

## VOLUME X

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

STATE OF SOUTH CAROLINA

COURT OF COMMON PLEAS

COUNTY OF DORCHESTER

CASE NO. 2013-CP-18-00013

THE PROTESTANT EPISCOPAL )  
 CHURCH IN THE DIOCESE OF )  
 SOUTH CAROLINA, THE )  
 TRUSTEES OF THE PROTESTANT )  
 EPISCOPAL CHURCH IN SOUTH )  
 CAROLINA, A SOUTH CAROLINA )  
 CORPORATE BODY, ET AL., )

TRANSCRIPT OF RECORD

JULY 21, 2014  
 ST. GEORGE, SC

vs.

THE EPISCOPAL CHURCH, )  
 (A/K/A THE PROTESTANT )  
 EPISCOPAL CHURCH IN THE )  
 UNITED STATES OF AMERICA); )  
 THE EPISCOPAL CHURCH IN )  
 SOUTH CAROLINA, )

B E F O R E:

HONORABLE DIANE S. GOODSTEIN

Ruth L. Mott, RPR, CRR  
 Official Court Reporter

## 1 I N D E X

2

3 WITNESS DIRECT CROSS REDIRECT RECROSS

4 WALTER EDGAR

MR. TISDALE 1760

5 MS. GOLDING 1878

MR. RUNYAN 1902

6 MS. KOSTEL 1908 1910

7

- - -

8

## 9 E X H I B I T S

10 NO. DESCRIPTION ID EVD

11 D-17 PROCEEDINGS OF MEETING 1834

12

- - -

13

14

15

16

17

18

19

20

21

22

23

24

25

1 THE COURT: All right. Anything before we begin from  
2 the plaintiffs?

3 MR. RUNYAN: Your Honor, we just have an inquiry. We're  
4 starting our third week today, and I just would like to know  
5 if we can get some sense of when they might finish. We have  
6 a few scheduling issues with a couple of reply witnesses, and  
7 if I could get some rough sense, that would help.

8 THE COURT: Great. Rough, rough, rough sense.

9 MR. TISDALE: I'm going to do the best to comment on  
10 that, Your Honor. Certainly I think it's pretty certain we  
11 will not finish today. Possibly, I suppose, we could finish  
12 tomorrow.

13 THE COURT: Okay.

14 MR. TISDALE: To be on the safe side, with follow-up  
15 stuff at the end and cleanup, no later than Wednesday.

16 MR. RUNYAN: Okay.

17 THE COURT: When you say "Wednesday," Wednesday midday?

18 MR. TISDALE: Perhaps tomorrow, if we're lucky.

19 THE COURT: Okay, great.

20 MR. TISDALE: Do you agree, Mary?

21 MS. KOSTEL: Yes, I do. I think Your Honor will recall  
22 that last week we were talking about parish-specific  
23 exhibits, and we're working hard together, and I think while  
24 there may be -- there will be some relevance objections, so  
25 far there's been no suggestion that we need to bring a

1 witness to put on any parish, so that's -- you know, that's  
2 the only thing that could extend the length of our case.

3 THE COURT: Of course.

4 MS. KOSTEL: So far so good, but I can't give a full  
5 report on that yet.

6 THE COURT: Perfect. Thank you so much. That's great.  
7 So is that helpful?

8 MR. RUNYAN: Yes, Your Honor. Thank you.

9 THE COURT: Great. Call your next witness.

10 MR. TISDALE: Walter Edgar.

11 WALTER EDGAR,  
12 being first duly sworn, testified as follows:

13 MR. TISDALE: Your Honor, Ms. Kostel, Mary Kostel's  
14 going to help with the documents. There will be a lot of  
15 documents to put on the screen with his testimony and she's  
16 agreed to handle that aspect of it.

17 THE COURT: Aren't you glad?

18 MR. TISDALE: Very.

19 THE COURT: If you would state your full name for the  
20 record for us and spell your last name.

21 THE WITNESS: Walter Bellingrath Edgar.

22 THE COURT: Your witness.

23 MR. TISDALE: Thank you. Thank you, Your Honor.

24 DIRECT EXAMINATION BY MR. TISDALE:

25 Q. Dr. Edgar, I want to start asking you just a few

1 questions about your background. Where were you born and  
2 grew up?

3 A. I was born and reared in Mobile, Alabama.

4 Q. And at the very beginning I want to ask you if you're  
5 affiliated with any particular religious denomination.

6 A. I grew up in All Saints Episcopal Church in Mobile,  
7 Alabama, and I currently attend Trinity Episcopal Cathedral  
8 in the state capital.

9 Q. Are you a communicant -- that means a member I guess --  
10 of Trinity in Columbia?

11 A. Yes, I'm a member, very active member, served on the  
12 vestry diocesan delegate, Sunday school teacher, youth  
13 leader.

14 Q. And, as a matter of fact, I think you're in the middle  
15 of trying to write a history of our Trinity Church in  
16 Columbia, are you not?

17 A. Yes, sir, I am. It's not very easy writing a  
18 congregational history.

19 Q. All right. Now, one day last week it was mentioned by  
20 Ms. Neumann, I believe, and in testimony it was asked by Mr.  
21 Runyan about your involvement in the Episcopal Church on  
22 Edisto Island. Have you had a connection down there?

23 A. My wife and I had a vacation home in Edisto, and when we  
24 travel on vacation, whether it's at Edisto or in Europe, we  
25 always choose to worship at a church affiliated or in

1 communion with the Archbishop of Canterbury, a member of the  
2 Anglican communion.

3 For a number of years we worshiped at Trinity Edisto, we  
4 gave money to Trinity Edisto. We now worship with the  
5 Episcopal Church on Edisto when we're on the island.

6 Q. Were you ever an official member or communicant of  
7 either Trinity or Edisto --

8 A. No, sir.

9 Q. -- of an Episcopal Church on Edisto?

10 A. No, sir. My membership -- I've had two memberships in  
11 my life, the church in which I grew up, All Saints, Mobile,  
12 and then I was transferred to Trinity Columbia in 1972.

13 Q. Now, Dr. Edgar, let's talk about your professional life  
14 for a few minutes.

15 What educational background do you have in your field of  
16 work?

17 A. I did my undergraduate work at Davidson College where I  
18 was a major in history, did my graduate work at the  
19 University of South Carolina, both my masters and my Ph.D.  
20 Among the individuals I studied with are renowned historians  
21 George C. Rogers, Jr. and Daniel Walker Hollis.

22 After my military service I had a postdoctoral  
23 fellowship from the National Archives and worked on the  
24 papers of Henry Laurens, which were housed -- the editorial  
25 project was housed at the University of South Carolina.

1 Q. Have you been a faculty member at the University of  
2 South Carolina?

3 A. I have been a faculty member. In fact, I retired two  
4 years ago after 40 years at the University of South Carolina.

5 Q. And would you just give us an example of what you taught  
6 in your position on the faculty?

7 A. In the course of teaching, introduction to US history to  
8 250 students, South Carolina, 1670 to 1865. That was an  
9 upper division course. I taught courses in historic  
10 preservation. I taught honors seminars. I taught courses in  
11 contemporary southern culture, so -- and graduate seminars.  
12 I also directed theses and dissertations, graduate theses and  
13 dissertations.

14 Q. Have you written any books on history, books of history  
15 concerning the history of South Carolina?

16 A. I have written two books. One is "South Carolina in the  
17 Modern Age." The other is "South Carolina: A History," and  
18 I also was editor in chief of the South Carolina  
19 Encyclopedia.

20 Q. Did you not also write a book about the American  
21 Revolution in South Carolina?

22 A. Yes, sir, I did, "Partisans and Redcoats. The Southern  
23 Campaign that Turned the Tide of the American Revolution."

24 Q. Now, Dr. Edgar, in connection with preparing to testify  
25 in this matter, could you give the Court a general idea of

1 what sort of research, study and reading you have done to  
2 answer questions about documents that we would like to show  
3 you beginning in a few minutes?

4 A. Since I will be -- I am a factual witness, not an expert  
5 witness, I used primary documents, documents at the National  
6 Archives, documents at the South Carolina Historical Society,  
7 documents at the University of South Carolina, South  
8 Caroliniana Library, and those documents are detailed in the  
9 report that I believe, sir, is filed with this Court.

10 Q. Have you also studied, read and studied, journals of the  
11 convention of the Diocese of South Carolina?

12 A. Yes, sir. I have read every journal of the Diocese of  
13 South Carolina from 1785 to 2010.

14 Q. All right, sir. What has been your intent to learn  
15 about in the examination of all the documents you just  
16 testified about, testified that you looked at?

17 A. My intent was to learn about the relationship between  
18 the Diocese of South Carolina and the Episcopal Church.

19 Q. And the Judge has asked us, and we will try to do that,  
20 do this, when you say the Episcopal Church, do you mean the  
21 national church?

22 A. Yes, sir.

23 Q. One and the same for our conversation?

24 A. Yes, sir.

25 Q. All right. So let's ask you to begin in a minute by



1 taking a look at some of these documents. And I first would  
2 like to ask you to look at a series of documents and tell us  
3 from those documents what you can about the historic  
4 connection between the diocese and the national church.

5 MR. RUNYAN: Your Honor, we have an objection here.

6 THE COURT: Okay.

7 MR. RUNYAN: As a lay witness, I don't believe he can  
8 testify from documents in this fashion, nor do I believe that  
9 makes the documents admissible. He cannot offer opinion  
10 testimony. So we are at a place where he seeks to elicit  
11 from this witness information that is not in his personal  
12 knowledge as a lay witness and I don't think he can do that,  
13 and I can speak to that with case law as needed, but he's a  
14 lay witness, not an expert.

15 MR. TISDALE: Your Honor, we intend to show him a lot of  
16 documents that he knows of his own knowledge exist and knows  
17 the contents of. We're going to put them on the screen for  
18 everybody to see and ask him to read from them. That's all.  
19 He's not going to give any expert opinion about them. He's  
20 simply going to read from documents for what they say. And  
21 they are relevant to his study of the connection between the  
22 national church and the Diocese of South Carolina, which is  
23 certainly an issue in this case.

24 MR. RUNYAN: Your Honor, may I reference one case if I  
25 could?

1 THE COURT: Sure.

2 MR. RUNYAN: Watson versus Ford Motor Company, 389 South  
3 Carolina 434, 2010, Chief Justice Toal on behalf of a  
4 unanimous Court made the following assertion on Page 446:  
5 Expert testimony differs from lay testimony in that an expert  
6 witness is permitted to state an opinion based on facts not  
7 within his firsthand knowledge or may base his opinion on  
8 information made available before the hearing so long as it  
9 is the type of information that is reasonably relied upon in  
10 the field to make opinions.

11 On the other hand, a lay witness may only testify as to  
12 matters within his personal knowledge and may not offer  
13 opinion testimony which requires special knowledge, skill,  
14 experience or training.

15 By definition, based on the foundation that's been given  
16 so far, it is exactly that specialized knowledge and training  
17 that has allowed Dr. Edgar to selectively gather information  
18 to support the defendants' positions in this case. That is  
19 opinion testimony. And the documents themselves may or may  
20 not be independently admissible, I don't know the answer to  
21 that question, but he certainly can't go through documents  
22 extracting information as a lay witness.

23 THE COURT: Yes, sir.

24 MR. TISDALE: Your Honor, it's as if he's an  
25 investigator to testify on the basis of an investigation of

1 anything, and he's gone and investigated the history of this  
2 matter and he is providing exhibits, journals of the diocese,  
3 all of which have been provided to us by the plaintiffs, and  
4 he's going to show a document, he's going to read from that  
5 document to establish what it has to do with its relevance to  
6 this case, and I think it's certainly admissible testimony  
7 and he's simply presenting his research and his  
8 investigation.

9 THE COURT: Well, there are a couple of things that are  
10 ongoing with that. First thing is that the documents speak  
11 for themselves.

12 MR. TISDALE: They do.

13 THE COURT: And the documents -- I don't remember where  
14 we were in terms of admissibility or not. Some of them are  
15 going to be self-authenticating because they're ancient  
16 documents.

17 MR. TISDALE: They're their documents.

18 THE COURT: Yes.

19 MR. TISDALE: They say they are their documents.

20 THE COURT: And certainly, certainly, once the documents  
21 are in, you're entitled to a summary of excerpts from those  
22 documents.

23 MR. TISDALE: Yes.

24 THE COURT: But herein is the concern, and it's got to  
25 be one of two things. It's either got to be just the

1 documents and the documents speak for themselves, even if  
2 they are done in summary fashion, or based upon Mr. Edgar's  
3 knowledge, training and experience he is opining with regards  
4 to what the relationship may or may not be.

5 So while, just given the ease of it, it would certainly  
6 be nice for me to have somebody read me a story, I'm not  
7 allowed to do that.

8 MR. TISDALE: Right.

9 THE COURT: Because of -- and Mr. Runyan spoke of one  
10 case, but there are many cases that talk to expert testimony,  
11 so the question is when he does that, is he then going to say  
12 this is an example of the relationship that existed between  
13 the Diocese of South Carolina and the national church,  
14 which -- the National Episcopal Church. See, I've learned so  
15 much over the last two weeks. You know, we can do National  
16 Episcopal. I got that now.

17 But I guess that would be the question, and at the point  
18 in time when he shifts from saying this is what it says to  
19 this is what it means, it's at that point that we've come  
20 across to expert testimony, so that would be my question.

21 MR. TISDALE: Agreed, Your Honor, agreed, and I can tell  
22 you exactly what we intend to do is put a document on the  
23 screen, get him to identify the document, get him to say he's  
24 read this document, and ask him does this document contain  
25 anything in its own right, in its language, that has to do

1 with the issue we're interested in and will he read that  
2 portion. That's all.

3 THE COURT: That's expert testimony.

4 MR. RUNYAN: That is expert testimony.

5 THE COURT: For this reason, for this reason: Because  
6 he's a historian, familiar with these issues, at that point  
7 he is opining that this text has this meaning which is  
8 relevant to these issues.

9 MR. TISDALE: Okay. Well, Your Honor, let's take  
10 another look at it, and maybe we can handle it this way.

11 THE COURT: Okay.

12 MR. TISDALE: He was listed as an expert witness.

13 THE COURT: Yes.

14 MR. TISDALE: His deposition was scheduled.

15 THE COURT: Yes.

16 MR. TISDALE: They indicated they did not wish to take  
17 his deposition.

18 THE COURT: Yes.

19 MR. TISDALE: We thought it was a lot simpler then not  
20 to offer him as an expert because we thought his testimony's  
21 factual along the lines that we talked about; however --

22 THE COURT: Not only did you list him as an expert, I  
23 listed him as an expert in my order.

24 MR. TISDALE: However, he is an expert, and I just told  
25 Mr. Runyan Friday, I think, that we didn't think he would be

1 giving any expert testimony. We filed the report that you  
2 have that says he is.

3 THE COURT: Yes.

4 MR. TISDALE: So given your ruling, we offer him as an  
5 expert, exactly.

6 THE COURT: Now let's talk about that.

7 MR. TISDALE: All right.

8 THE COURT: Let's talk about that.

9 MR. TISDALE: Not your ruling but your indication?

10 THE COURT: Right. If he were to testify -- here's  
11 what's very clear: He's clearly an expert --

12 MR. TISDALE: Yes.

13 THE COURT: -- with regards to -- he's the preeminent  
14 expert regarding South Carolina history, period, nuance and  
15 all of it. I know when it comes to Charleston Robert Rosen,  
16 you know, he'd want to arm wrestle you about that.

