

## A Tale of Two Churches: The Ecclesiologies of The Episcopal Church and the Church of England Compared

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This article compares key aspects of the ecclesiologies of The Episcopal Church and the Church of England. First, it examines and contrasts the underlying logic of their structures and the relationships between their constituent parts (General Synod/General Convention, diocese, parish/congregation). Against this background, it then looks at the place of bishops in the ecclesiologies of the two churches (in relation to clergy and parishes, in relation to diocesan synods/conventions and standing committees, and nationally). The American Presiding Bishop's role is contrasted with the traditional roles of primate and metropolitan. Throughout, attention is given to origins and historical development. Reference is also made to the relevant constitutional, canonical and liturgical provisions. *Rapprochement* between the two ecclesiologies is noted, especially with respect to the role of the laity, but the article argues that this is far from complete. Each church's ecclesiology continues to be determined by its origins; important modifications have been made within that framework, rather than overturning it. It is hoped that the analysis will illuminate the current disputes within The Episcopal Church and the crisis within the Anglican Communion that they have prompted.

**Keywords:** ecclesiology; Anglican Communion; Lambeth Conference; The Episcopal Church; the Church of England; episcopacy; Canon Law

### Introduction

The Second Anglican–Roman Catholic International Commission's agreed statement, *The Gift of Authority*, speaks of the authority of bishops as follows: 'In every part of the Anglican Communion, the bishops bear a unique responsibility of oversight. For example, a diocesan synod can be called only by the bishop, and its decisions can stand only with the bishop's consent'.<sup>1</sup> It is certainly true that, in the Church of England, a diocesan bishop can veto any motion in his diocesan synod,<sup>2</sup> but is that true, for example, in The Episcopal Church (as the Protestant Episcopal Church in the United States of America is now more commonly known?)<sup>3</sup> Its Constitution and Canons are silent on a bishop's

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<sup>1</sup>*Gift of Authority*, 29, para 39.

<sup>2</sup>The Church Representation Rules require the standing orders of each diocesan synod to enable the diocesan bishop both to require a vote by houses and also to direct that the question 'shall be deemed to have the assent of the house of bishops only if the majority of the members of that house who assent thereto includes the diocesan bishop': Church Representation Rules, r 34(1)(e),(g) set out in Synodical Government Measure 1969, Sch 3 (as amended).

<sup>3</sup>The implication that the church was protestant rather than catholic having made the name something of an embarrassment, in 1901 'Protestant Episcopal Church' was replaced with 'this

relationship with the diocesan convention (it is not termed a ‘synod’), so to answer this question one has to look instead at the constitutions and canons of the individual dioceses. For this article, a sample of 10 out of the 100 domestic dioceses has been selected.<sup>4</sup> In all ten, the diocesan convention has legislative power and the diocesan bishop is bound by the constitution and canons it enacts. In each there is provision for voting by ‘orders’, but there are just two ‘orders’ – clergy and laity. In nine, the diocesan bishop has a single vote as a member of the clergy, while in one (Fort Worth) he does not vote at all, though he may express his views on any question after the debate is closed and before the vote is taken.<sup>5</sup> Only in one of the ten dioceses (Fond du Lac) do any decisions of the convention require the bishop’s approval, and even there such approval is required only for amendments to the diocesan constitution and canons.<sup>6</sup> So in nine of those ten dioceses it is not true that decisions of the convention ‘can stand only with the bishop’s consent’, and in the tenth it is true only with respect to legislation.

This erroneous assertion in *The Gift of Authority* is an example of a tendency for ecumenical dialogues involving Anglicans to proceed on the assumption that there is an ‘Anglican ecclesiology’ common to the churches of the Anglican Communion. That assumption needs to be questioned. Whether it should be possible for a diocesan bishop to be overruled by his diocesan synod is not an insignificant point, and it is one on which the Church of England and The Episcopal Church differ. Paul Marshall is surely right to speak of The Episcopal Church having ‘an American ecclesiology’ – by implication, distinct from that of the Church of England.<sup>7</sup> It is perhaps not surprising that Roman Catholic representatives increasingly complain of a lack of coherence in the Anglican Communion that makes ecumenical dialogue with Anglicans difficult.

This article will compare and contrast key elements of the ecclesiologies of The Episcopal Church and the Church of England and suggest that, as with Britain and America in general, English Anglicans and American Episcopalians are ‘divided by a common language’, using the same terms (‘bishop’, ‘diocese’, ‘province’, ‘primate’) but meaning very different things by them. Whereas Norman Doe has focused attention on what is common to the legal systems of the Anglican churches in general,<sup>8</sup> this article will point to the differences in structure and polity between these two churches in particular. Such a study may also illuminate the current disputes within The Episcopal Church and the crisis within the Anglican Communion that they have prompted.

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Church’ at every point in the Constitution apart from the Declaration of Conformity prescribed by Article VIII (Shoemaker, *Origin and Meaning*, 222). In 1967, a new preamble was adopted. This begins with the traditional name but recognises ‘The Episcopal Church’, which had always been used as shorthand, as an alternative designation. The word ‘Protestant’ was then deleted from the Declaration of Conformity in 1979 (White and Dykman, *Annotated Constitution and Canons*, 6–7; Holmes, *Brief History*, 51). Until recently, the short name was commonly expressed as ‘The Episcopal Church (USA)’, abbreviated ‘ECUSA’, but, as note 5 to the *Communiqué of the 2007 meeting of the Primates of the Anglican Communion* explained, ‘The Province operates across a number of nations, and decided that it was more true to its international nature not to use the designation USA’. ‘The Episcopal Church’ is abbreviated ‘TEC’.

<sup>4</sup>Connecticut and Massachusetts (Province I), New York (Province II), Bethlehem and Pennsylvania (Province III), Alabama (Province IV), Eau Claire and Fond du Lac (Province V), Fort Worth and Rio Grande (Province VII). The constitutions are published on the diocesan websites.

<sup>5</sup>Diocese of Fort Worth, Constitution, Article 7.

<sup>6</sup>Diocese of Fond du Lac, Constitution, Articles XVI, XVIII.

<sup>7</sup>Marshall, *One, Catholic, and Apostolic*, 53 (Chapter title: ‘The search for an American ecclesiology’).

<sup>8</sup>Doe, ‘The common law of the Anglican Communion’.

## Church structures

### *The Church of England: continuity of structure*

In order to set the context, it will be helpful to begin by looking at where the structures of the two churches have come from.

The Church of England's structure is still largely that inherited from the western Church as it developed in England between St Augustine's arrival in Canterbury in 597 and the English Church's separation from Rome in the mid-sixteenth century, 950 years later. (The fact that two-thirds of the Church of England's life has been spent in union with Rome and only one-third in separation is not insignificant.) Recent studies of the English Reformation have rightly stressed the radical discontinuities in doctrine and worship, spirituality and life which characterised the history of the Church in mid-sixteenth-century England,<sup>9</sup> but it is important to remember that those discontinuities occurred within the framework of a complete continuity of structure. The ordering of the two English provinces – dioceses, archdeaconries and deaneries – was unaffected by the Reformation (although, as might be expected in a period of reform, some new dioceses were created). Much of the mediaeval canon law remained in force, administered by church courts that continued unaltered. As Eamon Duffy has said, the Church of England 'retained totally unchanged the full medieval framework of episcopal church government'.<sup>10</sup> Ecclesiologicaly, the continuity of the body is of more fundamental significance than the shifting patterns of its liturgy, devotion and thought, important as these unquestionably are.

Long before the Church of England separated from Rome, it existed as a recognised unit, known as *Ecclesia Anglicana* in Latin and 'the Church of England' in English.<sup>11</sup> Before the Reformation, councils were held from time to time for the whole English Church, and the Church of England has continued to have a strong corporate life at the national level. In this, its ecclesiology differs from that of the modern Roman Catholic Church, in which a national bishops' conference cannot (except 'where universal law has prescribed it or a special mandate of the Apostolic See has established it') 'act in the name of all the bishops unless each and every bishop has given consent'.<sup>12</sup> By contrast, the General Synod of the Church of England can take decisions by which diocesan bishops are bound, whether or not they voted in favour. Similarly, the General Synod is not a federal assembly. Each of its three houses has a corporate role and identity, and its members debate and vote as individual members of a national body, not as members of diocesan delegations.

The fundamental unit of the Church in England has always been the diocese, however. Dioceses have existed from the beginning, grouped first in one province and from 735 in two, whose bishops are under the jurisdiction of a metropolitan.<sup>13</sup> Parishes and archdeaconries came somewhat later; they are secondary units.

### *The Episcopal Church: a church constructed from below*

One of the principal differences between The Episcopal Church and the Church of England is that, before its separation from Rome, the Church of England was already a

<sup>9</sup>See, for example, MacCulloch, 'Birth of Anglicanism' and Duffy, 'Shock of Change'.

<sup>10</sup>Duffy, 'Shock of Change', 430.

<sup>11</sup>See Wright, 'Anglicanism, *Ecclesia Anglicana*, and Anglican', 480.

<sup>12</sup>*Code of Canon Law* 1983, Canon 455, § 1, 4. See also Pope John Paul II, *Apostolos Suos*, especially paras 20–24.

<sup>13</sup>*Canons of the Church of England*, Canons C 17, G 5.

fully structured church, consisting of dioceses grouped into provinces with a corporate identity at the national level, whereas when the American congregations separated from the Church of England they were linked to each other by no structure at all. As is well known, there were no Anglican bishops in America before the Revolution, and, of course, that meant that there were no dioceses either. The church in each of the thirteen colonies was distinct, having links with England but not with the other colonies.<sup>14</sup> (In the 1760s, the clergy of the four middle colonies – Delaware, Pennsylvania, New Jersey and New York – began to meet in voluntary conventions and founded a Society for the Relief of Widows and Orphans of Clergymen, but these were only small and informal beginnings.)<sup>15</sup> In most of the colonies there were no formal structures at all above the level of the parish or congregation. Bishops of London had appointed commissaries to exercise jurisdiction on their behalf in some colonies, but the American jurisdiction of Edmund Gibson (Bishop of London, 1723–1748) derived from a commission to him personally; his successor, Thomas Sherlock, did not obtain such a commission and accordingly appointed no commissaries – after 1762, only Virginia had one.<sup>16</sup> In the five southern colonies (Maryland, Virginia, North Carolina, South Carolina and Georgia), where the church was established, colonial governors and assemblies gave some coherence but, even here, local congregations enjoyed a large measure of autonomy.

Whereas the canon law of the western Church largely continued in force in England after the Reformation, the same did not happen in America after the Revolution. Although English ecclesiastical law does continue in force in America for certain purposes,<sup>17</sup> its influence on the life of The Episcopal Church today would seem to be very small by comparison with the role still played in the Church of England by its pre-Reformation legal inheritance.

The Episcopal Church was born out of revolution, and it should be noted in passing just how disruptive that revolution was. Many churches closed during the revolutionary period; it has been estimated that, whereas in 1774 there were 318, by 1789 there may have been only 259. Many of the 60,000–80,000 loyalists who left the new United States were members of the Church of England, and among them were a significant proportion of the clergy in the northern colonies – perhaps 39 out of 68 clergy in New Jersey, New York and New England left.<sup>18</sup> Britain lost the War of Independence in 1781 and recognised the United States in 1783.

