small, clergymen sometimes intruded into the cures of their brethren; and the early history of more than one of our dioceses, shows that the irregularity was a fruitful cause of dissension. The evil was one which could be thoroughly corrected only by legislation of the whole Church, and hence the canon before us. This law, however, continued in force but three years. It was perceived (perhaps experience had made it plain), that as the canon stood, a great abuse might creep in: a worthless minister might refuse to do duty himself, and might also prevent another from performing it within his cure.

This occasioned the fifth canon of 1795.

## Convention of 1795

This Convention reenacted the Canon of 1792 as Canon 5 of that year, and added to it the following:

But, if any minister of a Church shall, from inability, or any other cause, neglect to perform the regular services to his congregation, and shall refuse his consent to any other minister of this Church to officiate within his cure, the churchwardens, vestrymen, or trustees of such congregation shall, on proof of such neglect and refusal before the Bishop of the diocese, or, if there be no Bishop, before the Standing Committee, or before such persons as may be deputed by him or them, by the regulations of this Church, in any State, vested with the power of hearing and deciding on complaints against clergymen, have power to open the doors of their churches to any regular minister of the Protestant Episcopal Church.

But even this canon did not solve the whole difficulty, because boundaries were not always clearly defined between contiguous parishes. There might, for instance, be two or more parishes in the same city. To meet this difficulty, the Convention enacted another canon, Canon 7, on the subject as follows:

Whereas, there is no provision made in the sixth Canon of 1792, for the case of such a vicinity of two or more churches, as that there can be no local boundaries drawn between their respective cures, it is hereby ordained that, in every such case, no minister of this Church, other than the parochial clergy of the said cures, shall preach within the common limits of the same, in any other place than in one of the churches thereof, without the consent of the major number of the parochial clergy of the said churches.

## **Convention of 1808**

This Convention combined these three canons into one canon, Canon 33 of that year, without material amendment, except in the phraseology thereof.

#### Convention of 1829

This Convention made an addition to Canon 33, of the Canons of 1808, by the enactment of Canon 7, of that year, as follows:

Where parish boundaries are not defined by law or otherwise, each city, borough, village, town, or township, in which there is one Protestant Episcopal Church or congregation, or more than one such Church or congregation, shall be held, for all the purposes of the 33rd Canon of 1808, to be the parish or parishes of the Protestant Episcopal clergyman or clergymen having charge of said Church or Churches, congregation or congregations.

This amendment was occasioned by the following circumstance, as related by Dr. Hawks (*Constitution and Canons*, p. 291).

In a city containing one Episcopal Church only, and several Congregational or Presbyterian meeting-houses, the Episcopal clergyman was informed by a letter, from one of his brethren, whose cure was in another State, that on a certain day he would be in the city, and that having accepted an agency for the "American Sunday School Union," he purposed addressing the children of such schools as belonged to the "Union," and would also, if it was agreeable, address the children of the Episcopal school, at the same time and place. An answer was returned, stating that the Episcopal school belonged to the "Protestant Episcopal Sunday School Union," and adding that it would be agreeable to have an address delivered to them in the church. On the arrival of the expected clergyman, he was waited upon, and it was discovered that he intended to address the schools connected particularly with his agency, in one of the Presbyterian churches which stood immediately contiguous to the Episcopal Church. The true state of the parish and its Sunday School was then respectfully laid before the visiting brother, accompanied with the statement, that such was the hostility shown by the other denominations to the Episcopal Church and schools, that there was reason to fear the proposed plan would not strengthen the hands of the Episcopal clergyman; and it was suggested to the visitor, that he should deliver his address in the Episcopal Church, to all the schools; the church being sufficiently spacious to accommodate all, and all being invited.

He was assured (and such was ascertained to be the fact) that the other schools would attend to hear him; and it was intimated, that being an Episcopal clergyman, he might, undesignedly (not being aware of the real condition of the parish), do harm to the Episcopal school by officiating in a place of worship belonging to another denomination adjacent to the church. The visiting clergyman, however, notwithstanding these representations, persisted in his original purpose. The rector of the parish then told him that he objected to his officiating within his cure, and referred him to the Canon of 1808, which we have just laid before the reader. The answer given was that the intention was to address *Presbyterians and Congregationalists*, and that the rector could not claim them, as belonging to his "parochial cure." Accordingly, the visitor, without any portion of the clerical dress worn by Episcopal clergymen when discharging public official duties, did address the schools of the "American Union," from the pulpit of the meeting-house immediately adjacent to the church.

Even this canon failed to fully meet the question raised by the foregoing circumstance, as was shown by another similar incident which occurred some years later, and to which reference will be made in the consideration of this canon as amended in 1868.

## **Convention of 1832**

In the revision of the canons by this Convention, the Canon of 1829 was incorporated with Canon 33 of 1808 as Canon 31, and without amendment.

## Convention of 1853

The canon was very materially amended by this Convention, and made Canon 9 of that year.

The first sentence of Canon 31, of the Canons of 1832, was made Section 1, and amended by substituting the word "Minister" for the word "Clergyman" in the first line, and at the end of the section were added the words "or a majority thereof," thus providing that the permission of a majority of the vestry or trustees should suffice.

The second sentence of the said Canon 31 was made Section 2 of the same canon, with a very minute setting forth of the boundaries of a parish, but as this section was practically repealed by the Convention of 1859, further consideration thereof would not seem to be necessary.

The third sentence of said Canon 31, relating to the neglect of a minister to perform the services of the Church, was made Section 3, but without material amendment, except that before the doors of the church could be opened to another minister, there must be had the written consent of the bishop or of the standing committee, as the case might be, or of the persons deputed by them.

A new section was added, relating to the establishment of a new parish within the limits of another parish, but as this section was repealed by the Convention of 1859, no discussion thereof is necessary.

#### Convention of 1859

In the revision of the canons by this Convention, Canon 9, of the canons of 1853, was made Section 6, of Title I, Canon 12, "Of the General Regulations for Ministers and their Duties," and amended as follows:

Former Section 1 of the said Canon 9, relating to the officiating of ministers within the cures of others, was made clause (i), without amendment.

The remainder of the former Canon 9 was made clause (ii), and amended to read as follows:

Where parish boundaries are not defined by law, or settled by Diocesan authority under the second Section of Canon V, of Title III, of this Digest, or are not otherwise settled, they shall, for the purposes of this Section, be defined by the civil divisions of the State as follows: Parochial boundaries shall be the limits, as now fixed by law, of any village, town, township, incorporated borough, city, or the limits of some division thereof which may have been recognized by the Bishop, acting with the advice and consent of the Standing Committee, as constituting the boundaries of a parish.

If there be but one church or congregation within the limits of such village, town, township, borough, city, or such division of a city or town, as herein provided, the same shall be deemed the cure of the Minister having charge thereof. If there be two or more congregations or churches therein, it shall be deemed the cure of the Ministers thereof; and the assent of a majority of such Ministers shall be necessary.

