

## PROVINCIAL COUNCILS AND THE CHOOSING OF PRIESTS FOR APPOINTMENT AS BISHOPS

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*At the Second Vatican Council the bishops expressed their “earnest desire” that provincial councils should again flourish with renewed strength. This article describes the role provincial councils have played since the fourth century in choosing priests for appointment as bishops—a role that they had here in the United States with Rome’s approval from 1833 until 1916. An explanation is suggested for the fact that the bishops’ desire that provincial councils flourish with renewed strength has not been satisfied.*

THE AIM OF THIS ARTICLE is twofold: (1) to recall the role that provincial councils have had in choosing priests for appointment as bishops of the dioceses of their province, and (2) to suggest that a return to this practice could be a welcome step toward the decentralization of authority in the Catholic Church by restoring to local churches a significant voice in choosing their bishops. I begin by recalling the nature of ecclesiastical provinces and their provincial councils and factors that led to their development in the early church.

An ecclesiastical province consists of an archdiocese led by an archbishop, also known as the metropolitan, and a group of neighboring dioceses (called “suffragan”) over whose bishops the metropolitan exercises vigilance but has no authority. The rise of ecclesiastical provinces in the early church, as Karl Baus explains,<sup>1</sup> was influenced by two factors, the first of which was the practice of Christian missionaries, on entering a new region, to begin by preaching the gospel in the metropolis that would become the provincial capital when the Roman Empire was organized into provinces. Once a Christian community had been formed in that city, the

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<sup>1</sup> *From the Apostolic Community to Constantine*, vol. 1 of *Handbook of Church History*, ed. Herbert Jedin and John Dolan (New York: Herder & Herder, 1965) 353–54.

evangelization of the other towns of the province would normally be done by members of the church of the metropolis, and the new churches that resulted tended to look to their “mother church” and its bishop for guidance. The other factor mentioned by Baus was the practice that bishops had adopted by the end of the second century, of gathering in synods or councils to solve their problems by seeking a consensus about their solution. While this occasionally led to holding councils that brought together the bishops of large regions, such as the councils of Carthage attended by the bishops of most of North Africa, it also led, especially in the East, to the regular holding of provincial councils to which the bishops of the province would be called by the metropolitan.

Letters written by Cyprian, bishop of Carthage in the third century, provide good evidence of the widespread practice of having the bishops gather at a church of their province that needed a new bishop, so that the assembled bishops could come to agreement on the choice of the new bishop in the presence of the clergy and faithful of that local church. In a letter to the church of Legio-Asturia in Spain in which he assured the clergy and faithful that the election of their Bishop Sabinus had followed the procedure required for a valid episcopal election, he gave the following description of that procedure, namely, that it was followed

in practically every province. Hence we should show sedulous care in preserving a practice which is based on divine teaching and apostolic observance, a practice which is indeed faithfully followed among us and in practically every province. And it is this: when an episcopal appointment is to be duly solemnized, all the neighbouring bishops in the same province convene for the purpose along with the people for whom the leader is to be appointed; the bishop is then selected in the presence of those people, for they are the ones who are acquainted most intimately with the way each man has lived his life and they have had the opportunity thoroughly to observe his conduct and behaviour. And we note that this procedure was indeed observed in your own case when our colleague Sabinus was being appointed: the office of bishop was conferred upon him and hands were laid upon him in replacement of Basilides, following the verdict of the whole congregation and in conformity with the judgment of the bishops who had there convened with the congregation as well as of those who had written to you about him.<sup>2</sup>

Another letter by Cyprian makes it clear that the same procedure was being followed in the church of Rome. Defending the legitimacy of the election of Cornelius as bishop of Rome against the charges made against it by his rival Novatian, Cyprian wrote:

And bishop he was made, by a large number of our colleagues who were present at the time in the city of Rome and who have sent to us on the subject of his appointment testimonials which acclaim his honour and esteem and cover him with glory by

<sup>2</sup> G. W. Clarke, *The Letters of St. Cyprian of Carthage*, vol. 4, Ancient Christian Writers 47, Letter 67.5 (New York: Newman, 1989) 23–24.

their praises. Moreover, Cornelius was made bishop by the choice of God and of His Christ, by the favourable witness of almost all of the clergy, by the votes of the laity then present, and by the assembly of bishops, men of maturity and integrity.<sup>3</sup>