The achievement of uniting the very diverse surviving parishes and congregations of thirteen former colonies, many of them lacking clerical leadership, into a single Episcopal Church by 1789 should not be underestimated. The man above all whose achievement that was, the father of The Episcopal Church who was primarily responsible for the shape that it took, was William White. White was born in Philadelphia in 1748 and spent the whole of his ministry at Christ Church, Philadelphia, first as assistant curate and then, from 1779 (aged 31), as rector. He became additionally Bishop of Pennsylvania in 1787 and Presiding Bishop in 1795, holding all three offices until his death in 1836. White has been characterised as ‘a liberal, anti-Calvinist, Lockean Whig’,<sup>19</sup> and was an admirer of the latitudinarian

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<sup>14</sup>Cf. Loveland, *Critical Years*, 7–8.

<sup>15</sup>Prichard, *History*, 63–64.

<sup>16</sup>Doll, *Revolution, Religion and National Identity*, 169–170, 176; Prichard, *History*, 30–31.

<sup>17</sup>Doe, *Canon Law in the Anglican Communion*, 20.

<sup>18</sup>Mills, *Bishops by Ballot*, 159, 164–165.

<sup>19</sup>Woolverton, ‘Philadelphia’s William White’, 294.

Bishop Benjamin Hoadly.<sup>20</sup> Samuel Wilberforce observed that White was ‘inclined always to those councils which bore most faintly the stamp of his own communion’.<sup>21</sup>

In 1782, after the War of Independence had ended but before the peace treaty was signed, White published a pamphlet entitled *The Case of the Episcopal Churches in the United States Considered*. The plural ‘churches’ is itself noteworthy: there was as yet no such thing as ‘The Episcopal Church’. In *The Case*, White noted that, all former jurisdiction over the individual American congregations having ceased, ‘the chain which held them together [was] broken’. The only way forward, he suggested, was for them to join together in ‘voluntary associations for union and good government’.<sup>22</sup> White was very conscious of how different the resulting church would be from the Church of England. In England, he pointed out, the dioceses were ‘formed before parishes, . . . the latter having been introduced some considerable time after the conversion of the nation to the Christian faith’, and the (local) church was understood to be the diocese – ‘one common flock, subject to a bishop and sundry collegiate presbyters; without the idea of its being necessarily divided into smaller communities’.<sup>23</sup> In America, by contrast, the local church, indeed the only manifestation of the Church, was the parish or congregation.

Though it is not true (as sometimes suggested) that the Constitutions of the United States and The Episcopal Church were drawn up by the same people, they were both composed and adopted in Philadelphia in the later 1780s, by people who knew each other and shared similar views.<sup>24</sup> Indeed, the fact that The Episcopal Church was given a document called a ‘Constitution’ at all – it was surely the first episcopal church ever to have one – can be attributed to the fact that it was developed towards the end of a period in which constitutions had been formulated first for the individual states and then for the United States. White’s proposals caught on in other states – or chimed in with views already held there – because they expressed the ideology of the American Revolution, which sought not just independence from Britain but also to replace hierarchical rule with egalitarian, democratic government based on the rights of man, which were believed to flow from natural law. Like the founding fathers of the United States, White was a disciple of John Locke, whose *Two Treatises of Government* argued that rulers derive their authority not from God but from contracts made by men. White’s view that the Church (like the state) should be a democracy was in line with the prevailing American opinion that all power, spiritual as well as temporal, originated with the people.<sup>25</sup> (The tendency in The Episcopal Church to speak of its ‘polity’ – a term derived from secular political theory – rather than its ‘ecclesiology’ may perhaps not be entirely without significance.)

White’s proposal was that the American congregations should unite together in ‘voluntary associations’ to form what he called ‘smaller districts’ – in the event, the state seemed the natural unit. Each district would have not a ‘convocation’ or a ‘synod’ (terms denoting a body called together by a bishop) but an annual ‘convention’ (as voluntary gatherings of clergy were termed before the Revolution, when there were no bishops to call

<sup>20</sup>White wrote, ‘The name of Bishop Hoadly will probably be as long remembered, as any on the list of british worthies; and will never be mentioned without veneration of the strength of his abilities, the liberality of his sentiments, and his enlightened zeal for civil liberty’ (White, *The Case*, 470).

<sup>21</sup>Wilberforce, *History*, 261.

<sup>22</sup>White, *The Case*, 450 (my emphasis).

<sup>23</sup>Ibid., 452–453.

<sup>24</sup>Marshall, *One, Catholic, and Apostolic*, 64.

<sup>25</sup>Rhoden, *Revolutionary Anglicanism*, 134; cf Mills, *Bishops by Ballot*, xii, 207–208. See also Bailyn, *Ideological Origins*, especially 22–54.

synods or convocations together).<sup>26</sup> The convention would consist of the ministers and elected lay representatives of the congregations. The intention was not to create a diocese on the English (and catholic) model – a unitary local church with a bishop as its focus. Indeed, the state churches were not even called ‘dioceses’ until 1838, almost fifty years after The Episcopal Church’s inception.<sup>27</sup> White envisaged that the state conventions would send representatives to what would effectively be three provincial conventions, which would in turn elect a General Convention every three years. In the event, the state conventions sent elected representatives direct to the General Convention.

White was clear that the role of these conventions should be a limited one: ‘to make such regulations, and receive appeals in such matters only, as shall be judged necessary for their continuing one religious communion’.<sup>28</sup> Power should flow from below, as the sixth of six ‘fundamental principles’ that the Pennsylvania Episcopalians proposed as a basis for the constitution of a General Convention made clear: ‘That no powers be delegated to a general ecclesiastical government, except such as cannot conveniently be exercised by the clergy and laity, in their respective congregations’.<sup>29</sup> Although that principle was not enunciated explicitly in the Constitution eventually drawn up, it seems to have continued to be influential.

It is a matter of history that the congregations in each state did form a convention and that those state conventions formed a General Convention, and, in that sense, The Episcopal Church is a church which has been constituted from below. The state churches (later called dioceses) and the General Convention were constituted in the 1780s by pre-existing parishes and congregations uniting in ‘voluntary associations’, and, in that sense, the congregations are the fundamental units of The Episcopal Church – precisely the opposite of the position in the Church of England.

Although the structures of The Episcopal Church have developed since the 1780s, as those of all churches have, the fundamental outlines remain the same. R. William Franklin has written that The Episcopal Church is ‘still essentially, constitutionally speaking, an eighteenth-century institution’.<sup>30</sup>

### ***The General Convention, the dioceses and the parishes or congregations***

The parallel between the state conventions and the General Convention (as defined in The Episcopal Church’s constitution adopted in Philadelphia in 1789) on the one hand and the state legislatures and the United States Congress (as envisaged in the United States Constitution drafted there two years earlier) is striking. The question of whether The Episcopal Church is essentially a federal, confederal or unitary body has been the focus of much discussion. Ultimately, it must be said to be unitary, in that the power of the General Convention is supreme and unlimited. It is not confederal, in that the General Convention’s decisions do not require the assent of the diocesan conventions in order to come into effect.<sup>31</sup> (In that, it is more unitary even than the Church of England, since

<sup>26</sup>Mills, *Bishops by Ballot*, xi, 304.

<sup>27</sup>See p 140 below.

<sup>28</sup>White, *The Case*, 454.

<sup>29</sup>Marshall, *One, Catholic, and Apostolic*, 70.

<sup>30</sup>Franklin, ‘American, Anglican, and Catholic’, 126.

<sup>31</sup>Amendments to the Constitution or the *Book of Common Prayer* proposed at one General Convention must be notified to the diocesan conventions before they can be adopted at the next General Convention, but the assent of the diocesan conventions is not required: *Constitution and Canons, Together with the Rules of Order*, 8–10: Constitution, Articles X, XII.

the General Synod's Constitution permits it finally to approve certain measures, canons or schemes only if the proposals have previously been approved by the houses of clergy and laity of a majority of the diocesan synods.)<sup>32</sup> The Episcopal Church is also not a federal church, in that there is no division of powers between the General Convention and the dioceses; the Constitution of the General Convention does not reserve any powers to the dioceses. However, although The Episcopal Church is a unitary body, it has a highly decentralised structure and strongly confederal characteristics.<sup>33</sup>

This may be seen in the composition of the General Convention and the arrangements for voting in it. The House of Deputies of the General Convention consists of four lay and four ordained deputies from each diocese, regardless of its size.<sup>34</sup> Thus, the Diocese of Northern Michigan (numerically the smallest domestic diocese with 1,556 communicants) and the Diocese of Virginia (numerically the largest with 73,921 communicants) each had four clerical and four lay deputies at the 2006 General Convention.<sup>35</sup> All dioceses are constituent parts of The Episcopal Church and, in that sense, all dioceses are equal. This contrasts with the General Synod, which is a representative body of the Church of England as a whole rather than a gathering of diocesan delegations. In the General Synod, all dioceses have a minimum number of representatives, but the actual numbers are weighted according to the number of those represented.

The Constitution of the General Convention also provides that the clerical or lay representatives of any three dioceses may require that the House of Deputies vote by orders (that is, that clergy and laity vote separately). For some questions, a vote by orders is mandatory. In a vote by orders, each diocese has a single vote in each order and, for the question to be carried, a majority of dioceses must vote in favour in each order.<sup>36</sup> So on important issues the House of Deputies is a body in which, effectively, it is the diocesan deputations that vote, not the members as individuals. The effect is curious. The diocesan vote represents the opinion of the majority of the lay or clerical members of the deputation (as the case may be). If three out of four are in favour, the diocesan vote is in the affirmative, and if three are against, the diocesan vote is against. If the vote is split 2–2, the vote is said to be 'divided', but that effectively counts as a vote against, because the motion only passes if a majority of the dioceses vote in favour. This means that, if opinions are evenly distributed across the church as a whole, a 75 per cent majority is effectively required, but if there were a majority of 3–1 in each of 56 of the 110 dioceses (that is, 168 people in favour), the motion would be passed even if all of the other deputies in that order (which could be as many as 272 people) voted against. This voting arrangement suggests a lack of weight or 'ecclesial density' at the national level: ultimately, the House of Deputies is an assembly of deputations of diocesan churches, and, in that sense, the General Convention is not the synod of a single church.

Another factor that contributes to a sense of a relative lack of 'ecclesial density' on the part of the national church, as compared with the dioceses, is the fact that the General Convention normally meets only once in each three-year period, with a House of Deputies

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<sup>32</sup>Constitution of the General Synod, Article 8, set out in Synodical Government Measure 1969, Sch 2.

<sup>33</sup>Holmes, *Brief History*, 54–55.

<sup>34</sup>The General Convention may by canon limit the representation of a diocese to not fewer than two ordained and two lay deputies, but no such canon is in force: *Constitution and Canons*, 2: Constitution, Article I.4.

<sup>35</sup>Table of Statistics of the Episcopal Church from 2004 Parochial Reports.

<sup>36</sup>*Constitution and Canons*, 2–3: Constitution, Article I.5.

newly elected every three years.<sup>37</sup> That means that it cannot develop the sort of corporate life that characterises the General Synod, in which the same people meet together two or three times a year for five years. It is not a body which is ‘together on the way’ (the meaning of the term ‘synod’) in quite the same manner. Indeed, the entire legislative process for an amendment to the Canons takes place at a single meeting of the General Convention; only amendments to the Constitution and the Prayer Book must be considered at two successive meetings. Thus, quite radical change can occur – and has occurred – very quickly.

