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September 7, 2017

VIA HAND DELIVERY

The Honorable Daniel E. Shearouse
South Carolina Supreme Court
1231 Gervais Street
Columbia, SC 229201

RECEIVED

SEP 07 2017


S.C. SUPREME COURT

RE: *The Protestant Episcopal Church in the Diocese of S.C., et al. v. The Episcopal Church (a/k/a The Protestant Episcopal Church in the USA) and The Episcopal Church in South Carolina*
Our File No.: 9-2535.104

Dear Mr. Shearouse:

On September 1, 2017 I filed a Petition for Rehearing and supporting Affidavits on behalf of Church of the Good Shepherd. Upon returning to my office I noticed an unfortunate spelling error and delivered a corrected Petition to the Clerk's office on September 6, 2017 requesting the corrected Petition be substituted for the original filing. Unfortunately, I did not include the supporting Affidavit with the corrected filing and I understand that document has not been included in the documents uploaded to the Court. I am enclosing the supporting Affidavit and asking you to include it in the corrected filing as originally intended. I regret this compounded error; please advise if a formal motion is required for this submission. All counsel of record were served with the Affidavit at the time of the original filing on September 1, 2017.

With best wishes,


Henry P. Wall

HPW/bs

CC: Counsel of Record


4. On August 1, 2007 I visited the library of the Episcopal Theological Seminary of the Southwest in Austin, Texas, where the Archives of the Episcopal Church are located and where all of the records of 1979 General Convention are kept. Prior to traveling to Austin, I asked the General Convention Office at the Episcopal Church Center in New York City if they had any part of the official record of the 1979 Convention, or whether the documents were held in any other location. I was informed that all records of this Convention were held by the Archives. My research found that the original documents from the 1979 Denver General Convention were stored in two boxes and the records were divided into various three ring binders. Using the 1979 Journal entries I tracked the progress of the Dennis Canon by attempting to locate each of the original documents to which reference is made in the Journal. I spent most of the day searching and reviewing the records which I have found, and the exhibits to this affidavit are some of the copies which I made from those records.
5. The common reference to the Dennis Canon derives from its original author, Walter A. Dennis. Walter Dennis was a member of the Virginia and New York state bars and was one of the leading lawyer-clergymen in the Episcopal Church, maintaining his license after he was ordained to the priesthood. As a deputy from the Diocese of New York, Dennis was chairman of the national Episcopal Church's Committee on Constitution and Canons. He earned degrees from Virginia State College (BA 1952), New York University School of Law (MA 1953) and General Theological Seminary (MDIV 1956). He was ordained a deacon on June 15, 1956 by the Rt. Rev. George Gunn, Bishop of the Diocese of Southern Virginia, at Grace Church Newark. On June 24, 1958 Dennis was ordained into the priesthood by the Rt. Rev. Horace Donegan, Bishop of the Diocese of New York, acting on behalf of the Bishop of Southern Virginia.
6. I have attached, at Exhibit A, a copy of the original version of House of Bishops Legislative D-24 which is the earliest version of the proposed Dennis Canon considered at the 1979 General Convention, as proposed by Walter Dennis. The resolution contains four "Whereas" clauses and a single resolution. I have also attached a copy of the journal of the convention on the 5th day, which establishes the adoption of Resolution D-24, as amended, by the House of Bishops (See Exhibit B). The following are the major substantive differences between the canon, as proposed, and the canon, as adopted, in the House of Bishops:
 7. Two of the "Whereas" clauses were deleted from the purpose of the canon. They are: 1) "Whereas it would violate the constitution and canons of the Episcopal Church if a majority of the membership of a local parish could, by majority vote, alienate the property of such local parish from the Episcopal Church", and 2) "Whereas the Supreme Court of the United States, in the case of Jones v. Wolf, ___ U.S. ___, 99 S. CT. 3020 (1979) has suggested that such alienation might be legally possible, in the absence of an explicit recitation in the constitution that an express trust exists in favor of the general church, concerning the property of local parishes".