When, under Diocesan authority, a new parish is constituted, and its boundaries defined, this Section shall be applicable to the same as so established.

The third section of former Canon 9, relating to the neglect of a minister to perform the services of the church in his parish, was made clause (iii), without amendment.

A new clause was added, numbered (iv), to read as follows:

This Canon shall not affect any legal rights of property of any parish.

#### Convention of 1868

This Convention amended clause (ii) of Section 6 of Canon 12, Title I of the Canons of 1859, by inserting, after the words "and the assent of a majority of such Ministers shall be necessary," the following:

but nothing in this Canon shall be construed to prevent any Clergyman of this Church from officiating in any Parish Church or in any place of public worship used by any Congregation of this Church, or elsewhere within the parochial Cure of the Minister of the said Congregation, with the consent of the Clergyman in charge of such Congregation.

gation; or, in his absence, of the Churchwardens and Vestrymen or Trustees of such Congregations or of a majority of them.

This amendment was occasioned by a memorial presented to the Convention, signed by 133 clergymen and 969 laymen, in which they stated that according to a construction that had been put upon this section.

A Minister of our Church is forbidden to officiate, within such territorial limits, even in places of worship belonging to other Christian bodies, without such permission. He is forbidden to officiate, even for his own parishioners, within such limits, without such permission. And he is forbidden, although he may be an agent of some missionary or other society, and without a parish of his own, to officiate within such limits even at the invitation of the Minister of the Church in which he is requested to officiate, if there be more than one settled Minister of the Church in the city or town, until he shall have received the "express permission" of a majority of such Ministers.

As to the question whether this is the true construction of the Canon, your petitioners would here express no opinion, but simply stating their conviction that the Canon, as thus interpreted, is inconsistent, at least in some of its applications, with the reasonable liberties of the Clergy and Laity of our Church, would respectfully ask that it may be repealed, or so modified as to apply only to unauthorized attempts at the formation of new Parishes, or to the intrusions upon the actual acknowledged, and enrolled parishioners of other Ministers of this Church.

This memorial was occasioned by the celebrated Tyng case, which occurred a short time before the Convention of 1869 met.

The facts of the case were as follows:

The Rev. Dr. Stephen H. Tyng, Jr., was the rector of the Church of the Holy Trinity, New York City. A member of Dr. Tyng's parish had a summer home in New Brunswick, N.J. This parishioner desired to have Dr. Tyng officiate at some service in New Brunswick, and learning that the pastor of one of the Methodist churches in that city desired a supply for the month of August, suggested Dr. Tyng to him as possibly being willing to act as such supply. The minister in question wrote to the bishop of the diocese, asking his permission for Dr. Tyng to officiate in the said Methodist church. The bishop referred him to the Rev. Dr. Stubbs, the rector of Christ Church in the city of New Brunswick, who declined to give his permission for Dr. Tyng to officiate in the said Methodist church, pointing out that the said church, where Dr. Tyng was asked to officiate, was close to a small mission of the Episcopal Church, which would suffer should Dr. Tyng officiate in the nearby Methodist church. The Methodist minister, Rev. Dr. McClintock, replied that under the circumstances, Dr. Tyng would not be asked to officiate as intended. Dr. Tyng, however, accepted an invitation to preach in the Methodist church of which Dr. McClintock was pastor, on a certain Sunday in July of that year. The consent of the Rev. Dr.

Stubbs and the Rev. Dr. Boggs, the two rectors in New Brunswick, was expressly refused to Dr. Tyng's so officiating, and a letter of protest sent to Dr. Tyng on the Friday preceding the Sunday on which he was to officiate, and containing the statement that the bishop of the diocese also joined in the protest. Dr. Tyng made no reply to the letter of protest, but proceeded to officiate in the Methodist church on the following Sunday, both morning and evening. The next day, Dr. Stubbs and Dr. Boggs sent to the Bishop of New Jersey a formal complaint, presenting Dr. Tyng for having violated the law of the Church, and the bishop forwarded the papers to the ecclesiastical authority of the Diocese of New York, to which Dr. Tyng belonged.

The ecclesiastical authority of the Diocese of New York, on receiving the papers, issued a Commission of Inquiry, which, after examination, recommended the presentment of Dr. Tyng for a violation of Canon 12. The court found Dr. Tyng guilty of a violation of Canon 12, and adjudged his sentence as admonition.

The Bishop of New York, pursuant to the canon, then proceeded, on March 14, 1868, to pronounce the sentence of admonition on Dr. Tyng.

The case excited the greatest interest and caused much controversy throughout the whole Church because of the principle that was involved therein. That Dr. Tyng did not look upon the charges preferred against him as merely personal to himself, appears from his own statement, that "the question at issue is one of principle, which concerns all evangelical men in the Episcopal Church as well as myself."

In the trial of the case, Dr. Tyng contended that the words, "Parish" and "Parochial Cure," in Section 6 of Canon 12, could not properly be interpreted as meaning a territorial division, or locality defined by territorial boundaries or limits, but they were to be taken as simply designating the people who actually attend the ministrations of a clergyman in his church edifice, or whose names the minister of such church shall have put on the list of families and adult persons, according to the requirements of the canon.

The court refused to take this view of the canon for the reason, as stated by the court, "that the Canon itself plainly forbids it, by going on to define its own meaning in the following clear and positive language (after citing Title I, Canon 12, Section 5, the court continues): It would be impossible to find language that could more clearly and distinctly declare that a Minister's 'Parish' signifies, not the *people* merely who worship in his Church, but the *division of territory* within which, as fixed by law, or recognized by the Bishop as above recited, his Church or congregation is situated."

The court also stated that whatever doubt might have existed on this point was certainly intended to be set at rest by the enactment of Canon 7 of 1829, which enactment was occasioned by a similar circumstance to the one under consideration, and which has already been recited under the discussion of Canon 7 of 1829. After referring to this case and the Canon of 1829, the court declared, "It undoubtedly follows that no presence of a Minister's parishioners within the Parish or Parochial Cure of another, can give to that Minister a canonical right to officiate therein, even for them, without the permission of the Minister of that Parish."

It was also contended by Dr. Tyng "that the object sought by the legislation of the Church, which led to the enactment of this Canon, was solely to guard a Clergyman in his charge from efforts to supplant him in the affections and respect of his people, through a spirit of injurious rivalry and unholy competition." In reply to this contention, the court stated, "so far as it has any bearing of this sort it is not so much to remedy the mischief which flows from an unholy spirit of rivalry, as to prevent it.... The evident purpose of the Canon is to prevent the gaining of any such possession or foothold as would afford an opportunity for rivalry. The surest way to prevent rivalry would be to forbid intrusion." The court then stated that this was precisely the point to which the law of the Church is directed. After a review of the legislation of the Church on this question, the court further stated, "Every revision of the Canon from that day to this time has simply aimed to declare and give effect to its original purpose, by such further provisions as experience and the expansion of the Church seemed to demand." Regarding the propriety of this legislation, the court stated that with this question, "they had nothing to do.... They may remark however, that such legislation and such regulations are as old as the Church itself. based upon the principle of order and propriety, which we find so distinctly enunciated by the great Apostle St. Paul, in the 15th chapter of his Epistle to the Romans, 20th and 21st verses: Yea, so have I strived to preach the Gospel, not where Christ was named, lest I should build upon another man's foundation: But, as it is written, To whom he was not spoken of, they shall see; and they that have not heard shall understand."