17 THE WITNESS: We've discussed that, Your Honor.

18 THE COURT: I think he'd lose.

19 But, in any event, having said that, let me tell you  
20 what my concern is: My concern is that are we going to the  
21 hierarchical relationship, what are we doing when we do that.  
22 Help me there.

23 MR. TISDALE: Well, I mean his testimony will relate to  
24 beginning of what the relationship was between the Diocese of  
25 South Carolina and the national church, how it developed in

1 history, beginning -- our intent would be beginning in 1841.  
2 Then we would ask him to show documents that he's studied  
3 that show how the diocese conformed with the rules,  
4 constitution and canons of the national church. Then we  
5 would show about how the Diocese of South Carolina complied  
6 with all the constitution and canon provisions of the  
7 national church to divide the State of South Carolina into  
8 two dioceses in the early 20th Century. Then we would show  
9 how the Diocese of South Carolina complied with the national  
10 church canons by helping decide when the territories of  
11 dioceses in the United States could be modified.

12 We would show what evidence there is in documents that  
13 he's examined, journals of this diocese, of how they  
14 complied, this diocese complied with the constitution and  
15 canons generally of the Episcopal Church throughout history.

16 We would show further what was the relationship between  
17 the Diocese of South Carolina and the national church during  
18 the time of the Civil War, American Civil War.

19 We would then show -- we're getting near the end of what  
20 we would propose to show -- the financial assistance given by  
21 the Episcopal Church, the national church, throughout history  
22 to the Diocese of South Carolina and its parishes and the  
23 diocese, and it would go -- wind up with how the church has  
24 contributed to the pension fund of the priests and clergy who  
25 worked in this diocese, all based on documentation,

1 historical evidence, primary material as he said that he  
2 used.

3 THE COURT: Hold on one second because I want to hear  
4 your response to that in just a moment, but let me -- go  
5 ahead.

6 MR. TISDALE: Just one other thing. He doesn't plan to  
7 offer expert testimony to interpret what these documents say  
8 but to show the Court these documents.

9 THE COURT: Okay. Hold on one second.

10 (Brief pause.)

11 THE COURT: Anything else that you want to tell me  
12 about? I got what you're doing, and I think --

13 MR. TISDALE: He will show representative samples of  
14 works of history that establish the points that I mentioned.

15 THE COURT: Okay. I'm actually looking at Ms. Golding.

16 MS. GOLDING: Thank you, Your Honor.

17 THE COURT: Because here's the issue, and I'm speaking  
18 to you specifically and I want you to jump in and add  
19 anything you want, but I'm looking to you, and the reason  
20 that I'm looking to you is because the only relevance other  
21 than it would be wonderfully intriguing and I would be a  
22 smarter human being at the conclusion of his testimony, the  
23 only possible relevance to these issues in my mind is to  
24 constructive trust. I don't even think resulting trust.  
25 It's only constructive trust.



1           And so we would be looking at the relationship between  
2 the old garden variety go down that row with regards to a  
3 constructive trust and All Saints. Talk to me.

4           MS. GOLDING: Constructive trust with respect to All  
5 Saints -- the Court established there was no trust, and even  
6 though -- the opinion does not address the words  
7 "constructive trust," however, it was set, it was the  
8 position that there was an existence of a trust, and the  
9 parties used every minutia of trust law to try to establish  
10 there was a trust, but the Court, the Supreme Court, stated  
11 that the 1745 trust deed, because of the statute of uses,  
12 that was it, so in a sense there was no constructive trust  
13 because the Court said the statute of uses transferred the  
14 property into the parish.

15           THE COURT: And Jones versus Wolf talks about property  
16 being held in a trust and it can only exist if ab initio  
17 there is a -- it is created by a legally recognized  
18 instrument.

19           MS. GOLDING: Correct. And there was no legally  
20 recognized instrument other than the 1745 trust deed, which  
21 in actuality was a -- was a deed which created a trust. In  
22 this action, you know, with respect to between the diocese  
23 and the national church, there is no trust document --

24           THE COURT: No.

25           MS. GOLDING: -- between the national church and the

1 plaintiff dioceses, and that's the same with the national  
2 church and the plaintiff trustees; there is no trust  
3 document.

4 THE COURT: And, of course, I think it's fair to say  
5 that in the All Saints decision the Dennis canon, as it's  
6 been --

7 MS. GOLDING: Correct.

8 THE COURT: -- named is -- our South Carolina, our  
9 Supreme Court, metes -- that metes little recognition in our  
10 state.

11 MS. GOLDING: Correct. That was stated, absolutely, as  
12 not creating any type of trust relationship between the  
13 parties, the canon.

14 THE COURT: So the only relevance other than for my  
15 purposes, for the purposes of the Court, is the creation of a  
16 constructive trust, and I guess my question is, is there  
17 relevance in this testimony with regards to that.

18 And I can see from Mr. Tisdale's perspective that he  
19 would argue to me in going through this, Judge, what I'm  
20 showing here through the presentation of this testimony is  
21 that over time there has been the creation of a fiduciary  
22 duty and that these parishes, while they may hold title to  
23 property, that they are subject to an equitable duty to  
24 convey it on the ground that they would be unjustly enriched  
25 if they were permitted to retain it, and that's where I see

1 the relevance of his testimony.

2 MS. KOSTEL: Your Honor, when it's an appropriate time,  
3 could I speak to the issue of relevance too?

4 THE COURT: Absolutely, absolutely.

5 MS. GOLDING: Fiduciary duty, Your Honor, is a legal  
6 claim. It is not an equitable claim, Your Honor, so from  
7 that perspective I do not believe that would be applicable.

8 MR. TISDALE: Your Honor, I think also I'll just  
9 interject one other little thing that I think makes it  
10 relevant, is the use of the name "Episcopal" in a trademark  
11 situation, and this testimony will go to that issue as well.

12 THE COURT: Okay. Yes, I'm with you. I understand  
13 that.

14 MS. KOSTEL: Yes, and actually the control, the degree  
15 of control. I think that's what Mr. Tisdale's saying.

16 MR. TISDALE: Control.

17 THE COURT: That's hierarchical.

18 MR. RUNYAN: That's hierarchical.

19 THE COURT: That concerns me less. That's hierarchical.

20 MS. KOSTEL: I agree that it's relevant to hierarchy,  
21 but I think what Ms. Lott testified was that the entity that  
22 controls the nature of the services and the quality of the  
23 services is the entity whose mark then would be infringed,  
24 and so what some of this evidence that will come in through  
25 Professor Edgar will show is the degree of control, how much

1 is the Episcopal Church controlling the nature of the  
2 services and the quality of the services. That's another  
3 issue.

4 MR. TISDALE: Correct.

5 THE COURT: I gotcha. Yes.

6 MR. RUNYAN: There are completely independent bases for  
7 the objection as well that we haven't gotten to yet, but on  
8 the issue of a constructive trust, in South Carolina a  
9 constructive trust is not a fiduciary relationship. I would  
10 cite for that the case of, well, there are about five of  
11 them.

12 THE COURT: Similarly, constructive trust is not. Did I  
13 say it was? I meant not. I'm sorry.

14 MR. RUNYAN: There is no such thing in South Carolina as  
15 an implied trust independent of the two --

16 THE COURT: Right.

17 MR. RUNYAN: -- resulting trust and constructive trust.  
18 So I don't think it's relevant to that, but I will go on to  
19 tell you what I really stood up to say, and that is that,  
20 first of all, as an expert he has made it clear that the  
21 purpose of his testimony is about the hierarchical nature of  
22 the church, and I'll just read from Paragraph 2 of his  
23 summary.

24 As an example, I will testify about the governance of  
25 the diocese as prescribed by the constitution and canons of

1 the diocese and the Episcopal Church throughout history and I  
2 will testify about the structural nature of the church and  
3 explain its hierarchical nature, the ordering of its  
4 governance.

5 And following that he lists bullet points of factual  
6 information of the type that I would expect him to show on  
7 the screen, but, and here is the reason we did not take his  
8 deposition, at the conclusion of this report which is  
9 supposed to, according to the Court's order of June 9,  
10 contain the expert's opinions and the facts supporting each  
11 opinion. No opinion outside the opinions provided 72 hours  
12 prior to each expert's deposition can be offered at the trial  
13 of this action.

14 His concluding two paragraphs in his 12-page summary say  
15 as follows: I will use my expertise as a professional  
16 historian to give a proper analysis and interpretation of any  
17 of the voluminous documents that are involved in the factual  
18 history I have been asked to present. I will render an  
19 expert opinion whenever necessary to explain the context of  
20 the history of the diocese as it relates to these matters.  
21 It would be impossible for me to list each and every expert  
22 opinion I might be required to render because such will  
23 depend upon issues raised by the Court and counsel in search  
24 of correct interpretations of the documents I am asked to  
25 inspect.

1           In short, he says he's going to testify about the  
2 hierarchical nature, but other than that, he is -- they do  
3 not elicit in this report any opinions because I guess he was  
4 called upon himself to formulate them. He says it's  
5 impossible.

6           And so on that basis we don't think it complies with the  
7 Court's order as well.

8           THE COURT: I got it. Yes.

9           MS. GOLDING: The other final objection is that this  
10 witness does not have any qualifications in the religious  
11 aspect. He is not an expert in any religious area;  
12 therefore, he cannot testify as to what is hierarchical and  
13 what is not, because that's not within his expertise.

14          MR. CAMPBELL: Thank you, Your Honor. For the record,  
15 Pierce Campbell joining with Ms. Golding in that objection on  
16 behalf of my parishes.

17          The list Mr. Tisdale read out, even if that was somehow  
18 able to supplement the lack of a list in his original report,  
19 included many things about canonical law, pension funds and  
20 other things which, even if Dr. Edgar was considered an  
21 expert in historical matters, I do not believe that canonical  
22 law, pension fund, financial affairs goes to that history,  
23 and instead the document speaks for itself, as we've already  
24 said, and so trying to have a historian of some note reading  
25 it gives it some additional credibility to the Court when

1 really that's not an appropriate use of such an expert  
2 witness I don't believe.

3 THE COURT: Yes, sir, and yes, ma'am. I want to hear  
4 what you want to tell me.

5 MR. TISDALE: Your Honor, as I said, his testimony will  
6 be based on documents that he's researched, based on his  
7 expertise as a historian, and the documents do speak for  
8 themselves, and that's what he's going to do, plain and  
9 simple.

10 THE COURT: Got it. And, Ms. Kostel, I want to be sure  
11 I've heard everything you want to tell me.

12 MS. KOSTEL: I probably have more things to say about  
13 relevance, but I'm not sure that Your Honor wants to go  
14 there. We're entertaining a different topic now.

15 THE COURT: Yes, I want to hear it all, whatever you've  
16 got.

17 MS. KOSTEL: Okay. On relevance, obviously we think  
18 it's relevant to hierarchy. Your Honor doesn't think that's  
19 something that necessarily should come into this case. We've  
20 made clear our disagreement with that, respectfully.

21 THE COURT: Absolutely.

22 MS. KOSTEL: And the constructive trust issue which Your  
23 Honor raised.

24 THE COURT: You know what I want to add to that too,  
25 Ms. Kostel, is that I do that on the basis of our Courts'

1 determination, but I would want our record to be very clear  
2 in every way that the defendants have done everything within  
3 their ability to establish the hierarchical nature of this  
4 church, that I accept that, and that our Courts have said we  
5 will not enforce the hierarchical decisions of churches but  
6 we are a neutrality state, and that on appeal I anticipate,  
7 if there is an appeal, assuming there is an appeal, that you  
8 want to be, you, the defendants, would want to be in a  
9 position to argue against precedent in South Carolina.

10 MR. TISDALE: That is correct.

11 THE COURT: And I am mindful of that, and so I would  
12 want our record to be very clear that we are at crossroads in  
13 that regard because you must preserve this record so that in  
14 the event there is an appeal that you place yourself in a  
15 position to argue against precedence, and I'm mindful of  
16 that.

17 MR. TISDALE: Thank you.

18 THE COURT: So I want our record to be very clear that  
19 you all have stood on 14 soapboxes and said, this ought to be  
20 decided with regards to hierarchical determinations as other  
21 states in the United States have done, we want to argue  
22 against precedence, and I want you to be able to preserve  
23 that.

24 I, on the other hand, want to thank you for your share  
25 and tell you that we are a neutrality state and I am very



1 focused on that path.

2 MS. KOSTEL: Okay. Just to be clear -- thank you, Your  
3 Honor, I appreciate that, and, just to be clear, we do  
4 believe that under All Saints and Pearson where there's an  
5 ecclesiastical issue at the heart of the dispute, then there  
6 is deference, but I think we've covered that territory.

7 THE COURT: I think so too.

8 MS. KOSTEL: I'm not trying to reopen it.

9 THE COURT: I know you're not, and I want you to know  
10 that I know that that is part of your argument. I absolutely  
11 get that. And I think that the best statement of that was  
12 with Mr. McWilliams when he said because of the Pearson  
13 decision and because of the constitution and the adoption of  
14 the constitution, that given Pearson, even with All Saints,  
15 was the constitution was acknowledged. That then became the  
16 neutral law.

17 MR. TISDALE: Right.

18 THE COURT: Just to let you all in on a secret, I  
19 disagree with that, but that's in this case, and I absolutely  
20 think that that issue needs to be in this case.

21 MS. KOSTEL: Yes, okay.

22 THE COURT: In all fairness.

23 MS. KOSTEL: Now, if I may tick through a couple more of  
24 the relevance --

25 THE COURT: Yes, because that's what I'm looking for.

1 MS. KOSTEL: Okay.

2 So another issue that we believe makes this historical  
3 evidence relevant under neutral principles is that it goes to  
4 the question of what did the diocese commit to when it  
5 committed to follow the rules of the church, and specifically  
6 did it commit not to leave, did it commit to hold its  
7 property in a particular way.

8 And we believe that, A, the commitments themselves, so  
9 in the organic documents, speak -- are relevant, are  
10 probative of that, but we also believe that the way the  
11 diocese then behaved after having made those commitments  
12 speaks to what the commitments mean. If the organic  
13 documents themselves are not crystal clear on the question,  
14 then those -- the behavior of the parties is probative on  
15 what the documents -- what the commitments meant. So we  
16 believe that's another neutral principles relevance issue.

17 THE COURT: And I want to stop you because I think  
18 you're really talking about the kernel of where we are.

19 MS. KOSTEL: Yes.

20 THE COURT: And I really want to have a discussion about  
21 that because I want to ask this question, and I don't mean to  
22 be -- because I know the passion with which both sides come  
23 to this issue, but I'm going to ask a question that's going  
24 to sound very cavalier, but I'm doing it to push to the  
25 issue. Please hear that. I don't do it to be cavalier. I

1 do it because I've got to make the decision, and these are  
2 the questions that go through my mind. What difference does  
3 it make? And that's what I really want to talk about,  
4 because I want to assume just for purposes of argument at  
5 this point -- oh, gosh, I hope you're comfortable. Would you  
6 rather have a cup of coffee? We've got coffee.

