
IN THE
Supreme Court of Virginia

RECORD NO. _____

THE EPISCOPAL CHURCH,

Appellant,

v.

TRURO CHURCH, *et al.*,

Appellees.

**BRIEF *AMICUS CURIAE* OF THE EPISCOPAL DIOCESE OF
SOUTHWESTERN VIRGINIA AND THE EPISCOPAL DIOCESE
OF SOUTHERN VIRGINIA IN SUPPORT OF APPELLANT**

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STATEMENT OF INTEREST

The Episcopal Diocese of Southwestern Virginia and The Episcopal Diocese of Southern Virginia (collectively, “Diocesan *amici*”), pursuant to Rule 5:30 of the Rules of the Supreme Court of Virginia, submit this Brief *Amicus Curiae* in support of the Petitioners/Appellants, The Protestant Episcopal Church in the Diocese of Virginia and The Episcopal Church,

The Diocesan *amici* are each Dioceses of the Protestant Episcopal Church in the United States of America (“The Episcopal Church”), a hierarchical religious denomination, and as such are each part of the first level of governance below The Episcopal Church.¹ Each has a Bishop who is the ecclesiastical and administrative head of the Diocese.² Each is composed of individual parishes whose vestries appoint Trustees to hold title to the real property on which the parish is located for the benefit of the Diocese and The Episcopal Church, all in accordance with the Constitution and Canons of The Episcopal Church; their own Diocesan Constitutions and

¹The Episcopal Diocese of Southern Virginia was formed in 1892 through a division of the Diocese of Virginia. The Episcopal Diocese of Southwestern Virginia was formed in 1919 when it was split off from the Episcopal Diocese of Southern Virginia. Each was formed and recognized as specified under the Constitution of The Episcopal Church as in effect at the time.

²The Bishop of the Episcopal Diocese of Southwestern Virginia is The Rt. Rev. Frank Neff Powell. The Bishop of the Episcopal Diocese of Southern Virginia is The Rt. Rev. Herman “Holly” Hollerith, IV.

Canons³ ; and Virginia Code §§ 57-7.1 and 57-8. Accordingly, the Diocesan *amici* have a compelling interest in this case because of its potential effects on their current and future arrangements and decisions concerning the titling of, and control over, real property located within each Diocese.

The Diocesan *amici*, between them, have nearly 180 parishes, located across an area covering nearly two-thirds of the Commonwealth. The ruling below would require the Diocesan *amici* to amend their Constitutions and Canons to specify a different method of titling property, and then to obtain the cooperation of the vestry of each individual parish, as well as the trustees appointed by that vestry, to implement the change. This burdensome process would be inconsistent with the principles and polity of The Episcopal Church, and would deprive the Diocesan *amici* of using a property arrangement that is available to all other voluntary associations in the Commonwealth.

³Each Diocese requires parish vestries to appoint trustees to hold title to real property. Canon 17 of the Canons of the Episcopal Diocese of Southwestern Virginia; Canon XVIII of the Canons of the Episcopal Diocese of Southern Virginia. See also Canon 21 of the Canons of the Episcopal Diocese of Southwestern Virginia and Canon XXVII of the Canons of the Episcopal Diocese of Southern Virginia (each prohibiting a vestry from alienating any real property without the consent of the Bishop and the Standing Committee of the Diocese).

The Circuit Court reached its conclusions by relying on case law interpreting a statute that has been repealed, leading it to a result that conflicts with the statutes now in effect (which expressly recognize a trust in favor of a “church diocese” and thereby make Code § 57-9(A) inapplicable to the property at issue). Moreover, Code § 57-9(A) itself is an unconstitutional intrusion on religion. This Court should grant the Petitions for Appeal to address these substantial questions, and should then reverse the Circuit Court’s rulings.

STATEMENT OF THE CASE

The Diocesan *amici* adopt the “STATEMENT OF THE NATURE OF THE CASE AND MATERIAL PROCEEDINGS BELOW” contained in the Petition for Appeal filed by The Protestant Episcopal Church in the Diocese of Virginia (“Diocese of Virginia”). As particularly pertinent to this Brief, the Diocesan *amici* add the following:

The Circuit Court repeatedly held that Virginia law does not, and will not, recognize a trust in favor of a church diocese or in favor of The Episcopal Church. Court’s Letter Opinion on Constitutionality, June 27, 2008 at p. 23 n.24; Letter Opinion on the Court’s Five Questions, June 27, 2008 at pp. 13-14; Letter Opinion, December 19, 2008 at p. 9. Although stating that it based its conclusion, at least in part, on Virginia law in effect in 1867, the Circuit Court plainly held that this law remains unchanged: “Thus, 57-7.1 did not

change the policy in Virginia, which is that church property may be held by trustees for the local congregation, not for the general church." Letter Opinion on the Court's Five Questions, June 27, 2008 at p. 14; Letter Opinion, August 19, 2008 at p. 12 n.22.