As already mentioned, White’s proposal was that the congregations should unite, in ‘voluntary associations’, and accordingly they formed state churches (later called dioceses), which in turn united in the General Convention. Just as the oldest parishes and congregations predate the dioceses, the oldest dioceses pre-date the General Convention. Accordingly, each diocese has not just its own diocesan canons but also its own constitution. The Constitution of the General Convention still treats dioceses seeking admission into union with the General Convention as pre-existing entities. According to the Constitution, the new diocese is formed ‘with the consent of the General Convention’, and the relevant canon speaks of the formation being ‘ratified’ by the General Convention,<sup>38</sup> but both forms of words make it clear that it is not the General Convention that creates the diocese. A ‘primary convention’ of the new diocese adopts a diocesan constitution, and the new diocese is then ‘admitted into union with the General Convention’.<sup>39</sup>

When a certified copy of the duly adopted Constitution of the new Diocese, including an unqualified accession to the Constitution and Canons of this Church, shall have been filed with the Secretary of the General Convention and approved by the Executive Council of this Church, such new Diocese shall thereupon be in union with the General Convention.<sup>40</sup>

The specification that the accession to the Constitution and Canons should be ‘unqualified’ was added in 1982.<sup>41</sup>

Changes in diocesan constitutions do not require approval at national level, and the Constitution is silent as to what happens when a diocese amends its constitution so as to qualify its accession to the Constitution and Canons of The Episcopal Church. This may be tested shortly, since the Constitutions of the Dioceses of Quincy (Illinois), Fort Worth (Texas) and Pittsburgh (Pennsylvania), in articles last amended respectively in 1993, 1997 and 2004, all qualify their accession to the national Constitution and Canons. The Presiding Bishop’s Chancellor reportedly wrote to the first two of those dioceses towards the end of 2006 to enquire whether this was the case, and, in June 2007, The Episcopal Church’s Executive Council passed a resolution declaring that ‘Any amendment to a diocesan constitution that purports in any way to limit or lessen an unqualified accession to the constitution of The Episcopal Church is null and void’ and that

The amendments passed to the constitutions of the dioceses of Pittsburgh, Fort Worth, Quincy and San Joaquin, which purport to limit or lessen the unqualified accession to the constitution of The Episcopal Church are accordingly null and void and the constitutions of those dioceses shall be as they were as if such amendments had not been passed.<sup>42</sup>

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<sup>37</sup>Ibid., 3: Constitution, Article I.7; *ibid.*, 21: Canon I.1.4(a).

<sup>38</sup>Ibid., 5: Constitution, Article V.1; *ibid.*, 45: Canon I.10.1.

<sup>39</sup>Ibid., 45: Canon I.10.4.

<sup>40</sup>Ibid., 5: Constitution, Article V.1.

<sup>41</sup>White and Dykman, *Annotated Constitution and Canons*, 89.

<sup>42</sup>Schjonberg, ‘Executive Council resolution’.



The Bishop and Standing Committee of the Diocese of Fort Worth responded that the resolution was ‘nothing more than an opinion expressed by those individuals who issued the statement’: ‘It is itself “null and void” – unenforceable and of no effect’.<sup>43</sup>

In December 2007 the Diocese of San Joaquin (California), which had qualified its accession to the national Constitution and Canons in an article last amended in 2005, finally removed all references to The Episcopal Church from its Constitution and Canons, the amendments being subject to confirmation at the 2007 convention. (Another amendment changed Article 1 of the Constitution to state that the diocese’s territory ‘shall embrace but not be limited to’ the fourteen Californian counties that it covers.)<sup>44</sup> In November the Dioceses of Fort Worth and Pittsburgh had passed similar resolutions removing references to The Episcopal Church which will come into force if passed a second time in 2008. These developments have raised the issue of whether a diocese can secede from The Episcopal Church. Is being ‘admitted into union with the General Convention’ a one-way ticket, or is a return journey permissible? As John Shepley has pointed out, the question of whether states could secede from the Union into which they had entered was the fundamental dispute which prompted the American Civil War.<sup>45</sup> The secession at that time of eight dioceses to form the short-lived Protestant Episcopal Church in the Confederate States has been cited as a precedent for possible future secessions.

A comparable issue is increasingly arising in the relations between dioceses and parishes or congregations.<sup>46</sup> Each congregation (or group of congregations with a single minister) had to be represented in the state convention, because the convention would effectively be exercising jointly the rights of the congregations. (Maybe it is in part to that principle that the number of dioceses in the USA should be attributed; if every congregation is to be represented directly in the diocesan convention, the number of congregations must be limited. Most English dioceses have far more parishes and benefices but, unlike their American counterparts, they are not necessarily directly represented in the diocesan synod and do not need to be, because it is the diocese not the parish that is the fundamental unit.) Because all congregations in The Episcopal Church would be represented in the diocesan convention, the convention’s powers over the congregations would be unlimited, notwithstanding the fact that originally power resided with the parishes as the fundamental units. Just as the General Convention can change its Constitution and Canons without the agreement of every diocese, so the diocesan conventions can change theirs without the agreement of every single congregation.

But once congregations have effectively pooled their sovereignty in a diocese in this way, can they secede from it? In recent years, a small but growing stream of congregations has been leaving The Episcopal Church. Between 2003 and 2007, about 45 congregations out of 7,500 left,<sup>47</sup> and, in 2006, 13 parishes in the Diocese of Virginia alone (accounting for

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<sup>43</sup>*Statement of the Bishop and Standing Committee of the Diocese of Fort Worth.* The Constitution of the General Convention also provides for dioceses to be united in so-called ‘provinces’ (see p 146 below), but that ‘no Diocese shall be included in a Province without its own consent’ (*Constitution and Canons*, 7: Constitution, Article VII). Again, it is silent on what happens if such consent is withdrawn. This may similarly soon be tested, since, in 2006, the Diocese of Fort Worth withdrew its consent to be included in Province VII, in which it is geographically situated (see Gill, ‘Fort Worth’).

<sup>44</sup>Quoted in Virtue, ‘San Joaquin’. See also Schjonberg, ‘San Joaquin convention’.

<sup>45</sup>Shepley, ‘War and secession’, 9.

<sup>46</sup>In the canons, principally Canon I.13, ‘Of Parishes and Congregations’, and Canon I.14, ‘Of Parish Vestries’ (*Constitution and Canons*, 49–50), the terms ‘parish’ and ‘congregation’ are both used, but the distinction between them is not entirely clear (see also p 149 below).

<sup>47</sup>Schjonberg, ‘Stay calm amid tensions’.

some 10 per cent of the diocese's active membership)<sup>48</sup> voted to do so. Dioceses are pre-existing entities that are admitted into union with the General Convention, but the position regarding congregations seems less clear-cut. Although it is historically true that the original dioceses, such as the Diocese of Virginia, were formed by pre-existing parishes (including some of those that have now voted to leave), Canon I.13.2 of the Canons of the General Convention now says that 'the establishment of a new Parish or Congregation . . . is left to the action of the several Diocesan Conventions' but the default position is that, until a diocesan canon or regulation is adopted, 'the formation of new Parishes, or the establishment of new Parishes or Congregations within the limits of existing Parishes, shall be vested in the Bishop of the Diocese, acting by and with the advice and consent of the Standing Committee thereof'.<sup>49</sup> Interestingly, however, Canon 10 of the Canons of the Diocese of Virginia envisages a group of people with a priest, a place of worship and a current budget petitioning for recognition as a church within the Diocese.<sup>50</sup> Over the years, in The Episcopal Church as a whole some congregations will have been in existence before joining The Episcopal Church, whereas others may have been formed as part of a diocesan initiative. Thus, some congregations at least will have a sense of their identity as prior to that of the diocese to which they belong, and in some cases that will have been the case historically as well as in principle. Given that The Episcopal Church is a church that congregations have commonly joined, it is understandable that, regardless of their own particular history, its congregations should believe that they should have the right to leave it.

The question that is posed when parishes or congregations leave is that of what happens to their property. Originally, the property belonged absolutely to the parishes, but in 1979 the General Convention adopted the so-called 'Dennis Canon', which declares that 'All real and personal property held by or for the benefit of any Parish, Mission or Congregation is held in trust for this Church and the Diocese thereof in which such Parish, Mission or Congregation is located'.<sup>51</sup> This is another example of the mismatch between The Episcopal Church's historical ecclesiology, still deeply ingrained in the thinking of many of its members and still reflected in many aspects of its structure – that of a church created from below in which the parishes and congregations are the original and fundamental units<sup>52</sup> – and the more centralist ecclesiology reflected in some aspects of the Constitution and Canons.<sup>53</sup> This mismatch has arisen because, although The Episcopal Church is highly decentralised and its polity has many features that are confederal in character, as we have already seen it is ultimately a unitary body, in that the Constitution places no limits on the decisions that the General Convention may take and those decisions do not require the consent of individual dioceses or indeed congregations. The Episcopal Church's nature as a church constructed from below, whose fundamental units are its parishes and congregations, is in tension with its constitution as a unitary church, in which the conventions have unlimited power. The legal effects of the 'Dennis Canon' are being tested in the courts of the relevant states.

For our purposes, it is not necessary to resolve the question of how far The Episcopal Church is a voluntary association and how far it is a unitary church. The fact that the

<sup>48</sup> *Church of England Newspaper*, 16 February 2007.

<sup>49</sup> *Constitution and Canons*, 49: Canon I.13.2(a), 2(b).

<sup>50</sup> *Constitution and Canons of the Protestant Episcopal Church in the Diocese of Virginia*, 19: Canon 10, s 2.

<sup>51</sup> *Constitution and Canons*, 40: Canon I.7.4.

<sup>52</sup> Cf. Loveland, *Critical Years*, 284.

<sup>53</sup> The official commentary states that the 'Dennis Canon' is 'considered by some to be declaratory of existing law' (White and Dykman, *Annotated Constitution and Canons*, 301, my emphasis).

question exists at all demonstrates in itself a significant degree of difference from the Church of England. Although the dioceses of the Church of England are its fundamental units, from their inception they have all been part of a province.<sup>54</sup> That is part of their identity and no one would imagine that they can withdraw from the province or from the Church of England by their own decision. Similarly, an English parish cannot unilaterally secede from the diocese of which it forms part. A parish is a territorial subdivision of a diocese; being part of a diocese is part of its nature, so that it could be said that, if it were not part of a diocese, it would not be a parish. Historically speaking, at least, that too is not necessarily true of parishes in The Episcopal Church.

Another difference between the two churches is that the dioceses of the Church of England do not have constitutions. Here, as in many other cases, the Diocese in Europe is the exception that proves the rule, because paragraph 48 of its constitution provides that amendments to the constitution must be laid before the General Synod. In some cases, an affirmative resolution is always required; in others it is required only if a Synod member requires the amendment(s) to be debated. Thus, the Diocese in Europe must notify the General Synod of changes to its constitution and they cannot be made against the Synod's will. In The Episcopal Church, by contrast, it would seem that dioceses can amend their constitutions without the General Convention's approval and indeed without even notifying it of the change.

Not only does no other Church of England diocese have a constitution, but no diocese now has diocesan canons either. The Church of England is, in fact, in a very small minority among Anglican churches in having no diocesan law.<sup>55</sup> What is striking about The Episcopal Church is not the existence of diocesan canons but the extent to which the Constitution and Canons of the General Convention leave matters to regulation at the diocesan level and, indeed, that of the parish or congregation. This again is suggestive of a lack of 'ecclesial density' at the national level.