7 THE WITNESS: Yes, Your Honor, I'll take you up on that.

8 THE COURT: Because I really -- this is important to me  
9 because here's where we are. Let's say we have a history. I  
10 got that. We have a history of reference to the  
11 constitution. We have a history of reference to the bylaws.  
12 We have a history of -- in varying degrees. It's kind of  
13 hard for St. Philip's to have done that when St. Philip's was  
14 in existence before the National Episcopal Church was in  
15 existence; however, certainly, as history goes on, if that  
16 comes back around, and there are those references -- you  
17 know, I sort of wondered if the National Episcopal Church  
18 made those kinds of references about St. Philip's because of  
19 the -- it is so ancient, 1680. It's so ancient. So I ponder  
20 that.

21 But even if those were -- and they are. They exist, and  
22 there's, if you will, historically a tip of the hat,  
23 minimally a tip of the hat, minimally, but at the end of the  
24 day -- and I think, Mr. Runyan, it was your cross-examination  
25 with the bishop on Friday when you placed before him the

1 journals and offered him the opportunity to tell me where in  
2 these journals does it say that these parishes cannot change  
3 their mind. So that's really where we get to it. So in my  
4 mind I'm really letting you all see the sausage being made.  
5 I don't know if this is a good thing or a bad thing, but,  
6 alas, this is where we are.

7 I don't know how we get to the ability to keep the  
8 parishes from being able to change their way of doing  
9 business unless we access equitable principles. And there  
10 are two kinds of implied trust when it comes to the  
11 properties. And I kind of want to leave the trademarks just  
12 sort of aside for a moment because they really are a little  
13 bit different I think, just a little bit different, but I  
14 want to begin -- I guess I want to begin by asking the  
15 plaintiffs isn't that really where we are?

16 MS. GOLDING: Your Honor, that is exactly. That's the  
17 core. The core is that if you are in an association, whether  
18 it be parishes with the diocese or the diocese with the  
19 national church, there is no governing document that says  
20 nobody can leave anybody, so there is a voluntary association  
21 coming in. Does this mean that they cannot leave? It's just  
22 like a Country Club, a fraternity. There is no requirement  
23 they cannot leave.

24 THE COURT: Ms. Golding, let me ask you this question,  
25 even if there was --

1 MS. GOLDING: Yes.

2 THE COURT: -- even if there was, is that not a  
3 violation of the first amendment?

4 MS. GOLDING: The right of free association, absolutely.  
5 That's where I was going to next.

6 THE COURT: And let me ask you this question: Even when  
7 you look at the statute, because this statute, I spent all  
8 afternoon looking at the statute and trying to make it make  
9 sense. 180 -- I forget the first two but the 180 where it  
10 talks about religious organization, that is strange language.  
11 That is strange language because it says what is required,  
12 what is required by both the state -- by the US constitution  
13 and the state constitution what is required, not prohibited,  
14 but required, and I'm like what in the world does that mean,  
15 required?

16 And the only way I can make it make sense is what is  
17 required by the state and national constitution and not  
18 prohibited, see, because the government is prohibited from  
19 the establishment of a religion. It's prohibited. But what  
20 is required of the government is that it provide for the free  
21 exercise of religion. It is required. That is what is  
22 required. So I ponder whether or not that is an appropriate  
23 interpretation or not, and that was the only way I could,  
24 with my feeble brain, make it make sense, is the required  
25 part of that.

1           So then -- so then here's where I am. Where I am is if  
2 I don't in those journals have any sort of agreement that  
3 says you cannot leave, and that's clear, does it infringe  
4 upon the first amendment to prohibit a sect or a group from  
5 leaving, and that's almost a separate issue.

6           And then -- then I come back, if you will. Then I come  
7 back around to the equitable principles of constructive trust  
8 as being the -- is that -- we have two kinds of implied  
9 trust. This is not a resulting trust, and then I come back  
10 around, can this be a constructive trust. And it's simple.  
11 It says a constructive trust arises entirely by operation of  
12 law without reference to any actual or supposed intention of  
13 creating a trust and is resorted to by equity to vindicate  
14 rights and justice or to frustrate fraud.

15           And that is, again, in my head -- you're right. It has  
16 nothing to do with a fiduciary duty, but it has to do with  
17 vindicating rights and justice, which then wraps me back  
18 around to there is no requirement, and even if there is a  
19 requirement to remain for all time, is that a violation of  
20 the first amendment, but, even so, can there be a creation of  
21 a constructive trust.

22           MR. RUNYAN: Your Honor, I see this two separate ways,  
23 one, the issue of departure by a parish or the national  
24 church --

25           THE COURT: Assume, arguendo, done.

1 MR. RUNYAN: -- is unrelated to the issue of the trust,  
2 period. It has to be.

3 THE COURT: Right. So let it be. Go there.

4 MR. RUNYAN: So the issue is upon a departure is there  
5 any interest that the national church has in the property of  
6 the parish or the diocese. The South Carolina Supreme Court  
7 has said implicitly there's no implied interest or they would  
8 have dealt with it. They had before them an express trust,  
9 and if there was some implied interest there, it certainly  
10 was not asserted as a basis for staying there.

11 But I guess, more fundamentally, the question is going  
12 to come down to a legal question of whether there is some  
13 other type of trust in South Carolina that might apply. I  
14 don't think on the law -- and I'm not really prepared to  
15 speak to it today --

16 THE COURT: I'm a real stare decisis kind of girl. I'm  
17 not going to find one.

18 MR. RUNYAN: I just don't think constructive trust  
19 applies, but it's an equitable issue, so at a minimum -- and  
20 I don't question his qualifications as a brilliant South  
21 Carolina historian, so this is not addressed to that issue,  
22 but his reading documents, which doesn't add anything to this  
23 case -- perhaps they're admissible. Perhaps there's a  
24 summary that can be made or something like that, but I just  
25 don't know how that works, how that would work appropriately,

1 and if he's an expert, then we have the issues we've talked  
2 about and we have the relevance issue.

3 THE COURT: Got it. Yes, ma'am.

4 MS. GOLDING: The other final thing I want to say, and  
5 this is just to me a practical thing, is that if you're a  
6 member of a club or a fraternity, you abide by the rules. So  
7 there is no relevancy because the parish followed the canons  
8 and constitution of the diocese or the diocese followed the  
9 constitution and canons of the national church because they  
10 were in association at that time, so they worked together in  
11 that way, so I mean it's just like in -- like I said, if I'm  
12 in a women's book club, you know, and we decide we're going  
13 to read this book. Well, I'm going to read the book because  
14 that's what we're supposed to do. I'm not going to come in  
15 with another book.

16 So there is no significance because a party to this  
17 action followed the rules, because we were members then.

18 THE COURT: Here's where I am with the book analogy.  
19 And I don't know the extent of this. My sense is it's very  
20 minimal, oh, by the way.

21 MS. GOLDING: Yes.

22 THE COURT: But let's say you're in the book club and  
23 you collected -- and the goal of the book club was to have  
24 all of Oprah's books and you have all Oprah's books and then  
25 some of the -- and you had some rules that said we're going



1 to buy Oprah's books and then that group says we don't like  
2 Oprah's books anymore and we now want to buy Dr. Edgar's  
3 books, we like them better.

4 So they have a split, and then you have those that want  
5 to buy Dr. Edgar's books and put them on the coffee table  
6 because they're great coffee table books, and then you have  
7 those with Oprah's books. But they all pooled their money.  
8 Some did a little bit, some did a bunch, the vast majority.  
9 What happens with Oprah's books? Do the people who now want  
10 Dr. Edgar's books, do they have any claim in any sort of way  
11 to like maybe two of Oprah's books, a little bit of Oprah's  
12 books, because they got all these books. That's sort of  
13 where my head is with the constructive trust.

14 MS. GOLDING: Understand. Thank you.

15 THE COURT: Because if there's an issue -- and I'm not  
16 sure what, if any, door was left open in All Saints with  
17 regards to trust, I'm really not, because it absolutely says,  
18 forget about the Dennis canon, and that's real clear because  
19 there wasn't any -- I don't think the fact that -- and maybe  
20 you'll speak to this, and I'll change my mind, but I think  
21 just because you get to go to the convention that you all of  
22 a sudden are clothed with the authority to come home and give  
23 the property away, I don't think that's what happened, and I  
24 think that that's what our Court was saying about the Dennis  
25 canon doesn't apply.

1           So at the end of the day -- so the issue sort of at the  
2 core of where my head is at this point is, is there,  
3 particularly with regards to Dr. Edgar -- the question is, is  
4 there anything that he can offer with regards to an expert  
5 opinion regarding these relationships, and that's sort of  
6 where I am.

7           MS. KOSTEL: Your Honor, if I may.

8           THE COURT: Yes.

9           MS. KOSTEL: A number of different points responding to  
10 Your Honor and to Ms. Golding and maybe Mr. Runyan too.

11           First, just on the All Saints decision and the Dennis  
12 canon decision, in this -- and Your Honor makes the point  
13 that just because you send a delegate and the Dennis canon's  
14 adopted doesn't mean you're bound, but there are facts in  
15 this case where after the adoption of the Dennis canon the  
16 parish -- not all of them, but some of the parishes adopt  
17 rules in their governing documents saying we adhere to the  
18 national church's rules, and there's even maybe a handful  
19 that adopt a governing provision saying we adopt -- we adhere  
20 to the national church's rules governing property,  
21 distinguishable from All Saints.

22           Second point is on the question of whether the diocese  
23 can leave, which, as Your Honor notes, is at the core, at the  
24 crux of this case, first I'd like to point out that in the  
25 All Saints litigation the diocese, the plaintiff diocese,

1 took the position that a parish can't leave, and you know  
2 what? There's nothing in anyone's governing documents that  
3 says a parish can't leave.

4 So arguably the diocese is judicially estopped from  
5 standing on the argument of whether the governing documents,  
6 if the governing documents don't say it, don't prohibit it,  
7 it's not prohibited.

8 The next point is that the national church's canons  
9 actually do speak to whether a particular type of diocese  
10 called a missionary diocese can leave. And a missionary  
11 diocese is a diocese that's outside the jurisdiction of the  
12 United States, so sort of dioceses that the Episcopal Church,  
13 which is essentially a national church, but dioceses outside  
14 the United States that the church is helping to get started,  
15 which then often go off, break away with the consent of the  
16 general convention, and become separate national churches of  
17 their own.

18 It has a canon permitting it, prescribing how it can be  
19 done with the consent of the general convention, so it's very  
20 clear about that. It is true it does not say one way or  
21 another whether a diocese in the territorial jurisdiction of  
22 the US can or cannot, so it's ambiguous, arguably ambiguous  
23 on that point, and the question is what does the Court do in  
24 the face of that ambiguity.

25 One is it can look at the missionary diocese provision

1 and say, well, here's an instance where it's permitted.

2 Perhaps it's not permitted for any other diocese.

3 Another thing the Court can do is look at the course of  
4 conduct that the diocese engaged in with the national church  
5 about its fundamental nature. For example, in 1922 when the  
6 Diocese of South Carolina decides that it wants to divide in  
7 two, it doesn't just go divide in two. It takes elaborate  
8 steps to comply with the general convention canon and goes to  
9 get permission from the general convention before it divides  
10 itself in two. So that's evidence the diocese understood its  
11 fundamental nature to be governed by the general convention.

12 Another type of evidence that is probative on what  
13 that -- whether the diocese was agreeing that it could not  
14 leave is what was the -- what was understood by people with  
15 knowledge of the Episcopal Church around that time in the  
16 19th Century when the diocese adopted its overt accession  
17 clause when it says the Diocese of South Carolina accedes to  
18 the constitution and canons of the Episcopal Church and  
19 acknowledges their authority accordingly, what was the  
20 understanding about whether a diocese could leave.

21 And we will -- we have evidence that what the  
22 understanding was is that whatever level of hierarchy there  
23 was in the church, that there's one thing that was clear,  
24 when a diocese accedes, it gives up the right to secede.

25 THE COURT: Then you come back around to All Saints

1 where it was like, bye, and it was okay. I mean, doesn't All  
2 Saints really answer that?

3 MS. KOSTEL: Well, All Saints was not a diocese case, so  
4 I don't believe there was evidence introduced in that case  
5 about that.

6 THE COURT: I get you.

7 MS. KOSTEL: And then finally on the right of free  
8 association and the right of free exercise, I agree with Your  
9 Honor that the issue here is not an establishment clause  
10 issue, it's a free exercise issue, but free exercise does not  
11 only guarantee the right of an individual to worship where he  
12 or she wants to. It clearly, clearly, protects that, and  
13 there's nothing -- the Episcopal Church is not preventing  
14 individuals from leaving, okay? What it's trying to do is  
15 keep the integrity of its institution. It has nothing to do  
16 with where individuals worship.

17 And so it's our belief, and we believe that Supreme  
18 Court precedence supports this, that the free exercise clause  
19 protects -- when individuals get together and form a  
20 particular kind of religious institution, including its  
21 governance, that the free exercise clause -- and then they go  
22 and obey it and they carry out their lives according to it,  
23 that the free exercise protects that structure from  
24 disintegration by using the courts because that's -- it's not  
25 a question of whether the individuals can worship however

1 they like. It's a question of what's happening to the church  
2 institution that everyone agreed to join.

3 THE COURT: Yes.

4 MS. KOSTEL: So the free exercise clause does not favor  
5 the leaving is my point.

6 MR. TISDALE: The Oprah book club being an example, if  
7 you leave the Oprah book club, you can't take everything with  
8 you that belongs to everybody else.

9 THE COURT: Which is the only issue that goes to the  
10 constructive trust.

11 MR. TISDALE: Right.

12 MR. RUNYAN: I have an hour's worth to respond to that,  
13 but I won't. Associations are people for the purpose of the  
14 first amendment, and so saying that people can leave but  
15 associations can't still violates the freedom of association  
16 clause.

17 THE COURT: And here's what happened. Here's what  
18 happened, and you can talk about how it happened, it was  
19 fairly remarkable, but within the corporate structure of the  
20 State of South Carolina these folks, and I haven't studied  
21 specifically and I have got to do that specifically, but just  
22 as I was making my notes and we were doing our work and our  
23 charts as they went along, looks like they did it pretty --  
24 it was certainly the corporate nature of these entities it  
25 appears -- it appears, and that's not a decision, I'm not

1 making that decision because I've still got my study yet to  
2 do, but it looks like it was done properly, so if I'm there  
3 for a moment just in my head, then I'm sort of left with  
4 constructive -- this sort of lingering concern regarding  
5 constructive trust and this sort of equitable -- you know,  
6 equity is like whew, and that really is what remains.

7 And I don't know that -- I don't know that All Saints --  
8 and it may answer it and I may get there, but that would be  
9 the only one that sort of maybe in my head remains, which  
10 really does make you critical, you see.

11 Did you get any coffee?

12 THE WITNESS: Yes, ma'am. Thank you.

13 THE COURT: So we will take a little break in just a  
14 moment. I've got another colleague trying to reach me and I  
15 need to respond to that, and we also need to take a break,  
16 but let me tell you how I want to proceed.

17 I don't want -- I don't believe that Dr. Edgar can, as  
18 tempting as it is, just read to me. I don't think that's  
19 appropriate. I do think -- here's what is appropriate,  
20 number one, the journals are in or going in, if they're not  
21 already in, and I think a summary of those is absolutely --  
22 you're entitled to do a summary and you're entitled to do any  
23 number of summaries. You're entitled to do a summary that  
24 says I think this summary indicates this, I think this  
25 summary indicates that. I think you're absolutely entitled

1 to do that.

2 What I don't want -- and if he's being offered for the  
3 proposition of hierarchical, let's play like he did that  
4 because I don't want to hear it because I've got that. You  
5 all know I've got that and where I am about that. I don't  
6 want to hear it. I would just play like we did it.