In the trial of the case, many of the most eminent clergymen in the Church testified that "in their own Ministry and in that of other Clergymen, so far as their observation has extended, the requirements of this Canon have not been complied with, nor sought to be enforced." In reply to this, the court stated that such testimony could not help to determine either the meaning or the obligation of the canon. "Surely

the habitual or general ignorance or disregard of a law is not to be taken as settling its true interpretation. Nor can the number or respectability of those who set its requirements aside, render the breach of it less certain."

The Tyng case, as it was known, was one of the most celebrated cases that ever engaged the attention of an ecclesiastical court of the Church. It was a test case of a certain principle contended for by Dr. Tyng, and the evangelical party, which Dr. Tyng represented, that a clergyman had the right to go and preach wherever he might be invited to do so, and that Canon 12, prohibiting him from so doing, was practically null and void. The decision of the ecclesiastical court, that the canon in question was not null and void, that its provisions governed the official conduct of every clergyman in the Church, and that a clergyman who had violated its provisions was guilty of a breach of the canon law of the Church, occasioned the memorial to the General Convention of 1868, meeting only a few months after the decision of the court had been rendered, signed by a large number of those who were in sympathy with the principle contended for Dr. Tyng, praying for a repeal of Canon 12, Section 6, or some modification thereof. The General Convention refused to repeal or modify the canon, except to enact an amendment thereto, as above recited, making it clear that in a town or city where there were two or more parishes or congregations, a clergyman in charge of a parish or congregation may invite another clergyman to officiate therein without procuring the consent of any other clergyman in such town or city.

#### Convention of 1904

No further amendment was made to this section until the revision of the canons by the Convention of 1904, when the section was made Section 4 of Canon 15, and amended to read as at present constituted, except for a reference to missionary districts in clause (b) which was deleted as no longer needed in 1973.

Section 1 was amended by adding to the words "reading Prayers," the words "in public worship;" also, substituting for the words "or otherwise" the phrase "or by performing any other priestly or ministerial function," making the prohibition of the canon more stringent in its provisions.

In the former canon, the consent of the churchwardens and vestrymen, or trustees of the congregation, or a majority of them, was required, in the absence of the minister of the parish, for a minister to officiate in the parish of another minister; this was changed so as to require the consent of one of the churchwardens, if the minister, in his absence or disability, failed to provide for the stated services of the parish or cure.

Clause (ii) of the former section, relating to parish boundaries, and the case of two or more congregations in one municipality, was very materially altered. All matter concerning parish boundaries was stricken out, and in place of requiring the consent of a majority of the ministers in charge of parishes or congregations, where there are two or more in one cure, the consent of the bishop of the diocese would be sufficient. The former provision, that a minister may invite another minister to officiate in his parish, without requiring the consent of the other ministers in that cure, was retained, but amended so as to require the consent of the churchwardens or trustees, in case of the absence of the minister of the parish, instead of the churchwarden, and vestrymen, or trustees, or a majority of them. A proviso was also added, requiring the license of the ecclesiastical authority, when necessary (see Section 7).

A new paragraph was also added, providing that the above rule should not apply to any church, chapel, or oratory of an incorporated institution, if such place of worship was designed and set apart for such institution, and not used as a place for public or parochial worship.

Clause (iii) was retained in part without material amendment, save that the last part thereof, providing that proof of a minister neglecting to perform the regular services in his congregation might be laid, not only before the ecclesiastical authority of the diocese, but also before such persons as might be deputed by such authority, was stricken.

Clause (iv), providing that property rights should not be affected by this section, was stricken as being unnecessary.

#### Section 6

#### Convention of 1804

The first legislation by General Convention on the subject of clergymen removing from one diocese to another was by the Convention of 1804, which enacted Canon 3 of that year, reading as follows:

No minister, removing from one diocese to another, or coming from any state which may not have acceded to the Constitution of this Church, shall be received as a minister by any congregation of this Church, until he shall have presented to the Vestry thereof a certificate from the ecclesiastical authority of the diocese or state to which he is about to remove, that he has produced to them satisfactory testimonials that he has not been justly liable to evil report, for error in religion or viciousness of life, during the three years last past; which testimonials shall be signed by the bishop or bishops, or, where there is no bishop, by the majority of the clerical members of the standing committee or committees of the diocese or dioceses where he has resided; which committee or

committees shall, in all cases, be duly convened; or, in case he comes from a state not in connection with this Church, and having no Convention, by three clergymen of this Church. Nor shall any minister so removing, be received by any Vestry, or acknowledged by any bishop or Convention, as a minister of the Church to which he removes, until he shall have produced the aforesaid testimonials.

Every minister shall be amenable for any offenses committed by him, in any diocese, to the ecclesiastical authority of the diocese in which he resides.

It will be noted that the canon made necessary letters dimissory, not by declaring that the clergyman removing should ask for and obtain them, but providing that a clergyman cannot settle in another diocese without them. Nor did the canon, except by implication, require the minister removing to present them to the ecclesiastical authority of the diocese to which he removed; nor was any time limit set in which they were to be delivered.

#### Convention of 1808

Only a slight amendment to the canon was made by this Convention. The words "or district" were inserted after the word "state" in the opening clause thereof.

## Convention of 1829

This Convention amended Canon 3 of 1804 as follows:

The former canon provided that a minister removing should not be received as "a minister." This was amended to read that he should not be "received as a stated or officiating minister."

After the words "during the three years last past" were inserted the words:

or in case the party has been subjected to proceedings or to inquiry, in consequence of any charges subjecting him to censure, the fact of acquittal or exoneration from such charges may be stated in lieu of testimonials in the preceding terms.

The canon, as thus amended, was made Section 1 of Canon 4. The last sentence of Canon 3, of the Canons of 1804, was made Section 2 of Canon 4.

## Convention of 1832

In the revision of the canons by this Convention, Section 1 of Canon 4, of the Canons of 1829, was made Section 1 of Canon 35, but without amendment.

A new section was added to the canon, as Section 2, and reading as follows:

The above testimonial, or letter of dismission, shall not affect the canonical residence of the Minister receiving it, until he shall be received into some other Diocese by the Bishop or ecclesiastical authority thereof.

Former Section 2 was made Section 3, and a new Section 4 was added, but as neither section relates to matters included in the present Section 5 of Canon 2, they call for no consideration at present.