## Episcopacy

### *The origins of American episcopacy*

Having looked at the origins of The Episcopal Church's polity and at the relations between its congregations and dioceses and the General Convention, it is time to return to the question with which this article began – the place of bishops in the ecclesiologies of The Episcopal Church and the Church of England.

As with The Episcopal Church's ecclesiology in general, the position of bishops in The Episcopal Church can only be understood in the light of that church's origins. Before the Revolution, the Anglican parishes and congregations in America enjoyed a large measure of autonomy, and that, in turn, meant a high degree of lay control and, in some colonies at least, effectively a congregational or presbyterian polity.<sup>56</sup> The historian F.V. Mills commented that 'the dominance of the laity was perhaps [the] most striking feature' of the church in Virginia – the largest segment of the Church of England in America.<sup>57</sup> The parish clergy were mostly appointed by the vestry, in some colonies on one-year contracts.

<sup>54</sup>The Diocese in Europe, though extra-provincial, is 'deemed to be within the Province of Canterbury'; like the former Diocese of Gibraltar it is 'subject to the Metropolitan Jurisdiction of the Archbishop of Canterbury' (Diocese in Europe Constitution 1995, para 1).

<sup>55</sup>Doe, *Canon Law in the Anglican Communion*, 38.

<sup>56</sup>Mills, *Bishops by Ballot*, 53–54, 57, 129.

<sup>57</sup>*Ibid.*, 94.

Voluntary funding by the laity was widespread in New England (the colonies from Connecticut eastwards) and the middle colonies (New York, New Jersey, Pennsylvania and Delaware), and after the Revolution it was the only source of funding anywhere.

Under British rule there was neither a consensus in the American church in favour of the introduction of episcopacy nor a consensus among those who did favour it as to what the role of an American bishop should be. The laity, especially in the south, feared that bishops would curb their power, and few of the southern clergy supported the introduction of bishops.<sup>58</sup> Those who advocated the appointment of bishops, such as Thomas Chandler (1726–1790), whose *Appeal to the Public in Behalf of the Church of England in America* was published in 1767, attempted to conciliate opponents by stressing that the bishops' authority should be purely spiritual and their role limited to confirmation, ordination and the oversight of the clergy.<sup>59</sup> Opponents were not mollified by this, and indeed fears of the introduction of episcopacy may be seen as one of the factors that caused the American Revolution.<sup>60</sup> One contemporary British observer wrote that 'This war is . . . at the Bottom very much a religious war' and saw Presbyterianism (understood as being a republican civil polity as well as a religious denomination) as fundamental to the rebellion.<sup>61</sup>

Differences about episcopacy reflected more fundamental churchmanship divisions. In Pennsylvania and the south, low-church views, influenced by the moderate Enlightenment, prevailed; many of the laity, and indeed the clergy too, could be categorised as Deists.<sup>62</sup> In New England, by contrast, the clergy were predominantly high churchmen – many of them converts from Congregationalism who had come to believe in episcopacy. Their high-churchmanship was sustained by their close connection with the high-church Society for the Propagation of the Gospel.

The name 'Protestant Episcopal Church', first used by a convention in Maryland in 1780, came quickly and with very little discussion to be used in every state,<sup>63</sup> but 'episcopal' was understood in a very limited sense. White envisaged that each convention would elect a 'presiding minister', who would continue to be a parish priest (because the congregations would not be able to pay for a separate presiding minister). He understood a bishop as being a priest to whom the power of ordination and confirmation was given, together with certain administrative duties. In the early Church, he believed, 'the bishop was no more than a president'.<sup>64</sup> Bishops should be elected by the clergy and laity and could be tried, and if necessary deposed, by those who elected them.<sup>65</sup> White's very limited understanding of the episcopate was endorsed elsewhere. The Maryland convention resolved in 1784 that

The Duty and Office of a *Bishop*, differs in nothing from that of other *Priests*, except in the power of Ordination and Confirmation; and in the Right of Precedency in ecclesiastical Meetings or Synods, and shall accordingly be so exercised in this Church.<sup>66</sup>

<sup>58</sup>Hein and Shattuck, *The Episcopalians*, 21; cf Mills, *Bishops by Ballot*, 92, 100–106.

<sup>59</sup>Mills, *Bishops by Ballot*, ix, 1, 44.

<sup>60</sup>Holmes, *Brief History*, 48; Rhoden, *Revolutionary Anglicanism*, 37; Bailyn, *Ideological Origins*, 95–98.

<sup>61</sup>Ambrose Serle to the Earl of Dartmouth, quoted in Doll, *Revolution, Religion and National Identity*, 212.

<sup>62</sup>Holmes, *Brief History*, 39–40; Hein and Shattuck, *The Episcopalians*, 42.

<sup>63</sup>Shoemaker, *Origin and Meaning*, 102–109, 111, 117–118.

<sup>64</sup>White, *The Case*, 459.

<sup>65</sup>*Ibid.*, 451–452.

<sup>66</sup>Quoted in Loveland, *Critical Years*, 74 (*italics in original*). However, the Maryland Convention believed that the clergy only should elect the bishop (*ibid.*, 75).

In 1785, the Virginia convention defined the episcopal duties as ordaining, confirming, superintending clergy conduct and presiding at ecclesiastical meetings; the power to suspend or dismiss clergy, including the bishop, should rest with the convention.<sup>67</sup> Believing that power in the church should rest with the parishes not only in practice (as was the case in America in the absence of any other structures), but also in principle, White was happy to recommend that the American parishes and congregations should proceed to form a church without waiting for bishops to be consecrated.

The high-church clergy of Connecticut were appalled by White's low view of episcopacy.<sup>68</sup> They met to discuss *The Case* in March 1783 and were galvanised by it into electing Samuel Seabury (1729–1796) – who had been a prominent opponent of the American Revolution – as their bishop. As they wrote to White, 'We think an Episcopal Church without Episcopacy, if it be not a contradiction in terms, would, however, be a new thing under the sun.' Furthermore, they believed that 'Nothing can be more clear than that our Church has ever believed bishops to have the sole right of ordination and government, and that this regimen was appointed of Christ himself'.<sup>69</sup> They were also exercised by the intention that bishops should be elected by clergy and laity, and wrote to the Archbishop of York:

Unable are we to conjecture what may be the lengths to which the rage for popular right, as the fountain of all institutions, civil and ecclesiastical, will run; sufficient for us it is, that while we conscientiously reject such a spurious substitute for episcopacy, we also think it our duty to take every step within our power to frustrate its pernicious effects.<sup>70</sup>

Because the English bishops were unable to consecrate someone who could not take the oath of allegiance to the (British) Sovereign, Seabury was consecrated by the Scottish bishops. In a concordat establishing a relationship of communion between The Episcopal Churches in Scotland and Connecticut, signed after the consecration, Seabury and the Scottish bishops agreed

that under [Christ] the chief ministers or managers of the affairs of this spiritual society are those called Bishops, whose exercise of their sacred office being independent of all lay powers, it follows, of consequence, that their spiritual authority and jurisdiction cannot be affected by any lay deprivation.<sup>71</sup>

Seabury and his fellow high churchmen fundamentally disagreed with White's Lockean view of the source of authority in the Church. As Seabury wrote in 1785, 'The rights of the Christian Church arise not from nature or compact, but from the institution of Christ; and we ought not to alter them, but to receive and maintain them, as the holy Apostles left them'. Furthermore, the episcopal office was one of government: 'If a man be called a Bishop who has not the Episcopal powers of government, he is called by a wrong name, even though he should have the power of Ordination and Confirmation'. And if the government of the Church could be remodeled, why not its sacraments, creeds and doctrines too? 'But then', he added, 'it would not be Christ's Church, but *our* Church'.<sup>72</sup> He told his clergy a year later:

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<sup>67</sup>Loveland, *Critical Years*, 129; Mills, *Bishops by Ballot*, 201.

<sup>68</sup>Mills, *Bishops by Ballot*, 212.

<sup>69</sup>Connecticut Clergy to White, 25 March 1783, quoted in White, *The Case*, Appendix I, 479.

<sup>70</sup>Quoted in Herklots, *The Church of England and the American Episcopal Church*, 93.

<sup>71</sup>Quoted in Loveland, *Critical Years*, 111.

<sup>72</sup>Seabury to William Smith, 15 August 1785, quoted in Marshall, *One, Catholic, and Apostolic*, Appendix, 369 (emphasis in original).

The government of the Church by Bishops, we hold to have been established by the Apostles, acting under the commission of Christ, and the direction of the Holy Ghost; and therefore is not to be altered by any power on earth, nor indeed by an angel from heaven.<sup>73</sup>

Church systems should not be accommodated to ‘popular humor or fancy’.<sup>74</sup>

Meanwhile, the episcopal churches in the middle and southern states were organising a Protestant Episcopal Church in the USA along the lines proposed by White. (Seabury was scathing: ‘The government they have degraded, by lodging the chief authority in a Convention of clerical and lay Delegates – making their Church Episcopal in its orders, but Presbyterian in its government’.)<sup>75</sup> Just as White’s *Case* had prompted the Connecticut clergy to elect a bishop in a pre-emptive strike, it may have been Seabury’s consecration that spurred the other side to complete the organisation of a church.<sup>76</sup> It can also be said to have ensured that The Episcopal Church would be episcopal at least in the sense of having bishops consecrated in the historic succession. Samuel Parker, the rector of Trinity Church, Boston, believed that, if there had not already been such a bishop in America, White’s Episcopal Church would not have applied to England for the consecration of bishops.<sup>77</sup>

Equally, it was Seabury’s consecration that prompted the English bishops to get the law changed so that they could consecrate bishops for America. They had to overcome some misgivings, however, as they explained in a letter to the American church:

We cannot but be extremely cautious, lest we should be the instruments of establishing an ecclesiastical system which will be called a branch of the Church of England, but afterwards may possibly appear to have departed from it essentially, either in doctrine or discipline.<sup>78</sup>

Some may now feel that those fears have proved to be not entirely unfounded. However, the English bishops were satisfied by concessions that the General Convention offered them: a bishop would always preside at meetings of the General Convention (if one were present), and, in the proposed American *Book of Common Prayer*, the Nicene Creed would be restored for optional use and the phrase ‘He descended into hell’ put back into the Apostles’ Creed.<sup>79</sup> In February 1787, William White and Samuel Provoost were consecrated in Lambeth Palace Chapel, for Philadelphia and New York respectively. (Incidentally, unlike Seabury, who was elected in his absence, White chaired both the meeting of four clergy that nominated him and the meeting of clergy and laity that ratified his election.)<sup>80</sup>

White has been described as ‘the chief architect of the new denomination’.<sup>81</sup> One of his greatest achievements was that, by statesmanship and skilful diplomacy, he secured the participation of the high-church New England Episcopalians in the General Convention of 1789, which agreed a constitution for a single Protestant Episcopal Church in the USA. (Unlike Clara Loveland, who sees Samuel Parker as mediating between the Protestant White and the Catholic Seabury, J.F. Woolverton presents White as representing the middle position – between the high churchmen of the north on the one hand and those,

<sup>73</sup>Seabury, *Second Charge to the Clergy of his Dioceses*, 11.

<sup>74</sup>Ibid., 15.

<sup>75</sup>Ibid., 11.

<sup>76</sup>Mills, *Bishops by Ballot*, 228 suggests that this was the case.

<sup>77</sup>Ibid., 241–242.

<sup>78</sup>Letter of the English bishops to the Philadelphia Convention, 24 February 1786, quoted in Loveland, *Critical Years*, 176.