7 If he wants to talk about why he believes based upon the  
8 information that he has reviewed that a constructive trust  
9 very well may lie, I'm sort of interested in that.

10 MR. TISDALE: Your Honor, what we propose to do is  
11 present the documents --

12 THE COURT: Yes.

13 MR. TISDALE: -- seriatim that he's considered, ask him  
14 how these documents relate to the issue that he's willing to  
15 say they support.

16 THE COURT: Okay. Tell them what it is during the  
17 break, what that issue is, and I don't want to hear it. I  
18 want to go take a break because I've had now a couple of  
19 communications with a colleague, so let me run and do that.  
20 Everybody take a break.

21 (Recess held.)

22 THE COURT: Okay.

23 MR. TISDALE: I will proceed, Your Honor, and I hope I  
24 will be able to do so in accordance with what you indicated  
25 we should do.



1 THE COURT: Okay. And yes.

2 MS. GOLDING: Just for the record, Your Honor, I was  
3 asked by a number of the parish attorneys to make sure the  
4 record reflects that our objections are encompassing of all  
5 the parishes, all the plaintiff parishes.

6 THE COURT: Oh, absolutely, absolutely. Thank you.  
7 Thank you for making that clear.

8 MR. TISDALE: Thank you, Your Honor, and we'll proceed  
9 as expeditiously as possible in light of your instructions.

10 THE COURT: Okay.

11 Q. Dr. Edgar, I first would like to ask you about your  
12 research and study of documents from the journals of the  
13 Diocese of South Carolina that concern and provide evidence  
14 of the historic connection between the diocese and the  
15 national church.

16 And the documents that I intend to ask you to summarize,  
17 for the benefit of the Court, begin in 1841, and the first  
18 one is marked as Exhibit 256, and if we could take a quick  
19 look at that, what is Document 256?

20 MR. RUNYAN: Excuse me. Could I have a copy of that  
21 please? Is it already in evidence?

22 MR. TISDALE: It's not in evidence. I'm getting ready  
23 to move it in evidence.

24 MS. KOSTEL: It's right on your hard drive right in  
25 front of you.

1 THE COURT: Where is it?

2 MR. TISDALE: It's right there. I don't have a hard  
3 copy of it.

4 MR. RUNYAN: We've got 200 years of journals.

5 THE COURT: You have to have it. So just hold --  
6 Ms. Kostel, I know you're the hard drive expert. Can you  
7 just assist them in finding it? Just tell them where it is.

8 MS. KOSTEL: Do you have the hard drive?

9 MR. RUNYAN: No.

10 MS. KOSTEL: Mr. Runyan doesn't have the hard drive with  
11 the exhibits where we gave them their exhibits. I have an  
12 extra.

13 MR. RUNYAN: If we're going to introduce it, then  
14 there's going to have to be a hard copy. How about just show  
15 me the one he's looking at or something so I can see what  
16 you're talking about.

17 MR. TISDALE: He's looking at the screen I think.

18 THE WITNESS: It's the cover to the journal from 1841.

19 MS. GOLDING: If you're going to have exhibits, they  
20 have to have hard copies to be brought to the Court.

21 MR. TISDALE: Your Honor, we'll provide a hard copy.

22 THE COURT: Okay. So let me ask you this question. Let  
23 me just ask, because I don't know: The journals themselves,  
24 they're only going to be excerpts from the journals that are  
25 introduced, yes?

1 MR. TISDALE: Correct.

2 THE COURT: All right.

3 MR. TISDALE: That is correct, just one page probably.

4 MS. KOSTEL: In answer to Your Honor's question, we have  
5 all of the journals in their entirety on the hard drive and  
6 we had intended, since there are no authenticity issues, to  
7 move them all into evidence, but to select out in testimony  
8 so that the other side knows what we're relying on, you know,  
9 the specific pages.

10 So we could just move the specific pages into evidence,  
11 although because Professor Edgar is testifying -- he's saying  
12 these are summaries, so we would lose -- so I'm not quite  
13 sure.

14 THE COURT: Then it's not a summary.

15 MS. GOLDING: Your Honor, I understood, and maybe I was  
16 just confused. I understood in discussing this matter last  
17 week that we would be provided the information as to the  
18 pages or the lines or the excerpts --

19 THE COURT: Yes.

20 MS. GOLDING: -- that they were relying on. I believe  
21 that we were supposed to have been provided that prior to any  
22 testimony.

23 THE COURT: Yes, me too.

24 MS. GOLDING: That's where my confusion is. We don't  
25 have that information.

1 THE COURT: Okay.

2 MS. KOSTEL: Actually, to be clear, I think our  
3 understanding was that we were doing pages for the parish,  
4 and I'm almost done with that list of all the pages in the  
5 journals throughout history that we're relying on that  
6 mention -- make parish-specific references.

7 As to the diocese-specific references, obviously, as  
8 we've said, the constitutions and canons of every -- that are  
9 at the back of most journals.

10 THE COURT: And you mentioned that.

11 MS. KOSTEL: Yes. And then we will take Your Honor,  
12 take the Court through some specific examples in the journals  
13 with Professor Edgar's testimony, but those are again  
14 examples of things that sometimes occur almost every year.  
15 Now, we have not pulled them out for every year. We can, but  
16 we have not.

17 THE COURT: Okay. Now, do you have -- of course you  
18 have a list of that because you've got to be prepared to  
19 examine Dr. Edgar.

20 MS. KOSTEL: Right.

21 THE COURT: So here's what I need: I need for those to  
22 be provided to the plaintiffs, and please accept my apology  
23 because it's my responsibility to run the Court, and if I  
24 wasn't clear about that, it's my responsibility and I  
25 apologize. Because I certainly -- because of the volume of

1 documents -- I was actually looking for another word, but  
2 because of the volume of documents, those excerpts I had  
3 wanted to be provided to the diocese along with the parishes,  
4 and if I wasn't clear about that, my fault, not yours, but I  
5 need for them to have that.

6 Now, having said that, it is impossible for the  
7 plaintiffs to prepare for cross-examination without having an  
8 opportunity to review that.

9 MS. KOSTEL: Okay.

10 THE COURT: So they've got to have it. So how quickly  
11 can we get that to them?

12 MR. TISDALE: For Dr. Edgar's testimony we can give it  
13 to them right now, but orally. I don't have it in writing,  
14 but I can have it in my notes and this is what he's going to  
15 refer to.

16 THE COURT: I know it, but here's the problem: The  
17 problem is that I need -- again, because the volume -- I  
18 think somebody said 20,000 pages. It's huge. What I had  
19 anticipated is that they would have the excerpts, and that  
20 way they could be prepared to meet that evidence just as the  
21 parishes are going to have.

22 Yes?

23 MS. KOSTEL: I have a suggestion. I think that we -- I  
24 can pretty quickly -- we can pretty quickly pull together the  
25 page numbers in the specific journals we're going to be

1 introducing with Professor Edgar, but of course they need  
2 time to review that.

3 THE COURT: Yes.

4 MS. KOSTEL: What we also need time to do is to continue  
5 to work with the parishes --

6 THE COURT: Yes.

7 MS. KOSTEL: -- on the exhibits.

8 THE COURT: Right.

9 MS. KOSTEL: So if we give the diocese those  
10 designations and then take some time to work with parishes, I  
11 don't know if that's adequate time for them to review the  
12 diocese designations, but we could then spend -- not waste  
13 time working and we can use that time when they're reviewing  
14 the documents to work with the parishes on the parish  
15 exhibits.

16 THE COURT: I agree.

17 MR. TISDALE: So it is my understanding then what we  
18 will do is give them the page number of each proposed exhibit  
19 that he plans to refer to in his testimony, and then we  
20 will -- after they have had an opportunity to review that  
21 information which they have, we will then proceed with his  
22 examination.

23 THE COURT: Yes.

24 MR. TISDALE: And the question is the timing for that.

25 THE COURT: That's right. And they can't tell you that

1 until they have it, right?

2 MS. GOLDING: Correct, Your Honor.

3 MR. RUNYAN: That's correct.

4 THE COURT: I mean, they're pretty magical, but they're  
5 not so clairvoyant. Okay. So more coffee.

6 MR. BRYAN: Your Honor, on behalf of the parishes, this  
7 testimony that is from the diocesan journals, is that  
8 relating to the parishes or just to the diocese?

9 THE COURT: I don't know. I don't know because I'm not  
10 offering it.

11 MR. BRYAN: If it is, wouldn't all the parish attorneys  
12 get the same thing?

13 THE COURT: Probably.

14 MS. KOSTEL: Yes, we'll provide that to everyone. Most  
15 of it is diocese specific, but there are, Bill, a few  
16 instances that relate to the parishes too.

17 THE COURT: Okay. Forget Wednesday.

18 MR. RUNYAN: Your Honor, I was going to suggest maybe we  
19 could have another witness, or do we have to go with this?  
20 Whatever. Whatever the Court pleases.

21 THE COURT: I was sort of thinking that too. If we can,  
22 I'm going to give them a moment to sort of meet and confer  
23 about that. That would be terrific, but I'm real focused on  
24 you all getting the information. That's like most important.

25 MR. BEERS: What Ms. Kostel is trying to say is we have

1 a ton of work to do with the individual parish's exhibits, so  
2 we were hoping for a recess while first Ms. Kostel will get  
3 these documents ready to everybody but then continue our  
4 conversations with each of the parishes to try to get the  
5 exhibits ready.

6 THE COURT: Okay.

7 MR. BEERS: In lieu of having another witness right at  
8 the moment.

9 THE COURT: I understand. All right.

10 MS. KOSTEL: Your Honor, just quickly, do you think it  
11 would be useful to pull -- I sent out the revised parish  
12 exhibit lists that we agreed to on Friday just last night,  
13 and I have spoken to a number of the parish counsel, and  
14 we've worked through what we needed to work through. I don't  
15 know if there's anyone else on this side of the gallery who  
16 is ready to talk to us now.

17 MR. PHILLIPS: St. Philip's is ready.

18 THE COURT: Can we make a list? Let's just do this.  
19 Why don't we do that so we can have some organization.  
20 Obviously the dioceses, they need information. And obviously  
21 all of you need the information that predominantly, as I  
22 understand it, the documents that affect the diocese, so  
23 we'll get those in just a moment.

24 If you'll do this for me, if you are ready to have a  
25 conversation with the defendants regarding the documents



1 specific to your parish, stand up.

2 That was you, Mark.

3 MR. PHILLIPS: Yes, ma'am.

4 MS. KOSTEL: I've spoken with maybe 15 or 20 parishes,  
5 so with those parishes we've agreed that no witness needs to  
6 come to put the document in, but they have some relevance  
7 objections.

8 THE COURT: Exactly. And you need to meet and confer  
9 about that.

10 MS. KOSTEL: We have, and I think we're going to need  
11 the Court to resolve those, which I think if we can get  
12 through all of the parishes, the relevance objections sort of  
13 fall into categories so that we probably don't have to do it  
14 parish by parish.

15 THE COURT: Got it. And so, as I understand it,  
16 everybody's sort of on the same sheet of music with regards  
17 to concerns regarding relevancy?

18 I'm getting nods.

19 MR. PHILLIPS: Your Honor, Mark Phillips. At least as  
20 to my parish, it's not authenticity. There are some  
21 admissibility issues --

22 THE COURT: Yes.

23 MR. PHILLIPS: -- that we'll have to take up. Most of  
24 them we're okay with.

25 THE COURT: Got it. And that's true, I gather, with

1 everyone. Does anybody -- did anyone fail to get -- let's  
2 everybody assume your parish, you were the one to receive  
3 documents for your parish. Did anyone fail to receive  
4 documents?

5 Mr. Easterling.

6 MR. EASTERLING: Harry Easterling for St. David's.

7 THE COURT: Mr. Easterling, you didn't get any  
8 information?

9 MR. EASTERLING: No, ma'am. But they promised it. I  
10 just don't have it yet. But, in fairness, they did say at  
11 the time that they did not have the St. David's documents.

12 MS. KOSTEL: Oh, yes.

13 THE COURT: That's right. They're still working on you.

14 MR. EASTERLING: Yes, ma'am.

15 THE COURT: Keep hiding. Yes, and Mr. Campbell.

16 MR. CAMPBELL: I think there are a few left over from  
17 last night. Ms. Kostel indicated she didn't quite get all of  
18 them. One of those was mine too. I don't recall who the  
19 others were. There are a few that were outstanding.

20 THE COURT: Do you know who is yet to be emailed, just  
21 so they can be on notice?

22 MS. KOSTEL: I have emailed all the lists except for St.  
23 Bartholomew's, St. David's, and Holy Trinity, and I can't do  
24 those until tonight probably, but everyone else has gotten a  
25 list. And I have spoken with a lot of people. I can tell

1 Your Honor which parishes I've already talked to, but not  
2 everybody, so it seems to me it doesn't make sense to take up  
3 the relevance objections until we're through all of them  
4 because I think we're all -- I think they're all going to  
5 have categories of the same relevance objections.

6 THE COURT: Got it. My concern is that the meet and  
7 confer has occurred.

8 MS. KOSTEL: Right.

9 THE COURT: Practically that has. That's great. That's  
10 ready for me. That's super.

11 MS. KOSTEL: It hasn't occurred on all of them, but we  
12 will have, yes.

13 THE COURT: More likely than not they're all going to  
14 have similar ones.

15 MS. KOSTEL: Yes.

16 THE COURT: Great. And then the diocese, when it  
17 goes -- I'm most concerned with the diocese getting the  
18 diocese documents, but everybody else wants them too.

19 MS. KOSTEL: I'm going to sit down and type a list right  
20 now.

21 MR. RUNYAN: My question was a timing question, Your  
22 Honor. It's conceivable that once we see the documents it  
23 will not take us very long at all to be able to figure out a  
24 position on them, so the timing question is if that is the  
25 case, does the Court want to resume, or does the Court want

1 to wait and resolve the parish issues as well first?

2 THE COURT: No. Here's what I want to do. I want, for  
3 this reason, because Dr. Edgar's here and he was here on  
4 Friday, and I'm very mindful of the energy that's coming at  
5 me going, oh, and so what I would prefer to do is my  
6 preference, since, as I understand it, his testimony is more  
7 directed with regards to the diocese, I'm sort of concerned  
8 about getting you guys up and ready to go and then call him  
9 back. Although he might really be ready to move to St.  
10 George. I'd be shocked, but you never know. Right?

11 THE WITNESS: It's a beautiful place to visit, ma'am.

12 THE COURT: Okay. Wonderful. So I want you guys to get  
13 it like as soon as possible.

14 It's 12:00, and those of you who are in the audience I  
15 hope that your blood sugar is low because I think we're going  
16 to take a break and now is a good time for you all to get  
17 lunch I think, and, Mr. Platte, I hope you cooked and brought  
18 things over the weekend. In any event, I think we'll take  
19 that break and do that now.

20 MR. TISDALE: Excuse me, Your Honor. Just one question.  
21 So we're certainly going to do that. She's going to provide  
22 the information concerning the designations for his  
23 testimony. Then after lunch perhaps we'll be in the position  
24 to do that.

25 Now, my only question was, with regard to the parish

1 exhibit issues, we will deal with that this afternoon. I'm  
2 just trying to plan when to have the next witness ready.