## Convention of 1835

This Convention repealed Canon 35 of the Canons of 1832, and enacted Canon 4 in its place, to read as follows:

Sec. 1. No minister removing from one Diocese to another, or coming from any State or Territory which may not have acceded to the Constitution of this Church, shall be received as a stated officiating minister by any parish of this Church, until he shall have presented to the vestry thereof a certificate from the ecclesiastical authority of the Diocese to which said parish belongs, approving him as a clergyman in regular standing. And in order to obtain such certificate, every minister desiring to change his canonical residence, shall lay before the ecclesiastical authority of the Diocese in which he designs to reside, a testimonial from the ecclesiastical authority of the Diocese in which he has last resided, in the following form, viz.:

I hereby certify, that A.B., who has signified to me his desire to be transferred to the Diocese of \_\_\_\_\_, is a Presbyter (or Deacon) of this Diocese in regular standing, and has not, so far as I know or believe, been justly liable to evil report for error in religion or viciousness of life during the three years last past.

When the ecclesiastical authority think proper, further statements may be added to the above letter.

Sec. 2. But in case the Minister desiring to be transferred, has been subjected to inquiry or presentment on any charge or charges of misconduct, thereby rendering the terms of the aforesaid testimonial inadmissible, he may nevertheless be transferred, if the charges have been withdrawn with the approbation of the ecclesiastical authority, or if he has been acquitted upon trial, or if he has been censured or suspended, and the sentence has had its course, so that he has been restored to the regular discharge of his official duties. And in all such cases the ecclesiastical authority of the Diocese concerned, shall, instead of the foregoing testimonial, certify to a statement of the facts, with as much detail as may be necessary to inform the ecclesiastical authority to which he desires to be transferred, of the true standing of the party.

Sec. 3. The ecclesiastical authority, in all cases under this Canon, is to be undertood to refer to the Bishop of the Diocese, or in case there be no Bishop, to the majority of the Clerical Members of the Standing Committee, duly convened. And if the Clergymen desiring to be received, come from a State or Territory not in connection with this Church, and having no Convention, then the above testimonial or statement shall be signed by at least three Presbyters of this Church. Nor shall any Minister so removing, be acknowledged by any Bishop or Convention as a Minister of the Church to which he removes, until he shall have produced the aforesaid testimonial or statement.

Sec. 4. The above testimonial, or letter of dismission, shall not affect the canonical residence of the Minister receiving it, until he shall be received into some other Diocese by the Bishop or ecclesiastical authority thereof.

Sec. 5. Whenever any Bishop of this Church, or where there is no Bishop, the Clerical members of the Standing Committee, shall give letters of dismission to any Clergyman of the Diocese proposing to remove into another, the Bishop, or where there is no Bishop, the Clerical Members of the Standing Committee, shall give notice of the same to the Bishop, or ecclesiastical authority to whom the letters of dismission are directed, and if the Clergyman to whom the letters of dismission are given, shall not present them to the Bishop, or ecclesiastical authority to whom they are directed, within three months after he shall have taken up his abode in the Diocese to which he has removed, the letters of dismission shall be null and void.

This canon provided the form of the letter dimissory which must be used by the bishop transferring, except in cases where there had been charges made, and the accused had been exonerated, or, if convicted, had served his sentence. We are told that these provisions, regarding clergymen against whom charges had been made, were necessary by the occurrence of such actual cases.

While provision was made that the bishop transferring was to give notice to the bishop to whom the transfer was made, that he had made such transfer, there was no provision that the bishop receiving the transfer was to notify the bishop giving it that he received it. Without such notice of reception, it is doubtful if the bishop would have had any right to remove such minister's name from the list of his clergy.

The provision, that the minister receiving letters dimissory must present them within three months after he has taken up his abode in a diocese, was not a satisfactory provision. A minister might delay for years before taking up his abode in the diocese to which the letters were granted, yet, under the canon, if he delivered them within three months after he has taken up his abode therein, they would still be valid.

# **Convention of 1841**

This Convention amended Canon 4 of 1835 by the addition of a new section, as follows:

Sec. 3. No Clergyman, canonically under the jurisdiction of any Diocese of this Church, shall be considered as having passed from under said jurisdiction, to that of any foreign Bishop, or in any way ceased to be amenable to the laws of this Church, until he shall have taken from the Bishop, with whose Diocese he was last connected in this Church, or from the Standing Committee of such Diocese, if it have no Bishop, the letter provided for in the 1st Section of this Canon, and until the same shall have been accepted by some other Bishop, either of this or some other Church.

We are told that the provisions of this section were made necessary by actual experience.

Sections 3, 4, and 5 of the former canon were renumbered as Sections 4, 5, and 6, respectively, and the canon made Canon 7.

#### Convention of 1844

This Convention reenacted Canon 7, of the Canons of 1841, as Canon 5, and amended the same by combining Sections 5 and 6 into Section 5, to read as follows:

The above testimonial or letter of dismission shall not affect the canonical residence of the Minister receiving it, until he shall be received into some other Diocese by the Bishop or Ecclesiastical authority thereof. And if the Clergyman to whom the letters of dismission are given shall not present them to the Bishop or Ecclesiastical authority to whom they are directed, within three months from the date thereof, if designed for the United States, and within six months from the date thereof if designed for the Church in a foreign country, the letters may be considered null and void by the said Bishop or Ecclesiastical authority, and shall be null and void if not presented as above, in six months after date, if intended for this country, and in twelve months after date if intended for a foreign country.

The canon, as thus amended, was a great improvement over former canons on this subject, in that it provided that letters of dimission must be presented within three months to the bishop of the diocese to whom they were issued, and if not delivered within six months, they should become, *ipso facto*, null and void.

A longer time was wisely allowed to those taking letters to foreign bishops.

## **Convention of 1850**

This Convention repealed Canon 5 of the Canons of 1844, and enacted Canon 7 in its place, which read as follows:

Sec. 1. Clergymen of this Church removing within the jurisdiction of any Bishop or other Ecclesiastical authority, shall, in order to gain full Canonical residence in the same, present to said Ecclesiastical authority a Testimonial from the Ecclesiastical authority of the Diocese or Missionary District in which they last resided, which Testimonial shall be to the following effect, viz.:

"I hereby certify that A.B., who has signified t	to me his desire to be transferred to the
Ecclesiastial authority of	, is a Presbyter (or Deacon) of
, in regular standing and l	has not, so far as I know or believe, been
justly liable to evil report for error in religion	or viciousness of life for three years last
past."	

And if the Clergyman remove to another Diocese, and has been called to take charge of a Parish or Congregation within such Diocese, and present the Testimonial aforesaid, it shall be the duty of the Ecclesiastical authority of the Diocese to which he has removed to accept it, unless the Bishop or Standing Committee should have heard rumors, that he or they believe to be well founded, against the character of the Clergyman concerned, which would form a proper ground of Canonical inquiry and presentment, in which case the Ecclesiastical authority shall communicate the same to the Bishop or Standing Committee of the Diocese to whose jurisdiction the said Clergyman belongs; and in such case it shall not be the duty of the Ecclesiastical authority to accept the Testimonial unless and until the Clergyman shall be exculpated from the said charges.

