

Response to Les Alvis per Article IX

Alan Runyan and Mark McCall

The package you circulated last week included an argument made by Les Alvis concerning the effect of a clause of Article IX of the Constitution. We would be grateful if you would also circulate this brief reply.

Mr. Alvis points to the following clause in Article IX:

“None but a Bishop shall pronounce sentence of suspension, or removal, or deposition from the Ministry, on any Bishop, Presbyter, or Deacon; and none but a Bishop shall admonish any Bishop, Presbyter, or Deacon.” (Emphasis by Mr. Alvis.)

Mr. Alvis then argues that “this is a constitutional exception to the limitations of Article II, Sec. 3” and therefore that this permits the Presiding Bishop to pronounce a sentence on another bishop. (Title IV specifies that admonition is a form of sentence pronounced after trial.)

We note the following in response:

1. Under Title IV the Presiding Bishop does not pronounce the sentence on another bishop except in the case of abandonment. Sentences are pronounced by the President of the Disciplinary Board for Bishops. In any event, we have not challenged in our work the constitutionality of the pronouncement of sentence after a trial conducted in accordance with the Constitution.
2. This provision was not in fact intended as an exception to Article II, Sec. 3. The initial draft of TEC’s Constitution, prepared in 1785, contained both a provision virtually identical to Article II.3 prohibiting a bishop from acting within another diocese and a disciplinary provision, Article VIII, that provided: “Every clergyman, whether bishop, or presbyter, or deacon, shall be amenable to the authority of the Convention in the State to which he belongs, so far as relates to suspension or removal from office....”

The Archbishops of Canterbury and York, from whom the churches in America were seeking the episcopate, objected strongly to this provision, claiming that “the Eighth Article of your Ecclesiastical Constitution appears to us to be a degradation of the Clerical, and still more of the Episcopal character.”

In light of this objection, this article was revised in the Constitution finally adopted in 1789 to read:

“In every State, the mode of trying Clergymen shall be instituted by the convention of the Church therein. At every trial of a Bishop there shall be one or more of the Episcopal Order present: and none but a Bishop shall pronounce sentence of deposition or degradation from the Ministry on any Clergyman, whether Bishop, or Presbyter, or Deacon.”

Thus, the authority to conduct a trial of the bishop remained with the state convention, but that convention was required to arrange for the presence of a bishop on the court to pronounce sentence. As noted by White & Dykman, “The restriction to a bishop of the authority to pronounce sentence in an ecclesiastical court follows the ancient usage of the Church.” This provision therefore maintained the integrity of both the diocese and the apostolic office of bishop. When the constitutional authority for trials of bishops was later given to the General Convention, the requirement that the sentence be pronounced by a bishop was retained, further demonstrating that this provision was intended to preserve the episcopacy, not to restrict diocesan autonomy.

3. What this brief survey shows is the respect that has always been accorded the Ecclesiastical Authority of the diocese and the precision with which any limitations on that authority have been explicitly incorporated into the Constitution. That the pronouncement of sentence after trial, a function that goes to the very integrity of the episcopal office, was both narrowly drafted and incorporated into the Constitution itself, belies any notion that broad metropolitanical power can be given to the Presiding Bishop outside the Constitution. We have emphasized that the new Title IV appears to give the Presiding Bishop the authority to give pastoral direction to another bishop and to restrict the ministry of another bishop “at any time” and even for reasons unrelated to canonical offenses—for “the good order, welfare or safety of the Church.” These unprecedented powers are unrelated to pronouncing sentence after trial, but the provision Mr. Alvis highlights does in fact illustrate the kind of explicit constitutional language that would be required to introduce such authority into the polity of TEC.

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