3 THE COURT: I know you are. I think that, well, I'm  
4 going to ask the parishes to caucus because you all are the  
5 ones waiting on documents, waiting on those issues. Would it  
6 be your preference to receive them in the evening and  
7 continue with witnesses, or would it be your preference to  
8 stop after Dr. Edgar and have you all have an opportunity to  
9 meet with Ms. Kostel? I don't care because at this point I'm  
10 not panicked that we're not going to be able to get things  
11 done with inside the week.

12 MR. CAMPBELL: I believe we would like to continue the  
13 testimony and we'll continue to work on this as time permits.

14 THE COURT: Perfect. All right. We're going to take a  
15 break now. Of course you're at liberty to talk about your  
16 testimony because you haven't started yet, even to the extent  
17 -- even if -- of course, it won't be on the record, but if  
18 you all want to chat, they're going to let you chat with him  
19 if you want to chat. We don't have a court reporter, but if  
20 you would like to talk to Dr. Edgar, I'm going to tell you  
21 that I don't have any problem with it and I'm sure the  
22 defendants don't have any problem with it if you all wish to  
23 do that. It's not a deposition. It would simply be an  
24 unrecorded chat, which you may or may not choose to do.

25 But in any event, here's what I'm going -- I'm here.

1 You all go get lunch. Let's for sure count on an hour and 15  
2 minutes, but I am not pressing you all. You've got to look  
3 at your documents, but Mr. Platte's going to report to me in  
4 an hour and a half just sort of what's going on.

5 Mr. Smith, if you want to come with him, you can come  
6 with him too.

7 MR. SMITH: Thank you, Your Honor.

8 THE COURT: Very well. Then we will be in recess until  
9 then.

10 (Lunch recess held.)

11 THE COURT: Have you seen the documents?

12 MR. RUNYAN: Ready to roll.

13 THE COURT: All right. Me too.

14 MR. TISDALE: While she's getting set up, Your Honor,  
15 I'll ask a few questions.

16 Q. Dr. Edgar, in addition to the historical-related  
17 activities that I asked you about as part of your background,  
18 do you also have a position with the Diocese of Upper South  
19 Carolina?

20 A. Yes, sir, at one point I did. In the 1990s I was the  
21 registrar of the diocese, which is -- there's one in the  
22 diocese of south, but it's a different office. It's  
23 historian/archivist. It's also a constitutional officer. I  
24 had a seat, voice and vote in the state convention.

25 Q. All right. And that was in the 1990s?

1 A. Yes, sir.

2 Q. Dr. Edgar, as we were talking earlier, the questions I  
3 would like to begin asking you to help us understand is what  
4 you have done to research and determine the historic  
5 connection between the Diocese of South Carolina and the  
6 national church, and in order to do that I'm going to ask you  
7 about documents that you have considered and ask you not to  
8 read the documents that we will show but summarize what they  
9 tell us about the connection, if you will.

10 A. Yes, sir.

11 Q. Now, the first we will refer to is Exhibit 256. What is  
12 what's been marked 256?

13 A. This is the cover of the diocesan journal for 1841.

14 MR. TISDALE: Now, Your Honor, we have now given all of  
15 the page references in this and other documents that we will  
16 come to.

17 THE COURT: Okay.

18 MR. TISDALE: And I am reluctant to take the time to  
19 move the admission of each one separately, but should I do  
20 that? I move that this one be admitted into evidence.

21 THE COURT: The question is are the journals in  
22 evidence? Have the journals themselves been offered into  
23 evidence? No. Too many of them.

24 MS. KOSTEL: I think we did offer them en masse, and so  
25 the issues were -- well, one issue is that they -- many of

1 them at the end contain the constitution and canons of the  
2 diocese, and it was our contention that all of those should  
3 come in, but then in the journal of the proceedings I think  
4 what we have just given opposing counsel are the specific  
5 pages.

6 THE COURT: Excerpts.

7 MS. KOSTEL: But then we'll also give specific pages for  
8 the parishes hopefully tonight, and then we will have covered  
9 all the other pages that are not in the constitution and  
10 canons.

11 THE COURT: Okay.

12 And the position of the diocese with regards to the  
13 admission of the journals is?

14 MR. RUNYAN: Well, I don't know that we want to  
15 introduce every single journal in the record, 20,000 pages.  
16 We have no objection as to authenticity other than -- other  
17 than a relevance issue on the issue of hierarchy, I don't  
18 have any objection to this document and I don't know that I  
19 have any to the excerpts other than, as we've covered before,  
20 I think there may be one or two that I have an issue with,  
21 but I'm aware of what those are, so I don't mind this  
22 procedure if that suits the Court.

23 THE COURT: Okay.

24 MR. TISDALE: So should I move them individually?

25 THE COURT: No, I think you move them in en masse.



1 MR. TISDALE: We can do that.

2 MS. GOLDING: Except as to when he refers to a document  
3 that we have an objection, we will. If we don't, we won't.

4 THE COURT: Very well.

5 MR. TISDALE: I'll just wait until I get to each one of  
6 these little sections for him and move the admission of the  
7 documents he's referred to by exhibit number.

8 THE COURT: I think they were going to -- they know  
9 what -- as I understand it, plaintiffs know what they're  
10 going to object to.

11 MS. GOLDING: Correct.

12 THE COURT: So why don't you keep rolling until they  
13 object.

14 MR. TISDALE: So all of these are admitted subject to  
15 objection?

16 THE COURT: That's correct.

17 MR. TISDALE: Perfect. That saves time.

18 MS. KOSTEL: We're moving them in en masse, but then  
19 we're going to select out certain pages. Is that what I  
20 heard Your Honor say?

21 MR. RUNYAN: I thought our position was the excerpts  
22 that we had looked at we don't have a problem with except for  
23 a few.

24 MR. TISDALE: Those are the only ones we're going to  
25 refer to.

1 MR. RUNYAN: I really don't think we have a big issue  
2 here.

3 MR. TISDALE: I just want them to be in evidence, that's  
4 all.

5 MS. KOSTEL: I think this is just a purely technical  
6 issue, which is that what's scanned onto that hard drive are  
7 the whole things, and we're happy to limit what we're  
8 actually submitting to the specific pages on these lists, but  
9 physically to create that, yes.

10 THE COURT: Let me just say this. In terms of the  
11 record, there are really two issues that I'm concerned about.  
12 I'm not concerned about the excerpts. I'm not concerned  
13 about dealing with the objections. There are two issues.

14 Issue No. 1 is it is the position of the defendants that  
15 there is relevance that the constitution and the canons are  
16 if not each and every journal, mostly each and every journal.  
17 That can either be done by stipulation or it's got to be done  
18 by an exhibit. That's the Issue No. 1. There's nothing that  
19 I can do with regards to that other than admit the journal.

20 The other issue is that there are two journals that are  
21 in, and they went in last week with Bishop -- and forgive me.  
22 I do not recall his --

23 MR. TISDALE: Bishop Daniel probably.

24 THE COURT: Okay. And those were referred to by --  
25 you're telling me it was not.

1 MR. RUNYAN: No. It's exhibited to the witness and the  
2 question was asked, but they didn't go into evidence, we  
3 didn't move them into evidence, and they were the Episcopal  
4 Church constitution and canons.

5 MS. KOSTEL: Right, they were not journals.

6 THE COURT: That's right. Okay. Then I'm not concerned  
7 about that. All right. If you all are good with the  
8 excerpts, I'm good with the excerpts. You're going to have  
9 to resolve the issue what you do about your constitution and  
10 the canons that are in those journals. If you can't work out  
11 a stipulation and it's important to you, then you're going to  
12 have to --

13 MR. TISDALE: For this witness, we're just going to  
14 refer to excerpts, and we've marked this particular one as  
15 Exhibit 256.

16 THE COURT: Okay.

17 Q. Dr. Edgar, what is the document that's on the screen?

18 A. The document is the constitution of the Protestant  
19 Episcopal Church in the Diocese of South Carolina. In 1841  
20 there was a new Article 1. It's entitled "Of acceding to the  
21 constitutions and canons of the general convention."

22 Q. What does that tell us about from this document the  
23 connection between the diocese and the national church?

24 MS. GOLDING: Your Honor, I object. The best evidence  
25 is the document itself, and he can't --

1 MR. TISDALE: He was told to summarize it, was what the  
2 Judge said, not to read it.

3 THE COURT: The question was what does it say. I've got  
4 to read it.

5 Q. Dr. Edgar, would you read this excerpt, please?

6 A. Yes, sir.

7 It is Article 1. The title is "Of acceding to the  
8 constitution and canons of the general convention." The  
9 Protestant Episcopal Church in South Carolina accedes to,  
10 recognizes and adopts the general constitution and canons of  
11 the Protestant Episcopal Church in the United States of  
12 America and acknowledges their authority accordingly.

13 Q. Now, Dr. Edgar, does this document say whether or not  
14 that provision passed the vote of the convention?

15 A. This passed on the floor of the convention unanimously.

16 Q. All right, sir. Let's go now to what's been marked as  
17 Exhibit 259, and I will ask you to tell us what this is?

18 A. This is the cover for the convention of 1844.

19 Q. And have you considered this in your research as to  
20 establishing connection between the diocese and the national  
21 church?

22 A. Would you please repeat that, sir?

23 Q. Have you considered an excerpt from this journal, 1844,  
24 to establish the connection between the national church and  
25 the diocese?

1 A. Yes, sir, I have.

2 Q. And would you refer to the page number and what you  
3 considered and, as they have indicated they wish you to do,  
4 read the excerpt?

5 A. It is Page 39, and it was a proposed resolution which I  
6 think, sir, and, Your Honor, I think it would be better to  
7 read this one.

8 Q. They've asked you to read it I think.

9 A. Okay.

10 Q. Instead of summarizing, as I thought we previously  
11 agreed, read it, please.

12 A. Resolved that while each diocese of the church is wholly  
13 independent of every other and may guide and govern itself  
14 and all things indifferent by its own law its own discretion,  
15 its own will, and is bound even to its union in general  
16 convention only by its own consent.

17 Q. Now, how was that resolution dealt with by the  
18 convention?

19 A. The convention in 1845 defeated the resolution.

20 Q. All right. Now let's go to what's been marked Exhibit  
21 260, and is that the 1845 journal that dealt with the  
22 resolution you just read?

23 A. I'm looking at the cover right now.

24 Q. Okay. What is the cover?

25 A. The cover of the 1845 journal.

1 Q. Now, have you determined by an excerpt in this journal  
2 to determine what happened to the resolution proposed in 1844  
3 that you referred to a minute ago?

4 A. Yes, sir. It's a parliamentary procedure. The motion  
5 was brought back up, and the disposition was so the  
6 indefinite postponement was carried by a majority of both  
7 orders.

8 Q. All right. Now, let's go to Exhibit 286.

9 A. This is the cover for the journal of 1872.

10 Q. And --

11 MS. GOLDING: What exhibit number is that one?

12 MR. TISDALE: 286.

13 MS. GOLDING: Thank you.

14 Q. What does this particular journal of 1872 tell us about  
15 the connection between the diocese and the national church?

16 A. Article 1 is still the accession clause.

17 Q. Explain accession. From what to what?

18 A. The church in this diocese accedes to and adopts the  
19 constitution and canons of the Protestant Episcopal Church in  
20 the United States of America and acknowledges their authority  
21 accordingly.

22 Q. Thank you, Doctor. Now I'll ask that we take a look  
23 at -- skip ahead to 2009, Exhibit 423. And did you look at  
24 all of the journals from 1785 to present?

25 A. 1785 to 2010, sir.

1 Q. To 2010?

2 A. Yes, sir.

3 Q. And was this 2009 journal one that you examined?

4 A. Yes, sir.

5 Q. Tell us along the same lines as we have talked about  
6 just now about what it tells you also about the accession  
7 between the diocese and the national church.

8 A. All right. This is the constitution from the 2009  
9 journal, Article 1. The church in the Diocese of South  
10 Carolina accedes to and adopts the constitutions and canons  
11 of the Protestant Episcopal Church in the United States of  
12 America and acknowledges this authority accordingly.

13 Q. Dr. Edgar, at any time in all of the journals -- I know  
14 you've picked out or selected these that you have testified  
15 to from 1841 to 2009. Did you see any journal between 1841  
16 and 2009 in which the accession clause between the diocese  
17 and national church was different from what you have  
18 explained to us?

19 A. Yes, sir, during the period 1861 to 1865.

20 Q. Well, while we're on that subject, let's talk about it  
21 for a minute.

22 MR. TISDALE: And I'll ask you, Ms. Kostel, to move to  
23 Exhibit 276.

24 A. This is the diocesan journal for 1861.

25 Q. What happened to the connection between the Diocese of

1 South Carolina and the national church during the period of  
2 the American Civil War?

3 A. They were in different territories. The Confederate  
4 States of America was an independent nation, and this  
5 affected the relationship, as Bishop Davis explained in his  
6 address, which is what this excerpt is from.

7 Q. All right. And I think they would like you to read that  
8 rather than summarize it, so can you tell us what it says?  
9 And this is the journal of this diocese in 1861, correct?

10 A. Yes, sir.

11 Q. All right. What does it say about this?

12 A. Thus when the United States were acknowledged as an  
13 independent government, the clergy, who are the subjects of  
14 that government, became necessarily separated from the  
15 English church and excluded from spiritual jurisdiction  
16 therein or subjection thereto -- thereunto, the same  
17 principle lying, I think, deep in the bosoms of those who  
18 originated the constitution of the general convention -- and  
19 that is capitalized, general convention -- was wrought into  
20 that document and the principle is there set forth and is I  
21 think more thoroughly incorporated in it even than expressed  
22 that none but a citizen of the United States shall be a  
23 member of the Protestant Episcopal Church in the United  
24 States.

25 We are, of course, so no longer, not entitled to



1 spiritual jurisdiction therein nor subject to the government  
2 thereof, but this is the precise and only aspect of the  
3 subject presented to us. There is no principle of spiritual  
4 life involved. There is no article of the faith at issue.  
5 It is simply a question of constitutional confederation, and  
6 our conclusion is that the condition of confederation being  
7 broken, the confederation exists no longer, parentheses, I am  
8 speaking of constitutional -- excuse me. I am speaking of  
9 constitutions and constitutional relations and this is the  
10 subject before us, closed parentheses.

11 It has been broken also by actions without ourselves as  
12 a church. The course of divine providence in the entire  
13 change of the government, of which we are subjects, has  
14 determined this for us. We are, therefore, a free and  
15 independent diocese. We are so to without sin or schism, and  
16 our way is open before us to do what we deem best for  
17 ourselves and promoting the glory of God.

18 Q. All right. Now, what happened based upon your study and  
19 research at the general convention roll call in 1862  
20 concerning this matter?

21 A. The roll was called at the general convention and the  
22 States of the Confederacy were called as if to answer, and of  
23 course there was no one present to answer. The roll call  
24 began in 1862, as it always had, with Alabama.

25 Q. All right. The name of the Diocese of South Carolina

1 was called?

2 A. The diocese, that was part of the roll call, yes, sir.

3 Q. What exhibit do you have next?

4 A. It's the proceedings of 1866.

5 Q. And what is this, Dr. Edgar?

6 A. This is the journal of the proceedings of the Diocese of  
7 South Carolina in 1866.

8 Q. And --

9 A. And as part of that, actually facing the title page of  
10 the document is a resolution that was passed. It's called  
11 preamble and resolutions of the general council of Protestant  
12 Episcopal Church in the, parentheses, late, closed  
13 parentheses, Confederate States that was then ordered to be  
14 printed in this journal of the Diocese of South Carolina.

