

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BROOME

The Diocese of Central New York,
Plaintiff,

AFFIDAVIT

Index No. 2008-000980

– against –

The Rector, Church Wardens, and
Vestrymen of the Church of the Good
Shepherd,
Defendant.

STATE OF FLORIDA)
COUNTY OF ST LUCIE) ss:

George Arthur Munger Conger, being duly sworn, deposes and says:

1) I am a priest of the Episcopal Diocese of Central Florida and am Chief Correspondent of *The Church of England Newspaper*, a newspaper with editorial offices in London, England which has reported on events of the Episcopal Church and the churches of the world-wide Anglican Communion for 180 years, and am a contributor to the *Living Church*, a magazine with editorial offices in Milwaukee, Wisconsin that has reported on the events of the Episcopal Church of the United States for 130 years. Over the past decade I have published over 2000 news articles in these two publications, and am a contributor to a wide range of newspapers, magazines and journals. I was educated at Duke and Yale Universities and have completed all but my dissertation for the degree of Doctor of Philosophy in Ecclesiastical History from Oxford University, and am familiar with and have had substantive experience in archival research. It was in my capacity as a writer for the *Living Church* and *The Church of England Newspaper* that I undertook an investigation of the claims which have been raised in the last few years to the effect that the property canons, commonly known as the Dennis Canon, failed to pass the 1979

General Convention which was held in Denver Colorado from September 9, 1979 to September 20, 1979.

2) I became aware of the claims that there were gaps, errors and omissions in the record contained in the *Journal of the General Convention of 1979* concerning the action taken on the Dennis Canon in 2005, and in 2007 sought and was granted permission to research the original documents in the archives of the Episcopal Church in order to seek to answer the question as to whether the Dennis Canon was lawfully adopted at the 1979 General Convention.

3) I know that the Rules of Order of the Constitution of the General Convention of the Episcopal Church, in which I have served as a clergyman for the last 11 years, requires that all canons adopted by the Convention be adopted in identical format by both the House of Bishops and the House of Deputies at the same convention. These conventions meet every three years for about 12 days, and consider many hundreds of resolutions, some of which are passed by one or the other house of the convention, and some of which are passed by both houses and therefore become the actions of the convention, and in the case of a new canon, become the canons of the Church. In the legislative process many committees pass on proposed legislation, and there is a constant flow of documentation between these two houses of the convention. There are hundreds of deputies meeting on the floor of the House of Deputies, and over a hundred bishops meet in the House of Bishops. They sit as separate legislative bodies and many hundreds of resolutions are voted upon, messages are sent from one house to another with the matters which have been passed, or in some cases amended and require reconsideration by the other house.

Many items are introduced and voted down, and many are not reached or fail to pass one or both houses of the convention. After some resolutions are adopted by one house, it is not uncommon for them to be sent to committees which may amend the legislation. If amendments are made, each house must separately adopt the amended resolution in identical format. I have been accredited as a reporter to the last four General Conventions, and I have witnessed this process as it has occurred, and reported on it for the religious media which I have represented and for which I have written. I have seen the clerks taking minutes of these meetings as they were being generated and the calendars of the houses of the convention which were in use each day, and have seen many of the resolutions, and am familiar with the format of the documents which comprise the legislation of the convention. Hence in visiting the archives of the Church I was seeking out the underlying documentation which would demonstrate whether or not each of the two houses of the General Convention which met in Denver, Colorado in September of 1979 passed identical copies of the Dennis Canon so as to permit it to become part of the canons governing the Episcopal Church.

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 researches 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. My review of the archival records found that many of the documents supporting the statements made in the 1979 Journal were not to be found. I found no records of the minutes of proceedings of the House of Bishops and House of Deputies, and a number of resolutions adopted by the Convention lacked supporting document. The records of the proceedings of the House of Bishops were not present, save for those appended to Committee Reports. I found no master list of documents for that Convention in the archives, nor did I observe any protections or mechanisms safeguarding the integrity of the documents from theft or alteration.