<sup>79</sup>Loveland, *Critical Years*, 192, 210.

<sup>80</sup>Marshall, *One, Catholic, and Apostolic*, 87.

<sup>81</sup>Woolverton, ‘Philadelphia’s William White’, 279.

chiefly in the south, who wanted no bishops at all.)<sup>82</sup> For the participation of the New England Episcopalians to be secured, further concessions were necessary. The General Convention was made bi-cameral, with a House of Bishops in addition to a House of Deputies; both could initiate and veto legislation, although the House of Bishops' veto could be overridden by an 80 per cent vote in the House of Deputies. (From 1808, both houses had an absolute veto.) It had already been agreed that at the trial of a bishop at least one other bishop should be present, and that only a bishop could pronounce a sentence of deposition or degradation from the ministry on a bishop, priest or deacon.<sup>83</sup> As Paul Marshall has written, the New Englanders' position was accommodated 'to some degree'.<sup>84</sup> That The Episcopal Church was to any extent episcopal in structure (rather than simply having bishops to confirm and ordain and in some states to preside at meetings and exercise some supervision of the clergy) was the New Englanders' achievement but, when they reported back to the Connecticut convocation, not everyone was happy with what they had accepted. One priest maintained that the new constitution was 'repugnant to the true principles of Episcopal government'.<sup>85</sup> Seabury has remained a controversial figure in The Episcopal Church's history. As Paul Marshall has pointed out, whereas The Episcopal Church's 1979 *Book of Common Prayer* includes a commemoration of White, Seabury is not commemorated in his own right, though his consecration is. Marshall comments that the collect 'comes as close to a slight as one can imagine in a liturgical text': it says nothing at all about Seabury.<sup>86</sup>

Although episcopal ordination was mandatory,<sup>87</sup> each state church could choose whether to have its own bishop.<sup>88</sup> However, it was in the states' interest to have a voice in the new House of Bishops; lay-dominated Virginia caved in and chose a bishop in 1790 (although a quarter of the convention members refused to vote in the election). In some other states there was no bishop for some years, however; in some, admittedly, the church was simply too small and weak to contemplate electing one. In 1800, only 7 of the 12 states in which The Episcopal Church was organised had bishops. Massachusetts had one for only 6 of the 22 years from 1789 to 1811, and there was none in New Jersey until 1815, North Carolina until 1823 or Georgia until 1841. So few attended the House of Bishops meetings in 1808 that they could be held in a small bedroom.<sup>89</sup>

### *The bishop and the diocese*

The Church of England's structure is an hierarchical one, and the diocesan bishop is at its centre. An English diocese has no separate existence from its bishop: the definition of a diocese is that it is the area in which a bishop exercises his ministry. Furthermore, the diocese takes its name from the bishop's see. Indeed, there is no mechanism for changing the name of an English diocese; to do so, the see must be changed,<sup>90</sup> and the diocese's

<sup>82</sup>Loveland, *Critical Years*, 288; Woolverton, 'Philadelphia's William White', 279–280.

<sup>83</sup>Loveland, *Critical Years*, 192, 248, 262; Mills, *Bishops by Ballot*, 283.

<sup>84</sup>Marshall, *One, Catholic, and Apostolic*, 73.

<sup>85</sup>Loveland, *Critical Years*, 274.

<sup>86</sup>Marshall, *One, Catholic, and Apostolic*, 1.

<sup>87</sup>Since 2000, non-episcopally ordained ministers of the Evangelical Lutheran Church in America have been permitted to officiate in the Episcopal Church (see *Constitution and Canons*, 93: Canon III.10.2(a)(3)).

<sup>88</sup>Mills, *Bishops by Ballot*, 240.

<sup>89</sup>*Ibid.*, 284–285; Holmes, *Brief History*, 34, 59.

<sup>90</sup>Dioceses, Pastoral and Mission Measure 2007, s 11.

name changes automatically. In America, by contrast, the original state churches existed before they had bishops, and at first they were not called dioceses or required to have a bishop at all; they were certainly not defined by having a bishop. The bishops took their title from the state, rather than having a see that would give their diocese its name. About this, John Henry Newman commented in 1839,

In the American Church bishops do not assume sees, but are named from their dioceses. In spite of whatever precedents may be urged in favour of this usage, we are clear that it is a piece of *purus putus Protestantismus* [pure, unadulterated Protestantism].

Newman summed up the issue for him in these sharp questions: ‘Is a bishop a mere generalization of a diocese, or its foundation? . . . Does a bishop depend on his diocese, or his diocese on him?’<sup>91</sup> Those questions will need to be borne in mind as the relations of bishop and diocese in The Episcopal Church are examined.

### ***High-church developments: 1811–1839***

From the second decade of the nineteenth century onwards, high churchmen became increasingly influential in the American Episcopal Church, under the leadership of John Henry Hobart (1773–1830). Hobart was Assistant Bishop of New York from 1811 and then Bishop from 1816 until his death in 1830. (Hobart was 35 when he was consecrated, and occasionally resorted to powdering his hair white to give himself greater solemnity.)<sup>92</sup> He had studied theology under William White, by whom he was baptised, confirmed, ordained and consecrated, but his views echoed not White’s but those of Thomas Chandler, the high-church advocate of episcopacy (and opponent of the Revolution) whose daughter he married. High-church dominance reached its peak in the 1830s: 11 of the 14 bishops elected between 1830 and 1840 were high churchmen.<sup>93</sup>

Hobart’s watchword was ‘Evangelical truth, apostolic order’,<sup>94</sup> and in the 1830s his disciples instituted a number of changes that reflected a more catholic and apostolic understanding of episcopacy. The General Convention of 1835 (incidentally the last over which William White presided) elected Jackson Kemper (1789–1870) as the first of a number of missionary bishops and sent him out to organise The Episcopal Church in Indiana and Missouri. Now, following the primitive pattern, the bishop came first and gathered a church around him, as St Augustine had done in Canterbury, rather than an already constituted church bolting episcopacy onto its structure (or, as the phrase goes in another context, ‘taking episcopacy into its system’). In 1841, arrangements for the trial of bishops were made subject to a canon of the General Convention (previously they had been at the discretion of each state church), which required that the court should consist of bishops only, so that bishops became accountable to their fellow bishops, rather than to

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<sup>91</sup>Newman, ‘The Anglo-American Church’ in *Essays Critical and Historical*, vol 1, 353–354. The essay was based on a review article in *The British Critic and Quarterly Theological Review*, 26 (1839), in which this passage appears on page 326.

<sup>92</sup>Mullin, *Episcopal Vision/American Reality*, 50.

<sup>93</sup>De Mille, *The Catholic Movement in the American Episcopal Church*, 69. After 1840, the high-church movement divided between the native, Hobartian old high-church movement, centred on the General Seminary and largely found on the East Coast, and the newer, imported, advanced Tractarian high-churchmanship of Nashotah House and the mid-west – a distinction which is still noticeable today (*ibid.*, 69–70).

<sup>94</sup>Hobart, *An Apology*, 272.



their conventions.<sup>95</sup> (The trial court for bishops now has merely a majority of episcopal members, while the court of review consists exclusively of bishops.)<sup>96</sup> Also in 1838, the state churches were renamed dioceses, and New York state became the first to be divided into two dioceses.<sup>97</sup> Most dioceses continued to be named after states or parts of states rather than after cities, however, and the bishop was still named after the diocese, not the diocese after a bishop's see.

After 1840, American high churchmen came to stress not apostolic order (though apostolic succession was still important to them), but sacramental worship. The leading high churchman Bishop George Washington Doane of New Jersey stressed in 1854, 'The *worship* of the Church is its very essence'.<sup>98</sup> R.B. Mullin has commented that

Broadly speaking, if the central image in the high church imagination during the Hobartian period had been the patriarchal bishop governing from his apostolic office, for later churchmen the central image became the priest serving at the altar . . . [N]ew concerns pointed to a far greater concern for the sacerdotal role of the priest than for the apostolic role of the bishop.<sup>99</sup>

The catholic movement in the Anglican Communion continues to be divided between those who are concerned primarily with apostolic order and those whose main focus is on liturgy and worship. A high-church stress from the mid-nineteenth century onwards on the priesthood and sacramental worship rather than on episcopal governance may have both reflected and influenced the development of The Episcopal Church's polity. Be that as it may, the Hobartian high-church era left its mark on episcopacy in The Episcopal Church, but the high-church changes and innovations were relatively minor adaptations to a structure that was and remained primarily the creation of the American Revolution. Just as the English reformers of the mid-sixteenth century altered their church's appearance but not its fundamental structures, so the effect of nineteenth-century American high-churchmanship was, it may be suggested, to apply a more catholic gloss to what remained essentially an eighteenth-century democratic structure.

### ***Diocesan bishops and the clergy, parishes and people***

In the Church of England, ordinands and those about to be instituted or licensed must make the Declaration of Assent (which concerns doctrine and worship) and take the oath of canonical obedience to the diocesan bishop and his successors.<sup>100</sup> American ordinands must make a brief Declaration of Conformity, which includes an undertaking 'to conform to the Doctrine, Discipline, and Worship of the Episcopal Church'.<sup>101</sup> They must also answer the question 'Will you, in accordance with the canons of this Church, obey your bishop and other ministers who may have authority over you and your work?', responding 'I am willing and ready so to do'.<sup>102</sup> Disobeying or disregarding a 'pastoral direction' of the bishop (which must be 'directed to some matter which concerns the Doctrine,

<sup>95</sup>White and Dykman, *Annotated Constitution and Canons*, 119.

<sup>96</sup>*Constitution and Canons*, 8: Constitution, Article IX; *ibid.*, 144: Canon IV.5.2.

<sup>97</sup>White and Dykman, *Annotated Constitution and Canons*, 16, 90.

<sup>98</sup>Quoted in Mullin, *Episcopal Vision/American Reality*, 187 (emphasis in original).

<sup>99</sup>*Ibid.*, 195.

<sup>100</sup>*Canons of the Church of England*, Canons C 14, C 15. A solemn affirmation may be made instead of the oath.

<sup>101</sup>*Constitution and Canons*, 7: Constitution, Article VIII.

<sup>102</sup>*The Book of Common Prayer* (USA), 526, 538.

Discipline or Worship of this Church or the manner of life and behavior of the Priest or Deacon concerned') is a breach of ordination vows and, as such, an ecclesiastical offence.<sup>103</sup> Thus it may be said that, like the clergy of the Church of England, the clergy of The Episcopal Church owe canonical obedience to their bishop. However, there is no oath as such, and the Declaration of Conformity and the ordination vow are made only at ordination – they are not repeated when each new ministry begins.<sup>104</sup> One wonders whether in consequence the concept of canonical obedience to the bishop might be less of a present reality in the minds of the clergy and their congregations than is the case in England.

In The Episcopal Church, then, the bishop is the minister of confirmation and ordination, superintends the clergy and may give them directions in matters of doctrine, discipline, worship and lifestyle. However, a Church of England bishop is more than just someone who confirms, ordains and superintends the clergy.<sup>105</sup> Two key elements of the role of diocesan bishops, as set out in Canon C 18, are that 'Every bishop is the chief pastor of all that are within his diocese, as well laity as clergy, and their father in God' and 'Every bishop is, within his diocese, the principal minister'.<sup>106</sup> It is the bishop who institutes to a benefice<sup>107</sup> and, when he does so, his cure of souls as chief pastor is thereby shared, not given away. As principal minister he retains the right to lead worship in that parish at any time. Thus, the parish is a subdivision of the diocese, which enables the bishop's pastoral care to be delivered more effectively – by the local priest, ministering on his behalf.