Appellants/Petitioners argued that this conclusion is contradicted by the plain language of Virginia Code 57-7.1, which specifically validates a trust in favor of a "church diocese" and provides that such trusts *are not* too indefinite to be enforced under Virginia law so long as certain minimal criteria are established.

The Circuit Court impermissibly expanded Virginia Code § 57-9(A) to embrace property held in trust *for a church diocese*. Rejecting the argument that the statute applies only to property held in trust for a congregation, the Circuit Court dismissed the statutory phrase "congregation whose property is held by trustees" as "simply a reference to the property at issue." It thus concluded that the identity of the beneficial owner of the property is irrelevant. Letter Opinion on the Court's Five Questions, June 27, 2008 at pp. 12 & 14.

As

discussed below, a proper interpretation of the applicable statutes, recognizing and validating the trust in favor of the Diocese of Virginia and The Episcopal Church, would have avoided the application of Code § 57-9(A) – and the related constitutional issues – altogether.

ASSIGNMENTS OF ERROR

The Diocesan *amici* believe that all of the Assignments of Error contained in the Petition for Appeal filed by the Diocese of Virginia, and in the Petition for Appeal filed by The Episcopal Church, are meritorious. In this Brief, however, the arguments of the Diocesan *amici* relate primarily to Assignment of Error No. 2 and Assignment of Error No. 4 contained in the Petition for Appeal filed by the Diocese of Virginia, and to Assignment of Error No. 4 and Assignment of Error No. 5 contained in the Petition for Appeal filed by The Episcopal Church. The decision of the Diocesan *amici* to focus on these issues in no way reflects disagreement with any of the other issues or arguments raised in the Petitions for Appeal.

QUESTIONS PRESENTED

- I. **Did the Circuit Court Err in Ruling That a Trust in Favor of a Church Diocese (Or Of a Hierarchical Church) is Too Indefinite to Be Enforced Under Virginia Law, Ignoring the Plain Language of Virginia Code §57-7.1?**
- II. **Did the Circuit Court Err in Applying Code § 57-9(A) to Real Property That Is In Fact Held in Trust for the Diocese of Virginia and The Episcopal Church?**
- III. **By Applying Different Rules to Congregational and Hierarchical Churches, and Invalidating the Governing Rules of Hierarchical Churches (Alone Among Voluntary Associations) Where Real Property is Titled in the Name of Trustees, Does Code 57-9 Violate Article 1, Section 16 of the Constitution of Virginia and the First Amendment to the Constitution of the United States?**

STATEMENT OF FACTS

The Diocesan *amici* adopt the Statement of Facts contained in the Petition for Appeal filed by the Diocese of Virginia and the Statement of Facts contained in the Petition for Appeal filed by The Episcopal Church.

ARGUMENT AND AUTHORITIES

I. THE TRIAL COURT ERRED IN HOLDING THAT VIRGINIA DOES NOT RECOGNIZE A TRUST IN FAVOR OF A CHURCH DIOCESE OR A HIERARCHICAL CHURCH.

A. Code § 57-7.1 Expressly Validates a Trust in Favor of a “Church Diocese.”

The Circuit Court’s ruling that a trust in favor of a church diocese (or of a hierarchical church) is too indefinite to be enforced under Virginia law ignores the plain language of Virginia Code § 57-7.1.

The Circuit Court based its ruling on this Court’s decisions in *Green v. Lewis*, 221 Va. 547, 272 S.E.2d 181 (1980) and *Norfolk Presbytery v. Bollinger*, 214 Va. 500, 201 S.E.2d 752 (1980).⁴ See Court’s Letter Opinion on Constitutionality, June 27, 2008 at p. 23 n.24; Letter Opinion on the Court’s Five Questions, June 27, 2008 at p.13. But it relied on language construing Virginia Code § 57-7, a statute that was repealed by the General Assembly in 1993. As this Court noted, the now-repealed Code § 57-7

⁴This Court in subsequent opinions has referred to the *Norfolk Presbytery* case as *Presbytery v. Grace Covenant Church*.

validated trusts for the benefit of a church diocese only for certain limited, specified purposes. *Norfolk Presbytery*, 214 Va. at 506, 201 S.E.2d at 757.