Sec. 2. In case anything shall have occurred to render the language of this Testimonial inapplicable to the Clergyman who proposes to remove, the Ecclesiastical authority shall give such a statement of facts as shall set forth his true standing and character.

Sec. 3. This letter shall not affect a Clergyman's Canonical residence, until, after having been presented according to its address, it shall have been accepted, and notification of such acceptance given to the authority whence it proceeded. The residence of the Clergyman so transferred shall date from the acceptance of his letter of transfer. If not presented within three months after its date, it may be considered as void, by the authority whence it proceeded: and shall be so considered, unless it be presented within six months.

Sec. 4. No Clergyman removing from one Diocese or Missionary district to another, shall officiate as the Rector, stated Minister, or Assistant Minister of any Parish or Congregation of the Diocese or district to which he removes, until he shall have presented to the Ecclesiastical authority of the same, a Testimonial as above described, and shall have obtained from said Ecclesiastical authority a certificate in the words following:

"I hereby certify that the Rev. A.B. has been canonically transferred to my jurisdiction, and is a Clergyman in regular standing."

Sec. 5. It shall be the duty of all Clergymen, except Professors in the General Theological Seminary, Officers of the Board of Missions, and Chaplains in the Army and Navy, to obtain and present letters of transfer, as above described, whenever they remove from one Diocese or Missionary district to another, and remain therein for the space of six months.

Sec. 6. No Clergyman shall officiate transiently in a vacant Parish, or in one the Rector or Minister of which is sick or absent, unless the Wardens or Vestry are satisfied he is at the time a Clergyman in good and regular standing. When from another Diocese, letters commendatory from the Ecclesiastical authority thereof may be required.

This canon was approved by the House of Deputies in the Convention of 1850, and sent to the House of Bishops, which house failed to act upon it within the three days then prescribed by the Constitution, and therefore, it became law by reason of the failure of the House of Bishops to notify the House of Deputies what action they had taken in the matter. The secretary of the House of Deputies failed to notice this fact, and the canon was not included among the canons enacted by the Convention of 1850. This neglect was corrected by the Convention of 1853.

This canon was a great improvement over the previous canons on the subject of clerical removals, and many of its provisions are similar to those in force today. The provisions of the former canons were condensed, made plainer as to their meaning, and much useless detail omitted.

One of the provisions of the new canon was that no clergyman from another diocese should act as rector or assistant minister in a diocese unless he had obtained from the ecclesiastical authority thereof a certificate stating that he had been transferred to that jurisdiction, and for the first time, the form of such certificate was prescribed. The requirement that all clergymen, except those exempted therefrom by the canon itself, must obtain letters of transfer was a new provision, as well as the exemptions therein allowed.

## Convention of 1856

Canon 7 of 1850 was repealed by this Convention, and Canon 6 enacted in its place.

Most of the changes made in the new canon were in the nature of a rearrangement of the several sections of the canon, and a slight change in the wording thereof.

The first paragraph of the former canon was made Section 1, with the addition at the end thereof of the following words: "which testimonial shall set forth his true standing and character."

Section 2 consisted of the form of the testimonial, with the provision that such testimonial might be in the form prescribed, making the use of the form permissory, instead of mandatory, as before.

Former Section 3 was made Section 3, with this statement at the beginning thereof: "All such testimonials shall be called Letters Dimissory."

This is the first time that such testimonials were termed "Letters Dimissory."

Former Section 2, providing for a statement of facts from the ecclesiastical authority of the diocese from which a clergyman was removing, where the facts in the case were such that the canonical letter dimissory could not be given, was stricken and no provision made for the transfer of a clergyman who could not obtain clean letters dimissory.

The third paragraph of former Section 1 was made Section 4, and former Section 5 remained as Section 5.

Former Sections 4 and 6 were stricken out of this canon, and made Sections 4 and 5 of Canon 7, "Of the Election and Institution of Ministers into Parishes or Churches."

## Convention of 1859

In the revision of the Digest of Canons by the Convention of 1859, Canon 6, of the Canons of 1856, was made Title I, Canon 12, Section 7, "General Regulations of Ministers and their Duties."

Sections 1 and 2 became clause (i) without material change.

Sections 3, 4, and 5 became clauses (ii), (iii), and (iv), respectively, without amendment.

Section 4 of Canon 7 of the Canons of 1850, which was made Section 4 of Canon 7 of the Canons of 1856, relating to the certificate of transfer, was made Section 2 of this canon, without amendment.

## Convention of 1874

Canon 12 of Title I, of the Canons of 1859, was renumbered by this Convention as Canon 14, Title I, and Section 7 (iv) was amended by inserting, after the words "General Theological Seminary," these words:

Professors and Tutors in any University or College which is maintained and governed by two or more Dioceses, associated for that purpose;

and at the end of said clause were added the following words:

But when a Diocese is divided into two or more Dioceses, any Professor in a Theological Seminary therein, which is governed by Trustees from every part of such original Diocese, may select to which of said Dioceses he shall belong, and shall not be obliged to obtain and present the above mentioned letter of transfer.

This amendment was occasioned by the division of the Diocese of Ohio into two dioceses. Bexley Hall, a theological seminary, was situated in the old Diocese of Ohio, and provision was now made that the professors therein might choose which of the two dioceses they desired to be canonically connected with, and without the necessity of obtaining letters of transfer as required by the section.

## Convention of 1892

Title I, Canon 14, of the Canons of 1874, was renumbered by this Convention as Title I, Canon 18, and Section 7 of said canon was amended as follows:

In the first line of clause (i), the word "within" was stricken out, and the word "into" inserted in its place.

At the end of the first sentence were added these words:

the said testimonial shall be given by the Bishop to the applicant, and duplicate thereof may be sent directly to the Bishop of the Diocese or Missionary Jurisdiction to which said Minister proposes to remove.

Clause (ii) was amended to read as follows:

All such testimonials shall be called Letters Dimissory. The canonical residence of the Minister so transferred shall date from the acceptance of his Letter Dimissory, of which the accepting Bishop shall give prompt notice both to the applicant and to the Bishop

from whom it came. If not presented to the Bishop within six months from the date of its transmission to the applicant, it shall become thereby wholly void.

## Clause (iv) was amended to read as follows:

It shall be the duty of all Ministers to obtain and present letters of transfer as above described, whenever they remove from one Diocese or Missionary District to any other Diocese or Missionary District, whether Domestic or Foreign, and remain there for the space of six months. This provision shall not apply to Professors in any institution of learning, Officers of the Board of Missions, and Chaplains of the Army and Navy of the United States. But no Minister, who shall have taken up his residence in a Diocese to which he has not been canonically transferred, shall be competent to minister therein without the license of the Bishop.

Some of the principal changes made by these amendments were as follows:

Clause (i) made it mandatory upon the bishop to give the testimonial referred to in this clause to the applicant, and provided that a duplicate might be sent to the bishop of the jurisdiction to which the applicant intended to remove.

