

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.