

The Living Church.

No. 12.

CHICAGO, WEDNESDAY, OCT. 20, 1886.

Price 5 Cents.

The Living Church.

A DAILY REPORT
of the Proceedings and Work of the General Convention of the Protestant Episcopal Church, held in Chicago, beginning October 6, 1886.

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SUBSCRIPTION FOR THE SESSION, \$1.

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Entered as second-class Mail-matter at Chicago P.O.

GENERAL CONVENTION.

ELEVENTH DAY—AFTERNOON SESSION.

The President called the House of Deputies to order at 2:30 p. m.

The President announced that the Rev. Mr. Foute, of California, had the floor.

The Rev. Mr. Capers, of South Carolina—By permission of the Rev. Deputy from California on behalf of the Joint Committee on work among the colored people, I desire to amend our report by substituting for the third resolution the resolution: That the House of Bishops concurring, action be taken instituting a Board of Managers established at Washington to consist of five Bishops, five presbyters and five laymen to whom the committee shall regulate its powers and duties as far as shall be necessary by the said committee. As far as the carrying on of all work of this sort belongs to the Board of Managers, it will be more in harmony with their names, if this resolution takes the place of the resolution we proposed.

The President—If there is no objection, the committee has permission to make the substitution.

The Rev. Mr. Foute, of California—Mr. President and Gentlemen of the Convention, it has long been apparent to my mind that the question now under discussion before this House was one of those questions which has but one side. I have been delighted to find that in that view I have been more than confirmed by the committee appointed to consider this matter. Both reports agree that the present judicial system of the Church is, to say the least, unsatisfactory, and ought to be amended, improved or reformed in some way. How it was possible for any man to think otherwise, who reflected calmly and seriously upon the present system as contained in the different diocesan conventions belonging to this Church, was a matter incomprehensible to me. The only question therefore which now seems to divide the members of this House, is as to the best mode of obtaining the relief that we feel ought to be granted, and ought to be granted immediately if possible. I take it sir, that I would be more than sustained in the statement that the present system is unjust, not only to the clergymen who may be accused, but perhaps more unjust to the Bishop, and it is perhaps still more unjust to the Church at large. There are three parties in this matter of the trial of a clergyman, not only the individual who is accused, and his accusers, but his Right Reverend Father, who is placed there with a most cruel responsibility placed upon him, such a responsibility as we know has been laid down to the very earth in this Church heretofore, men who have been charged with that responsibility. Now

sir, it is proposed to try and find the best method to give us relief. We are met at the outset with the objection by some gentlemen, that the difficulty arises in the fact that the diocesan conventions heretofore having exercised authority in that matter should continue to do so hereafter; and on the ground I believe that there is such a thing as diocesan rights in contradistinction to the authority of the Church. Mr. President, and gentlemen of the Convention, it strikes me that this is to a great extent trying to introduce into the question which comes before this body what we all have heard of in the state as state's rights. I would like to remark that in reference to that doctrine of state's rights I have had some little experience, and after four years' experience in defense of that doctrine all that I got for my pains or for my principle was a ragged, bare-footed body kindly permitted to return to my home if I could escape the stragglers in the army. I do not feel therefore inclined at all to adopt any such doctrine. I do not think that it pays; it did not pay in that instance. But the great difference is this, Mr. President, and it is a difference as wide as the poles. In the state the authority is from below, in the Church it comes from above. The Church forms and creates the diocese. The Church has given to the diocese a certain grant of power for the purpose of legislating on this subject of the judiciary, and the very fact, Mr. President, that the Church has granted that power, is a sufficient proof of another fact that the Church can grant supplementary power, if she please, or that the Church can regulate the power she once granted. And that is what is proposed in this report of the committee—an amendment to this article of the Constitution which shall provide in so many words that this General Convention, representing all the interests of the Church, shall have the power to legislate upon this question for all the dioceses. In that proposition I most heartily concur. I believe, sir, that this is the only way in which the need can be remedied. One of the great difficulties of the minority report, which of course technically is not before us, but which has been read for our information, is the one serious and difficult fact we have to contend with; and that is that we wish to remove this control over the ministry as far as possible from local prejudices and local surroundings. I do not mean to say, nor do I think it is desirable, in order that this report may be received and adopted—I do not even go so far as to say that I think it desirable to alter at all the present diocesan legislation on that subject. If you please, allow the dioceses to have their diocesan courts just as they are now organized; but the one thing I do plead for, and I plead for it in the name of simple justice in behalf of the clergymen of this Church, one thing that I do plead for is that the clergymen may have the right simply to have a second hearing.

I do not pretend to say how that shall be brought about. I am not competent, perhaps, to decide such a question. To my mind there are various methods by which it could be obtained; but I do say, sir, that that is the one thing involved in this whole question, the one thing to be considered by this Convention, that you ought to give a clergyman the right of being re-heard. Not that the individual Bishop may be unjust, not that the members of the Court are incompetent or dishonest—not at all, sir,—but that he may simply have a right which in every other branch of the Church from the days of Jerusalem down to this hour has

been granted him. Why, Mr. President, and gentlemen of the Convention, even among those awful sects of which we have heard so much during the debates of this Convention, even among the sects, a minister not only has the right of appeal, but he has a half dozen rights, if you please. He first goes to one body organized to try the case, and then he may go to the other body, and so on up to the final decision. Wherever has it been heard, sir, in the history of the world, that a Bishop, be he as pure as snow, ever had the absolute power over one of his Clergy without the possibility of appeal from his judgment? Possibly it is because this Church is called Protestant Episcopal. There may be something in that term which gives the Bishop this wonderful power? It certainly is unheard of in the Church. And what we desire, sir, as I understand it, is that this General Convention, this Council of the Protestant Episcopal Church, if you please, or American Catholic Church, or whatever name you may choose to call it, this Council shall carry within itself the power and the authority of Diocesan independence. Mr. President, Diocesan obedience it seems to me is the better term. Who is it that gives the Diocese the Bishop, if the Diocese has such tremendous power? Why does it come to the American Church and ask that it may have a Bishop? And unless the American Church gives its consent, the Diocese can have no Bishop. Why does not this General Convention legislate on various matters which belong not only to the Diocese but also to the parish? In the case of a Diocese whose Bishop has been removed, where are your Diocesan rights then? Does the State of Illinois go to Washington and beg permission of the General Council of the United States in Congress assembled to elect Mr. A or Mr. B as their governor? I think not. There is no parallel here in a matter of this sort. I believe that the one thing for this General Convention to do, and do it promptly, is to pass this report of the Committee on the Amendment of the Constitution, and to provide as soon as possible some relief, and whatever may be the result of the legislation in this Convention, it will ever be my pride and delight to feel as time passes over my head, that my voice was first lifted in the General Council of this Church in behalf of the right of appeal, a right, sir, which I plead this Convention to grant to her Clergy, a right, sir, which is shared by the common criminal of the street.

Rev. Dr. Moore, of Rhode Island, moved that the vote on this subject be taken at half past four o'clock unless the discussion closed before that time. Seconded.

A Deputy from Virginia moved that the resolution be laid on the table. Seconded, and carried by a vote of 142 ayes to 38 nays.

Mr. W. H. S. Burgwyn, of North Carolina—That report involves a change in our Constitution, the minority report, as I understand it, does not involve a change in the constitution. It is conceded by all that it is desirable a Court of Appeal be established. The majority report would affect that object by the creation of a body under the immediate control of this Convention; the minority report would effect that object without contemplating a change of our Constitution. Is not that desirable? It will go into effect on the first of January next, and if that report is of such a nature as to recommend itself to the different Diocesan Conventions, I ask what more can be desired of this body? There are objections, Mr. President, to the majority report. They must have some central point where they can

convene, and there will be expense attending that body, such an expense as to make it practically a denial of justice. We all know that members of our different Dioceses are not men of means. It would be practically impossible for them to attend, remain there some time, employ counsel, and all the attending expense. Where is it to come from? Another objection. It is always proper that the body constituting an appellate court should also have the power to constitute the trial court. How can you constitute an appellate court unless the same body has power to constitute the original court? A clergyman who has been duly tried in the Diocesan court is not without remedy. I submit, sir, that he has a right, not to appeal in the usual sense of the word, but he has a right to appeal to the conscience of the Bishop, after the trial is finished and sentence has been rendered. I think it is not altogether an undesirable thing that the Bishops should be invested with this authority. They are, by the Constitution of the Church, invested with greater authority, and justly so. The Bishop who feels himself compelled by the testimony before him, or before the court that tries the party, to ratify and confirm the sentence, I venture to say invariably does so with the greatest reluctance, and only because he is obliged to do so; but he has the power to remit that sentence. This is expressly provided for in our Canons, and if a party shall have been unjustly convicted, the standing committee will give its unanimous consent to remit and terminate the penalty. I submit, sir, that a presbyter who has been duly tried and convicted is not without some sort of an appeal. The only question is, shall that right of appeal be determined by the Dioceses themselves or shall it be by a body formed by this Convention, sitting here? I beg to submit my resolution that the report of the minority committee be substituted for the majority report.