How does the position of bishops in The Episcopal Church compare? In the 1979 *Book of Common Prayer* there is a service called the 'Celebration of a New Ministry' – the counterpart of institution and induction in the Church of England. At this, the bishop may read a 'Letter of Institution' printed in the book.<sup>108</sup> (There is no requirement that, as English canon law enjoins, 'during the reading thereof the priest who is to be instituted shall kneel before the bishop and hold the seal in his hand' – a requirement that visibly demonstrates for the congregation the relationship between the two.)<sup>109</sup> Moreover, although called a 'Letter of Institution', the letter does not actually confer office, but merely says, 'This letter is a sign that you are fully empowered and authorized to exercise this ministry, accepting its privileges and responsibilities as a priest of this Diocese, in communion with your Bishop'.<sup>110</sup> Similarly, the Bishop does not bestow the cure of souls, but says of various symbols which various individuals have given, 'Let all these be signs of the ministry which is mine and yours in this place'.<sup>111</sup> Thus the rite is celebratory, not performative. In fact, as Canon III.9 makes clear, the Bishop's role is simply to receive news of a rector's appointment and, if satisfied that the priest is duly qualified and has accepted the appointment, to cause the fact to be recorded.<sup>112</sup> The proposed appointment of assistant priests is to be notified to the bishop so that the

<sup>103</sup>*Constitution and Canons*, 119: Canon IV.1.1(h)(2). The pastoral direction must be a solemn warning given in writing, with reasons, and 'neither capricious nor arbitrary in nature nor in any way contrary to the Constitution and Canons of the Church, both national and diocesan'.

<sup>104</sup>There is no equivalent of the Declaration of Assent or the Oath of Canonical Obedience in the service called 'Celebration of a New Ministry' (for which, see below on this page).

<sup>105</sup>It is possible to offer only the briefest summary here of the key elements of episcopacy as the Church of England understands it. For a fuller account, see Podmore, 'The Church of England's understanding of episcopacy'.

<sup>106</sup>*Canons of the Church of England*, Canon C 18, paras 1, 4.

<sup>107</sup>*Ibid.*, Canon C 10.

<sup>108</sup>*Book of Common Prayer* (USA), 559.

<sup>109</sup>*Canons of the Church of England*, Canon C 10, para 6.

<sup>110</sup>*Book of Common Prayer* (USA), 557.

<sup>111</sup>*Ibid.*, 562.

<sup>112</sup>*Constitution and Canons*, 81: Canon III.9.3(a).

bishop can ‘communicate with the Rector and the Vestry on the proposed selection’ but, again, the bishop’s approval is not required.<sup>113</sup> Only priests who are not already ‘canonically resident’ in the diocese (a term which denotes those who were ordained deacon in a diocese or have been formally transferred to it) require the bishop’s licence.<sup>114</sup> Although the liturgy says that the ministry in that place is both the bishop’s and the rector’s, the bishop does not appear to have the right to preside at worship in a parish other than at that inaugural service and during a visitation.<sup>115</sup> Similarly, while the Rector’s responsibility for the parish’s worship is ‘subject to . . . the pastoral direction of the Bishop’,<sup>116</sup> there is no suggestion that he presides on the bishop’s behalf.

Thus, the bishop seems to be an officer who registers, admits priests from outside the diocese and superintends the clergy. There is little sense of the bishop as the eucharistic president throughout his diocese, the principal minister on whose behalf his priests preside, the chief pastor whose cure of souls they share. Canon III.12, ‘Of the Life and Work of a Bishop’, includes none of the key points mentioned in the Church of England’s Canon C 18, but merely requires the bishop to conduct a visitation of each congregation every three years, to keep a record of all official acts, to report on the state of the diocese to the annual diocesan convention and to reside in the diocese, and permits him or her to deliver a Charge to the clergy and a Pastoral Letter to the laity of the diocese from time to time and to require the latter to be read to each congregation.<sup>117</sup> One wonders whether it is in part at least the rather limited nature of an American bishop’s powers that leads some of them to insist on their right to exercise those that they have in relation, for example, to dissenting parishes. Perhaps the more power – and perhaps also the more parishes – a bishop has, the less the bishop might be feel obliged to insist on exercising every power in relation to every parish.

Canon C 18 also says that ‘Every bishop has within his diocese jurisdiction as Ordinary’, that is to say, jurisdiction which is not delegated (for example, by a synod) but is inherent in his office.<sup>118</sup> The diocesan court is the bishop’s court, over which a chancellor appointed by the bishop presides. The Clergy Discipline Measure 2003 requires those on whom it confers functions in connection with clergy discipline to ‘have due regard to the role in that connection of the bishop or archbishop who, by virtue of his office and consecration, is required to administer discipline’. It is the bishop who decides whether a complaint is to be investigated formally.<sup>119</sup> Under the Canons of The Episcopal Church, by contrast, it is the Diocesan Review Committee that decides whether a case goes to trial.<sup>120</sup> The Ecclesiastical Trial Court is elected by the Diocesan Convention and the presiding judge is elected annually by the court.<sup>121</sup> It seems that the bishop plays no part in the process until sentencing, when he may impose a lesser sentence than that adjudged by the Trial Court.<sup>122</sup> (Incidentally, as Norman Doe has pointed out,<sup>123</sup> there are only three sentences that may be imposed – admonition, suspension and deposition from the

<sup>113</sup>Ibid., 82: Canon III.9.3(c).

<sup>114</sup>Ibid., 87: Canon III.9.6(a).

<sup>115</sup>Ibid., 107: Canon III.12.3(a)(1).

<sup>116</sup>Ibid., 85: Canon III.9.5(a)(1).

<sup>117</sup>Ibid., 106–107: Canon III.12.3–4.

<sup>118</sup>*Canons of the Church of England*, Canon C 18, para 2.

<sup>119</sup>Clergy Discipline Measure 2003, s 1, s 12. Under s 13 (3), the President of Tribunals may overturn a determination that there is to be no further action ‘if the president considers that the bishop’s determination was plainly wrong’.

<sup>120</sup>*Constitution and Canons*, 124: Canon IV.3(A).1.

<sup>121</sup>Ibid., 136: Canon IV.4(A).2.

<sup>122</sup>Ibid., 158–159: Canon IV.12.4–6.

<sup>123</sup>Doe, *Canon Law in the Anglican Communion*, 89, n 102.

ordained ministry.<sup>124</sup> The absence of a sentence of deprivation – that is, removal from office without deposition from orders or prohibition from exercising them – may help to explain the large numbers of depositions from holy orders that seem to occur in America for offences that in England would not merit such a draconian sentence.)

An integral part of the bishop's role as Ordinary and principal minister in the Church of England is that no one can minister in the diocese (other than occasionally) without having been instituted, licensed or given permission by him, and no one can be ordained for ministry in his diocese other than by him or by a bishop acting on his commission or letters dimissory.<sup>125</sup> In America, by contrast, there is no requirement that a candidate for ordination to the diaconate shall have a title, still less a title within the diocese of the ordaining bishop.<sup>126</sup> A candidate for ordination to the priesthood must have a ministerial appointment, but that need not be within the ordaining bishop's own diocese.<sup>127</sup> It is perfectly possible for a deacon to be ordained priest by the bishop in whose diocese he is 'canonically resident' without the bishop of the diocese in which he has been ministering as a deacon and is to continue ministering as a priest being involved in any way. This situation presumably arose when not every state church had a bishop, but it also seems to reflect a view that can separate too easily the bishop's role as the minister of ordination from any sense of the bishop as Ordinary.

It is easy to see why, in a church in which the clergy are appointed and paid by their parishes, in which the bishop is a superintendent without there being a clear sense of the priest ministering and presiding on his or her behalf, in which the bishop has the right to preside at parochial worship only at the beginning of a new ministry and during a visitation, and in which the bishop may have no involvement in the ordination to the priesthood of a deacon ministering in his or her diocese, one frequently encounters the opinion (at least among priests ministering in America who have also ministered in England) that The Episcopal Church is essentially a congregational church with bishops, rather than an episcopal church as that term is understood in the Church of England – a church which has 'taken episcopacy into its system' but perhaps not fully digested it.

### ***The bishop, the convention and the standing committee***

So far, we have considered the bishop's relationship with the people, clergy and congregations of the diocese, but it is important also to look at the bishop's role in the governance of the diocese as a whole and his relationship with the diocesan convention. In the Church of England, the functions of a diocesan synod laid down in the Synodical Government Measure 1969 are:

- (1) To consider matters concerning the Church of England and to make provision for such matters in relation to their diocese, and to consider and express their opinion on any other matters of religious or public interest;
- (2) To advise the bishop on any matters on which he may consult the synod;

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<sup>124</sup>*Constitution and Canons*, 157: Canon IV.12.1(a).

<sup>125</sup>The only exception to this is that deacons or priests may be ordained by or under a commission from the Archbishop of the Province.

<sup>126</sup>The requirement of a title for ordination to the diaconate, included in the original canons of 1789, was removed in 1808 (White and Dykman, *Annotated Constitution and Canons*, 650–651, 664–665).

<sup>127</sup>*Constitution and Canons*, 80–81: Canon III.8.7(e).

- (3) To consider and express their opinion on any matters referred to them by the General Synod, and in particular to approve or disapprove provisions referred to them by the General Synod under Article 8 of the Constitution.<sup>128</sup>

As already indicated, an English diocesan synod is not a legislative body, and the bishop has an effective veto over its resolutions. Canon C 18 enjoins that ‘Where the assent of the bishop is required to a resolution of the diocesan synod it shall not lightly nor without grave cause be withheld’,<sup>129</sup> but even that statement serves to make the bishop’s power of veto clear. The Synodical Government Measure envisages matters on which the bishop will decide, having consulted his synod. It places the bishop under a duty ‘to consult with the diocesan synod on matters of general concern and importance with the diocese’, but does not oblige him to act in accordance with the synod’s views. Some legislation requires the bishop to obtain the consent of his synod or bishop’s council for certain actions, but in other cases he is either merely obliged to consult one or the other or not specifically obliged to consult at all.

The position in The Episcopal Church is very different. The Constitution of the General Convention requires that in each diocese there shall be a standing committee elected by the diocesan convention.<sup>130</sup> Typically, the standing committee (of which the bishop is not a member) has four lay and four clerical members, who choose their own president. Reading both the canons of the General Convention and the diocesan canons, it is striking just how often a decision of the bishop requires the consent of either a simple or a two-thirds majority of the standing committee. Most striking of all is the fact that a bishop may not ordain anyone without the standing committee’s agreement.<sup>131</sup> The overall impression is not of the bishop as central to the life of the diocese, with a synod to advise him, but of the diocesan convention as central to the life of the diocese and supreme in its power, and of the bishop as its officer, able to act in many important matters only with the consent of the standing committee that the convention elects. As F.V. Mills commented, ‘For the first time since the Norman Conquest . . . , the Episcopalians in America made a bishop of a major religious body an elected official of a convention of clergy and laity’.<sup>132</sup>

Just how deeply ingrained in The Episcopal Church this novel understanding of episcopacy has become is shown by a website report of the 2006 meeting of the San Joaquin diocesan convention, at which it voted to remove references to The Episcopal Church from the diocesan constitution. According to the report, after the resolutions had been passed a motion was moved from the floor: ‘. . . be it resolved this 47th convention of the Diocese of San Joaquin direct the bishop, counsel and Standing Committee to assess the means for our affiliation with a recognised ecclesiastical structure of the Anglican Communion . . .’. Apparently the motion was passed by 166 votes to 4.<sup>133</sup> It is inconceivable that any member of an English diocesan synod would move a motion purporting to ‘direct’ the bishop to do anything, still less that such a motion would be passed by an overwhelming majority. That this should happen in one of The Episcopal Church’s most catholic dioceses underlines just how differently episcopacy is understood in that church.