Evidence of the important contributions that provincial councils were making to the life of the church early in the fourth century is given by two decrees of the first ecumenical council, held at Nicaea in the year 325. Particularly significant for my inquiry is the role those councils had in the choice and appointment of bishops for vacant churches in their province. Canon 4 of the council prescribed how their role should be exercised:

Canon 4. It is by all means desirable that a bishop should be appointed by all the bishops of the province. But if this is difficult because of some pressing necessity or the length of the journey involved, let at least three come together and perform the ordination, but only after the absent bishops have taken part in the vote and given their written consent. But in each province the right of confirming the proceedings belongs to the metropolitan bishop.<sup>4</sup>

Although this canon does not use the term “provincial council,” it is clear that the choice of the person to be appointed bishop of the vacant see was made collegially from the fact that all the bishops of the province must take part in the vote and give their written consent if they were unable to be present for the ordination. The canon also specifies the right of the metropolitan in each province to confirm the proceedings. This makes it clear that there was no need of confirmation from any other authority for the election and ordination of a bishop.

The choice and appointment of bishops was not the only function of provincial councils treated by the Council of Nicaea. Its canon 5 prescribed the action that these councils were to take in case a member of the province claimed to have been unjustly excommunicated by his bishop. For this purpose canon 5 recommended holding provincial councils twice a year, referring to them as “synods” in which all the bishops would assemble together:

Canon 5. Concerning those, whether of the clergy or the laity, who have been excommunicated, the sentence is to be respected by the bishops of each province, according to the canon which forbids those expelled by some to be admitted by others. But let an inquiry be held to ascertain whether anyone has been expelled from the community because of pettiness or quarrelsomeness or any such ill nature on the part of the bishop. Accordingly, in order that there may be proper opportunity for inquiry into the matter, it is agreed that it would be well for synods to be held each year in each province twice a year, so that these inquiries may be conducted by all the bishops of the province assembled together, and in this way by general consent those who have offended against their own bishop may be

<sup>3</sup> Ibid., vol. 3, *Ancient Christian Writers* 46, Letter 55.8 (New York: Newman, 1986) 37–38.

<sup>4</sup> Norman P. Tanner, S.J., ed., *Decrees of the Ecumenical Councils*, 2 vols. (Washington: Georgetown University, 1990) 1:7 (hereafter, Tanner).

recognised by all to be reasonably excommunicated, until all the bishops in common may decide to pronounce a more lenient sentence on these persons.<sup>5</sup>

I will not attempt to follow the history of provincial councils or of the choosing of candidates for appointment as bishops during the twelve centuries between the Council of Nicaea and the Council of Trent. I will remark only that from the beginning of the feudal period of European history until Trent, the ways that bishops were chosen, whether by secular powers or by the papacy, were often deplorable. The bishops at Trent recognized this problem and took measures to solve it. They spelled out their solution in canons 1 and 2 of the Decree on Reform, which was enacted in Session 24 of the final period of the council (1545–1563):

Canon 1. Without wishing to change any arrangements at the present time, the council exhorts and charges all who have any right under any title from the apostolic see in the appointment of prelates, or assist in the process in any way, to have as their first consideration that they can do nothing more conducive to the glory of God and the salvation of the people than to have every concern to appoint good shepherds who are fitted to guide the church; and that they will sin mortally by sharing in the sins of others unless, disregarding requests or human affections or the promptings of the ambitious, they take the utmost care to have men advanced on the claim of their own merits, persons of legitimate birth whom they know to be endowed with virtue, age, learning and all the other qualities required by the sacred canons and by the decrees of this council of Trent. However, in view of the variety of nations, people and cultures, no single standard can be used in gathering serious and adequate evidence of all these qualities from men of virtue and wisdom. Hence the holy council enjoins that in each provincial synod held under the metropolitan's presidency, there should be drawn up a formula of examination or enquiry and information proper to each place and province, as seems most useful and appropriate for that place, to be approved by the holy Roman pontiff. And when this examination or enquiry about the person to be appointed has finally been completed, it should be drawn up as a public dossier including all the evidence and the profession of faith of the candidate, and sent at once in its entirety to the pope, so that with full knowledge of the matter and information about the persons, he may himself make the best provision for the churches, judging for the sake of the Lord's flock whether the nominees are shown to be suitable by the examination and enquiry.<sup>6</sup>

Canon 2. Wherever they have lapsed, provincial councils for the control of conduct, correction of abuses, settling disputes and other matters allowed by the sacred canons, are to be restored. Hence metropolitans should not omit to summon a council in their province, either personally or if legitimately hindered through their senior suffragan bishop, within one year at least from the end of the present council, and then at least every three years. . . . At this all bishops and others who by law or custom should be present, with the exception of any who would incur immediate danger in crossing the sea, are absolutely bound to assemble.<sup>7</sup>

<sup>5</sup> Tanner 1:8.