Rev. Cameron Mann, of Missouri.—The result at present is that an accusation made, such accusation is made public, and there is no power by which, and no place whatever in which, such accusation can be met. It is, I believe, considered by the judge of the lower courts of our judicial system a great advantage that their decisions are liable to be reviewed by a higher court, in order that a decision, if unjust, shall pass out of the vicinage in which the discussion arose and be considered by an impartial body. So with us it is desired by many that there should be an appellate court and it is also our desire that the appellate court shall be one which shall protect the Bishop of the trial court as well as the man who is tried. That can be done only by a court constituted by this General Convention. The gentleman who has just addressed us spoke as though the case would be tried de novo. But such would not be the fact. The whole question of an appellate court to decide would simply be this. Did the Diocesan court act according to the Canons of the Diocese and according to the accepted principles of accepting testimony? Did it act in accordance with the facts of the case? If it did that, and the Diocesan court has not exceeded its power nor violated justice, why the case is over, and all that is necessary is that the record of the trial with the ruling should be sent up. It is perfectly possible that your appellate court should stay at one place all the time. It does not hear the witnesses, but granting that the testimony was given and received as the record states, it decides whether the testimony was such as to warrant the verdict rendered.

Rev. J. S. B. Hodges, of Maryland. — Mr. President, I cannot refrain from an expression of surprise that so many members of the Convention do not see clearly and at once what is the purport of the resolutions reported from the committee as distinguished from the purport of the resolutions submitted by the minority of the committee. From speeches which have been delivered here I think any one will come to the conclusion that the committee have reported in favor of at once taking the whole matter out of the hands of the Diocesan committee. I ask any gentleman on the floor to show me one word in the resolutions of the committee or the report which recommends anything of the kind. There has been a man of straw put up here and knocked down, put up again and knocked down again, but I have not seen any reason in the report or the resolutions on the subject to warrant a great deal of what has been said.

(Messages Nos. 27, 28 and 29 were received.)

Mr. Hodges continued: I want to call the attention of the Convention to what is really recommended by the committee. It was an expression of opinion in view of the numbers of cases that have come up asking them to express an opinion as to whether any change was desirable, and, if so, what legislation might be necessary in order to accomplish that improvement. Now, sir, the whole committee have come unanimously to the conclusion that the judicial system of the Church is in such a condition that it does imperatively call for an improvement. The members of the committee are met by this fact, that there is at the present time one way, and one way only, by which an appellate court can be—for this is one court only of the judicial system—one way by which an appellate court can be had. The whole committee, I believe, is a unit on that point. Every Diocese has the right and has had it from the beginning to establish its own appellate court. There is no question on that score. We all agree as to that, but we now come to the question, is that the only appellate court which a Diocese is to have? Are there or are there not questions in which it would be desirable to have a court which should be composed of those who are not members of the Diocese? The majority of the committee came to the conclusion that it would be advisable not at this time, to establish a uniform court, but that it would be desirable to take away what would be in the way of something that by and by would be considered by the Church better. There is nothing that calls for immediate action in this matter. The committee say that if you will take up this matter and first of all remove the absolute bar, then they think that instead of acting upon the matter now without a sufficient degree of consideration, it would be well to refer this whole matter to a commission, who could study the matter carefully during the next three years and report what in their judgment would be best to adopt. The other proposition is that you shall refer it to this committee and they shall do something. What are they invited to do? Invited to propose a canon, only it is to be a permissive canon, that is to say, a rule is to be laid down and you are to have permission to follow the rule if you choose. I do not think that is a wise method of legislation. Mr. President, if it is to be a rule, let us follow it; if it is to be a suggestion, let it be so; but it does not seem to me a wise thing to introduce something that can be followed or not followed as you please. What is the right it is proposed to take away? Is it proposed to take away from any clergyman a right which he possesses? I think it is nothing of that kind. It is simply a right for any Diocese to take away the right of a clergyman not only in that Diocese but in the whole Church without so much as an appeal beyond the Diocese (of course he would have an appeal in the Diocese), leaving out the fact that it may be a matter of doctrine contrary to the general opinion of the Church. Leaving out this, it is simply the right to say that every member of a particular Diocese, no matter what the case may be, or under what circumstances he may be tried, he shall have no possible appeal outside of his own Diocese. I do hope, sir, that the Convention will try to keep the distinction between the two reports clearly in

mind: that the one asks for time for consideration of the matter, that every possible bar may be removed, not to set up something now which the Church is not prepared to adopt, but wishing to act deliberately. The other says, let us settle now once for all that no clergyman shall ever appeal beyond the limits of his own Diocese, and that after having been brought before that court in his own Diocese he must stand or fall. I hope sir, that the report of the committee may be adopted, and the report of the minority may be rejected.

Mr. James McConnell of Louisiana—Mr. President, while I have sympathy with the arguments of the very able gentlemen from Pennsylvania who opened the debate, I think our sympathies are liable to lead us too far. What would be the character of that court when constituted? Suppose, sir, that a question under the 22nd Canon of this Church, as to how the modes of worship should be conducted and whether they were in accordance with the Holy Scriptures or not. It might be that in your Diocesan court a Clergyman might not get justice, but it could not be but that the Diocesan court would administer the law according to the modes in which the people in that Diocese worship. You might have a difference of opinion in these different Dioceses. This, Mr. President, is a fundamental question, and I fear that in trying to redress one wrong you will get into a great many other difficulties that you dream not of. Suppose that a court of that kind is established, it may must be uniform in its decisions. I desire to call the attention of this Convention to a fundamental question of constitutional law, which seems to me had been overlooked, and that is the difference between the constitution of an ecclesiastical body such as this, and the constitution of a legislative body such as that of the general government or State. Mr. President, this body has not only the executive power and legislative power but it embraces within itself the judicial power. In my judgment sir, you can not remit that power to any court that you boast. I mean by that, that if this judicial court should be established and the clergyman should be arraigned before it for violating Canon 22, which you all understand is brought before that appellate court, he goes through the regular process of trial, his counsel would unquestionably file the plea for a change of jurisdiction and the man would come before this body and then have them determine as to whether he had violated their Canon. It is a physical impossibility for this General Convention to constitute a court where that court will not be one-sided on this question. Another: It seems to me sir, that a man when entering the sacred office of the ministry should make up his mind that everything can not always be satisfactory. It is impossible in tribunals, where both parties are represented by counsel and have means at their command, before judges who are brought to understand the rules of evidence to secure justice always, it is I believe impossible to get such machinery in our body. I shall most undoubtedly vote for the minority report, which confines this matter to the Diocesan council.

A Deputy—I will call the attention of the gentleman taking his seat to the fact that the majority report of the Committee does propose to refer the matter to a Committee to report to the next Convention, and that this minority report strikes that out.

Mr. James McConnell, of Louisiana—I would say, Mr. President, that the reference principle is one for which I was earnestly contending, and that the Constitution should be so amended as to give to this body the right to constitute these judicial tribunals. I was for appointing a commission independent of that.