<sup>128</sup>Synodical Government Measure 1969, s 4(2).

<sup>129</sup>*Canons of the Church of England*, Canon C 18, para 5.

<sup>130</sup>*Constitution and Canons*, 4–5: Constitution, Article IV.

<sup>131</sup>*Ibid.*, 71, 79: Canons III.6.6(c)–(d), III.8.6(d)–(e).

<sup>132</sup>Mills, *Bishops by Ballot*, 288.

<sup>133</sup>Virtue, ‘San Joaquin’. See also Schjonberg, ‘San Joaquin convention’.

It is not insignificant for an understanding of episcopacy in The Episcopal Church that the Constitution of the General Convention provides that, if there is no diocesan, coadjutor or suffragan bishop, ‘the Standing Committee shall be the Ecclesiastical Authority of the Diocese for all purposes declared by the General Convention’.<sup>134</sup> Many of the canons of the General Convention refer not to ‘the bishop of the diocese’ but to ‘the Ecclesiastical Authority’. (Thus, the role that the bishop is mentioned above as having when a priest is appointed is that which the Canon gives to ‘the Ecclesiastical Authority’.) Historically, it was normally the dean and chapter of the cathedral who, as guardians of the spiritualities, exercised spiritual jurisdiction of an English diocese during a vacancy in the see – latterly under Canon C 19, which was rendered a dead letter by the Church of England (Miscellaneous Provisions) Measure 1983 and subsequently repealed in 2000. The chapter did not at that time include any lay members, so, although the former guardianship of the spiritualities affords a partial English parallel, spiritual jurisdiction was not, in English dioceses, exercised by a body half of whose members were lay.

The provision for the Standing Committee to be the Ecclesiastical Authority during a vacancy in the see is another indication of the status, and therefore the power, of the diocesan Standing Committee within a diocese. It may also help to explain how some American priests and parishes who do not accept that women can be bishops manage to cope in dioceses with a woman bishop. If one is used to accepting a mixed body of clergy and laypeople as the Ecclesiastical Authority, how could one object to a woman in that role? And, of course, though priests are obliged to obey a woman bishop’s pastoral direction, that is essentially a direction to conform to the doctrine, worship and discipline of the church in line with their ordination vows; they are not obliged to swear an oath of canonical obedience to someone whom they do not consider to be a bishop. Some of the difficulties with which the legislative drafting group for the ordination of women to the episcopate in the Church of England has sought to grapple did not apply, or at least did not apply with the same force, when the ordination of women to the episcopate was introduced in America – because, it may be suggested, the bishop does not play the same part in the ecology of an American diocese as he does in an English one.

### ***Metropolitans, Primates, Provinces and Presiding Bishops***

English dioceses, like dioceses of the catholic Church more generally, are grouped into provinces under a metropolitan.<sup>135</sup> According to Canon C 17, the metropolitan ‘has throughout his province at all times metropolitan jurisdiction, as superintendent of all ecclesiastical matters therein, to correct and supply the defects of other bishops, and, during the time of his metropolitanical visitation, jurisdiction as Ordinary’.<sup>136</sup> The bishops of the province are said to be suffragans of the metropolitan,<sup>137</sup> and they are obliged to swear an oath of due obedience to the archbishop and the metropolitanical church of the province<sup>138</sup> (the latter, perhaps, because of the former role of the dean and chapter of the metropolitanical church as guardian of the spiritualities during a vacancy in the

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<sup>134</sup> *Constitution and Canons*, 5: Constitution, Article IV.

<sup>135</sup> For further reflections on primates, metropolitans and provinces in the Church of England, see Podmore, *Aspects of Anglican Identity*, chap. 5.

<sup>136</sup> *Canons of the Church of England*, Canon C 17, para 2.

<sup>137</sup> See, for example, Church of England (Miscellaneous Provisions) Measure 1983, s. 7.

<sup>138</sup> *Canons of the Church of England*, Canon C 14, para 1.

archiepiscopal see). The archbishops are not accountable to the General Synod for the exercise of their metropolitan functions.

In England, both metropolitans are also primates – a term which traditionally refers to the bishop of the first see of a nation or people. Hence, the Archbishops of Canterbury and York are not ‘primates of the Church of England’ or primates of their respective provinces, but ‘Primate of All England’ and ‘Primate of England’: the Archbishop of York is Primate of England and not just of his own province. Normally, the first or primatial see is not only ‘first’ in the sense of being pre-eminent but also the first to be founded, as Canterbury was the first see founded by the Gregorian mission to England. Although not all metropolitans are primates, all primates (as that term has historically been understood) are metropolitans. Thus, although ‘primate’ is a title of honour that may not carry with it any strictly primatial jurisdiction, traditionally a primate always has jurisdiction over at least a province within the territory of which he is primate.

As we have seen, in The Episcopal Church there are few sees in the sense of cities from which a bishop takes his title, and it was only in the second half of the nineteenth century that cathedrals began to be established as a focus for their dioceses.<sup>139</sup> In keeping with the egalitarianism of the American Revolution, White had argued in *The Case* for ‘an equality of the churches; and not, as in England, the subjection of all parish churches to their respective cathedrals’.<sup>140</sup> Writing in 1839, Henry Caswall (an Englishman ordained to the diaconate in America) doubted ‘whether a cathedral establishment would strictly comport with the American Episcopal system, in which the bishop derives his title not from any particular city, but from the territory over which his ecclesiastical jurisdiction extends’.<sup>141</sup> Similarly, at the national level there was and is an equality of dioceses and an equality of bishops. There are no metropolitans, no metropolitan sees and no metropolitan churches; all dioceses and hence all diocesan bishops are equal. This is probably one of the reasons why, as Bishop Stephen Bayne wrote in 1964, in *The Episcopal Church* ‘the tradition against the translation of diocesan bishops is profoundly deep’.<sup>142</sup> Because all diocesan bishops are equal, and because bishops are essentially officers of their diocesan conventions, no bishop is subject to the jurisdiction or authority of another bishop. At their episcopal ordination, American bishops make the same promise of conformity to the doctrine, discipline and worship of The Episcopal Church that deacons and priests make,<sup>143</sup> but they promise to obey only Christ.<sup>144</sup>

Since 1913, the dioceses of The Episcopal Church have been grouped into what are called ‘provinces’<sup>145</sup> but, lacking metropolitans, these are not provinces in the traditional sense. There is an elected president of the province, but he or she has no jurisdiction and (since 1979) may be a priest, deacon or layperson, although, if that is the case, the vice-president must be a bishop.<sup>146</sup> (At present, one of the nine provinces has a layman as president and one a priest.) There is what is called a ‘provincial synod’ but it has no ‘power to regulate or control the internal policy or affairs of any constituent Diocese’.<sup>147</sup>

<sup>139</sup>Prichard, *History*, 192–193.

<sup>140</sup>White, *The Case*, 453.

<sup>141</sup>Caswall, *America and the American Church*, 288.

<sup>142</sup>Bayne, *An Anglican Turning Point*, 12.

<sup>143</sup>*Constitution and Canons*, 7: Constitution, Article VIII.

<sup>144</sup>*Book of Common Prayer* (USA), 518.

<sup>145</sup>White and Dykman, *Annotated Constitution and Canons*, 331.

<sup>146</sup>*Constitution and Canons*, 43–44: Canon I.9.6; White and Dykman, *Annotated Constitution and Canons*, 337.

<sup>147</sup>*Constitution and Canons*, 44: Canon I.9.8.

From 1804 to 1919, the Presiding Bishop was the most senior bishop by date of consecration, but since then Presiding Bishops have been elected – now for a single term of nine years.<sup>148</sup> Also in 1919, to quote the historian David Holmes, ‘The Episcopal Church attempted to create greater efficiency and corporate consciousness by centralizing its previously uncoordinated denominational boards in the six-story Church Missions House . . . in New York City’.<sup>149</sup> A national council (renamed the Executive Council in 1964) was established under the chairmanship of the Presiding Bishop, who was given an office in the headquarters building.<sup>150</sup> Since 1943, the office of Presiding Bishop has been a full-time one, the successful candidate being required to resign diocesan jurisdiction on taking office.<sup>151</sup> In 1960, the former Church Missions House was replaced by the Episcopal Church Center, a new twelve-storey building, three times the size of its predecessor, at 815 Second Avenue.<sup>152</sup>

The Presiding Bishop is not only the ‘Chair and President’ of the Executive Council (which is also the Board of Directors of the Domestic and Foreign Missionary Society, the corporate body which holds The Episcopal Church’s national assets), but also its ‘chief executive officer’, with ‘ultimate responsibility for the oversight of the work of the Executive Council in the implementation of the ministry and mission of the Church as may be committed to the Executive Council by the General Convention’.<sup>153</sup> The Presiding Bishop is entitled to appoint his or her own officers to positions established by the Executive Council, and additional officers, agents and employees ‘shall be such . . . as the Council, upon the recommendation and under the authority and direction of the Chair and President, may from time to time designate’.<sup>154</sup> Accordingly, the retirement of Bishop Frank Griswold as Presiding Bishop was accompanied by those of no fewer than five of his senior officers.<sup>155</sup> It is difficult to avoid the conclusion that, in the twentieth century, The Episcopal Church was heavily influenced by the culture of corporate America, turning its Presiding Bishop into the full-time chairman and chief executive of a corporation, who lives and works in its headquarters building in New York City and ‘hires and fires’ its senior staff. In this it was by no means alone. William Sachs and Thomas Holland have observed that, in the period after 1945, ‘The organizational structures of most denominations and most interdenominational agencies were not very different from corporate America’s’.<sup>156</sup>

Perhaps in an effort to counterbalance this impression, Canon I.2 of the canons of the General Convention now states that ‘The Presiding Bishop shall be the Chief Pastor and Primate of the Church’. The title ‘Chief Pastor’ was added in 1967, when the Presiding Bishop was given the responsibility to ‘speak God’s words to the Church and to the world, as the representative of this Church and its episcopate in its corporate capacity’ and to ‘visit every Diocese of this Church’ for the purpose of pastoral consultations, preaching

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<sup>148</sup>White and Dykman, *Annotated Constitution and Canons*, 23, 26–27; *Constitution and Canons*, 28: Canon I.2.2.

<sup>149</sup>Holmes, *Brief History*, 145.

<sup>150</sup>Prichard, *History*, 175; Holmes, *Brief History*, 145.

<sup>151</sup>*Constitution and Canons*, 28: Canon I.2.3; White and Dykman, *Annotated Constitution and Canons*, 201.

<sup>152</sup>Prichard, *History*, 234; Holmes, *Brief History*, 157.

<sup>153</sup>Prichard, *History*, 234; Holmes, *Brief History*, 157.

<sup>154</sup>*Ibid.*, 29: Canon I.2.4(c); *ibid.*, p 33: Canon I.43(h).

<sup>155</sup>Episcopal News Service archive, ‘Staffing set for transition’.