<sup>6</sup> Tanner 2:760.

<sup>7</sup> Tanner 2:761

A few comments on each of these reform canons seem called for. The exhortation and warning in canon 1 to those involved in the appointment of bishops show that its authors were well aware of how often those appointed lacked the qualities required by the sacred canons. It is remarkable that they did not think it appropriate that the council should determine a universal standard for the examination of candidates for appointment as bishops, but rather that each provincial council should draw up a formula that would be adapted to its own province. The decree then gave to the provincial council the responsibility of conducting the examination of candidates according to this standard, and of transmitting the complete dossier to the pope when the council was satisfied that a candidate possessed all the qualities required for his appointment as bishop of a church of their province. The second of these canons manifests the confidence of the bishops at Trent that the regular and frequent holding of provincial councils would be an effective instrument for the implementation of the conciliar decrees.

I now pass over three more centuries to arrive at the contribution that provincial councils made to the life of the Catholic Church in the United States during the 19th century.<sup>8</sup>

In 1783, the Roman Congregation for the Propagation of the Faith appointed Fr. John Carroll “superior of the mission” in America. In 1788 his clergy, who, like himself, were ex-Jesuits, elected him, with Roman approval, to be the first bishop of Baltimore. (They were “ex-Jesuits” because Pope Clement XIV had suppressed the Society of Jesus in 1773.) In 1791 Carroll convened the First Synod of Baltimore, the first diocesan synod to be held in the United States. In 1808 the Holy See created the dioceses of Boston, New York, Philadelphia, and Bardstown, Kentucky, and appointed their bishops, with the result that the Catholic Church in the United States became an ecclesiastical province, with Archbishop Carroll as its metropolitan. Knowing that the Council of Trent had decreed that metropolitans should summon their suffragan bishops to a provincial council every three years, Carroll planned to convene such a council, but was prevented by the War of 1812 and then by his death in 1815. Carroll was succeeded by another former Jesuit, Leonard Neale, who lived only two years after taking office. The third archbishop, Ambrose Maréchal, was a Sulpician and a refugee from the French Revolution. In 1820 the Holy See established the diocese of Charleston, and named an Irish priest, John England, as its first bishop. He, like Carroll, believed in the advantages

<sup>8</sup> I owe my knowledge of this history to an essay by Gerald P. Fogarty, S.J., entitled “Episcopal Governance in the American Church,” in *Governance, Accountability, and the Future of the Catholic Church*, ed. Francis Oakley and Bruce Russert (New York, Continuum, 2004) 103–18.

of a conciliar process of decision making in the church, but Maréchal did not, and was unmoved by England's urging that he convene a provincial council. England finally succeeded in persuading Maréchal's successor, James Whitfield, to summon the First Provincial Council of Baltimore in 1829. When Whitfield showed himself unwilling to convene a second council, England went to Rome and persuaded the officials of the Congregation for the Propagation of the Faith, which had authority over "mission territories" (of which the United States was one at that time), to order Whitfield to hold the Second Provincial Council of Baltimore. After that was held in 1833, a provincial council was held every three years until the seventh in 1849. Since all the dioceses belonged to the Province of Baltimore, those councils had authority from canon law to enact legislation binding on the whole Catholic Church in the United States.

The Second Provincial Council issued two decrees that were significant for the future. To ensure that the archbishop would convoke another council in three years, it set the date on which the next one must begin, and this became the practice of those councils. It also decreed a method for nominating bishops for vacant dioceses, and for coadjutors who would assist the current bishop and become his successor. Gerald Fogarty gave the following description of the method it prescribed for the bishops to follow in doing this:

Each bishop was to make a list of three priests he thought apt to be his successor to be opened at his death by the vicar general, who was to send it to the other bishops of the province. The bishops of the province were then to submit [to the Holy See] a list of three names, a *terna*, for vacant sees or for coadjutors. In practice, the bishops discussed these lists while they met for their triennial councils.<sup>9</sup>

From 1833, when this method for nominating episcopal candidates was decreed by the Second Provincial Council of Baltimore, until 1916 when the Holy See prescribed a different procedure, the bishops of a province needing a new bishop would nominate three priests and send their names to Rome for the appointment of a bishop or coadjutor. In composing their *terna*, the bishops would give special consideration to the three priests whom the deceased bishop had named as the ones he judged most qualified to be his successor. As time went on, the list of priests so named grew. When the bishops met for the triennial meetings of their provincial council, they would regularly discuss the names on that list. If a diocese became vacant within three months of the date set for the next triennial meeting, the *terna* for the vacant see would be chosen by the provincial council, but this decision would not have the character of a legislative decree.