Rev. Dr. Beers, of California—I have heard a great deal said, Mr. President, during this debate, of our judiciary system, and it reminds me of an old history of Ireland in which one chapter is headed "Snakes," and the chapter goes on to say, "There are no snakes in Ireland." We have, properly speaking, no judiciary system at all, and if I gave much heed to the debates in this House on the subject, I should greatly fear that we are not destined to have any judiciary system. We administer justice, so far as we

do administer it in this Church, after the system advocated by an old unscientific tar about the navigation of the coast of Maine. He said the navigation should be by main strength and awkwardness. Now, I don't see my way clear. Wiser men in the committee, minority and majority, understand the road by which we should reach the result better than I pretend to, but assuredly this Church to-day needs a Court of Appeals. By whatever process it gets it, it needs it very badly. Now, those who undertake to guide us by analogies of the State, it seems to me, however well intentioned, are like the blind leading the blind that both may fall into the ditch of common confusion. There are no analogies. A State is a fixed quantity. It has a well organized system, an elective, judiciary, and courts of appeal, and no citizen of any State lives outside the reach of some remedy of appeal to the federal courts. If we are to have an analogy with the civil courts, with the civil states, let us have some feature of this kind. And another thing that I am reminded of, that I will venture to suggest to this House, is this: That when the Constitution gave the power of discipline over the Clergy to the Diocese, a Diocese in its territorial extent and in many other ways was a kind of principality. It is not so now. We are far on the road to the sea system, practically, in other words, to the division of Dioceses, until in some instances there are Dioceses that scarcely have an excess of the number required by the Constitution, six presbyters. Now, can justice be administered in such jurisdictions in such a manner that it will not labor under the suspicion of having lost the balance of its scale, and of letting the bandage slip down from one eye, if not from both, in reaching the conclusion? As a matter of fact, this Church is not what it was twenty years ago. A great many essential changes have taken place. It has more worldly wisdom, more politics, more rivalry than it used to have, which is inevitable. Look at this body representing every state and territory in the Union. It is not the body which met twenty or thirty years ago. The government of the Church was largely patriarchal, and it worked well, but we have arrived at a stage, where we need an absolute system of judicial administration, and we need it with all the safe-guards which it is possible to throw around it. I do not think—I beg the pardon of the Clerical brethren—that the average Clerical mind is eminently a judicial mind; I do not think our lives and training prepare us for that, and so much more need that we guard the administration of justice, so far as the Clergy are concerned, by every safeguard possible. There are to be lines run through a small Diocese, and many Dioceses involve party questions to such a degree that it almost tries those who promote the trial, and those who sit as jurors and judges on the trial. Again, it often happens that personal feelings may draw a line as distinct between the two bodies of men in the Diocese as a rail-road divides one side of the track from the other. It is perfectly visible. Is it true that where but few men constitute a Diocese, that you leave the question of the very existence of a creed in the Church to them, and what I would like to have said a greatly more important matter, the very honor of a man, and with it the honor of the Church. In these are involved the scale of justice which vibrates one way and the other under the influence of the gust of passion and prejudice. It may take a great while, Mr. President, to gain a Court of Appeals that will be what we want. If it takes a hundred years let us have it. It is an important work, but by continuing in it carefully and patiently, we can get it perfect. It is like other questions that have been before this Convention, and will be before its successor. Do a little work well rather than do a great deal of work ill, leaving it half done.

Mr. A. S. Richardson, of Texas—I wish to add a few words in the line of the argument taken by the distinguished lay deputy from Indiana. We all claim, sir, to be engaged in the great warfare against a common enemy, and we can not but recognize that the same principle will apply to our case which applies when armies are marched in battle array, to do battle for home and country

against their common enemy. We must recognize that the principle of protection must be preserved. There must be the great captain or leader, there must be subordinate captains, and there must be the men in the ranks, the laymen in the Church like myself, to follow in their humble way and do battle. Now, sir, we recognize the fact, that with all the effort and all the influence that can be brought to bear by our Bishops, it is hard for them; they find it troublesome and difficult to preserve their authority, and enforce that authority with which they are invested in their consecration vows in their respective dioceses. Even with the knowledge that they are to some extent autocratic, that they can do pretty much as they please within their own dioceses, there are continually arising those who are from some cause, whether justifiable or not, disposed to stand by their views, their ideas, their judgment and their wishes against the instruction, wishes and desires of those who are placed in authority over them in carrying on the work of the Church in the diocese. Even as things are now, and with this understanding on the part of the clergy, I say it without intending any disrespect or reflection on the clergy, there are in many dioceses clergy who have a disposition to be recalcitrant and argue against, or take a position against, the power and authority of the Bishops. Even with all the restraints that are thrown around them, and all the power with which the Bishops are invested, and which so far as the Canons, so far as the legislation of this Church is concerned, has never been taken we find this to be the case. Now, Mr. President, suppose we open the gate, as it were, the sluices, suppose we place it within the power of any clergyman who sees proper to differ from the Bishop, to do as he pleases, with the consciousness that he cannot be disciplined by the Bishop, but that he has it in his power to take his case before a tribunal over which his Bishop has no control, and you open the flood-gates to all sorts of trouble, difficulty and insubordination in the clergy. Now, Mr. President, is such a course of conduct conducive to the orderly carrying on of the Church in the dioceses? It cannot tend towards the spirit of the Gospel and the carrying out of the principles to be enforced and commanded by those who have surrendered themselves to the service of the Church which we so love. Under such a system, would not every clergyman be without restraint, and at once set up for himself to do as he pleases, whether it be to place flowers upon the altar, whether it be to have a surpliced choir, whether it be to have unleavened bread? And I submit to you, sir, these remarks, because in my parish we have all of those adjuncts to the service, whether it be to do any one of those things, which he or I might think innocent in themselves, or something which might not be as innocent. Is it likely to be conducive to the interest of the Church, if he can do any and all of these things regardless of the Bishop, the Bishop having no power or authority to enforce his commands? The result would be that there would spring up all over the country, in the Dioceses of the country, clergymen setting up for themselves courts of the Church, constructed or constituted under the legislation of this body, and those courts would be filled with cases, until, as expressed by one of the deputies to-day, the docket would be as crowded as is that of the supreme court of the United States. I throw this out as simply an argument in the line of the argument taken by the distinguished deputy from Louisiana. It may work hardships, it is true, upon the clergy in individual cases, when they may not be able to view the matter as do some others, but such a system as is suggested here will lead to an immense amount of litigation trouble and hardship; further than that we are to bear in mind that our Bishops have enough in this world to interfere with their work and should not be made to "fly to the wall" as they know not of.

The Rev. Mr. Davenport, of Springfield—I had thought, sir, that I would not trouble the House with a few remarks on this subject, but there has been an appeal made to the clergy which I cannot, as one of them fail to accept. The distinguished

from Louisiana said that if there were—I quote the substance, I have not the words—that if there were things which were difficult to hear, if there were things that one must smart under, if there were things for which the clergy were to be tried, then let them be tried like men, let them be tried with the same right of appeal that the humblest criminal in the land is tried; let them be tried with the right of going from the court of first instance to one that shall have power to review, and if necessary to remand for trial; let them have the rights which, sir, as men, belong to every other profession, and to every other work in this world. I had hoped to speak on this question, if at all, simply upon the cold question of the constitutional point, but when, sir, the appeal is made in this House that we are to put our necks in the rope, that we are simply to stand still and have no power, that we are simply to let matters continue in the Dioceses, let the Dioceses handle all those questions, I beg to remind the gentleman of one fact first of all. There are certain constitutional matters, we are told, and granted, that seem to be the difficulty in the way of a general court of appeals. I recognize, and am perfectly well aware of the fact, that the subject actually before us is simply to create a commission, but those who are advocating the minority report are organizing against any trial at all by appeal; not intentionally, I doubt it not, but as a matter of fact, every man who has spoken on the side of the minority report has attacked the whole question of appeal. The minority report comes in with simply the proposition that we shall refer it to the Diocese as a keen intellectual proposition, as a question of the constitution. I grant that it has upon the face of it a great deal perhaps to be said for it, but I want this convention to notice the fact that every man who argued upon it has argued against any appeal. Will any lawyer upon this floor tell me that he will stand up and face the three thousand clergy of the United States and will ask us, some of us who might perhaps have gone into his own profession, or who might have gone into medicine and made an honest living, that he will ask us to bend ourselves beneath a law that may some time be invoked without the single right to appeal? Will he ask intelligent, cultivated gentlemen for whose cultivation a provision is made by Canon, will he asked us to surrender a right that belongs to your anarchists in Chicago, and do it in the name of justice? I take it not. Now sir, when we come to look at this question, I come now to the simple question which has in a certain sense stirred indignation at the calm, cool way in which the clergy have been asked to surrender rights which certainly belong to the meanest men in the community. Let me call your attention to another thing in "the canon on the subject before us. There is a suggestion of what the Church ultimately intended to do.

A Deputy.—If the gentleman will read the words of the resolution submitted by the minority report, he will see there is especial provision made for a court of appeals.

Rev. Mr. Davenport, of Springfield.—It is not a court of appeals extra diocesan.

Mr. James Parker, of New Jersey.—The gentleman misunderstood my position with regard to it. I have not argued against an appeal, I have simply argued that the Dioceses themselves are competent to create such courts.