15 Q. And what are the pertinent parts that you considered?

16 A. The opening sentence, whereas, the several dioceses  
17 which we as bishops and deputies represent at this council  
18 were impaled by political events to separate in a legislative  
19 capacity from the Protestant Episcopal Church in the United  
20 States and there follow several resolutions, and the second  
21 resolution is that it be recommended that wherever the word  
22 confederate occurs in the standards of this church, the word  
23 united be substituted there for.

24 Q. Now, Dr. Edgar, after the war in 1866 did the Diocese of  
25 South Carolina reapply to become a part of the Episcopal

1 Church, or were they accepted without such application?

2 A. There is no record of their having made an application.

3 Q. And did their role as a diocese in the Episcopal Church  
4 continue?

5 MS. GOLDING: Your Honor, I'm going to make an  
6 objection. The record speaks for itself.

7 Q. Would you read the excerpt concerning this matter that  
8 is before you?

9 THE COURT: I would sustain the objection and I  
10 understand it's being rectified.

11 MR. TISDALE: I'm sorry.

12 THE COURT: Okay.

13 Q. Doctor?

14 A. This is still from the 1866 journal?

15 Q. Right.

16 THE WITNESS: Your Honor, did you want me to read the  
17 resolution or not?

18 THE COURT: I can read it. Just hold on a second.

19 Okay. I have read it.

20 THE WITNESS: All right. And the resolution was  
21 adopted.

22 Q. Thank you, Dr. Edgar.

23 Now, I think I asked you this before, but from 1841,  
24 except for the Civil War period you've just discussed,  
25 through 2009, was the accession clause ever changed and

1 accepted as modified during the period of the Civil War?

2 A. There was always an accession clause. I think at one  
3 time "this" was changed to "thee," but there was no change in  
4 accession.

5 Q. And that goes through 2009?

6 A. Through 2009, yes, sir.

7 Q. Now I would like to move to another subject and ask you,  
8 please, to review some documents to tell us something about  
9 how the diocese has related to the rules of the national  
10 church and how they have conformed to such rules in history.  
11 First we will turn to Exhibit 227.

12 A. All right. This is the journal from the 1812  
13 convention.

14 Q. And how does it relate to giving us an understanding of  
15 the dioceses of South Carolina relating to and conforming to  
16 the rules of the national church?

17 A. At the 1812 convention the Diocese of South Carolina  
18 elected the Reverend Theodore Dehon as the second bishop of  
19 South Carolina, and this excerpt is his response to the  
20 convention.

21 Q. Read it, please.

22 A. I will now give you my consent. He consents to being  
23 elected bishop, and then he adds, In order to carry your  
24 wishes into effect, it will be necessary that the  
25 testimonials from the convention of the state required in

1 this case by the third canon of the general convention should  
2 be prepared and signed before you adjourn and that the  
3 standing committee shall be -- excuse me -- that the standing  
4 committee should be directed by the convention to take the  
5 necessary steps for convening a college of bishops at such  
6 time as will be found proper.

7 The original I saw was -- I think it's an "as" in there.

8 Q. Is there anything else in this particular document, 1812  
9 journal, related --

10 A. Yes, there's one thing, I think. The secretary prepared  
11 the testimonial required by the canons in the case of the  
12 bishop elect, and it was signed by the members of the  
13 convention.

14 Q. Now, when it used the word "canons" there, is it  
15 referring to the canons of the diocese or the national  
16 church?

17 MS. GOLDING: Your Honor, I will make an objection. I  
18 think the document speaks for itself as to what canons are  
19 referred to.

20 THE COURT: Sustained.

21 Q. All right. Did Bishop Dehon become second bishop of the  
22 diocese?

23 A. Yes, sir, he was consecrated.

24 Q. All right. Let's look at Exhibit 258.

25 A. This is the title page from the 1843 journal.

1 Q. How does it relate to the issue we've talked about,  
2 conformity with the rules?

3 A. I'm sorry, sir?

4 Q. How does this document help us understand whether or not  
5 the diocese conformed to the rules of the national church?

6 A. This is from the standing committee report, and among  
7 the business that the standing committee reported to the  
8 diocesan convention, they have also given their consent to  
9 the consecration of the Reverend Dr. John Johns to be  
10 assistant bishop of Virginia and of the Reverend Dr. Manton  
11 Eastburn to be assistant bishop of Massachusetts.

12 Q. Now, why were these consents being given, do you know?

13 A. The standing committee operates according to the  
14 diocesan canons. Their duties are laid out by the canons of  
15 the national church.

16 Q. Canons of the national church?

17 A. Yes, sir.

18 Q. All right. And was this action that you read from this  
19 1843 journal in conformity with the standards set by the  
20 national church?

21 A. Yes, sir.

22 Q. All right. Let's go to Exhibit 265, please.

23 A. This is the 1850 journal title page?

24 Q. Yes, sir. And still on the issue of conformity with the  
25 rules of the national church, can you give us an example by

1 any excerpt that you've noted in this journal, 1850?

2 A. Again we're dealing with the standing committee report.

3 Also consent was given by them to the consecration of the

4 Reverend William M. Green, D.D., as bishop of the diocese of

5 Mississippi.

6 Q. Now, without going into any of the other journals along

7 this period of time, are there other examples that you read

8 in your research in reading all the journals of where the

9 diocese standing committee gave consent to elections of

10 bishops?

11 A. Yes, sir. It gave its consent. Sometimes it withheld

12 its consent.

13 Q. We're going to look at one of those right now, Exhibit

14 289. What year is this?

15 A. It's labeled 85th convention. I have to look at my

16 Roman numerals.

17 Q. I think I can save a little time. We have down that

18 it's 1875. Do you think that's correct?

19 A. 1875 convention, yes, sir. There are two Xs. I see

20 that.

21 Q. Now, what happened in this based upon -- and you've

22 marked some excerpt there, and so I think they will want you

23 to read it.

24 A. This is an appendix to the journal and it's the annual

25 communication of the standing committee. The committee

1 refused to consent to the consecration of the Reverend Dr.  
2 DeKoven as bishop of Illinois.

3 Q. Was this, again, an obligation imposed by the national  
4 church for the standing committees of the Diocese?

5 A. Yes, sir. The standing committee is asked to consent or  
6 nonconsent to bishops.

7 Q. Ordinations?

8 A. Ordinations.

9 Q. And in this case it declined?

10 A. It was declined.

11 Q. Now, go to 321 if we can. What year is this journal  
12 from?

13 A. This is 1907.

14 Q. What does this particular journal deal with along the  
15 lines of the issue we're talking about?

16 A. This is dealing with the discussion of the possible  
17 division of the diocese.

18 Q. Let me go back from that a little bit. This is 2007.

19 A. All right. Excuse me.

20 Q. Excuse me. Not 2007; 1907.

21 A. Excuse me. All right.

22 Q. And does it deal with the election of a bishop of some  
23 sort?

24 A. Yes, sir. It deals with the election of a bishop  
25 coadjutor, and it says, Whereas it's necessary under the



1 general canons of the church that certain testimonials, etc.,  
2 shall be signed by this body and its officers.

3 Q. Now, was a testimonial signed in this case having to do  
4 with the election of a bishop coadjutor for South Carolina?

5 A. Yes, sir, it was. It was election of the Reverend W.  
6 Alexander Guerry as bishop coadjutor of the Diocese of South  
7 Carolina.

8 Q. And is this testimonial necessary to go with a consent  
9 to the ordination?

10 A. Yes, sir.

11 Q. All right. So let's look at 393.

12 A. This is the 1979 convention.

13 Q. And what does it have to do with the conformity of the  
14 diocese to rules of the general convention, national church?

15 A. These are resolutions passed at convention, R-7,  
16 resolution offered by the committee on the bishop's address.  
17 Subject: Memorialize general convention requesting general  
18 convention's consent for election of bishop coadjutor.

19 Q. '79, 1979?

20 A. 1979.

21 Q. Was that consent granted or not?

22 A. Yes, it was.

23 Q. And if we look at Exhibit 394?

24 A. Yes, sir, that's the conclusion of that resolution.

25 Q. What is this, 394?

1 A. This is --

2 Q. 1980?

3 A. Yes, sir, this is September 1980.

4 Q. And what does it concern. The last one was '79 that we  
5 looked at. It's 394.

6 A. This is actually a special convention. Those special  
7 convention proceedings were included in the journal of that  
8 year.

9 Q. Right.

10 A. The voting proceeded as above until the seventh ballot,  
11 which resulted in the election of the Reverend Dr.  
12 Christopher FitzSimons Allison.

13 Q. An election to what?

14 A. As bishop coadjutor.

15 And the last business of the special convention  
16 following the signing of the required testimonials of the  
17 clergy and lay deputies, the convention was recessed.

18 Q. And were these testimonials after the election to comply  
19 with the rules of the national church?

20 A. Rules of the national church, yes, sir.

21 Q. Okay. Now, we've been over a few examples of the  
22 compliance with the rules that you've explained. Has this  
23 action been consistent with that indicated in the other  
24 journals you reviewed over the period of the history of the  
25 diocese?

1 A. Yes, sir. In terms of elections in South Carolina?

2 Q. Yes.

3 A. There were two journals when I did not actually see  
4 references to testimonials, but since the individuals  
5 concerned were consecrated, the testimonials had to have been  
6 submitted. That could not have happened without them being  
7 submitted.

8 Q. All right. Now, the next exhibit is 422 that we'll look  
9 at briefly. What journal is this?

10 A. This is the journal of the 2008 convention.

11 Q. 2008?

12 A. Yes, sir.

13 Q. And along the lines of conformity with the rules, what  
14 does this indicate that --

15 A. This is a continuation of a recessed convention, and  
16 from the journal on September the 16th, 2006, we, referring  
17 to the diocese, elected Mark Lawrence at a special electing  
18 convention. His election was judged null and void, as a few  
19 of the needed standing committee consents were not submitted  
20 properly.

21 Q. Okay. So what happened?

22 A. They had another election.

23 Q. All right. Now I want to turn to a subject you  
24 mentioned a few minutes ago, and that is the role or the  
25 interaction between the national church and the diocese when

1 it comes to a plan to divide the Diocese of South Carolina.  
2 And to do that, to talk about it, I would like to, by  
3 referring to the examples we're going to look at, ask you to  
4 tell us, if you can, how the national church figured in the  
5 plan to divide South Carolina, the whole state, into the two  
6 dioceses that it now is; that is, Upper South Carolina and  
7 South Carolina, and to begin this we look at Exhibit 324.

8 A. This is a report of the committee on division of the  
9 diocese.

10 Q. What year?

11 A. I didn't see the title page. I think it's 1910.

12 Q. It is.

13 A. At the meeting held in November the former subcommittee  
14 reported that they found no legal or canonical difficulties  
15 in the way of division and that they were prepared to furnish  
16 all the documents necessary in case the matter of division  
17 was to be presented to the next general convention.

18 Q. And what happened to this particular resolution or  
19 proposal?

20 A. They chose not to divide at this point.

21 Q. What year did you say it was, 1910?

22 A. 1910.

23 Q. Move forward to Exhibit 334.

24 A. This is 1920.

25 Q. Yes, sir. And what, if anything, was considered in 1920

1 in that journal of the convention of the diocese concerning  
2 the proposal to divide the state into two?

3 A. The bishop in his address --

4 Q. What bishop was that?

5 A. This is Bishop William Alexander Guerry in his address  
6 to the convention.

7 I would remind you, however, that division under our  
8 church law would not be possible until the next general  
9 convention, or nearly three years from date.

10 Q. All right. So let's go to 336, which I think is the  
11 1922 journal. What is the journal?

12 A. This is the journal for the 1922 convention.

13 Q. All right. I think they want you to read the excerpt,  
14 if you will, if it relates to this proposal to divide the  
15 state into two.

16 A. Yes, sir, this is for the division of the diocese.

17 Resolved, that the consent of the council of the Diocese  
18 of South Carolina be and is hereby given to the erection and  
19 establishment within the limits of this diocese of a new  
20 diocese to be composed of the territory embraced within the  
21 following counties.

22 THE WITNESS: Do you want me to read the counties, Your  
23 Honor?

24 THE COURT: You don't need to.

25 Q. Skip the counties.

1 A. And that this council requests the bishop of the diocese  
2 and its duly elected deputies to present to the general  
3 convention at its next ensuing session a memorial setting  
4 forth all necessary canonical information accompanied by the  
5 proper documents and evidence and praying that the said  
6 division of this diocese be sanctioned and confirmed.

7 Q. Dr. Edgar, as a matter of history, were the two  
8 dioceses -- was the diocese of Upper South Carolina created?

9 A. It was. At the national convention in Portland in 1923  
10 the general convention acceded to the division of the  
11 diocese.

12 (Attorneys confer.)

13 MR. TISDALE: I'm going to show you -- this document is  
14 not scanned. It's been marked as Exhibit 17, and we're  
15 giving copies to everybody. Have you got one for the Judge?  
16 I'll pass it up, if I may. 1923 journal. It has to do with  
17 the same subject of the division of the diocese.

18 (Defendant's Exhibit 17 marked for identification.)

19 Q. Can you tell us whether the general convention -- you  
20 said 1923. Could it have been 1922?

21 A. Yes, sir. What page are you referring?

22 Q. Look at Page 115.

23 A. Yes, sir, it was 1922. I misspoke.

24 Q. And just to clear that up, in 1922 did the general  
25 convention give consent for the division?

1 A. Yes, sir, it did.

2 Q. Okay. And that's shown by the exhibit you're looking at  
3 now, which I think is -- what's the number on the front?

4 A. No. 17.

5 Q. 17. Thank you, Doctor.

6 Now let's move to another topic briefly. I am going to  
7 point to an exhibit or two and ask you to consider what we  
8 looked at in light of the question or to view the question of  
9 how the relationship between the diocese and the national  
10 church involves the control over geographic boundaries of the  
11 various dioceses, and I'll show you a couple documents to  
12 look at. The first one is 414. What is that?

13 A. It's the journal for 2000.

14 Q. And what can you derive from it to talk about the  
15 control of the general convention over the diocesan  
16 boundaries? And there's an excerpt I think.

17 A. Okay. I've got to lean close with my trifocals.

18 THE COURT: Sure.

19 A. This is a report of the standing committee.

20 Consented to the ceding of that part of the territory of  
21 the Episcopal Diocese of Minnesota consisting of Clay County,  
22 Minnesota, to the Episcopal Diocese of North Dakota in  
23 March -- on March 22, excuse me, March 22, 1999.

24 Q. Have you seen other examples of this same issue in other  
25 journals?

1 A. Yes, sir, involving other dioceses.

2 Q. Other dioceses. And is there a requirement for consent  
3 of the church?

4 A. This is report of the standing committee of the Diocese  
5 of South Carolina.

6 MR. RUNYAN: Your Honor, Dr. Edgar, please excuse me. I  
7 have an objection.

8 THE COURT: Okay.

9 MR. RUNYAN: I think the document speaks for itself. He  
10 asked if there was a requirement of consent for the church.  
11 I don't know which church he's talking about. If it's the  
12 national church, then I would object to it as lack of  
13 foundation.

14 MR. TISDALE: Thank you. I'll address the matter  
15 another way.

16 THE COURT: All right.

17 Q. In your study and research on all the journals that you  
18 testified you've looked at, are there other examples where  
19 consent has been required from the general convention to  
20 change the territories of dioceses?