As this Court explained the now-repealed language:

The 1962 amendment to § 57-7, Acts 1962, c. 516, broadened the scope of religious trusts to include property conveyed or devised for the use or benefit of a church diocese for certain residential purposes. The General Assembly has not gone beyond this, however, to validate trusts for a general hierarchical church and such trusts would be invalid.

Norfolk Presbytery, 214 Va. 500 at 506-507, 201 S.E.2d at 757-58.

The General Assembly, with the repeal in 1993 of Code § 57-7 and enactment of Code 57-7.1, purposefully recognized the validity of trusts in favor of a church diocese for general church purposes.⁵ Current Code § 57-7.1 states:

§ 57-7.1. What transfers for religious purposes valid. — Every conveyance or transfer of real or personal property, whether *inter vivos* or by

⁵As noted above, a “church diocese” is a constituent part of a hierarchical church, and the Diocese of Virginia and the Diocesan *amici* comprise part of the first level of governance below The Episcopal Church itself. The Canons of The Episcopal Church provide that property is held in trust for The Episcopal Church and the Diocese in which the property is located. See Section I.C, *supra*. Whether or not this Court chooses to read the language of Code § 57-7.1 to authorize a trust in favor of The Episcopal Church, it has expressly recognized that the trust canons establish enforceable contractual and proprietary rights in favor of a hierarchical church. *Green v. Lewis*, 221 Va. 547, 553, 272 S.E.2d 181, 184 (1980); *Norfolk Presbytery*, 214 Va. at 507, 201 S.E.2d at 758.

will, which is made to or for the benefit of any church, *church diocese*, religious congregation or religious society, whether by purchase or gift, shall be valid.

Any such conveyance or transfer that fails to state a specific purpose shall be used for the religious and benevolent purposes of the church, *church diocese*, religious congregation or religious society as determined appropriate by the authorities which, under its rules or usages, have charge of the administration of the temporalities thereof.

Virginia Code § 57-7.1 (emphasis added).⁶ The new statute plainly “went beyond” old Code § 57-7 by recognizing trusts for a church diocese, a constituent part of a hierarchical church.

The Circuit Court simply read the words “church diocese” out of the current statute. That is impermissible. *Jones v. Conwell*, 227 Va. 176, 181, 314 S.E.2d 61, 64 (1984) (“The rules of statutory interpretation argue against reading any legislative enactment in a manner that will make a portion of it useless, repetitious, or absurd. On the contrary, it is well established that every act of the legislature should be read so as to give reasonable effect to every word”); *Hubbard v. Henrico Ltd. P’ship*, 255 Va. 335, 340, 497 S.E.2d 335, 338 (1998) (“[E]very part of a statute is presumed to have some effect and no part will be considered meaningless unless absolutely

⁶Effective July 1, 2005, the statute was amended slightly to remove the phrase “subject to the provisions of § 57-12” at the end of the first paragraph, as Code § 57-12 had been repealed.

necessary.”). Neither this Court’s decision in *Norfolk Presbytery*, which construed an earlier and now-repealed version of the statute, nor its decision in *Trustees of Asbury United Methodist Church v. Taylor & Parrish, Inc.*, 249 Va. 144, 452 S.E.2d 847 (1995) (also relied upon by the Circuit Court), which did not involve the validity or enforceability of a trust in favor of a church diocese, supports the Circuit Court’s construction of the statute.