Rev. Mr. Davenport.—Are there any further objections? I believe that I made the assertion that the tendency of the argument in favor of the minority report, was to impress the minds of this assembly against all appeals. I did not raise the technical question whether under the strict construction of the amendment it was possible to have a court of appeals. I simply said that the effect, the moral effect and intellectual effect upon this body of the argument that has been made so far against the minority report, has been unquestionably against all appeals; and I think that this Convention, if it were to vote upon it, would say that that is the fact. That is what I asserted. Now, Mr. President, in speaking to this question I call attention to one or two facts

which have, I think, in a certain sense been overlooked. When in 1784 the great constitutional question came up, when the Church made and by her deputies enacted a certain constitution, those deputies were sent with powers to review a constitution. The Convention which then was the committee, now known as the general convention, met as the representatives of a constituency. Granted. But we must remember that in the beginning all legislation upon this question was by priests and deacons, in so far as questions of influence were concerned. Not until we had in this country three Bishops did the general convention complete its own constitution and begin its sittings. Now, the importance of remembering this is this: That when the House of Bishops was a possibility, three Bishops were consecrated. You had then all the essential elements of a provincial council. In other words, the general convention of this Church is something more than simply a representative body, as, for instance, a legislature would be. We come up here as deputies, it is true, but as deputies to assent to a jurisdiction, and not simply representing the question of inherent rights. The primary thought which is involved in a great Church Council is the assembling together of that body which possesses the power of protection, the power of reflection, and therefore the power of continuity in the Church. Now, what body represents that? Unquestionably the Episcopate as it is to-day. The result of it is, therefore, that this general convention is, so to speak, in a double position. It does the act in the sense as the representative; on the other hand it does the act as the great provincial council of the American Church, and for proof of that, take the constitution and canons themselves. We are told that there shall be a convention of the Church of the United States—not simply a convention of dioceses in the United States—that there shall be certain delegates sent to represent the Church in those Dioceses, not simply to represent those sovereign, independent Dioceses. As a matter of fact, in the canon law there is no such thing known as unity. Now, really, a Diocese has independent unity. Take, for instance, the Canons of the early Church. Every one of them ridicules the proposition that the unit is the provincial council. This importation into the question of the idea of Diocesan rights will, I think, be seen to be ultimately one which, after all, is not necessarily germane to the subject.

If on this question we consider the Canons of the Ecumenical and Provincial Councils we find the right of appeal fully recognized and granted. For instance, Canon 5, of the Council of Nice, decides that for this purpose Synods of the Province shall be held twice a year. "In order that, all the Bishops of the Province being assembled together, such questions may by them be thoroughly examined." So also Canon 20, of the Council of Antioch, affirmed by the Council of Chalcedon, in Canon 1, of Chalcedon, decrees the same, "So that, to these Synods, Presbyters and Deacons, and all who think themselves unjustly dealt with, may resort and obtain the judgment of the Synod." To the same purport is also Canon 37, of the Apostolical Canons. From these we may see the mind of the early Church on appeals. Shall the Church of to-day be less just than in the early ages?

Then, again, the 20th canon of the Council of Antioch, then the 36th canon of the Basle Council. You have in each and every one a regulation on the question of appeals. The other day I ran across the canon law of the Romish Church in regard to the inherent right which every man has to appeal his case. At a time when we talk of the domination and tyranny of Rome, it would be well to remember this canon was set forth by one who was Counsellor to Pius the 8th. Here is an assertion of protection in just rights which may not be found in the canons of our own Church. It is a melancholly confession for a man to make.

Now, as I come to look at it, I thought this triennial Council, called a general convention, is endowed with certain powers, but in the canons of the Church, which are its own work, there is not given the power of appeals. Let me read you from Title 2, Canon 2, Section I: "And on being found

guilty he shall be admonished, suspended or degraded according to the canon of the Diocese in which the trial takes place, until otherwise provided for by the general convention." Why should not this canon declare the inherent rights which such a great council could express under the laws upon this subject? And, furthermore let me point out another fallacy in this argument about inherent rights. If I have not forgotten what I once read in Austin and other writers of the civil law, they say that the idea of inherent rights is strictly speaking simply the idea of power and capacity, that rights exists by virtue of enactment, the power to exercise those rights may exist before, but the right as a fact comes from the law constituted. Justice may be obtained or warded off, only then, it is put in the form of a statute on the statute books. If this be correct proposition take for instance any one of the great rights which the law recognizes; a man may in herently have the power to acquire property, but until the right of property is defined and provision made for one's protection in that right of property, the right is practically inoperative. Therefore, when you come to the question of the Diocesan rights, they are only such as are laid down in the constitution as a matter of exactment.

"*Expressio unius est exclusio alterius*," "The expression of one is the exclusion of another." We may not claim more, sir, than the constitution itself gives. Now let me point out one other objection made to such legislation, and that is that it would seemingly, at least, abridge the rights of Bishops. Sir, to the convention of 1789 certain delegates were sent with defined powers. It is a common law maxim that what A does by another he does by himself. Now mark you the course of legislation. We come to the question of the amendment of a Prayer Book and what do we do? We simply say that we shall make these amendments in one general convention, certify them to another and then they are law. Now if this is the theory that is advocated by the distinguished deputy from Louisiana touching the inherent rights of the Dioceses, then why was not the book annexed, for instance, submitted to the Diocesan Conventions, and when these deputies came up here, simply a vote taken as to whether or no the Dioceses would vote for it? Why was it that it was thrown back into a different proposition? Because it was understood that they had only the power of notification; we wanted the deputies to listen to that which the General Convention did, not simply enacted upon the subject itself. And so, when you come to consult the course of legislation you find, as a matter of fact, that the Church itself by this General Convention enacts for the Dioceses. I want to point out right here another fact in the legislation of the Church. I know of no jurisdiction in the civil law in which the body which defines offences and provides punishments has not the right to institute the mode of trial. Some lawyer who is present will probably correct me if I am wrong. Now this General Convention provides by a General Canon that certain offenses shall be those for which a man may be tried. It provides what

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the sentence shall be if one is guilty, and I submit to every lawyer in this House that co-existent with the power of trial must be the power to say how the trial shall be conducted. Now, this is a point which we must not lose sight of. The Diocese is in every case, excepting under the general law laid down in the Canon by the General Convention, empowered to define certain offences, try offenders and pronounce sentence; but they tell us when we come here, that there shall be some definite way in which appeals may be heard, that the whole question of evidence may be sifted carefully, and that a man may have a right to a change of venue. When we come to ask for recognition of those God-given principles of justice, which in the civil law are well known and admitted—when we come to ask that the dioceses be recognized as having inherent rights, no man will stand on this floor. [The fifteen minutes allowed each deputy to talk upon this question having, in Mr. Davenport's case, expired at this point, by motion of the House, he was allowed to proceed.]

The Bev. Mr. Davenport—I have to thank the House for the exceeding kindness and courtesy of their permission. No man will stand on this floor to-day and with more earnestness and willingness plead for the rights of the individual dioceses than myself, but there is a right which is above the right of the dioceses, for, gentlemen, as we come to look at this question, mark you, what is the law? There is one Law-giver. The law provides so and so in one portion of the Holy Scriptures. Law is. Law is in the world, but the shadow of definite justice; and will a man tell me that there can be in any sense a willingness on the part of the Church to say that the law of the Church of Christ, the pillar and ground of the Truth, shall be less merciful, less just, less willing to listen to appeal than the law of the land? I think not. Whenever an argument is made against this majority proposition, as against all Courts of Appeal, then let us remember that, as a judge said to me the other day, an unbeliever, with quite a sneer, "You have no Court of Appeals. We worldly men are just. We have our Courts of Appeal." Let it not be said, deputies, that the American Church is less just than is the civil body which we call the state. Well, now then, I have said that in certain cases we have taken away the power of the dioceses, as for instance, in this question of notification, but how was it done? This same principle that what a man does by another he does by himself, acts here. It was done by the action of those who were sent to represent the dioceses. When deputies sit upon this floor, they sit recognizing the jurisdiction, not simply as having inherent rights. I speak now in that sense in which we are supposed to be deputies from the dioceses. But there is another side to this question. We may not forget that we belong to the Church of Christ. The distinguished gentleman from Pennsylvania said the other day that we are Catholic, whether our name is so or not. Then if we are, let it go forth to the world that the universal body of Canon law, the Canon law which reaches back to the very time of the Apostles themselves almost, recognizes on every page of it the power and right of appeal; let it be said that the Canons of the great Provincial Council and the Canons of the Lateran Council, even, recognized the right of appeal. Let it be said that we are Catholic enough, if we are so, to have this right of appeal. Let it be so that we may stand with our faces to the world, unashamed, because we are willing to hear the cry for justice. But, deputies, there is a point which I desire to present, one other point, and I shall have finished, and it is this: That we seem to forget in this House of Deputies, that there is a vote recorded outside. We think that we settle a question by simply passing a resolution here. There are plenty of people in the United States who imagine they can settle almost any question moral or otherwise, by an act of Congress. In a certain sense, we imagine that when the vote is taken here it is a settlement of the question; No, it is not. The settlement of the question will come later.