Clause (ii) provided that the bishop receiving the testimonial should notify the applicant, as well as the bishop issuing it, that the letter dimissory had been accepted. The former provision, that the bishop issuing the letter dimissory might consider the same void if not delivered in three months, was stricken.

The former provision in clause (iv), that theological professors might select the diocese to which they desired to belong in case of a division of the diocese, which was added in 1874, was stricken.

#### Convention of 1898

This Convention amended Section 7 (iii) of Canon 18, Title I, by adding thereto two provisos, as follows:

Provided, that no Deacon who shall have not passed all the Examinations for Priest's Orders, shall be transferred to another Diocese or Missionary Jurisdiction without the written request of the Ecclesiastical Authority of the said Diocese or Jurisdiction. Provided, also, that no person who has been refused ordination or reception as a candidate in any Diocese or Missionary Jurisdiction, and who has afterwards been ordained in another Diocese or Missionary Jurisdiction, shall be transferred to the Diocese or Missionary Jurisdiction in which such refusal has taken place, without the consent of its Bishop or Ecclesiastical Authority.

The first proviso was enacted to prevent a deacon, who had failed in his examinations for priest's orders, being transferred to another diocese without the consent of the ecclesiastical authority thereof. The second proviso was enacted with special reference to the protection of a diocese from the return thereto, without the permission of the ecclesiastical authority, of one who had been refused ordination or admission as a candidate therein.

## Convention of 1904

In the revision of the Digest of Canons by this Convention, Section 7 of Canon 18, Title I, became Section 5 of Canon 15, "Of Ministers and their Duties."

Except for references to missionary districts in clauses (i), (v), and (vi), deleted as no longer needed in 1973, the canon was constituted as follows:

Clause (i) was former clause (i), unamended, and reading as the present clause (a).

Clause (ii) consisted of the first two sentences of former clause (ii), and was identical to the present clause (b).

Clause (iii) consisted of the last sentence of former clause (ii), to which was added a second sentence. The clause read as follows:

Letters Dimissory not presented within six months from the date of their transmission to the applicant shall become wholly void. No Minister shall officiate more than two months in any Diocese or Missionary District other than that in which he is canonically resident, without a license from the Ecclesiastical Authority.

Clause (iv) was the same as former (iii), except that it was amended by changing the time, in which a bishop must accept the letter dimissory of a minister called to a parish in his diocese, from six months to three months, and by striking out the two provisos added by the Convention of 1898. Its wording was identical to the present clause (d).

Clause (v) was former Section 2 of the canon, slightly amended, and was identical to present clause (e).

Clause (vi) was composed of the second proviso in former clause (iii), and was the same as present clause (f).

## Convention of 1907

This Convention amended the second sentence of clause (iii) by adding, after the words "two months," the words:

by preaching, ministering the Sacraments, or holding any public service within the limits of,

The purpose was to define the meaning of the word "officiate," concerning which there had been some question.

#### Convention of 1919

This Convention renumbered Canon 15, of the Canons of 1904, making it Canon 20, and amended Section 5 thereof, by adding a new clause thereto, as clause (vii) and reading as follows:

No person who has been ordained under the provisions of Canon 5, shall be transferred to another Diocese or Missionary District, save as provided in the said Canon.

This amendment was made necessary by the enactment of Canon 5 by this same Convention, which provided for the modification of the normal standard of learning required of certain men desiring to be ordained deacons and priests, and that deacons and priests ordained thereunder shall not be granted letters dimissory to another diocese without the request, in writing, of the bishop of such diocese, or unless they shall have passed the full examination required in the canon "Of the Normal Standard of Learning."

### **Convention of 1943**

Clause (iii) was amended by removing the second sentence thereof, which was then reenacted as a separate Section 6.

#### Section 7

As noted above, this section was formerly part of the preceding section.

## Convention of 1961

The section was amended to its present form by adding the words "of this Church" after the words "No Minister."

#### SECTION 8

#### Convention of 1940

This section was enacted by this Convention as Section 7.

It was renumbered as Section 8 in 1969.

#### Section 9

## Convention of 1961

This section was enacted by this Convention as Section 8. It read as at present, except for the words "National Council," which were changed to "Executive Council" in 1964.

Though priests of this Church had long served as chaplains to the Armed Forces, this was the first canonical provision on the subject.

#### Section 10

## Convention of 1949

This section was added by this Convention as Section 8, to take effect on January 1, 1957:

Upon attaining the age of seventy-two years every Minister of this Church occupying any parochial or administrative position in the Church, shall resign the same and retire from active service. Thereafter he may engage in remunerative employment in the Church only as the Rules and Regulations of the Church Pension Fund may permit.

## Convention of 1955

Acting upon the report of a study by The Church Pension Fund, requested by the Convention of 1952, this Convention amended the section to read as follows:

Upon attaining the age of seventy-two years, every Minister of this Church occupying any remunerative position in this Church shall resign the same and retire from active service, and his resignation shall be accepted. Thereafter, he may accept any position in this Church except the position or positions from which he has resigned pursuant to this Section, *provided*, that (a) the tenure in such position shall be for a period of not more than one year, which period may be renewed from time to time, and (b) service in such position shall have the express approval of the Bishop and Standing Committee or Council of Advice of the Diocese or Missionary District in which such service is to be performed, acting in consultation with the Ecclesiastical Authority of such Minister's canonical residence.

## **Convention of 1973**

The reference to missionary districts was deleted as no longer needed.

## Convention of 1976

This Convention, in order to provide that non-stipendiary clergy might serve after retirement, removed the word "remunerative" in the first sentence and added the present item (c) at the end of the section.

## Section 11

## Convention of 1952

This section was adopted by this Convention as Section 9.

It became Section 10 in 1961, and Section 11 in 1969.

## **EXPOSITION OF CANON III.21**

The first section of this canon, which declares that the control of the worship and spiritual jurisdiction of the parish, and the use and control of the church and parish buildings, shall be vested in the rector, is simply declaratory of the tradition of the Church.

The law of the English Church as stated by Blunt (Book of Church Law, p. 330) is as follows:

The arrangements for Divine service are under the absolute control of the incumbent, subject, of course, to the laws laid down in the Prayer Book and elsewhere. It is for him to decide whether there shall be any services beyond the morning and evening, and whether the Holy Communion shall be celebrated at the same time when Morning Prayer is said, or whether they shall form separate services. The hours of Divine service are also to be fixed by the incumbent. But, above all, it rests with the incumbent to control all those parts of Divine service which are not actually performed by the Clergy.

At no time, and by no law, has there ever been given to the wardens and members of the vestry of a parish, expressly, or by implication, the slightest right to interfere in any manner with a priest-rector in the due and lawful exercise of office. A rector is responsible only to the bishop for the proper discharge of such official duties.