21 THE WITNESS: Yes, sir.

22 MR. RUNYAN: That is inconsistent with what was just  
23 read. The document speaks for itself. Consent is required  
24 from the standing committees of the dioceses, not the general  
25 convention.



1 MR. TISDALE: With that correction, I will -- I will  
2 accept that.

3 THE COURT: Okay.

4 Q. Now, has your research indicated throughout the history  
5 of the Episcopal Church, the national church, that consents  
6 have been given or declined for the ordination of bishops in  
7 the various dioceses by standing committees and the bishops  
8 of the dioceses?

9 A. Yes, sir.

10 MR. RUNYAN: Lack of foundation.

11 THE COURT: Say what?

12 MR. RUNYAN: Lack of foundation.

13 THE COURT: Oh, you had an objection?

14 MR. RUNYAN: I did. He said throughout the entire  
15 Episcopal Church. Lack of foundation.

16 MR. TISDALE: Well, throughout the national church.

17 MR. RUNYAN: Lack of foundation.

18 THE COURT: Sustained.

19 Q. Has the general convention of the Episcopal Church  
20 required, the constitution and canons of the Episcopal Church  
21 required, that parishes in the respective dioceses of the  
22 Episcopal Church, the national church, obtain consent of  
23 their own standing committees for the encumbrance of  
24 property?

25 MS. GOLDING: Again, Your Honor, it's the same.

1 THE COURT: Sustained.

2 MS. GOLDING: Thank you, Your Honor.

3 MR. TISDALE: Okay.

4 Q. Let's look at Exhibit 415. What is this, Dr. Edgar?

5 A. This is the 211 convention, which would have been in  
6 2001.

7 Q. 2001?

8 A. Yes, sir.

9 Q. And look at the excerpt, if there is one. And this has  
10 to do with the cession of territory, and I'm simply asking  
11 you to refer to the excerpt and see if it's another example  
12 of the consent of this diocese?

13 A. The standing committee consented to the ceding of a  
14 portion of the territory of the diocese of Arizona consisting  
15 of Page, Arizona, to the diocese of Utah, November 14th,  
16 2000.

17 Q. Moving to another topic in our examination of this issue  
18 of the relationship and the connection between the diocese  
19 and the national church, I would like to ask you a series of  
20 questions by reference to journals you have considered having  
21 to do with the governance of parishes in the respective  
22 dioceses.

23 A. Yes, sir.

24 Q. Exhibit 237?

25 A. This is the 1822 journal.

1 Q. And would you look at the excerpts that are marked there  
2 to see and read to us what relates to this issue in that  
3 particular journal of 1822?

4 A. This is from the bishop's address.

5 Q. Who's the bishop?

6 A. 1822 it's going to be Bishop Gadsden.

7 Q. Could it possibly be Dehon?

8 A. I'm trying to remember when Bishop Dehon died.

9 Q. It doesn't matter. Just go ahead.

10 A. It's from the bishop's address, sir.

11 Q. All right.

12 A. The receiving of the new congregation of Manchester into  
13 the convention by their delegates reminds me again to suggest  
14 for your consideration the importance of instituting some  
15 regular uniform mode of receiving churches newly organized  
16 into our diocesan association.

17 Q. Okay. Now can we look at Page 39 of that journal? Is  
18 it this same journal, I believe, in 1822?

19 A. Yes, sir, and at that particular convention.

20 MR. TISDALE: Page 39, just for the record.

21 Q. Go ahead, sir.

22 A. They passed Canon 1. The title of that canon is "Of the  
23 admission of churches or parishes into the convention."

24 Q. This is Diocese of South Carolina convention?

25 A. Yes, sir.

1 Q. Would you read that, please?

2 A. Whenever a church or parish not now entitled to a  
3 representation shall be desirous of uniting with the  
4 convention of the church in this diocese, they shall apply by  
5 letter to the bishop, or, when there is no bishop, to the  
6 standing committee stating the due organization of their  
7 church, the election of their vestrymen and church wardens,  
8 their means or prospects for the support of a minister, and  
9 their willingness to conform to the constitution and canons  
10 of the general convention and the constitution and canons of  
11 the convention of this diocese which are now or hereafter may  
12 be enacted by authority of the same.

13 Q. This was what year?

14 A. 1822.

15 Q. Okay. Let's go to 238, Exhibit 238.

16 A. This is the journal of 1823.

17 Q. What does it do with regard to parish -- requirements of  
18 a parish to conform with whatever it is?

19 A. They replaced Canon 1 with what would become initially  
20 the fourth article, and it goes as follows: That the canon  
21 adopted at the present convention, 1822, regulating the  
22 admission of churches newly organized into conventions be  
23 made an article of the constitution. The question being  
24 taken, agreeing on the article of the report, it carried  
25 unanimously.

1 Q. And did it become a part of the constitution?

2 A. Yes, sir.

3 Q. All right. Exhibit 247, what journal is this?

4 A. This is 1832.

5 Q. Diocese of South Carolina?

6 A. Yes, sir.

7 Q. And what does it relate to regarding parish and its  
8 relationship to the diocese?

9 A. This is in the business meeting of the convention.

10 Q. 1832?

11 A. Yes, sir.

12 A letter was read addressed to the bishop by Mr. John  
13 Rivers, chairman of the vestry of St. James Church, James  
14 Island, expressing their desire to be admitted into union  
15 with the conventions of the churches -- of the church in this  
16 diocese. And it goes through the different -- they further  
17 state they are willing and do hereby conform to the  
18 constitution and canons of the general convention and the  
19 constitution and canons of the convention of this diocese  
20 which are now or may hereafter be enacted by authority of the  
21 same.

22 Q. All right. Let's turn to Exhibit 269. What year  
23 journal is this?

24 A. This is the journal for 1854.

25 Q. And does this have to do with a parish's relationship

1 with the diocese?

2 A. Yes, sir.

3 Q. And what parish is it?

4 A. It is the parish of St. Thaddeus Aiken.

5 Q. That's not in this Diocese of South Carolina right now,  
6 is it?

7 A. No, sir, but it was then.

8 Q. In 1854, before the division, right?

9 A. Yes, sir. This is the resolution that was adopted by  
10 general convention.

11 Q. All right.

12 A. Resolved that a committee of two clergymen and two  
13 laymen be appointed to examine the charter of St. Thaddeus'  
14 Church, Aiken, and report to the convention at its next  
15 session whether the same is in conformity to the constitution  
16 of the Episcopal Church of this state and of the United  
17 States.

18 Q. Was this issue dealt with at next convention?

19 A. Yes, sir.

20 Q. How?

21 A. It was accepted into union.

22 Q. St. Thaddeus Aiken?

23 A. Yes, sir.

24 Q. Exhibit 271, please. Along the same lines that we've  
25 been talking, parish's relationship to the diocese, and the

1 national church's involvement.

2 A. This is the journal of 1856.

3 Q. What happened then?

4 A. There was a committee on reception of churches.

5 Sometimes it's called committee on admissions. It varies  
6 from journal to journal.

7 The committee on reception of churches reported in favor  
8 of St. Jude's Church Waltherboro, which was on motion received  
9 into union with the convention. They also reported that the  
10 application of Christ Church Mars Bluff was canonical except  
11 in not stating their means for the support of a minister.  
12 This defect being supplied verbally on motion, Christ Church  
13 Mars Bluff was received into the union with the convention.  
14 Trinity Church Black Oak, not having complied with all the  
15 canonical requisites, the application of this church was laid  
16 on the table in order to give time for supplying its  
17 deficiencies.

18 Q. Now, was Trinity Church Black Oak subsequently brought  
19 in?

20 A. Yes, sir, it was.

21 MR. RUNYAN: Your Honor, before you get to the -- are  
22 you going to the next exhibit, Tom? I'm sorry.

23 MR. TISDALE: Go ahead.

24 MR. RUNYAN: There's a portion of the next exhibit that  
25 I have no problem with, but R-3 I don't think is relevant.

1 MR. TISDALE: You're referring to what we have as  
2 Exhibit 415?

3 MR. RUNYAN: 2001.

4 MR. TISDALE: 2001, yes.

5 MR. RUNYAN: I believe the top part, but not R-3.

6 MR. TISDALE: Let's go to 415 and get it cleared up  
7 right now. I'm not going to go into it. If you don't want  
8 him to read it, he won't read it.

9 MS. KOSTEL: I'll go to the part we're talking about.

10 MR. TISDALE: I won't go into it if you object to it.  
11 Go to the section that they don't object to --

12 MS. KOSTEL: Right.

13 MR. TISDALE: -- of 415.

14 (Attorneys confer.)

15 Q. Now, we are referring to an excerpt from the 2001  
16 convention, which is Exhibit 415. Now, is this section on  
17 the screen not objected to? Okay. Tell us what this relates  
18 to, Dr. Edgar?

19 A. This is under resolutions adopted by the convention. It  
20 was called R-2, whereas -- and the subject is seating for All  
21 Saints Waccamaw.

22 Q. What does it say about that?

23 A. Whereas the constitution of Episcopal Diocese, Article  
24 VIII, Section 2, provides that every parish and mission,  
25 quote, must state its willingness to conform with the



1 constitution of the general convention and the constitution  
2 and canons of this diocese, close quote, and whereas All  
3 Saints Parish Waccamaw currently finds itself unwilling to  
4 conform with Article VIII, Section 2, and -- and there's  
5 several -- the final part of the resolution, all the  
6 whereases now down to the resolved, to give them seat and  
7 voice in convention.

8 Q. All right, sir. Now, has this canon requiring the  
9 accession that you've testified about remained the same over  
10 time in the journals and in the history you've considered?

11 A. Yes, sir.

12 Q. And if we look at Exhibit 422 from the 2008  
13 convention --

14 A. Yes, sir.

15 Q. 2008?

16 A. Yes, sir.

17 Q. My question to you is, is the canon on the admission of  
18 parishes still in the constitution in 2008? We'll look at  
19 Article Roman Numeral VIII. There it is.

20 A. Yes, sir, Article VIII under of admitting parishes and  
21 missions into the convention.

22 Q. Go ahead and read that.

23 A. Parishes must have been organized, as provided by canon,  
24 for not less than one year may apply for and be admitted into  
25 union with the convention by vote of the convention provided

1 that the requirements hereinafter set forth have been met.

2 Q. All right. And go on down. And now we're looking at  
3 subsection what?

4 A. I believe it's 2-E.

5 Q. 2-E, what does it say?

6 A. Its willingness to conform to the constitution and  
7 canons of the general convention and the constitution and  
8 canons of the diocese, of this diocese, which are or  
9 thereafter may be enacted by the authority of the same.

10 Q. Was that the constitution of the Diocese of South  
11 Carolina in 2008?

12 A. Yes, sir.

13 Q. Okay. Now I have a few questions to relate some more to  
14 the relationship of the diocese in the national church, and  
15 I'm asking us to look at 220. Exhibit 220, what journal is  
16 this?

17 A. 1804.

18 Q. What does it say concerning the issue of the mutual  
19 relationship?

20 A. It says at a meeting of clerical and lay deputies --  
21 and, Your Honor, where it has abbreviations, do you want me  
22 to say Protestant Episcopal Church, or do you want me --

23 THE COURT: Doesn't make a bit of difference. Doesn't  
24 matter.

25 A. At a meeting of clerical and lay deputies of the

1 Protestant Episcopal Church --

2 THE COURT: That says delegates, doesn't it?

3 THE WITNESS: I'm sorry, delegates. They changed terms.

4 THE COURT: I understand.

5 A. At a meeting of clerical and lay delegates of the  
6 Protestant Episcopal Churches of South Carolina in  
7 convention, and then it goes down as to why they were  
8 meeting, for the particular and express purposes, excuse me,  
9 purpose of appointing a standing committee conformable to the  
10 constitution of the Protestant Episcopal Churches of the  
11 United States of America.

12 Q. Okay. Let's look a little later, 225, 1809 journal.

13 A. Yes, sir. 1809 title page.

14 Q. Right. And is there anything in here related to the  
15 requirements of the diocese vis-à-vis the national church  
16 1809?

17 A. Okay. Yes, sir. The following resolutions were moved  
18 and passed without opposition, resolved, that no person  
19 residing in this state as a candidate for deacons orders  
20 shall be recommended as such to any bishop unless his  
21 intention to apply, excuse me, unless his intention to apply  
22 for holy orders had been made known to the standing committee  
23 at least one year prior to the time at which he makes  
24 application to them for testimonials, nor unless he has been  
25 examined by a majority of the clerical members of the

1 standing committee agreeably to the requisitions of the tenth  
2 canon of the general convention.

3 Q. All right, sir. Let's move to Exhibit 228, please.

4 1813 journal.

5 A. Yes, sir.

6 Q. And is there anything in here regarding the requirement  
7 of parochial reports by each parish?

8 A. The following parochial reports required by the 45th  
9 canon of the general convention were presented by the clergy  
10 and read.

11 Q. Exhibit 234, 1819?

12 A. 1819 title page.

13 Q. And then do we see anything concerning the requirement?

14 A. The following parochial reports required by the 45th  
15 canon of the general convention were presented by the clergy  
16 and read.

17 Q. Now, Dr. Edgar, without going into any more detail on  
18 this matter, have the journals of the diocese that you've  
19 examined generally dealt with the requirement of parochial  
20 reports?

21 A. Parochial reports have been --

22 Q. Submitted?

23 A. Submitted. In one or two years, sir, they consolidated.  
24 With one of those two exceptions, a parochial report for each  
25 parish was submitted.

1 Q. Pursuant to requirements of the general convention?

2 A. Yes, sir.

3 Q. All right. 239, please, exhibit. Journal 1824, Dr.

4 Edgar?

5 A. Yes, sir, this is the 1824 title page.

6 Q. And what requirement is in here with respect to the  
7 relationship between the diocese and the general convention  
8 and the requirements of the bishop -- for the bishop?

9 A. This concerns -- yes, the resolution is that every  
10 bishop in the Protestant Episcopal Church ought to be able to  
11 visit and examine into the state of all the churches in its  
12 diocese to inspect the conduct of the clergy, to ordain to  
13 the ministry, and to administer the holy rite of  
14 confirmation, duties not only required by the canons of the  
15 Protestant Episcopal Church of the United States, but in the  
16 opinion of the convention, absolutely indispensable to the  
17 well-being of every church in the diocese.

18 Q. Was that resolution declined or passed?

19 A. It passed, sir.

20 Q. Okay. And that was 1824, I believe.

21 Exhibit 255?

22 A. Title page 1840.

23 Q. 1840. And this again has to do with the application of  
24 the general convention as contained in the journal of the  
25 Diocese of South Carolina. What does this deal with?

1 A. The Reverend Dr. Gadsden in behalf of the standing  
2 committee presented a statement of their official acts since  
3 the last convention. Mr. Alsop, A-L-S-O-P, Woodward was  
4 recommended to the bishop for deacons orders, and after the  
5 diocese of our esteemed diocesan, Mr. John B. Campbell, was  
6 recommended for deacons orders to the Right Reverend Benjamin  
7 T. Onderdonk, bishop of New York, under the fourth section of  
8 Canon 15 of 1832.