There is a voice outside. There is a verdict which is rendered outside that you and I cannot forget, neglect or despise. Let me

plead then for the passage of the majority report of the resolution upon the basis of justice, first, as a matter of law, and second upon the eternal principles of justice as a matter of right. Let me plead for it, not simply for the clergy. Let them be tried as men; but ought you not when you try them as men, to give them the rights of men? Do not say to them: You gave your life to the Church, you left a profession that might have brought you influence, power, money; you came and laid it all at the Altar's foot; and now lie down and let whatever court may walk over you. This is all you can expect. Nay, let us, as we act on this, remember these points and more. I plead now for the Episcopate of the Church. This talk of Diocesan Courts of Appeal will not work. Who does not know that every Bishop knows exactly what is going on in the diocese? He is put in a position where he must know; he goes in and out in this parish and another, and he sees this and that thing; he cannot be, and I defy a man to say that he is, absolutely impartial when a case is brought before him as a diocesan bishop. I do not believe a man will honestly say that he can be absolutely impartial. Will you therefore put the burden on the Bishop of having to, conscientiously perhaps, deny an appeal? or rather, will you take the whole body, the Bishop, the priests, the layman, will you give them all a higher Court to which they may have recourse? Will you give to a Bishop the power, not simply to decide a case, and perhaps feel afterwards, under the weight of public opinion, that he has made a mistake? Let me point out another thing. There is a sense in which there is a vote of public opinion from these ecclesiastical trusts. When the world sees that evidence is ex parte, or when perhaps that one has given evidence where there is distinct and positive proof that that person has expressed an intention to ruin the character of a certain clergyman, or when it sees that a man is allowed to sit on this Court who is also a juror, after having expressed opinions upon the case, the world will say that trial was unfair. We may all feel that it is unfortunate. We may all feel that it is to be regretted, but the whole world will say it, and our usefulness will be so much the less.

Therefore, for the Episcopate, for the honor of your own body, for your sense of justice, for your recognition of what is due a man as a man, to try him by every principle of justice, true to your position as a Church, enact that right of appeal recognized by the Provincial Councils of the Church. For all these reasons therefore, let us have a Court of Appeals, that shall stand in the calm, cool light of pure judicial inquiry, who shall have the consciousness that they act finally, that they act not as a Court of Appeals only, but to better the Diocesan Courts.

Rev. C. C. Tate, Western Michigan—Mr. President: I represent, sir, a Diocese whose delegates were instructed to ask this Convention to establish a Court of Appeals, but I, sir, am one of the few who are able to plead this cause from experience. One of the distinguished lay delegates from Pennsylvania called to my mind to-day an incident which had almost been forgotten; that is, that a Clergyman in this country, in a Diocese in this land, was presented before his Bishop, or before his Court, for having surpliced choir. Many eyes were turned towards me, and I am not ashamed to say, with some explanation, that I am the man, that I was so presented before a Court. But I beg leave to offer some explanation with regard to statements made upon this floor as to the object of that trial. I have often been represented as a priest of the Church who resisted his Bishop in a simple matter. Let me therefore ask for a few moments of explanation. Some years ago I lived in a Diocese in which I had a surpliced choir that came into the Church singing a processional hymn. My Bishop issued an injunction on these grounds, saying that I had violated my vow, in which I had promised conformity to the doctrine, discipline and worship of the Church; that I had violated my vow in not obeying my Bishop, and he commanded that these things be discontinued. I said, if you advise anything in my church, recommend anything to be tak-

en out, I will do anything I can; but leave me my surpliced choir, altar and prayer book, I care nothing for these other things. He says, no, you are violating your vows; but I did not so understand my vows; I was willing to do anything, and I did not understand by that vow that I was sworn to absolute, abject obedience; neither did I think that I who had been trained in the Church could be branded as violating the discipline of the Church, because I was doing what was done everywhere. So I was presented before three Courts; the last one was disbanded and went home saying they had no jurisdiction in the case, because the Book of Common Prayer covered the whole matter, and they were glad to get rid of it. And then, sir, with the understanding that I did not submit to this ruling or this interpretation of the law, these practices were discontinued with a remonstrance, because I could not admit the Bishop's interpretation of the law. This trial was because I did not submit to that interpretation of the law which I did not hold. With these words of explanation I will speak of the necessity of this court of appeals, which I learned from experience. I have letters in my hand in which the Bishop said, "If you go on and are tried you will be convicted," before the court met. After the court went home, the President of that court said that if the trial had gone on I would have been suspended. Those years are gone and are almost forgotten. I was young and inexperienced and knew not my danger. I know now that I should have been suspended had I been tried. What would have become of me? I should have gone out branded as an outcast, and I certainly would not be in this seat to-day as a delegate from the Diocese of Western Michigan. The gentleman from California says we have already a court of appeals. There is a standing committee and Bishop. To whom should the priest apply when the Bishop had written him letters stating that if the trial went on he should be convicted, and the standing committee had already decided against him? There was no appeal had I been suspended and degraded. So as years have gone by, I have thought of the past and wondered if ever any priest of the Church, who had given his life to work for it, if he could ever be placed in such a position more than once. I have seen clergymen placed in a position when they had no appeal, and so we come not only asking from our diocese that this court of appeals may be established by the whole Church or by the Convention; but I am convinced that a diocesan court of appeals would be almost useless. I am sure that a court of appeals in my diocese would have shown no mercy at all; and so we come here asking that that time may never come again, that a priest may never be placed on trial on account of a doctrine of this Church, and be conscious of a possibility that he may be degraded and have no appeal. Some gentlemen told us that if we do not like these things in one diocese we may go to another. We are ordained as priests of this Church, not of this diocese or that diocese, and we have a right to feel that wherever we are placed, there the Church throws her sheltering arm over us, and we have the same right in one diocese as another. And therefore we ask you that this convention may take steps to establish a court of appeal to which the clergy in time of trial may appeal when they think they have been treated with injustice; that they may go before the court of appeal, not one gathered from some corner of a petty diocese, but a court of appeal which represents the learning and the wisdom of this whole great Church of ours.

The Rev. Dr. Hopkins, of Central Pennsylvania—The venerable and learned deputy from Pennsylvania before recess alluded to the oath of canonical obedience taken by every one of us when we are ordained by a Bishop, he quoted as follows: "Will you reverently obey your Bishop?" and there he stopped. There he stopped. Why sir, that is not the oath. The oath goes on "Will you reverently obey your Bishop and other chief ministers of the Church, who according to the canons of the Church may have the charge and government over you?" that is the oath. It is no more an oath of obedience to the Bishop than it is to the other

chief ministers, and no more an oath to one or the other, except according to the canons of the Church. Unless the Bishop has authority from the canons to lay some command upon us there is no obligation upon us to obey. In the English edition those words "according to the canons" are not inserted, but nevertheless the decisions of the ecclesiastical courts of England over and over again take exactly the same ground that the Priest is bound to obey any command the Bishop is by law authorized to impose, and none other. And now, sir, I, for one, should never be in the Priesthood of this Church, if I were to be a slave bound to follow the whim or crank of any Bishop who would insist upon obedience in all of his cranky notions, and challenge me for trial if I would not submit. No, we are not under any such control as that; we are under the government of law, and I will obey none other. Now go back to the Primitive Church, and see how they were guarded against all this. In the Primitive Church there was in every province an open appeal, not only to every Priest and every deacon, but also every one of the laity who thought he was aggrieved over anything. Even a single layman excommunicated by his Bishop had the appeal to the Provincial Council, because it might be that the Bishop had excommunicated him through prejudice or misinformation or some other cause, making it substantially injustice. And as justice was thus provided for every person in the Church, we have the other great principle spread before us that the government in the Church of Christ is not an arbitrary government of one individual. There is but one Bishop at the head of a Diocese: when our Lord ascended on high He left His power not to one individual St. Peter, that is the Roman theory, He left it to the apostles. The power resides in the Apostolic college, so as a representative of that every provincial St. Peter had his council of Bishops, showing that it was not an arbitrary individual, but the common-sense of the order, so that every act of the Bishop is really the act of his order, and if there is any question about it it must be brought to the judgment of the order so that it may stand. Thus, then, the rights of the Priests and laity are preserved, and the Bishop is preserved in a far better position than he could be otherwise, because if he is appealed against and overruled, his conscience is relieved from the burden of having done an injustice, and that is a blessing to any Bishop; and if his judgment is right and is sustained, he can say, "My decision was that of the order, and it was therefore right." So that in every contingency it is for the benefit of all. Now to pass on to another point we have before us, these two reports, the report of the committee and the report of the minority. If I understand, the latter recommends that a canon be adopted here to be sent down to the Dioceses for their voluntary action and adoption. Am I right? Is that not so? They also include in that canon the appointing of a court of appeals. Now sir, the minority have given themselves away entirely. They have thrown up the sponge. There is nothing left of them. In the first place they grant that there ought to be a court of appeals. In the second place they agree that the whole subject of control, from the inception of the prosecution down to the final judgment, should be framed here by the General Convention and sent down to be ratified. They have been doing that for nearly a hundred years, and they have got it into that condition which has been so ably described as not worthy of respect. The minority agree that the General Convention ought to draft these canons and settle these details. The General Convention ought to settle the whole mode of procedure. Doesn't that give up the whole case? Now if the General Convention ought to do it, why not let them do it in the right way? But they should prepare a canon and send it down to the dioceses. We have had a little experience in that in Illinois. They prepared a draft canon for the election of the Court of Appeals in this way, and that went down to the diocesan conventions, and two conventions adopted it as it was drawn, and the other made a little wee bit of a change, and I will tell you what the change was; the draft canon said "The