Notably, none of the decisions cited and relied on by the Circuit Court interpreted the phrase “church diocese” to mean a local congregation. Rather, they construed the meaning of the phrases “church,” “religious congregation” and “religious society.” *See Norfolk Presbytery*, 214 Va. at 506, 201 S.E.2d at 757; *Moore v. Perkins*, 169 Va. 175, 181-82, 192 S.E. 806, 809 (1937). Manifestly, however, this Court understood the phrase “church diocese” to mean a larger territorial constituent of a hierarchical church – distinct from a “church,” “religious congregation” or “religious society.” *Norfolk Presbytery*, 214 Va. at 506-07, 201 S.E.2d at 757-58. When the General Assembly included the phrase “church diocese” in the enactment of Code § 57-7.1 it was presumed to know that the phrase meant something different than a local congregation. *Dodson v. Potomac Mack Sales & Service, Inc.*, 241 Va. 89, 94, 400 S.E.2d 178, 180 (1991) (“We assume legislative familiarity with Virginia case law when the legislature enacts a statute which might impact upon that law.”); *Shelor Motor Co. v.*

Miller, 261 Va. 473, 480, 544 S.E.2d 345 (2001) (“[W]hen the General Assembly uses two different terms in the same act, those terms are presumed to mean two different things.”)⁷

B. The Diocese of Virginia Satisfies the Criteria of Code § 57-7.1, So that by Statute the Trust in Its Favor Cannot Fail for Indefiniteness.

The third paragraph of Code § 57-7.1 removes any argument that a trust in favor of a “church diocese” is too indefinite to be enforceable under Virginia law:

No such conveyance or transfer shall fail or be declared void for insufficient designation of the beneficiaries in any case where the church, church diocese, religious congregation or religious society has lawful trustees in existence, is capable of securing the appointment of lawful trustees upon application as prescribed in § 57-8, or has ecclesiastical officers pursuant to the provisions of § 57-16.

So long as the church diocese has trustees lawfully appointed to hold title for its benefit, or is capable of appointing trustees to hold title for its benefit, the trust cannot fail for indefiniteness. In this case, trustees were lawfully appointed by the vestry of each of the parishes, pursuant to Code § 57-8, to

⁷The phrase “church diocese” has a settled legal meaning, in that a “diocese” is “A territorial unit of the church, governed by a bishop, and further divided into parishes.” BLACK’S LAW DICTIONARY (8TH ED. 2004). As this Court has pointed out, “[I]f a term has a known legal definition, that definition will apply unless it is apparent that the legislature intended otherwise.” *Chappell v. Perkins*, 266 Va. 413, 420, 587 S.E.2d 584, 588 (2003).

hold the real property for the benefit of the Diocese of Virginia and The Episcopal Church as specified in the Constitutions and Canons of both entities, so there were lawful trustees in existence. (And the Diocese of Virginia certainly, under Code § 57-8, is capable of securing the appointment of lawful trustees.⁸)

C. The Record Evidence Establishes The Trust in Favor of The Diocese of Virginia and The Episcopal Church.

Code § 57-7.1 compels the conclusion that a trust in favor of a church diocese is valid and enforceable under Virginia law. Here, the trust in favor of the Diocese (and The Episcopal Church) was clearly established on the record evidence. As the Diocese of Virginia points out in its Petition for Appeal, the Canons of The Episcopal Church provide that:

All real and personal property held by or for the benefit of any Parish, Mission or Congregation is held

⁸Until July 1, 2005, Virginia Code § 57-8 specifically provided for the appointment of trustees “on the application of the proper authorities of such church diocese....” Effective July 1, 2005, the statute was amended to eliminate specific references to a “church diocese” and a “religious congregation,” and to refer instead to the proper authorities of an “unincorporated church or religious body....” 2005 Va. Acts, ch. 772. This Court, notably, has previously affirmed a trial court’s determination that a church diocese is a “religious body” as that term was used in prior Code § 58-12. *Cudlipp v. City of Richmond*, 211 Va. 712, 713, 180 S.E.2d 525, 526 (1971). See also Va. Code § 57-15 (“The trustees of such *church diocese*...in whom is vested the legal title to such land held for any of the purposes mentioned in § 57-7.1, may file their petition in the circuit court....) (emphasis added).

in trust for this Church and the Diocese thereof in which such Parish, Mission or Congregation is located.

Petition at 20 (citing Canon I.7.4 Canons of The Protestant Episcopal Church in the United States of America). Various Diocesan Canons confirm this trust. *See id.* at 20.⁹ In the years after the enactment of these provisions, the respondents/appellees recognized the binding effect of these provisions and agreed to abide by them.¹⁰

Other Courts have held the provisions of The Episcopal Church Canons, and similar Diocesan Canons, legally sufficient to create a binding trust in favor of the Diocese and The Episcopal Church. *E.g., In re Episcopal Church Cases*, 198 P.3d 66 (Ca. 2009); *Diocese of Rochester v. Harnish*, 899 N.E.2d 920 (N.Y. 2008); *In re Church of St. James the Less*, 888 A.2d 795 (Pa. 2005); *Daniel v. Wray*, 580 S.E.2d 711 (N.C. Ct. App. 2003); *Episcopal Diocese of Mass. v. DeVine*, 797 N.E.2d 916 (Mass. App. Ct. 2003).¹¹

⁹This is in accordance with Canon I.7.5 of the Canons of The Episcopal Church, which provides that, “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.”