The spiritual and canonical rights of a rector are not, however, bestowed arbitrarily, but are commensurate with the responsibilities of the office. Thus, in the exercise of the control of worship, the rector is to be guided not only by the rubrics of the Prayer Book and the canons of the Church, but by the solemn obligation stated in the rite for the ordination of a priest "to nourish Christ's people from the riches of his grace, and strengthen them to glorify God in this life and the life to come."

The fact that the rector is given control, moreover, does not mean that it is inappropriate to consult with parishioners or others in the planning of worship. In recent years such consultation has become increasingly widespread, and the Convention of 1979, in its "Guidelines for Congregational Worship," specifically recommended that all congregations "develop a worship committee to work with and advise the Rector or Vicar" (*Journal*, p. C-11). In the selection of music to be used at services, the rector is obligated by canon to "seek assistance from persons skilled in music" (Canon II.6).

All other ministers connected with the parish, whatever their titles may be, are assistants, and are under the rector's authority. There is no warrant whatever for a position called "associate rector," regardless of its widespread use. There can be only one head to a parish, and that is the rector.

Guilds and societies formed or existing within the parish are also subject to the rector's control.

The rector is, at all times, entitled to the use and control of the church and parish buildings, and all things belonging thereto. Prior to the revision of the Prayer Book in 1979, this right was symbolized by the delivery of the keys of the church to a new rector in the course of the Office of Institution. This delivery, in itself, conferred no powers but, rather, served as a formal recognition of the rector's right, *virtute officii*, to the exclusive control of the parish buildings (see Canon III.23 below).

Judge Hoffman (*Ecclesiastical Law*, p. 86) states, "that the call, acceptance, and entering upon the duties of a Rector, without any special restraints agreed upon, as fully establishes the relation between a Rector and the Parish, as the Institution Office."

The courts have uniformly adopted this view. (But see  $Fiske\ v.\ Beatty,$  cited in the exposition of Canon III.23.)

In the important case of *Lynd v. Menzies, et al.* (33 N.J. L. Rep. 162) where the rector of a church was forcibly prevented from preaching in the church and occupying the parochial schoolhouse by reason of the doors of both buildings being locked against him, it being proven on the trial of the case that such expulsion was the act of the wardens and vestrymen of the parish, the rector recovered damages against the wardens and vestrymen, as individuals, in the sum of one thousand dollars. The case came before the Supreme Court of New Jersey on a motion for a new trial. The chief justice, in delivering the opinion of the Court, said, in part:

What, then, is the agreement into which a congregation of this denomination of Christians enters upon the call of a Rector? So far as it touches the matter in controversy, it plainly appears to be this; they offer to the Minister receiving the call such rights in their temporalities as, by the Ecclesiastical Law of their sect, belong to the office which is tendered, one of such rights being that of preaching on Sundays in the church provided by the congregation. Such an offer, therefore, can have nothing to do with the title to the church edifice....

I think it clear that, in the right of his office, a Rector, by force of the law of this Church, has either the possession of the church edifice, or has the privilege which enables him to enter into it—such privilege being in the nature of an easement.

If then we adopt this theory, and I perceive no reason for rejecting it, that for the purpose of the exercise of his sacerdotal functions, the Rector becomes possessed of the church buildings and grounds, it will be difficult to devise any pretext in denial of the right of such officer to a civil remedy if such possession be invaded.

The conclusion deducible from these authorities seems clear: that the possession and control of the church edifice, and other parish buildings, appertain exclusively to the rector for all ecclesiastical purposes.

The extent of the "possession and control of the church edifice" by the rector, or the priest in charge of a missionary cure, was construed in *Carter v. Papineau* (222 Mass. 464, 111 N.E. 358). The Rev. Mr. Papineau was the priest in charge of a missionary cure in the Diocese of Massachusetts. Because of the peculiar actions during the services of church, as it was claimed, of a certain member of the congregation, tending to disturb the devotions of the other members thereof, her continued attendance upon the services was deemed undesirable. The Rev. Mr. Papineau, therefore, stationed a constable at the door of the church with instructions to prevent the plaintiff from entering the church should she attempt to do so. The constable, obeying his instructions, did prevent the plaintiff from entering the church. The plaintiff then brought suit against the Rev. Mr. Papineau for damages because of unlawful exclusion. The suit came on before a judge and jury, and was decided in favor of the Rev. Mr. Papineau. The plaintiff then appealed the case. The Appellate Court, in rendering its opinion, said in part:

The action for exclusion also must fail. It appears that upon being informed by the constable employed for the purpose that she could not enter, the plaintiff made no attempt to pass, but acquiesced and obeyed the order. The elements of an assault are absent. No intimidation was used, or unjustifiable coercion exercised. By Canon 16 [now Canon III.21] to which the plaintiff subjected herself, control of the worship and spiritual jurisdiction of the mission, including the use of the building for religious services, was in Papineau as the minister in charge, "subject to the authority of the Bishop." ...It is not shown that she had any rights of property in the building, the furnishings, or in any contract relating thereto, or that he was actuated by malice or ill will. The manner, and time of admission having been within his control primarily; the acts of temporary exclusion are not reviewable at law or in equity.

It would seem from this decision, as well as from the decisions of the courts above cited, as well as from the language of the canon, that the rector of a parish, or the priest in charge of a missionary cure, has the right to refuse entrance to the church building to a person whose presence therein in time of service is, for any reason, deemed undesirable.

Clause (c) of Section 1 presents a difficulty because of its use of the word "election." Since the assistant minister is not to be a corporate officer, there is no reason for an election, and it is probable that the term "elect" is used here as a synonym for "select" or "choose." It is believed that the only power vested in the bishop by this clause is an opportunity to reason with a rector and vestry during thirty days concerning the member of the clergy it is proposed to elect.

The second and third sections of this canon relate to the duties of a rector, or of a minister in charge of a parish or congregation.

The first duty enjoined is that of instructing the children in the catechism, and examining them publicly in the same before the congregation. Also, to inform the youth and others in the Holy Scriptures and the doctrines, polity, history, and liturgy of the Church, and instruct all the members of their congregations in the missionary work of the Church, giving them suitable opportunities for offerings for that work.

In recent decades, the instruction of children in the fundamentals of the faith has been carried out primarily through Sunday schools and other programs of learning led by lay people, and the Prayer Book (p. 844) specifically provides for lay catechists. The responsibility for what is taught, however, rests firmly on the rector of the parish, and it is therefore the rector's prerogative to select both the teachers and the curriculum materials to be used.

The delivery of catechetical lectures by the clergy is a venerable tradition of the Church, and was originally connected with the preparation of adults for Baptism and first Communion. They also served as "refresher courses" for those already baptized. In Anglicanism, such lectures were frequently delivered at Sunday Evening Prayer, in place of a sermon; and, in this Church, the custom continued until regular attendance at Evensong became rare. In 1979, the General Convention adopted new forms for the "Preparation of Adults for Holy Baptism" (Book of Occasional Services, p. 112), which include provision for such lectures in the ancient manner.