Bishops of Illinois shall be the judges of the court," and the diocese of Chicago had "The Bishops of the State of Illinois shall be the judges of the court." It was a mere turn of a phrase. Because the other dioceses did not make that little verbal change, the diocese of Chicago let it alone; but finally it gave its formal certificate that this diocese had declined to adopt the draft canon sent down, and had drafted another as follows: &c., and that was all the difference there was, and that knocked the whole concern into a cocked hat. There was not anything left of it. The first case of an appeal that arose, the Bishop of the diocese who did not want an appeal taken, went over to the Bishop of Chicago's opinion, that the alteration discomfited the whole thing. Now, in Pennsylvania, we require the consent of three dioceses, and we do not know whether Philadelphia is going to come in or not. We have got to wait a year, anyhow, to find out. Now, if there is this difficulty with only three dioceses, what in the name of common sense are you going to do if there are forty-nine dioceses? When will you get them to adopt your draft canon, which only amounts to a nose of wax, and that nose will be twisted into forty-nine different shapes before you will get your canon passed by the forty-nine dioceses. It is the most nonsensical scheme that I ever heard of in a General Convention, and that is saying a great deal. (Laughter.) No, sir, the committee and the minority both agree that a court of appeal ought to be had; they both agree thus far, and I hope the whole House will agree that when this House acts it must act with authority, under an alteration of the constitution, which is needed in order to clear the minds of some who have always seen a difficulty in this matter, and show them that what has been done has been done with authority, and then they will all submit.

Judge Sheffey, of Virginia—I regret very much that the other two members of this committee who signed this report, Chancellor Woolworth and Judge Miller, are not present. I understand that they have been necessarily called away from the city, and will not be here until to-morrow or next day. As the House seems disposed to have a vote upon the question now, I feel constrained to say a word before that vote is taken. This is not a new question, sir. For thirty or forty years this question has been before the Church, and in '59 one of the greatest outpourings of intellectual power on both sides of this question was displayed in the city of Richmond that the Church has ever witnessed. And then and there, and always since, has the Church through the General Convention sternly refused to organize what is sought for here, a general court of appeals. There is no doubt in the minds of the gentlemen on either side, except that indicated by my friend from Springfield, who seems to think that we are legislating for the ancient councils instead of the Church in the United States of America, the Protestant Episcopal Church of the United States of America, thank God, yet. He seems to think that there are no such things as inherent diocesan rights and that the power to do anything on the part of the diocese is, to use the language of the eminent gentleman from New York "relegated power from the Gen-

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eral Convention of the Church." The cart before the horse. I had always thought that the powers of this General Convention were those conferred by the Dioceses as the units contributing power, and these Dioceses secured for themselves, on the face of this constitution itself, certain rights as Dioceses which the General Convention without an alteration of this constitution dare not, can not, touch.

A Deputy—Mr. President, will the learned deputy from Virginia allow me to ask a question, and that is, will he please point out where any power was ever granted to the General Convention by the Diocese?

Dr. Hopkins, of Central Pennsylvania—Or any reserve for the states.

Judge Sheffey—I suppose that the idea is this, that there was no conference of the Dioceses to form this constitution. I suppose that this constitution did not result from a successive succession of meetings, resolved finally in a vote by the Dioceses in ratification and adoption of the constitution. Is that the idea that the constitution did not on the its face provide that it should not be operated, until it was ratified and approved and adopted by the respective Dioceses? "The Church in each Diocese shall be entitled to representation of both the clergy and the laity. That representation etc." The Dioceses were the live members the constituent parts of the great body in the national Church, and the General Convention derived its powers by the successive votes of the Dioceses in General Convention assembled. And without that there never would have been a general national Church. Without the assent of Massachusetts, Connecticut, Virginia, Pennsylvania, New York, given separately, independently, freely, and as a sovereign act, there never would have been a national Church. It did not spring, like Minerva from the head of Jove, full armed and equipped, but it came to its birth by the successive aid and assistance of the thirteen Dioceses that adopted it. Don't talk to me about the constitutional grants as privileges of the Diocese. No sir, the constitutional grants here are from the Dioceses to the general Church. Now sir, the word that I have to say is this. This constitution, old-fashioned contrivance, has so far respected the inherent right of the Dioceses as to provide in its six articles that the clergy the presbyters and the deacons, shall be subject alone to the Diocese. It is the object that the General Convention has defined what crimes and offences against the Church are; whether they had the right to do that or not, does not present itself now for the consideration of this body. This General Convention has provided on a dozen occasions, if not a dozen at least often enough to amount to a dozen in weight, importance and reiteration, that this provision of the constitution excluded the General Convention from meddling with the trial of priests and deacons in the Diocese. Ah, but then this question of appeal has been omitted over and over again. Your committee on constitutional amendments has said over and over again, as well as your committee on Canons, that the power to create a court of appeals is inherent in the Diocese, constitutionally inherent in the Diocese, and not only so, but they have said in order to avoid the idea of the small Dioceses having an appellate court, that could hardly be made up from their own members, priests and deacons, that the adjacent Diocese might adopt the same tribunal. Each Diocese for itself has power, and hence in all these provincial organizations the grant of power is recognized in those organizations, for a court of appeal in each Diocese that makes up the province. And so it has been recognized at this session of the General Convention, the right of organizing a court of appeals in the Diocese and coterminous Dioceses has been recognized. Now, Mr. President what are the obstacles in the way of the exercise of the appellate right in the Diocese? My friend, Judge Wilder from Minnesota, has held up before the eyes of this General Convention an example of what can be done under that clause of the constitution, and, in view of what he shows us, it is a matter of wonder that these alarmed and scared Presbyters, who are in trembling apprehen-

sion of being picked up and having something done to them, did not flock like doves to the window, and go off to Minnesota. It is next to an impossibility to find a Presbyter guilty. You could not do it. The Court of Appeals must be unanimous, and the Diocesan assembled must be unanimous, and how many that synod will consist of is left indefinite upon the face of the Canon,—as many as they choose to make it. Now, Mr. President, the argument has been that somebody is opposing appeals of right on behalf of the clergy; who is it? Nobody, that I know of, sir. All that I know of are in favor of appeals being organized in the diocese, sir, and that those appeals can be procured in every diocese I affirm as a positive and absolute fact, if the clergy recommend and desire them. There is not a diocese in this broad Church, sir, in whose council or convention the body of the clergy will say: "We feel we are dependent upon the court for our rights; we ask for and demand an Appellate Tribunal." And where is the body of the laity, sir, that would ever raise their hand from such an appeal of the clergy? Certainly, organize your Court of Appeal. The complaint is that all these long years the clergy, except in Minnesota, have been content somehow or other with the government of their Bishop; they have been content to obey the Godly admonitions, and submit their wills to his, and to follow in the ways of peace and righteousness and concord, without Appellate Courts. We are now prepared in every way to encourage them to come forward in the next series of Diocesan Conventions and demand Courts of Appeal. If their dioceses are so small that a properly organized Court of Appeal cannot be chosen from the clergy, they can choose their temporal Court of Appeal. Now, what is it they want to appeal from, and where is it they want to drag these parties over the country to? They don't want to appeal and they cannot appeal unless they adopt the contrivance of Minnesota, where the trial is *de novo*. Where a criminal case is tried at law, the only question for appeal is upon the law point, raised in the courts of the trial, and the court above is appealed to to reverse the decision of the lower court, on the ground that it is contrary to the law and the evidence. The law points can be tested by the Appellate Court. The conflicting evidence must be decided according to the rules applying to demurrers to evidence, and where the offence of the accused is in conflict with the Church, it must be thrown out, and of course the man would have no chance in the Appellate Court.