5) I reviewed in the Journal pages B-60 and B-61 which recites resolution D-24 as contained in Message No. 76, and I located in the records of the house of bishops for September 13, 1979 a typewritten resolution which is the original of the document from which the journal entry was written. A copy of resolution D-24 as contained in Message No. 76 is annexed hereto as Exhibit "A"

6) That document reflects that it went for action to the House of Bishops and on the fifth day of the session, September 13, 1979 and was sent by "message # 76" to the Deputies stating they (the bishops) had adopted the Resolution with amendments.

7) There are three "Resolved" clauses in this document.

- 8) The first resolved clause of the resolution is the proposed amendment to Canon I.6 adding a new Section 4 as follows: “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.”
- 9) The second “Resolved” clause of the resolution is the proposed amendment to Canon I.6 adding a new Section 5 as follows: “The several Dioceses may, at their election, further confirm the trust declaring 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 third and last “Resolved” clause of the resolution is a provision which says that the amendments to Canon I.6 shall “become effective upon enactment by the General Convention.”
- 11) I also found a copy of Committee Report 13 as contained in Message No. 75 which is annexed hereto as Exhibit “B” This is the resolution make a canon change to Canon II.7 by added a new Section 3
- 12) On Sept 17, 1979 Committee 5 of the House of Deputies: the Canons Committee issued

Report Number 32, and in that report, signed by D. Rebecca Snow, committee chairman, it “recommends: concurrence with HBM #75 & HBM #76, the effect of which is shown on the attached text.” A copy of the Sept 17, 1979 Committee 5 of the House of Deputies: the Canons Committee issued Report Number 32 is annexed hereto as Exhibit “C”

13) There were some records for each day of the convention, but on the 10th legislative day when the House of Deputies is reputed to have adopted the Dennis Canon, the record becomes quite sketchy since the supporting documentation ends.

14) I reviewed the Handbook of the Secretary of the House of Deputies. This book contained all of the legislative actions and committee reports, and was where the reports on legislation from the 10th day of Convention should have been located, but they were not there. Days 1 through 9 inclusive were present, as was day 11, but all there was from the 10th day was the consent calendar. All that had survived in the documentary record was the 10th day’s agenda with handwritten pen annotations made on the by the Secretary of the House on the typed calendar of the actions to be addressed that day. A copy of the September 19, 1979 Calendar with the handwritten marks is annexed hereto as Exhibit “D”

15) While other agenda items were checked or marked by pen on the typed calendar, the Dennis Canon was not marked off in any manner whatsoever. The references to the Dennis Canon is listed as Item #14 as “Report of Committee #5 on Canons H/B 75 and H/B 76 (D-24) (See Committee Report) Amend Canon I-5 and Canon II-7” on the bottom of the first page of

that September 19, 1979 Calendar of the House of Deputies. Most all of the other calendar items were checked or marked, but not the Dennis Canon.

16) Further documentary evidence of the Dennis Canon, Resolution D-24 as contained in Message No. 76 and Committee Report 13 as contained in Message No. 75 was not in the records which I examined.

17) I did a complete search of the all of the records held by the Archive for the 1979 General Convention to see if these missing records might be out of order and misfiled, but did not find them. In that search I examined the “print shop” binder—a record of all items sent for duplication, and there I found only the 10th day summary. On page 9, the summary reports resolution D-24 as amended was adopted by the Deputies, and message 204 memorializing this action was sent to the House of Bishops—however no copy of this message has survived either, and is known only by that reference.

18) In closing, I hereby express no opinion as to the legal significance of my findings that much of the documentation relating the Dennis Canon of the 1979 General Convention is missing from the archives and cannot be verified. I do affirm that the facts laid out by me in the above statement are a correct account of what I found in my researches in the archives of the Episcopal Church. I have given this affidavit at the request of Raymond Dague, attorney for the Church of the Good Shepherd in Binghamton, New York, and I understand that it will be used in litigation, and I so consent to its use.

George Conger

Sworn to before me this
8th day of December, 2008

notary public