<sup>9</sup> Ibid. 107

After the Seventh Provincial Council of Baltimore was held (in 1849) and new metropolitan sees had been established, the Catholic Church in the United States consisted of several provinces, with the result that a meeting of all its bishops would be a plenary council. Three such councils were held at Baltimore during that century, in 1852, 1866, and 1884. However, the fact that the US Catholic Church was no longer one province did not mean that holding provincial councils had come to an end. In conformity with the decree of Trent, provincial councils continued to be called every three years. The bishops of each province continued to perform the function assigned to them by the Second Provincial Council of Baltimore, of drawing up the *terna* that named the three priests whom they judged best qualified to be appointed for a church of their province that needed a new bishop or a coadjutor. During the triennial meetings of their provincial councils, the bishops continued to discuss the suitability of priests of their province for appointment as bishops, and to update the list of those they judged best qualified to be named in a *terna* when a church of the province needed a new bishop or a bishop needed a coadjutor.

The Third Plenary Council of Baltimore in 1884, at the insistence of the Holy See, gave to the priests who were a bishop's consultors, and to the irremovable rectors of churches in a diocese, the right to draw up and send their own *terna*, with the stipulation that the bishops could reject a name from that list if they had canonical reasons for doing so. But both the bishops and the priests lost this right in 1916, when the Sacred Consistorial Congregation issued its Decree on the Selection of Candidates for Bishoprics in the United States.<sup>10</sup> The reason given for the change in procedure was that the time it took for the *ternae* to arrive in Rome after a diocese in the United States became vacant, caused that diocese to be without a bishop for too long a time. The solution prescribed by this decree was that when Rome was informed that a US see had become vacant, the name to be proposed to the pope for the vacant see would be chosen by the Consistorial Congregation. In making this choice it could conduct an investigation through the apostolic delegate concerning candidates for that office, a list of whom it would have received within the previous two years from the province to which that diocese belonged. Those lists were to be prepared by the bishops of each US province in the following way.

At the beginning of Lent 1917 and every two years thereafter at the same season, each bishop was to send to his metropolitan the names of one or two priests whom he judged fit for the office of bishop. After receiving those names, the archbishop would add his own candidates and send the complete list to all his suffragans, so that they could make suitable

<sup>10</sup> *Acta Apostolicae Sedis* (hereafter, *AAS*) 8 (1916) 400–404; ET in *Canon Law Digest* 1 (1934) 194–98.



investigations regarding the qualifications of priests not personally known to them. After Easter the bishops would meet with the metropolitan to discuss the candidates on the list, with a view to selecting those best qualified to be proposed to the Holy See. When the discussion was concluded, each bishop cast his vote regarding each candidate, whether of approval or of rejection. One of the bishops, elected as secretary, would draw up a report of the proceedings, giving the names of those approved, their qualities, and the number of votes each received. A copy of the proceedings, signed by the archbishop, the secretary, and the other bishops, was sent through the apostolic delegate to the Sacred Consistorial Congregation.

The requirement by the decree of 1916 that the bishops of each province meet every two years to discuss and update their list of candidates for appointment as bishops would most likely have brought an end to their discussion of such candidates at the triennial meetings of their provincial councils, but the regular holding of triennial councils came to an end in 1917, when the Code of Canon Law promulgated that year made it clear that the decree of Trent in that regard was no longer binding. The Code did this by prescribing, in its canon 283, that a provincial council was to be held in each province at least every 20 years.

The difference between the contribution that provincial councils had made to the life of the Church in the United States, and would be likely to have made wherever they had continued to be held every three years, and the contribution they made to the life of their churches when 20 years elapsed between their meetings, could explain the nostalgia with which the bishops at Vatican II spoke of the flourishing of such councils in the past, and of their earnest desire that they should again flourish with renewed strength. I refer to the following passage of their Decree on the Pastoral Office of Bishops in the Church:

From the earliest centuries of the church, bishops, while in authority over particular churches, have drawn inspiration from the bond of fraternal love and zeal for the mission to all people which was given to the apostles. Accordingly they have pooled their resources and coordinated their plans to promote the common good and also the good of individual churches. To this end synods, provincial councils and finally plenary councils were established in which the bishops drew up for the different churches a uniform procedure to be followed both in the teaching of the truths of the faith and in the regulation of ecclesiastical discipline.