The next duty laid upon the clergy is the preparation of persons for Confirmation, and it is a most important duty, giving an opportunity to the clergy to so ground the candidates in the things relating to the Church, its doctrines, polity, history, and liturgy, that in all the after years they will be able to give a reason for the faith that is in them. Priests who fail to use this opportunity to its utmost are recreant to their duty.

The canon prescribes that the minister is to deliver to the bishop a list of the names of those to be confirmed, which means that this list is to be delivered to the bishop *before* the service of Confirmation, and not afterwards. By the delivery of the list, the minister certifies to the bishop that, in his or her judgment, the persons named are qualified as well as instructed. The presence of a name on the list does not, however, obligate the bishop to confirm the person, and if he deems that there is good reason to refuse, he may do so.

The next duty laid upon a minister is, with one of the churchwardens or some other officer of the church, to exhibit to the bishop, on the occasion of his official visitation, the parish register; and, if the bishop should have signified to them in writing that he would desire information on certain points regarding the state of the congregation, to give him such information. This is a provision that we fear is observed in the breach more than in the observance. It is almost criminal, the way in which too many parish registers are kept, rendering them wholly useless for the purposes for which they were intended. Much could be done by the bishops to correct this unfortunate condition of affairs if they would but insist upon the officers of the parish performing this duty which is enjoined upon them by the canon.

Clause (e) of Section 2 provides that the alms and contributions, not otherwise specifically designated, at the celebration of the Holy Eucharist on one Sunday in the month is to be deposited with the minister for charitable purposes. These offerings may be used for the relief of the poor, or for any other charitable or pious purpose, whether inside the parish or outside it, and the minister is not obligated to render to anyone an account of their use.

The third section of the canon makes it the duty of every minister to keep a record of official acts. We have already remarked on the careless way in which many parish registers are kept, and the urgent need of reform therein. The record of every baptism must be signed by the minister performing the same. This is most important, as the record of baptism is often required as a matter of proof in the courts, and is accepted by them as the best evidence concerning the facts covered thereby. The failure of a minister to keep an accurate record of baptisms may often work a great injustice.

The fourth section of the canon provides for clergy who desire to support themselves by secular employment, while remaining ministers in good standing. The terms of the section are clear and require no exposition.

The history of the fifth section, so far as it relates to a minister officiating in the cure of another without permission, and the decisions of the ecclesiastical courts in the cases that have come before them for violations of the provisions of the section, would seem to leave no doubt as to the meaning thereof. That the word parish signifies not merely the people who worship in the church of that parish, but the division of territory, fixed by law, and recognized by the bishop, as belonging to such parish. And that no minister can officiate within the territorial limits of such parish, in any priestly or ministerial way, without the consent of the rector of such parish, or, in his absence or disability, if he shall have failed to provide for the regular services of the church, then of one of the churchwardens.

We have already noted under the history of this section a few of the most important cases that have arisen under it.

One exception should be noted to the law as laid down herein. If a public cemetery be located within the territorial limits of a parish then, unquestionably, a minister would have the right to perform the burial service therein.

Another exception to the rule is found in the case of a place of worship which is a part of an incorporated institution, created by legislative authority, provided it is not used for public or parochial worship. Such places of worship would include the chapels of religious communities.

In a city or town where there are two or more congregations within such civil division, the section provides that the consent of a majority of the ministers of such congregations, or of the bishop, shall be sufficient. In large cities, where there are several congregations and parishes, it is somewhat inconvenient to obtain the consent of a majority of such ministers, and the usual custom is to obtain only the consent of one of said ministers, preferably of the minister whose parish church is nearest to the place where the ministerial function is to be performed.

Section 6 of the canon relates to the removal of a minister from one diocese to another, and the requirements necessary to gain canonical residence in the diocese to which he removes.

In the ancient canons, letters dimissory strictly referred only to the instrument by which one bishop sanctioned the ordination of a minister under his jurisdiction by another bishop. Our letters dimissory more closely resemble the letters commendatory of the canon law, and are mentioned in the Provincial Constitutions of Walter and Arundel. The latter says, "It is provided that no one not born or ordained in the province should be admitted to officiate, unless he brought with him his letters of orders, and letters commendatory of his diocesan."

Bingham tells us ( $Ecclesiastical\ Antiquities$ , Lib. II, Chap. IV, Sec. 5)

that according to the rules and practices of the ancient Church, no Christian could travel without taking letters of credence with him from his own Bishop, if he meant to communicate with the Church in a foreign country. These letters were usually of three kinds, commendatory, communicatory and dimissory. The third kind were given only to the Clergy when they were removing from one Church to settle in another, and they were to testify that the bearers had their Bishop's leave to depart, whence they were called dimissory, and sometimes pacifical. All these went under the name of formed letters, because they were written in a particular form, with some particular marks and characters which served as special signatures to distinguish them from

counterfeits. Respecting all of these it is to be observed that it was the Bishop's prerogative to grant them, and no other person might presume to do so, at least without his authority and permission.

In order to gain a canonical residence in another diocese, a minister must present to the ecclesiastical authority of such diocese a letter dimissory from the ecclesiastical authority of the former diocese, setting forth his or her true standing and character. Canonical residence dates from the acceptance of the letter dimissory, which acceptance must be at once communicated to the applicant and to the ecclesiastical authority who gave it. While the minister thus gains a canonical residence in the diocese, he cannot officiate as rector or minister of a parish therein until he receives a certificate from the ecclesiastical authority thereof, stating that he has been canonically transferred to his jurisdiction. This provision applies to a minister called as an assistant minister.

If letters dimissory are not presented within six months from the date thereof, they become wholly void.

No minister can officiate in a diocese in which he is not canonically resident, for a longer period than two months, without a license from the ecclesiastical authority thereof. The term "officiate" means preaching, ministering the sacraments, or holding any public service.

The section provides that if a minister, removing into another diocese, who has been *called* to a cure in a parish or congregation, presents letters dimissory, in the form prescribed, it is made the duty of the ecclesiastical authority of the diocese to accept them within three months, unless there are rumors as to his character. It will be noted that it is only the letters dimissory of a minister who has been called to a parish that must be accepted, not of a minister who has simply been elected thereto. When a minister is elected to a parish, notice of such election must be sent to the bishop, who has a right to be satisfied that the minister so elected is a duly qualified minister; then, if the bishop gives his consent to such election, or the time has elapsed during which he may refuse it, the parish may proceed to give the elected minister a call. This section simply provides that after a bishop has given his consent to the election, or failed to act, and the vestry, acting thereon, has issued a call to the elected minister, the bishop cannot refuse to receive the minister, whom he has already consented to receive, or failed to refuse to receive. unless there are rumors regarding the minister's character which were not known to the bishop when he gave his consent or failed to refuse consent to the election.

A discussion of the difference between an election and a call to a minister, and the right of a bishop to refuse his consent to an election of a rector and a call being issued to such elected minister, will be found in the consideration of Canon III.23, to which reference may be had.

The remaining sections of the canon are clear and require no exposition.