¹⁰See Diocese of Virginia Petition for Appeal, footnote 1. Every parish either would have voted on the Diocese of Virginia’s trust canon through its representatives at an annual council, or else joined after the Canon was in place.

¹¹The Episcopal Church cites additional cases in its Petition.

II. CODE § 57-9(A) HAS NO APPLICATION HERE, BECAUSE THE PROPERTY AT ISSUE IS NOT CONGREGATIONALLY-OWNED.

Code § 57-9(A) is wholly inapplicable to the dispute here. That Code

Section provides:

If a division has heretofore occurred or shall hereafter occur in a church or religious society, *to which any such congregation whose property is held by trustees is attached*, the members of such congregation over 18 years of age may, by a vote of a majority of the whole number, determine to which branch of the church or society such congregation shall thereafter belong. Such determination shall be reported to the circuit court of the county or city, wherein the property *held in trust for such congregation* or the greater part thereof is; and if the determination be approved by the court, it shall be so entered in the court's civil order book, and shall be conclusive as to the title to and control of any property *held in trust for such congregation*, and be respected and enforced accordingly in all of the courts of the Commonwealth.

(Emphasis added.) As the Diocese of Virginia and The Episcopal Church argued below, and as the Diocese of Virginia argues in its Petition, Code § 57-9(A) applies only to property that is congregationally-owned – i.e., property that is “held in trust for [the petitioning] congregation.” But the property here was not held by the trustees “for the benefit of [the petitioning] congregation[s].” Rather, the trustees expressly hold title for the use and benefit of the Diocese of Virginia and The Episcopal Church. Code § 57-9(A), therefore, has no application to the dispute.

This proper construction of the statute comports with three well-established legal principles. First, it limits the ability of a local congregation to take action contrary to the governing documents and rules of the hierarchical church to which it agreed to be bound. This Court recognized the unfairness of such actions in *Norfolk Presbytery*. 214 Va. at 507, 201 S.E.2d at 758.¹²

Second, this construction comports with this Court's decision in *Green v. Lewis*, 221 Va. 547, 553, 272 S.E.2d 181, 184 (1980), in which the Court made clear that:

We construe Code § 57-15 to require that a church property transfer may be ordered only upon a showing that this is the wish of the duly constituted church authorities having jurisdiction in the premises. . . . [The statute] now contemplates that the general church, or a division thereof, or certain ecclesiastical officials may be the proper parties to approve such a property transfer. In determining the proper party to approve the property transfer, the trial court must look to the organizational structure of the church.

(quoting *Norfolk Presbytery*, 214 Va. at 502, 201 S.E.2d at 754-55.)

Third, and most significantly, this construction would permit the Court to avoid altogether the Constitutional issue presented by the distinction that

¹²Indeed, in *Norfolk Presbytery*, this Court made clear that, even though Virginia law would not recognize a trust in favor of a hierarchical church at that time, “the language of the deeds and the constitution of the general church should be considered by the trial court in the application of neutral principles of law.” in determining ownership of the property. 214 Va. at 507, 201 S.E.2d at 758.

Code § 57-9 makes between hierarchical churches and congregational churches, and by its targeting only property held in the name of trustees. See *Eaton v. Davis*, 176 Va. 330, 339, 10 S.E.2d 893, 897 (1940) (“[A] statute will be construed in such a manner as to avoid a constitutional question wherever this is possible.”).

III. CODE § 57-9 IS UNCONSTITUTIONAL ON ITS FACE BECAUSE IT APPLIES ONLY TO CHURCH PROPERTY HELD BY TRUSTEES, AND THEN DISCRIMINATES BETWEEN HIERARCHICAL CHURCHES AND CONGREGATIONAL CHURCHES.

Article I, Section 16 of the Constitution of Virginia provides, in pertinent part, “[T]he General Assembly shall not...confer any peculiar privileges or advantages on any sect or denomination.” Va. Con. Art. 1 § 16.