It is the earnest desire of this ecumenical synod that the venerable institutions of synods and councils should flourish with renewed strength, so that by this means more suitable and efficacious provision may be made for the increase of faith and for the maintenance of discipline in the different churches as the circumstances of the times require.<sup>11</sup>

<sup>11</sup> *Christus dominus* no. 36, Tanner 2:936.



Since the documents of Vatican II do not contain any decision that would have caused provincial councils to flourish with renewed strength, it seems that the bishops were looking to the postconciliar church to satisfy their earnest desire. In 1972, seven years after the close of the council, the Sacred Council for the Public Affairs of the Church issued Norms for the Promotion of Candidates to the Episcopal Ministry in the Latin Church.<sup>12</sup> This decree substantially applied to the whole Latin Church the norms prescribed in 1916 for the United States. The significant change it made was to give to the apostolic delegate the responsibility of drawing up the *terna* to be sent to Rome for the appointment of a bishop for a diocese in the nation to which he was assigned.

The revised Code of Canon Law, promulgated by Pope John Paul II in 1983, does not prescribe the frequency with which provincial councils must be held, but rather that one is to be held when the majority of the diocesan bishops judge it opportune. The new Code does make a radical change in the membership of provincial councils that perhaps could have resulted in their flourishing with renewed strength. It transformed them into what John Paul II, in his apostolic letter *Novo millennio ineunte*, had called "structures of participation."<sup>13</sup> It did this by decreeing that among the members of provincial councils there must be a significant number who are not bishops.

Canon 443.3 of the 1983 Code prescribes that in addition to the bishops of the province, who participate in a provincial council with deliberative vote, the following members of the province who are not bishops must participate in it with consultative vote (i.e., the right to take part in the discussion and to express their opinion, but not to vote when an issue is decided):<sup>14</sup>

1. Priests who have been appointed to the office of vicar general or episcopal vicar.
2. The major superiors of religious institutes and societies of apostolic life of men and women with headquarters in the province, in a number determined by the bishops of the province. They are elected by all the major superiors in the province.
3. Rectors of ecclesiastical and other Catholic universities in the province, and the deans of faculties of theology and canon law.

<sup>12</sup> AAS 64 (1972) 386–91.

<sup>13</sup> *Novo millennio ineunte* no. 45, *Origins* 30 (2001) 489–508, at 503.

<sup>14</sup> Canon 443.3 lists all those who either must or may participate in particular councils. Provincial councils are particular councils, but have some features that not all particular councils have. For this reason I do not quote the canon, but list all those who, according to this canon, must participate in a provincial council.

4. Some rectors of major seminaries in the province. Their number is determined by the bishops, and they are elected by all the rectors of seminaries in the province.
5. The cathedral chapters, the presbyteral council, and the diocesan pastoral council of each of the particular churches in the province must be invited to provincial councils in such a way that each sends two of its members as representatives; these should be selected in a collegial manner by each of these bodies.

(Members of cathedral chapters and presbyteral councils are priests; members of diocesan pastoral councils can be priests, men and women religious, and lay men and women.)

Had the revised Code decreed that provincial councils should contribute to drawing up the *terna* for the appointment of a bishop for a diocese of their province, requiring such councils periodically to send the pontifical legate a list of priests of their province whom they considered the most suitable for such appointments would have been a positive step toward satisfying Vatican II's desire that provincial councils should flourish with renewed strength. Moreover, the fact that the list sent to the papal legate would be the fruit of a provincial council, in which not only the bishops but also the priests, men and women religious, and lay faithful who now belong to those councils had taken part, would have given many highly qualified members of local churches a significant role in choosing priests for appointment as their bishops.

In fact, however, the contribution that members of a provincial council can make to the process by which a bishop is chosen for a church of their province is prescribed by canon 377.2 of the 1983 Code:

At least every three years the bishops of an ecclesiastical province or, if circumstances suggest this, the bishops of a conference of bishops are to compose in common counsel and in secret a list of presbyters, including members of institutes of consecrated life, who are suitable for the episcopacy and send it to the Apostolic See; each bishop retains the right to make known to the Apostolic See on his own the names of presbyters whom he thinks worthy and suitable for the episcopal office.