8. The following clause which addressed the question of disaffiliation of a parish, mission, congregation or institution and reversion to the Diocese was deleted: "If, however, [sic] all or part of the membership of such Parish, Mission, Congregation, or Institution shall disaffiliate themselves from the Episcopal Church or of the Diocese, then, upon certification of such fact by the Bishop and the Standing Committee of the Diocese in which the Parish, Mission, Congregation, or Institution shall, by operation of the express trust in favor of the Episcopal Church and the Diocese, revert to the Diocese in which such Parish, Mission, Congregation or Institution is geographically present, or alternatively, shall remain in and revert to some body certified by the Bishop and Standing Committee of the Diocese as the proper representative of the members of the Parish, Mission, Congregation or Institution remaining loyal to he[sic] contitution[sic] and canons of the Episcopal Church and of the Diocese."
9. The House of Bishops added section 5 of the Canon which provides: "The several Dioceses may, at their election, further confirm the trust declared under the foregoing Section 4 by appropriate action, but no such action shall be necessary for the existence and validity of the trust."
10. The records of the Episcopal Church as to the House of Delegate's adoption of the identical version of the amended proposed canon are inconclusive. From my examination, of the official records, I could find no definitive proof that the House of Delegates approved this legislation. Nonetheless, the amended version was published in the Canons of the Church and has been re-published since 1979. The canon has not been further amended.
11. On July 2, 1979 the United States Supreme Court issued its decision in Jones v. Wolf, slightly more than two months prior to the 1979 General Convention.
12. The National Church gave no prior notice to the wider Episcopal Church before the convention that this issue would be placed before the convention for action.
13. The Episcopal Church's Canon V.1 Section 5a requires a summary of canonical amendments be completed and distributed to the dioceses at the close of the Convention. No record of such action is found in the Archives.
14. The contemporaneous press reports on the 1979 Convention in the archives of the Living Church magazine and the predecessor of what is now known as the Episcopal News Service make no mention of the passage of the Dennis Canon.
15. The Pastoral Letter issued by the House of Bishops at the close of the convention did not mention the passage of the Dennis Canon either.
16. The Dennis Canon remained obscure and was all but unknown in the wider Episcopal Church for almost twenty years after it was purportedly adopted. This situation changed only after the start of the Waccamaw case in South Carolina and ensuing national

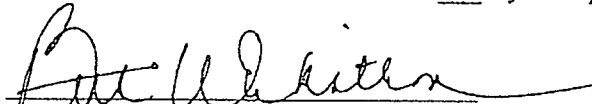
litigation over the interpretation of this canon.

17. In the aftermath of this this litigation, many local congregations lost their properties as a consequence of judicial rulings. The former Presiding Bishop of the Episcopal Church, Katharine Jefferts Schori, overruled the established practice of her predecessors and set forth a policy that no departing congregation would be allowed to redeem or re-acquire their former church buildings. It is unclear whether the current Presiding Bishop of the Episcopal Church will continue this same policy.

Further Deponent Sayeth Not.


George A. M. Conger

Sworn and subscribed before me this 1 day of September, 2017.


Notary Public

My Commission Expires: 4-1-2019

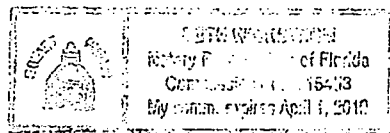


EXHIBIT A

MEMORIALS AND RESOLUTIONS

Legislative No. D-24

Initiating House Bishops #5

Origin Canon Walter Dennis, Diocese of New York

Subject Amend Title I, Canon 6 to add a new Section 4

Whereas, The Episcopal Church is a hierarchical church, in which local parish churches are a part of, and are subject to, the constitution and canons of the Episcopal Church and of the diocese in which they are geographically present; and

Whereas, It would violate the constitution and canons of the Episcopal Church if a majority of the membership of a local parish could, by majority vote, alienate the property of such local parish from the Episcopal Church; and

Whereas, The Supreme Court of the United States, in the case of Jones v. Wolf, U.S., 99 S.Ct. 3020 (1979) has suggested that such alienation might be legally possible, in the absence of an explicit recitation in the constitution that an express trust exists in favor of the general church, concerning the property of local parishes; and

Whereas, The Episcopal Church recognizes that local parishes have broad autonomy in the use of their property, so long as they act within the confines of the constitution and canons of the Episcopal Church and of the diocese in which they are geographically present; therefore be it

Resolved, the House of _____ concurring, That Title I, canon 6, of the canons of the Episcopal Church, be amended to add a Section 4 as follows:

Section 4. All real and personal property held by any Parish, Mission, Congregation, or Institution, is held subject to an express trust in favor of the Episcopal Church and of the Diocese in which such Parish, Mission, Congregation, or Institution is geographically present. The existence of this express trust, however, shall in no way extend the authority of the Episcopal Church or of the Diocese over such Parish, Mission, Congregation, or Institution, beyond the authority granted to the Episcopal Church or Diocese by the constitution and canons of the Episcopal Church or of the Diocese, so long as the Parish, Mission, Congregation, or Institution remains a part of, and subject to, the constitution and canons of the Episcopal Church and of the Diocese. If, however,, all or a part of the membership of such Parish, Mission, Congregation, or Institution shall disaffiliate themselves from the Episcopal Church or of the Diocese, then, upon certification of such fact by the Bishop and Standing Committee of the Diocese in which the Parish, Mission, Congregation, or

Institution shall, by operation of the express trust in favor of the Episcopal Church and the Diocese, revert to the Diocese in which the Parish, Mission, Congregation, or Institution is geographically present or, alternatively, shall remain in or revert to some body certified by the Bishop and Standing Committee of the Diocese as the proper representative of the members of the Parish, Mission, Congregation, or Institution remaining loyal to the constitution and canons of the Episcopal Church and of the Diocese.

EXHIBIT B

Resolved, the House of Deputies concurring, That to the end of encouraging and furthering mutual understanding between Episcopalians and Jews by way of biblical and theological enquiry and through friendly discussion, the Presiding Bishop's Advisory Committee on Episcopal-Jewish Relations initiate a study on the methodology for and substantive issues of Episcopal-Jewish dialogue in the next triennium; and be it further

Resolved, the House of Deputies concurring, That the report of the said Presiding Bishop's Advisory Committee on Episcopal-Jewish Relations, together with recommendations for implementation of the Dialogue, be made to the 67th General Convention of the Episcopal Church.

The motion was seconded by the Bishop of Ohio.

Resolution adopted
HB Message #72

The Bishop of Mississippi, Chairman of the Committee on Canons, moved the adoption of Resolution D-24, as amended:

Whereas, the Episcopal Church is an hierarchical church, in which local parish churches are a part of, and are subject to, the Constitution and Canons of the Episcopal Church and of the Diocese in which they are geographically present; and

Whereas, the Episcopal Church recognizes that local parishes have broad autonomy in the use of their property, so long as they act within the confines of the Constitution and Canons of the Episcopal Church and of the Diocese in which they are geographically present; therefore be it

Resolved, the House of Deputies concurring, That Title I, Canon 6 of the Canons of the Episcopal Church, be amended to add a Section 4 as follows:

Sec. 4. All real and personal property held by or for the benefit of any Parish, Mission or Congregation is held in trust for this Church and the Diocese thereof in which such Parish, Mission or Congregation is located. The existence of this trust, however, shall in no way limit the power and authority of the Parish, Mission or Congregation otherwise existing over such property so long as the particular Parish, Mission or Congregation remains a part of, and subject to, this Church and its Constitution and Canons.

And be it further

Resolved, the House of Deputies concurring, That Title I, Canon 6 be amended to add a Section 5 as follows:

Sec. 5: The several Dioceses may, at their election, further confirm the trust declared under the foregoing Section 4 by appropriate action, but no such action shall be necessary for the existence and validity of the trust.

The motion was seconded by the Bishop of Vermont.

The Bishop of Kentucky moved that the Resolution be amended to make the Resolution effective upon enactment.

THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM DORCHESTER COUNTY
Court of Common Pleas

Diane S. Goodstein, Circuit Court Judge

Case No. 2013-CP-18-00013
Appellate Case No. 2015-000622

The Protestant Episcopal Church
In the Diocese of South Carolina et, al. Respondents,

v.

The Episcopal Church (a/k/a/ The Protestant
Episcopal Church in the United States
Of America) and The Episcopal Church
in South Carolina Appellants.

PROOF OF SERVICE

I, Bridget S. Steele, an employee of Bruner Powell Wall & Mullins, LLC, attorneys for the Respondents, do hereby certify that I have served a copy of the Supporting Affidavit, Exhibits and Proof of Service, on this the 7th day of September, 2017, by mailing copies of the same to the attorneys identified below:

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Respondents' Attorneys: By their consent and permission, I served the following persons by electronic mail.

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<p>David B. Marvel, Esq. Marvel, Et Al, LLC PO Box 22734 Charleston, SC 29413 Attorney for <i>The Church of St. Luke and St. Paul, Radcliffeboro</i></p>	


 Bridget S. Steele

Columbia, South Carolina