The President—The chair, with great reluctance must interrupt the deputy to state that the hour for adjournment has arrived, but the deputy will be given the floor tomorrow morning. I will now read messages 27, 28 and 29 from the House of Bishops. Adjourned.

CENTRAL MUSIC HALL, Chicago, }
Tuesday, October 19, 1886. }
TWELFTH DAY.

The House of Deputies was called to order by the President, and the minutes of the eleventh day's session were read and approved.

The President—The President has no communications to make.

Under the order of business: Memorials of deceased members.

Rev. Dr. Greer, of Rhode Island, offered a memorial relative to Capt. Jas. Jenkins, of Fond du Lac, a member of the last General Convention.

Referred.

Rev. Dr. Bates, of Ohio, presented a memorial relating to J. H. Devereaux, who was for several years a member of this Convention, and asked that it be referred to the Committee on Memorials, and it was so referred.

Rev. Dr. Benedict, of the Diocese of Southern Ohio, asked leave to present, out of order, a report of the Special Committee to whom was referred a memorial in regard to supplemental hymnal, etc.

The President—Dr. Benedict, with permission of the House, will present the report of a Special Committee.

Rev. Dr. Benedict—It has been delayed a day or two by reason of the absence of some of the members of the committee.

The Special Committee of this House, to

whom was referred a memorial of the Diocese of New York, praying the General Convention to appoint a commission to prepare a supplemental hymnal of the Church, comprising, first, those hymns distinctively missionary and for special services and seasons, and for the great aggressive work which the Church should be doing. Second, a collection of hymns that shall fairly place our hymnology on a level with the other branches of the Anglican Church, and also that pending the action of such commission or subsequent action, and also any subsequent action of the General Convention, the use of Hymns Ancient and Modern, and the Hymnal accompanying the present Book of Common Prayer, be permitted.

Your Committee respectfully report:

1st. Your Committee is of the opinion that it is not expedient at this time to issue a supplemental hymnal, and for this one sufficient reason: that such supplemental hymnal adequately prepared, according to the terms of the memorial, would practically supplant the hymnal itself.

2nd. In view of the great increase and the richness of the material brought these later years within our reach, out of which an improved hymnal may be compiled; and also of these facts, as we believe them to be, that a very large part of the hymnal is seldom if ever used, and second: That for various reasons it is unsatisfactory, your committee are of the opinion that it should be referred to a Joint Committee of the two Houses, and that such revision of the present hymnal is an object greatly to be desired, and one to be entered upon by this General Convention.

3. Pending such revision of the Hymnal, your Committee do not deem it expedient to recommend to the General Convention to grant permission for the use of any special hymnal or hymnals, and your committee recommend the passage of the following resolution:

RESOLVED: The House of Bishops concurring, that a joint Committee of the two houses consisting of five Bishops, five presbyters and five laymen be appointed at this General Convention to revise the Hymnal; that they be authorized to sit during the next three years, and be requested to make a report of their finished work to the General Convention of 1889.

We ask for the passage of this resolution; as it has been referred to the House of Bishops.

Rev. Dr. Greer, of Rhode Island.—I would like to have that go upon the calendar.

The resolution was placed upon the calendar.

Rev. Dr. Moore, of Long Island.—Yesterday this House accepted the offer of the General Theological Seminary to have the archives of this General Convention placed in a room of its fireproof vaults, and an appropriation was made to fit up that room; and I have a resolution to complete the work thus begun. The resolution I offer is this:

WHEREAS: this Convention has accepted the offer of a room in the fire-proof vaults of the General Theological Seminary for the deposit of its archives. therefore, it is hereby ordered, the House of Bishops concurring, that the Secretary of this House take measures without delay, to have all books, documents and papers belonging to the General Convention removed to the room thus accepted, and, with the Secretary of the House of Bishops, assume the care and custody thereof, until these treasures can be formally put into the keeping of the Registrar of the General Convention.

I would state in connection with this resolution, that our archives and documents are now very much scattered, and there is great danger that unless they be gathered together speedily and the spirit of this resolution be carried out by order of this House, some of them invaluable to us may be lost. Some of them are more than a thousand miles apart from each other, and some of them have been so long out that there is danger of it being assumed that they are not the property of this General Convention but the property of individuals. I have an illustration of that in my own parish. The parish having received the gift of a Bible and Prayer Book of the time of Queen Anne, lost the Bible entirely and the Prayer Book for many years. I learned that a person who

was a collector of curiosities had in his possession a very singular Prayer Book of the date of 1710 which he esteemed very highly. I begged the privilege of seeing the volume and found it belonged to my own parish.

I think there are some of the documents purchased at the expense of this General Convention which are in danger in like manner of being lost, unless the House adopt an order that the Secretary of this House take possession of our documents and store them in the place that we now have accepted as their deposits. I therefore move this resolution.

It was moved and seconded that the Convention accept with thanks the offer of the General Theological Seminary embraced in the letter of Dr. Harrison. Carried.

Resolution offered by the Rev. Dr. Moore, of Long Island.

Whereas, this Convention has accepted the offer of a room in the fire proof building of the General Theological Seminary for the deposit of its archives, therefore it is hereby ordered, the House of Bishops concurring, that the Secretary of this House take measures without delay to have the books, documents and papers belonging to the General Convention removed to the room thus occupied, and that the Secretary of the House of Bishops have the care and custody thereof until these treasures can be formally placed in the care and keeping of the Registrar of the General Convention. Carried.

The President—Before the House proceeds to the consideration of petitions and resolutions, it will hear the report of the Chairmen of the Committees of this House who were detained by other business. The Rev. Dr. Goodwin, Chairman of the Committee on Canons will present his report.

The reports from the Committee on Canons:

Report No. 17 relating to the amendment of Title 1, of Can 15, Section 7. The committee report the following resolution:

Resolved, that the committee be discharged from the further consideration of the subject.

Resolution adopted.

Report No. 18. The committee recommend the adoption of the following resolution:

Resolved, that this House respectfully request the House of Bishops for a committee of conference, to whom shall be referred all unfinished business concerning Canons 6 and 11 of Title 2, entitled respectively "The Abandonment of the Communion of this Church by any of the Presbyters and Deacons," and of "the remission and modification of judicial sentences."

Resolution adopted.

Report No. 19. The Committee on Canons to whom was referred Message No. 14 from the House of Bishops relating to Title 1, Canon 15, Section 6, concerning the resignation of Bishops, respectfully report the following resolution:

Resolved, that the House of Deputies hereby concurs in the repeal of Title 1, Canon 15, Section 6, proposed in Message 14 from the House of Bishops.

Judge Sheffey, of Virginia—The Canon as it stands was adopted to meet the case of the Diocese of New York when its Bishop was suspended from office for an indefinite period of time, and the Canon provides that during that interval there should be a provisional bishop, who was to be the Bishop of the Diocese. I think it is a proper canon, but it is not suited to any of the contingencies of the Church now, and I trust in God's time never will be.

The resolution was adopted.

Report No. 20. The Committee on Canons to whom was referred as unfinished business the amendment with respect to postulants, respectfully report that they are of the opinion that these subjects should rather be referred to the Committee on the Canon of Ordination, and they recommend the adoption of the following resolution:

"Resolved, That the above Canon Amendment be referred to the Committee on Canon of Ordination, and this Committee be discharged from the further consideration of the subject.

Judge Sheffey, of Virginia—I would like to ask whether or not the Chairman of that committee has not made his report to this House.

The President. The Chair is of the opin-

ion that committees who have made their reports are thereby discharged and no longer exist.

Judge Sheffey, of Virginia: I move the recommitment of that report to the committee on canons.

Motion carried.

Report No. 21. The Committee on Canons to whom was referred a proposed amendment to Title 21, Canon 24 of the Digest, respectfully report that in carrying out the proposed amendment, which they approve, they think it may be more perfectly accomplished by transferring Canon 21, Title 1, with the proposed amendment, making some slight verbal changes, to another place in the digest. They therefore offer the following resolution which they recommend for adoption:

Resolved, The House of Bishops concurring, that titled Canon 14, Section 3, be hereafter numbered as Section 3, subsection 2, and that the following be adopted as subsection 1, of said section 3: The ministers of this church who have churches, or parishes, or cures shall not only be diligent in instructing the children in the catechism, but shall also in said catechetical lectures and instructions be diligent in informing the youth and others in the liturgy of the Church, and they shall also diligently instruct their entire cures concerning the missionary work of the Church at home and abroad, and offer suitable opportunities for contributions from time to time for the maintenance of that work.