I make two observations: (1) This canon excludes the priests, religious superiors, and lay persons who are now members of the provincial council from participating in the discussion of the priests of their province on which the bishops would base their choice of those most suitable for the episcopate. There is no mention in this canon of the provincial council. It is only the bishops of the province who, "in common counsel and in secret," are to compose a list of priests whom they judge suitable for appointment as bishops. (2) This canon also prevents the bishops of the province from

making a significant contribution to the process by which the apostolic delegate chooses three names for the *terna* that he must send to Rome for the appointment of a bishop for a church of their province. It does this by prescribing that the bishops are to send their lists not to the apostolic delegate, but directly to the Apostolic See. The question that remains is whether the lists sent to Rome by the bishops of a province will have any influence on the choice of the name presented to the pope for the appointment of a bishop for a diocese in that province.

Those lists are to be sent to Rome from every province of the Latin Catholic Church.<sup>15</sup> Those from mission territories are sent to the Congregation for the Evangelization of Peoples; the others go to the Congregation for Bishops. This Congregation has the responsibility of examining the *terna* along with the dossier that is sent by the apostolic delegate for the appointment of a bishop for a diocese in the nation to which he is assigned. The Congregation has to weigh all the factors that would lead to the choice of one name to be proposed to the pope, who ultimately appoints the bishop for every diocese of the Latin Catholic Church.

This raises the following question. When the Congregation for Bishops receives a *terna* and its dossier for the appointment of a bishop for a diocese in a particular province, how likely is it that the Congregation will examine and weigh not only the *terna* and dossier it received from the apostolic delegate but also the list of candidate priests that was most recently received from the bishops of that province? For the Congregation to be able to do that, its staff would have to keep those lists so carefully filed that it could promptly provide to the members of the Congregation the list it had most recently received from any specific province of the Latin Catholic Church. If it were not able to do so, the list of suitable priests drawn up by the bishops of the province where a diocese needed a new bishop would have no influence on the choice of the name to be proposed to the pope for the appointment of a bishop for that diocese.

My last question is this: What process does the current Code of Canon Law prescribe for the apostolic delegate to follow in obtaining the information on which he will base his choice of three names for the *terna* to be

<sup>15</sup> The Latin Catholic Church is composed of all the particular Catholic churches that observe the Latin liturgy and are governed by the Code of Canon Law, most recently revised by Pope John Paul II in 1983. The other body of particular Catholic churches are the Eastern Catholic Churches, which observe one of the Eastern liturgical traditions and are governed by the Code of Canons for the Eastern Catholic Churches. While those churches are in communion with the bishop of Rome, he does not appoint their bishops.

sent to Rome for the appointment of a bishop? Canon 377.3 prescribes the following process:

Unless other provisions have legitimately been made, whenever a diocesan bishop or a coadjutor bishop is to be named, in regard to the *ternus*, as it is called, to be proposed to the Apostolic See, it is the responsibility of the pontifical legate to seek out individually the suggestions of the metropolitan and the suffragans of the province to which the diocese to be provided for belongs or with which it is joined and of the president of the conference of bishops and to communicate them to the Apostolic See together with his own preference; moreover, the pontifical legate is to hear some members of the college of consultors and of the cathedral chapter, and if he judges it expedient, he shall also obtain, individually and in secret, the opinion of other members of the secular and religious clergy as well as of the laity who are outstanding for their wisdom.<sup>16</sup>

What is significantly not part of this process is that in choosing the names for the *terna*, the apostolic delegate would take into account a list of the priests judged most suitable for appointment as bishops that was drawn up by the provincial council, whose members are the bishops, priests, men and women religious, and lay representatives of diocesan pastoral councils on whose personal knowledge of the priests of their province the choice for the *terna* ought to be based.

I conclude by remarking on the contrast between the procedure prescribed by the current Code of Canon Law and the procedure that St. Cyprian said was followed in practically every province of the church during the third century, when, as he tells us, “Cornelius was made bishop of Rome by the choice of God and of His Christ, by the favorable witness of almost all of the clergy, by the votes of the laity then present, and by the assembly of bishops, men of maturity and integrity.” As the bishops at Vatican II came to know, there is much the church can learn by reflecting on its history, using the method called *ressourcement*, that can show it the way to greater fidelity to its authentic tradition.

<sup>16</sup> Throughout the article I have used the translation of codes given in *The Code of Canon Law* (Washington: Canon Law Society of America, 1983).