<sup>156</sup>Sachs and Holland, *Restoring the Ties that Bind*, 156.



the Word and celebrating the Eucharist.<sup>157</sup> The title ‘primate’, added in 1982, presumably denotes membership of the Primates’ Meeting of the Anglican Communion established four years earlier in 1978. It cannot mean what that term has traditionally meant in the western Church; the Presiding Bishop is not the bishop of the first or primatial see of the United States – there is no such thing – and indeed he or she is not now the bishop of any diocese. (The Presiding Bishop does, however, have a cathedral, known as ‘The National Cathedral’, which was begun in 1907 and completed in 1990.)

The Presiding Bishop is first and foremost the bishop elected to preside over the General Convention and, indeed, provision for electing a Presiding Bishop is made in Article I of the Constitution, ‘Of the General Convention’. Before 1901, the office was that of ‘Presiding Bishop of the House of Bishops’ rather than ‘Presiding Bishop of the Church’.<sup>158</sup> He or she is not a metropolitan and possesses no jurisdiction over any diocese and no power of visitation in the canonical sense. Bishops neither promise nor owe ‘due obedience’ to the Presiding Bishop. At a meeting with traditionalist bishops to discuss their request for ‘alternative primatial oversight’, the present Presiding Bishop is reported to have told them, ‘She could not grant something she did not possess. She was not a metropolitan or archbishop, but a presiding bishop, and had no oversight over their dioceses’.<sup>159</sup> Furthermore, whereas the authority of the Archbishops of Canterbury and York does not derive from the General Synod, and they are not accountable to the Synod for the exercise of their metropolitan jurisdiction, R. William Franklin observed in 2004 that ‘The Presiding Bishop possesses no independent authority. His authority and actions derive from the ultimate ecclesial authority of the General Convention’.<sup>160</sup> Like the American diocesan bishops, it would seem that the Presiding Bishop is essentially to be understood as an officer of the Convention.

### ***Collegiality and government at the national level***

An English bishop is not just bishop of his diocese but also very much a member of the college of bishops at the provincial and national levels. This involves meetings of the General Synod, in which the House of Bishops has a corporate role, two or three times a year (totalling between nine and thirteen days) and meetings of the House of Bishops or Bishops’ Meeting three times a year (a further eleven days): six separate meetings, over twenty or more days, every year – not including subordinate bodies such as the House’s standing committee or its theological group. National collegiality looms large in the life of an English diocesan bishop – at one level, simply in terms of time, but also in most cases in his thinking and actions. The same does not seem to be true in America, where the General Convention meets only once every three years, for around ten days, and the House of Bishops no more than twice a year.

Traditionally, the role of the Lower House (of Clergy) in the English Convocations was to offer the Upper House (of Bishops) their counsel and to consent (or not) to the bishops’ proposals. In his work *Synodus Anglicana*, Bishop Edmund Gibson was at pains to show

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<sup>157</sup>*Constitution and Canons*, 28–29: Canon I.2.4(a). The official commentary observes that this definition ‘seems overly ambitious... in its outline for visitations ..., as though it were the same process as a diocesan bishop visiting his parishes’ (White and Dykman, *Annotated Constitution and Canons*, 207).

<sup>158</sup>White and Dykman, *Annotated Constitution and Canons*, 199.

<sup>159</sup>Conger, ‘African bishops’.

<sup>160</sup>Franklin, ‘The Historical Background’, 6.

that the powers of the two houses were not equal, something that he believed would be ‘inconsistent with the primitive distinctions between presbyters and bishops, and unknown before either to this or any other episcopal church’. He expressed the hope that his work would ‘vindicate our reformation from the late aspersions of that kind, as well as the ecclesiastical government thereof from any such repugnancy to the primitive rules’.<sup>161</sup> Inequality between the House of Bishops and the other houses continues in the General Synod, whose Constitution and Standing Orders give to the House of Bishops powers not enjoyed by the other houses. For example, proposals affecting the doctrine or worship of the Church of England can only be given final approval if they have previously been approved by the House of Bishops, and can only be approved in the precise terms in which the House of Bishops has approved them.<sup>162</sup> This right, which is not enjoyed by the other two houses, preserves the bishops’ role as the guardians of the faith and liturgy of the Church.

Furthermore, the fact that the business of the General Synod is normally conducted in full Synod gives the bishops the opportunity to lead the Synod’s thinking. There is also an expectation that the House of Bishops will take the lead in speaking for the Church of England, and, on many significant matters, the House of Bishops issues statements and codes of practice, which have moral though not legal force, without seeking the agreement of the Synod as a whole. The Archbishops’ Council, as the Church of England’s executive council is called – and the name is significant – is expected not so much to have its own vision for the Church of England as to implement that of the House of Bishops. On major issues of policy, the Archbishops’ Council cannot in practice act without the agreement of the House of Bishops.

Although under the Constitution of The Episcopal Church no legislation can be passed without the concurrence of the House of Bishops, that house would appear to have no special role and no special rights different from or greater than those of the House of Deputies (which is referred to as the ‘senior house’, because it is the older of the two). Nor is it apparent that the Executive Council, which meets much more frequently than the House of Bishops, looks to that House for leadership on questions of policy.

## **In conclusion**

### ***Further issues***

This has necessarily been only a partial study of The Episcopal Church’s ecclesiology and how it compares with that of the Church of England. One important issue that has not been addressed is that of territoriality: how far is The Episcopal Church a territorial church at the parish level and, indeed, does the term ‘parish’ have the same meaning in America as it has in England, where it describes a geographical area, the ‘parishioners’ being all those who reside within it (whether they have a connection with the church or not)? Another significant question is that of establishment. The Episcopal Church was created as a church independent of the state. That in itself was a novelty, since, before the Oxford Movement, the classic Anglican theological perspective insisted on the integral relationship of church and state.<sup>163</sup> Perhaps more important ecclesologically is the fact

<sup>161</sup>Gibson, *Synodus Anglicana*, 140–141. See Podmore, *Aspects of Anglican Identity*, 106–107.

<sup>162</sup>Constitution of the General Synod, Article 7, set out in Synodical Government Measure 1969, Sch 2.

<sup>163</sup>Cf. Mills, *Bishops by Ballot*, 288; Doll, *Revolution, Religion and National Identity*, 155.

that it not only thereby became but also recognised itself to be one church among many – an expression of the new pluralistic religious paradigm known as ‘American denominationalism’, which Nancy Rhoden has explained as ‘a religious value supported by revolutionary ideas of liberty and egalitarianism and reinforced by pre-existing latitudinarian practices of religious toleration’. By embracing that understanding of its place in American life, Rhoden has argued, the new church gave itself an ideological foundation compatible with the new civil structure.<sup>164</sup> Territoriality, establishment and denominationalism are all issues that deserve to be studied when comparing the ecclesiology of The Episcopal Church with that of the Church of England.

Ecclesiology has also been considered as it is reflected in the history, law and structures of the Church, but what of the ‘operative ecclesiology’ of The Episcopal Church; what understanding of the Church underlies the opinions and actions of American Episcopalians today? And what is the balance between the sense of American self-sufficiency inherited from the American Revolution and the internationalism, originating as a reaction to the American Civil War, that has inspired commitment to the unity of the wider Church – exemplified, for instance, by the development of the Chicago-Lambeth Quadrilateral as a basis for ecumenism?<sup>165</sup> These questions, too, must be left for another occasion.

### **Rapprochement: the role of the laity**

One of the most striking things about The Episcopal Church from its inception has been the role of the laity within it. This stemmed not only from the *de facto* control that vestries had over the clergy because they both paid and appointed them but also from the belief that power in the church as in the state should flow from the people. Such lay dominance is not peculiar to The Episcopal Church: David Holmes has written that ‘in all other mainline expressions of Christianity in America except Roman Catholicism, lay control ultimately replaced clerical authority’.<sup>166</sup> However, the fact that, unlike The Episcopal Church, the Methodist Episcopal Church in the USA did not admit lay members to its General Conference until 1872<sup>167</sup> underlines just how radical The Episcopal Church’s polity was at its inception.

It is important not to forget that both the Church of England and The Episcopal Church have developed since the eighteenth century. Just as The Episcopal Church became somewhat more episcopal in the nineteenth century, so, from the late nineteenth century onwards, the Church of England gradually involved laypeople in church governance at diocesan and national levels. That development was influenced, directly and also indirectly (via the Colonial Church), by the example of lay participation in the government of The Episcopal Church. While the apparent subordination of American bishops to their conventions, which Newman described in his 1839 article ‘The Anglo-American Church’ as ‘the power usurped by the laity over the bishop’s jurisdiction’, still contrasts with the different relationship of English bishops individually to their diocesan synods and corporately to the General Synod, the phrase ‘lay interference’ which Newman used in the same article now seems completely inappropriate.<sup>168</sup> Since 1970, the Church of

<sup>164</sup>Rhoden, *Revolutionary Anglicanism*, 116, 135.

<sup>165</sup>Cf. Franklin, ‘The Episcopal Church in the USA and the Covenant’, 109–110, 112.

<sup>166</sup>Holmes, *Brief History*, 37.

<sup>167</sup>Hempton, *Methodism*, 224.

<sup>168</sup>Newman, ‘The Anglo-American Church’, 355, 359, 362.

England has included laypeople in the membership of its synods, and it has become natural to think of laypeople as having a proper part to play in the government of the Church. Their role is not an equal one with that of those who, in the words of the 1662 Ordinal, are 'admitted to . . . Government in the Church of Christ' by ordination to the episcopate but, if Newman thought that bishops being named after their dioceses rather than vice versa was 'a piece of *purus putus Protestantismus*', one hates to think what he might have said of the role played today by the House of Laity of the General Synod in the councils of the Church.

### Conclusion

The Church of England and The Episcopal Church have both changed, and in doing so have moved closer together, but that *rapprochement* is far from complete. Each church's ecclesiology continues to be determined by its origins. The Church of England still essentially enjoys the hierarchical structure that it has inherited from the western Church of which for 950 years it formed an integral part, and its ecclesiology flows from that structure. Important modifications – such as the representation of the laity in synods – have been made within that framework, rather than overturning it. Similarly, The Episcopal Church still essentially has the democratic and egalitarian structure conceived in the wake of the American Revolution, and enhancement of the role of bishops has occurred within that framework. The achievements of Bishop Seabury and the high-church clergy of Connecticut were that a bishop should not be subject to trial and deposition by the convention of his own state church, and that in the General Convention the bishops should be distinct from, and equal partners with, the clergy and laity. It is not clear, however, that they secured that episcopal government of the Church which they believed that Christ had instituted and which, broadly speaking, can – for good or ill – still be said to be practised in the Church of England today. F. V. Mills described the formation of The Episcopal Church as involving 'the substitution and canonization of republican concepts and practices in place of hierarchical ones'.<sup>169</sup>

Finally, it should be stressed that to identify difference is not in itself to make a value judgement. How far one understanding of church government in general or episcopacy in particular rather than the other is right – or, more likely, to what degree each of them is right – is a different question, which a theologian would be more competent to answer than an historian. And, of course, the temptation to be conformed to this world has always been present in England as it has been in America. The mediaeval conformity of English episcopacy to English feudalism, or a twentieth-century assumption of a modern public-service ethos and mentality, is different from, but may not be much better or worse than, assimilation to the Enlightenment philosophy of the American Revolution or to the culture of corporate America.

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<sup>169</sup>Mills, *Bishops by Ballot*, xii.

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