Moreover, “Respect for the First Amendment free exercise rights of persons to enter into a religious association of their choice, as delineated in *Jones v. Wolf*, [443 U.S. 595 (1979)]...requires civil courts to give effect to the provisions and agreements of that religious association.” *Episcopal Church Cases*, 198 P.3d at 82.

Code § 57-9, on its face, runs afoul of both of these rules. As this Court has previously noted, Code § 57-9 distinguishes between hierarchical churches and congregational churches. *Baber v. Caldwell*, 207 Va. 694, 698, 152 S.E.2d 23, 26-27 (1967). As a part of this distinction, it applies a different rule of decision for each. The Circuit Court recognized this, explaining that

the express terms of Code § 57-9 “reflect a determination by the Virginia legislature to protect the voting rights of any local congregation which is subject to a hierarchical church’s constitution or canons.” Letter Opinion on the Applicability of Va. Code § 57-9(A), April 3, 2008 at p. 48. The Circuit Court further noted that the statute “defers completely to the independent church’s constitution, ordinary practice, or custom” in resolving the dispute over ownership of the property, but “shows no such deference” to the constitution or rules of a hierarchical church. *Id.* But the United States Supreme Court has made clear that the “principle of denominational neutrality...‘is absolute.’” *Larson v. Valente*, 456 U.S. 228, 246 (1982) (quoting *Epperson v. Arkansas*, 393 U.S. 97, 106 (1968)). A law that applies different rules to different religious denominations, as Code § 57-9 does, “must be invalidated unless it is justified by a compelling governmental interest” and “is closely fitted to further that interest.” *Larson*, 456 U.S. at 247.

Under this test, Code § 57-9 cannot stand. The Circuit Court’s characterization of the statute as one that favors congregational churches over hierarchical churches – and that therefore is not “neutral” or of “general applicability” is inescapable. Merely providing a mechanism for the resolution of church property disputes does not equate to a “compelling interest” on the part of the Commonwealth, and it is difficult to discern what “compelling

interest” the Commonwealth could be furthering by establishing *different* rules for different forms of religious bodies and establishing a different rule for church property than for property held by other forms of voluntary associations.

Even the argument that the statute seeks to impose some principle of “majority rule” fails the test of neutrality, for at least two reasons. First, as noted above, the statute applies different rules to different religious denominations. Indeed, no such principle of “majority rule” applies to other voluntary associations. To the contrary, this Court has held that the rights of all members of a voluntary association are found in the association’s constitution and rules. *E.g., Amalgamated Clothing Workers of America v. Kiser*, 174 Va. 229, 235-36, 6 S.E.2d 562, 564 (1940).

Second, the statute applies *only* where property is titled in the name of trustees – raising additional constitutional questions. In this case, had the respondent/appellee parishes incorporated, and titled the property in the name of the corporation, Code § 57-9(A) would not have applied at all.¹³ In such cases, presumably, the court would look to “neutral principles” –

¹³Indeed, the Circuit Court in this case held that funds in the respondent/appellee The Falls Church endowment fund were not covered by Code § 57-9 because the funds were not titled in the name of Trustees. Letter Opinion, December 19, 2008 at pp. 12-13.

including the language of the deeds and the constitution of the general church, *Green v. Lewis*, 221 Va. at 555, 272 S.E.2d at 185-86 – to determine ownership. There is no principled basis on which those governing documents and rules can be enforced in one case and not in the other¹⁴, just as there is no principled basis on which the governing documents and rules of a congregational church can be enforced while those of a similarly-situated hierarchical church are ignored.


CONCLUSION

For all of the foregoing reasons, the Diocesan *amici* respectfully urge the Court to grant the Petitions for Appeal filed by the Diocese of Virginia and The Episcopal Church, and to review and reverse the judgments in favor of the respondents/appellees under Code § 57-9.

¹⁴Even if such a distinction could be supported on the basis that Virginia, at one time, did not recognize a trust in favor of a hierarchical church, such a distinction is no longer viable given the express validation of such trusts contained in Code § 57-7.1. Moreover, Virginia law does not place other voluntary associations at risk of having their governing documents and rules invalidated, and thereby losing their property, merely because their property is titled in the name of trustees.

Respectfully Submitted,

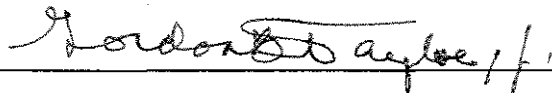
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