Resolved, That Canon 21 be omitted and that the proper changes be made in the numbering of the subsequent canons of Title 1.

Rev. Dr. Benedict, of Southern Ohio—The mover of that resolution is absent unavoidably, and I would ask that it goes upon the calendar.

The President—Objection being made to its immediate consideration it will go upon the calendar.

Report No. 22.

The committee recommends the adoption of the following resolution:

Resolved, the House of Bishops concurring, That sub-section 4, Section 16, Canon 5, Title 1, be amended so as to read as follows: No Diocesan or Assistant Bishop, whose resignation has been consummated pursuant to this section, shall under any circumstances be eligible to any Diocese now in union, or which may hereafter be admitted into union with this Church; but he may perform Episcopal acts at the request of any Bishop of this Church having Ecclesiastical jurisdiction, within the limits of his Diocese.

Objection being made the resolution was placed upon the calendar.

Dr. Shattuck, of Mass.: I wish to call the attention of the delegates from the different dioceses to the fact that we have appointed a treasurer, and he would be very much gratified to receive any remittances from the different dioceses. A very small surplus remains from the report of the last Convention and there is a good deal of printing going on now, and other expenses, and the treasury is becoming empty. I perceive the treasurer is not here now. He is probably a little discouraged because nobody came to see him. I know he will highly appreciate it if you will come forward and make your payments; in his absence the chairman of the committee is ready to receive any sums from the dioceses.

Motions and resolutions.

The Rev. Dr. Benedict, of Southern Ohio—I have a resolution to offer which is offered in behalf of the Deputies from Southern Ohio, to comply with instructions from our last Diocesan Convention; it is in regard to a change proposed in a Canon, to settle a case which has arisen in our diocese in regard to the Canon, in regard to residence of candidates for orders.

Resolved, The House of Bishops concurring, that Title 1, Canon 6, Section 4, Sub-

section 2, Lines 4 and 5, be amended by striking out the words "of which he is a member" and inserting the words "in which he actually resides," and that the same change be made in Sub-section 3 of this same section.

Resolved, The House of Bishops concurring, that an additional section be added to Title 1, Canon 8, Section 8, and questions arising under this Canon as to the residence of the candidate shall be referred to the Ecclesiastical authority of the diocese.

Referred to Committee on Canons.

Judge Prince, of New Mexico—I desire to offer the following resolution:

WHEREAS, Common praise is as essential a part of public worship, as common prayer, and it is equally the right and duty of every attendant upon Church service to participate therein; and

WHEREAS, In various places, by the frequent introduction of new music, and of music of a character forbidding their participation, the people have been deprived of this right, and prevented from performing this duty;

Resolved, That the Committee on the State of the Church be requested to consider whether some plan cannot be devised whereby the rights of the laity to take their part in the public praise of the sanctuary may be protected and preserved.

I drew this resolution with a preamble so distinctly that I thought it would want very little explanation, and under the rule I will occupy less than the five minutes that is allowed. This is one of those practical matters which concerns chiefly the laity, and it is a matter which I presume has come under the attention of every one here present. It is a difficulty which seems to me is increasing in its magnitude. There is probably no one here who has not at some time been in a Church where he was practically deprived of his part in the common praise of the service; where it seems as if those who were in authority propose to leave the congregation out, and instead of praising God to praise some new composer. I presume there is no one here who has not seen the words in the *Venite*, "O, come let us sing," and did not know when they arrived at the point of the invitation that the words were entirely nugatory. I have heard at times in the last year, at the end of the Communion Service, when every heart is attuned to the praise of Almighty God, the Gloria in Excelsis, the tune of which as usually used is as well known, and as identified with the words of this Church, as is any National anthem in this world. And the words of that anthem came in such a way that the congregation could not possibly join in it, and the congregation were prevented from taking part even, and it was impossible for any one, although giving the greatest attention and familiar with the words, to know when the sacred name was reached so they might bow their heads. I am not speaking of course as opposed to the singing of the Creed, that is simply a matter of taste. For myself I think it is one of those things where every man that chooses stands up, and in a clear voice says what is the confession of his faith. But at the same time that is simply a matter of taste. But I object to the singing in such a way that the congregation cannot take part in that singing. Those are all matters that are of interest to the whole of us. And this resolution is proposed, that in order if possible some way will be found in which the right of the laity to take their part in the services, and their right to do their duty in this respect, may be protected and defended against the desires, I may say the egotistical desires of some choirs, or perhaps the ultra-musical estheticism of some musical directors.

Rev. Dr. Locke of Chicago: Inasmuch as this subject is so improper to be considered by this Convention, I am constrained to move to lay it on the table.

The motion by Rev. Dr. Locke to lay upon

the table was lost by an almost unanimous vote.

Rev. Dr. Huntington presented the supplemental report of the Committee on Revision recommending the introduction of a book of offices.

The resolution and report of the committee were laid upon the table.

Rev. Dr. Swope of N. Y., offered a resolution of thanks to the Hon. Alexander Mitchell, Pres. of the Chicago & Milwaukee R. R. for his generous provision in giving a special train for the accommodation of the members who visited Racine on Saturday, Oct. 16th, 1886. The vote of thanks was carried unanimously.

A deputy from New Jersey—I move that a vote of thanks be given the citizens of Racine and also the warden and faculty of Racine College.

Carried unanimously.

Dr. Benedict, of Southern Ohio—Mr. President, I would like to offer an amendment to the canon on marriage and divorce, and asks its reference to the committee on canons, simply saying that it arises from cases of hardship in my own experience.

The President—There being no objection, it is so referred.

Continued in next issue.

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A priest, graduate of Nashotah, is open to an engagement for parish or mission work. Address "Clericus," care of LIVING CHURCH.

There will be a missionary meeting in St. Paul's Church, Milwaukee, this evening, when addresses will be delivered by Bishop Tuttle, Rev. Dr. Green and Rev. T. E. Tyng.

There will be a public service in the interests of the Girls' Friendly Society of America, at the Cathedral of SS. Peter and Paul, this evening at 8 o'clock. Addresses bearing upon the history, work and objects of the Society will be made by the Rev. A. W. Little, of Portland, Me., and Rev. A. E. Johnson, of Salmon Falls, N. H.

The Triennial Reunion of the Alumni of St. Stephens' College, will be held at Hotel 27, Grand Pacific Hotel, on Thursday, Oct. 21st. Dinner at 6 p. m., sharp. Tickets can be obtained of the President of the Alumni, the Rev. Wm. M. Jefferis, Palmer House.

On Wednesday afternoon at 2 p. m., at St. James' Church, corner Huron and Cass streets, a meeting will be held, D. V., in aid of mission work and homes for the English and Americans in Paris, where Miss Ada Leigh will give a short account of the mission. Chair to be taken by the Rev. W. H. Vibbert, S. T. D.

The twenty-fourth anniversary of the Evangelical Education Society will be held (D. V.) on Sunday night, October 24, at 7:30 o'clock, in Grace church, Chicago. The business meeting will be held Thursday, October 21, at 7:30 o'clock, in the same church. ROBERT C. MATLACK, Sec'y.

There will be a public meeting in the interests of the Church Unity Society on Friday evening, Oct. 22nd, at 7:45, at St. James' Church, corner Huron and Cass Sts. The Bishop of Pittsburgh, Rt. Rev. Dr. Whitehead, will preside. Addresses may be expected from Bishops Seymour and Williams, Rev. Dr. Hopkins, Dean Hall and Judge Prince.

The Third Triennial Conference of Church Workers among the Deaf will be held in the Sunday School room of St. James' Church, Chicago, Oct. 25th, 26th and 27th. The first conference was held at St. Ann's Church for the Deaf, New York City, and the second at St. Stephen's Church, Philadelphia, during the last General Convention. Nine clergymen are now engaged in this new and growing department of Church work.

A public meeting in the interest of the White Cross Army will be held in the Club Room at Grand Pacific Hotel, at 7:45 p. m., Friday, October 22d. Addresses will be made by Rt. Rev. H. C. Potter, D. D., LL. D., Assistant Bishop of New York, the Rev. B. F. DeCosta, of New York, the Secretary of the Association in this country, and other prominent speakers. The deputies to the General Convention are especially invited to attend this meeting and learn about the practical workings of this Society. The doors are open to the public.

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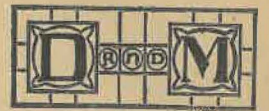
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