9 Q. Now, is that a canon of general convention or South  
10 Carolina?

11 A. The general convention, sir.

12 Q. All right.

13 A. Title page 1855.

14 Q. Exhibit 270.

15 A. I'm sorry?

16 Q. Exhibit No. 270 --

17 A. Excuse me.

18 Q. -- just for the record.

19 What does this concern along the matters we've been  
20 discussing recently?

21 A. This is Canon 5, and it's the title of persons wishing  
22 to be received as candidates for holy orders. Every person  
23 who desires to become a candidate for orders in this diocese  
24 shall make application in writing to the standing committee  
25 stating his age and previous occupation. We will also be

1 expected to furnish the committee with the testimonials  
2 required by the seventh canon of the general convention of  
3 1853 and give them evidence that he has informed the bishop  
4 of his intention according to the requisitions of the same  
5 canon.

6 Q. Now we move to Exhibit 331, 1917 journal.

7 A. Title page 1917.

8 Q. And what does this tell us about required compliance  
9 with general convention canons by the diocese?

10 A. Okay. The committee calls attention to the fact that  
11 the general convention of 1916 adopted a new canon numbered  
12 Canon 50 in the digest entitled, quote, Of Business Methods  
13 in Church Affairs, close quote. This canon of necessity  
14 supersedes and abrogates any and all diocesan canons relating  
15 to the same subject whereby the date of our fiscal year  
16 terminates April 30, see Canon 13, Section 6, does now  
17 terminate December 31, thereby bringing into conformity in  
18 point of time all statistical data relating to the church  
19 wherever the same exists.

20 We, and that's the committee, therefore recommend that  
21 Canon 49 and Section 1 of Canon 50 be substituted in place of  
22 our diocesan Canon 13, Sections 4, 5 and 6.

23 We further recommend the adoption of the following  
24 resolution; viz, that the secretary of this council be  
25 directed to send a copy of diocesan Canon 13 as amended and

1 also of Sections 1 and 2 of Canon 50 of the general canons to  
2 the treasurer of each parish and mission in the diocese and  
3 that their attention be called to the same that they may  
4 conform to the changes rendered necessary thereby.

5 Q. Do those refer to compliance with the general convention  
6 canons?

7 A. Yes, sir.

8 Q. Exhibit 346.

9 MS. GOLDING: He didn't finish reading that.

10 MR. TISDALE: I'm sorry.

11 Q. Can you go back to 331?

12 MR. TISDALE: I'm sorry. I thought he had. He didn't  
13 finish reading it, apparently. I'm sorry.

14 A. And they recommended the adoption of the following canon  
15 of the church pension fund, Section 1, in conformity with the  
16 legislation adopted by the general convention setting forth  
17 the principles upon which a pension system for the clergy of  
18 the church and their dependents should be constructed  
19 pursuant to which the corporation, the church pension fund --  
20 and those are italicized, ma'am -- has been created to carry  
21 these principles into effect, the Diocese of South Carolina  
22 adopts the system of the church pension fund.

23 Q. All right. Going now to 346.

24 A. This is the journal from 1932.

25 Q. And how does it relate to the topic we've been talking



1 about, requirements of the general convention on the diocese?

2 A. An ecclesiastical court in marital relations shall be  
3 established in this diocese to hear and adjudge all matters  
4 that may be brought before it in accordance with the  
5 provisions of Sections Roman Numeral V, Roman Numeral VI, and  
6 Roman Numeral VII of canons -- of canon -- I think that's 43  
7 of the general convention.

8 Q. Of the general convention, right?

9 A. Yes, sir.

10 Q. All right. Let's look at Exhibit 349.

11 A. This is 1935?

12 Q. Yes, sir. There we go.

13 A. This is the annual communication of the standing  
14 committee of the Diocese of South Carolina.

15 Q. What do they say in 1935?

16 A. At its meeting held at diocesan headquarters,  
17 Charleston, on April 4, 1935, the standing committee, sitting  
18 as a council of advice with the bishop under the provisions  
19 of Canon 40 of the general church adopted recommendations to  
20 the bishop for the dissolution of the pastoral relationship  
21 between the Reverend Conrad H. Goodwin and the parish of St.  
22 Michael's Church, Charleston, South Carolina.

23 Q. Let's take a look at Exhibit 358, please.

24 A. Title page 1944.

25 Q. What occurred? What section of the journal is this in?

1 A. It's the standing committee report.

2 Q. Okay. Go ahead.

3 A. At its meeting held at diocesan headquarters on October  
4 27, 1943 the committee conferred with Bishop Thomas, who gave  
5 official notice of the acceptance by the house of bishops of  
6 his resignation as bishop of the diocese effective December  
7 31, 1943.

8 Q. Now, that was Bishop Albert S. Thomas?

9 A. I'm sorry?

10 Q. Albert Sidney Thomas?

11 A. Yes, sir.

12 Q. Let's turn, please, to Exhibit 372.

13 A. 1958?

14 Q. '58. What is this in 1958 affecting the adherence to  
15 the general convention canons by the diocese?

16 A. This is the report of the standing committee, and before  
17 it gives its reports there is this: A number of questions  
18 have been asked during the year regarding nature and purpose  
19 of the standing committee. There have been a number of  
20 requests to undertake outside of our province. What is the  
21 standing committee, question mark, what is its function,  
22 question mark, who are members of the committee, question  
23 mark? Since there may be many others who would like to have  
24 this information, we submit these preliminary statements as  
25 an introduction to our annual report.

1 Q. And have you noted relevant portions of that report?

2 A. Yes, sir.

3 Q. Read it, please.

4 A. Article 4 of the constitution of the Episcopal Church in  
5 the United States of America states, quote, in every diocese  
6 a standing committee shall be appointed by the convention  
7 thereof. When there is a bishop in charge of the diocese,  
8 the standing committee shall be his council of advice. If  
9 there be no bishop or bishop coadjutor or suffragan bishop  
10 canonically authorized to act, the standing committee shall  
11 be the ecclesiastical authority of the diocese for all  
12 purposes declared by the general convention. The standing  
13 committee gives or refuses to give consent for the election  
14 and consecration of bishops, recommend postulantes, and that I  
15 believe is an error, but for admission as candidates  
16 recommends ordinations to the diaconate and priesthood.  
17 Canon 11 of the national church states in every diocese the  
18 standing committee shall elect from their own body a  
19 president and a secretary.

20 Q. All right. Now moving on and getting not too far from  
21 the end, I want to talk to you about what you've discovered  
22 in the examination of your work, your study, about the issue  
23 of some, but not all, of the financial aid to the diocese  
24 from the national church?

25 MR. RUNYAN: Your Honor, this is not a document. It's a

1 creation of the witness and it's filled with opinion and not  
2 a record document that I know of.

3 MR. TISDALE: It's going to be a document prepared by  
4 him that he's going to use to testify by.

5 THE COURT: Okay. Well, then he can use it to testify  
6 by it, but it wouldn't be an exhibit because that would be  
7 cumulative.

8 MR. TISDALE: That will be fine.

9 THE COURT: Okay.

10 Q. It's not an exhibit, but let's look at what's been  
11 marked --

12 THE COURT: That's for him, not for me.

13 MR. TISDALE: That's correct.

14 THE COURT: So take it off the screen.

15 MR. TISDALE: Get it off the screen.

16 Q. Do you have a copy of it?

17 A. No, sir, I do not.

18 MR. TISDALE: Do we have a copy of it?

19 THE WITNESS: I think there's a copy in my folder right  
20 there.

21 MR. TISDALE: Can I hand him his folder, Your Honor?

22 THE COURT: Of course, absolutely, and his briefcase.

23 Q. I'm going to try to cut this short if I can. What is  
24 the document that you now have that I handed to you, Dr.  
25 Edgar?

1 A. It is a document entitled "Financial Assistance to the  
2 Diocese of South Carolina 1866 to 1991."

3 Q. Now, what is the sum of what this document was prepared  
4 for by you?

5 A. This was prepared for me after looking at diocesan  
6 documents and documents from the national archives at the  
7 Episcopal Church in Austin, Texas concerning financial  
8 assistance to the Diocese of South Carolina.

9 Q. From by who?

10 A. From the national church or agencies of the national  
11 church to the Diocese of South Carolina and or individual  
12 parishes.

13 Q. All right. Now, what I would like to ask you to do, if  
14 possible, instead of reading the entire document, can you go  
15 through the document as you sit there and give us the  
16 highlights of what you found was financial aid from the  
17 national church or an agency of it to the diocese and its  
18 parishes?

19 MS. GOLDING: Your Honor, I'm going to make an  
20 objection. Number one, it's not in evidence, the document,  
21 and his testifying on that question is improper. He's got to  
22 lay a foundation as to when he says agencies of the church,  
23 for instance, you know. There's no foundation as to that.

24 Q. What do you mean when you refer to an agency of the  
25 church?

1 A. It could be the Freedmen's Aid Commission, the American  
2 Church Missionary Society, the Episcopal Church Building  
3 Fund.

4 Q. Are they all organizations controlled and used by the  
5 national church to distribute aid to dioceses and parishes?

6 A. Yes, sir, along with the Presiding Bishops Emergency  
7 Relief Fund, which is very important in this diocese.

8 MR. TISDALE: Submit, Your Honor, he's using this to  
9 refresh his memory of his work.

10 THE COURT: First of all, let me be clear. I don't have  
11 a problem with him having his own document that he created to  
12 help him testify. There's nothing inappropriate about that  
13 at all.

14 MR. TISDALE: Yes.

15 THE COURT: Obviously to put it on the screen is a  
16 problem because it's testimony.

17 Secondly, the expertise is an expertise with regards to  
18 history.

19 MR. TISDALE: Yes.

20 THE COURT: Not with regards to governance, not with  
21 regards to corporate structure.

22 MR. TISDALE: Right.

23 THE COURT: So I have concern regarding the testimony as  
24 it relates to the financial matters. Now, you can clear that  
25 up. I mean, the journal may say that -- and he's read the

1 journal that says that the National Episcopal Church loaned  
2 \$500 to St. Philip's in Charleston to help pay the legal  
3 bills of one, and that would certainly be helpful to me, but  
4 I want to be clear, because there isn't any foundation  
5 laid -- I'm not saying it couldn't be because it very well  
6 may be where Dr. Edgar has got the sufficient background and  
7 information to talk about the financial structure,  
8 particularly the corporate relationships between the  
9 different entities, because that's pretty important and I  
10 want to know who they are.

11 MR. TISDALE: Your Honor, I think we can resolve this.

12 THE COURT: Sure.

13 Q. Just lay your work aside for a minute, and I'm going to  
14 ask that we turn to Exhibit 281, which is the 18 --

15 MS. KOSTEL: No.

16 MR. TISDALE: No. Wrong one.

17 MS. KOSTEL: 504.

18 MR. TISDALE: Wrong one. I have 281 here as the 1867  
19 journal.

20 MS. KOSTEL: We can do that first, but I think we need  
21 to -- okay.

22 (Attorneys confer.)

23 Q. Dr. Edgar, I'm going to ask you a question about the  
24 scope of your research regarding financial aid to the  
25 diocese.

1 I first ask you to look at what's been marked as Exhibit  
2 504. What is this?

3 A. The extract of the annual report for the board of  
4 missions, 1866 to 1919.

5 Q. Is this a document that you reviewed and researched as  
6 you did the journal of the diocese?

7 A. Yes, sir, I did.

8 Q. And look at 505. What is this?

9 A. Extracts from the annual reports of the national  
10 council, 1920 to 1938.

11 Q. Is this a document you reviewed and researched as you  
12 did the journals of the diocese?

13 A. Yes, sir.

14 Q. Exhibit 506, what is this?

15 A. Extracts from the minutes of the national council, 1911  
16 to 1965.

17 Q. Is that National Council of the Episcopal Church?

18 A. Yes, sir.

19 Q. Did you research, study that document?

20 A. Yes, sir, I did.

21 Q. Exhibit 507?

22 A. Extracts from the audit reports of the American Church  
23 Institute for Negroes.

24 Q. Is that an institute of the Episcopal Church?

25 A. Yes, sir.



1 Q. The national church?

2 A. Yes, sir.

3 Q. Did you research and study that, the information in  
4 that?

5 A. Yes, sir.

6 Q. 508, please.

7 A. Extracts from the minutes of the American Church  
8 Missionary Society, 1867 to 1899.

9 Q. Is that American Church Missionary Society, based on  
10 your research and study, a branch or unit of the national  
11 church?

12 A. Yes, sir. This record, like all of these others, are in  
13 the national archives.

14 Q. National archives?

15 A. Of the Episcopal Church, of the national church.

16 Q. 509 Exhibit, what's this Dr. Edgar?

17 A. Loans from the Episcopal Church Building Fund, 1880 to  
18 1991.

19 Q. Is the Episcopal Church Building Fund a part of the  
20 national church?

21 A. Yes, sir.

22 Q. And did you study and research the contents of this  
23 document?

24 A. Yes, sir, I did.

25 Q. Exhibit 510, please. What is the United Thank Offering.

1 A. The United Thank Offering, 1971 to 2012.

2 Q. What's the United Thank Offering?

3 A. United Thank Offerings are taken up generally from the  
4 women of the church, of the national church.

5 Q. Did you study it?

6 A. Yes. The United Thank Offering is something that's done  
7 nationwide through the Episcopal Church --

8 Q. All right.

9 A. -- the national church.

10 Q. And did you study, research the contents of this  
11 document?

12 A. Yes, sir.

13 Q. 511, what is this document, Dr. Edgar?

14 A. Miscellaneous, 1866 to 1919.

15 Q. Yes, sir. What is it?

16 A. That's the domestic committee of the board of missions  
17 of the national church.

18 Q. Is that a part of the national church?

19 A. Yes, sir.

20 Q. Now let's turn to Exhibit 281.

21 A. This is the journal for the South Carolina Convention in  
22 1867.

23 Q. Is this a journal that you studied?

24 A. Yes, sir.

25 Q. And does it have an excerpt that's related to financial

1 aid?

2 A. Yes, sir. This is from the report of the Diocesan  
3 Theological Seminary. There was an Episcopal seminary in  
4 South Carolina.

5 The salaries of the professors have been paid up to the  
6 present time, but this has been accomplished only through the  
7 generous aid afforded in response to the appeal of the board  
8 and other dioceses through their earnest and indefatigable  
9 agent, the Reverend A. T. Porter, to whom the other members  
10 of the board return their thanks for his untiring efforts in  
11 behalf of the seminary, which, at great sacrifice to himself  
12 and his parish, he solicited the north at our request, but  
13 for the measure of success which through God's blessing  
14 crowned his labor, the seminary would not be in existence at  
15 all.

16 Q. Now, Dr. Edgar, I have shown you a series of documents  
17 that you've studied from the various church agencies.

18 A. Yes, sir.

19 Q. And I would like to, using the report that you have  
20 before you that we talked about earlier -- is that your notes  
21 and report based upon your study of the documents we've  
22 identified that you've said you've studied the contents of?

23 A. Yes, sir.

24 Q. All right. Can you go through it?

25 MS. GOLDING: Your Honor, that's improper. Mr. Tisdale

1 can ask him a question. He can refer to the document to  
2 refresh his memory, but he cannot publish the document.

3 THE COURT: I didn't take that that's where we were  
4 going.

5 MR. TISDALE: No. I'm going to ask him can he tell us  
6 what aid the Episcopal Church, the national church or any of  
7 its units, have provided to the Diocese of South Carolina  
8 based upon his study of this subject as he's testified.

9 MS. GOLDING: A different question.

10 THE COURT: Yes, ma'am.

11 Q. Can you do that, Dr. Edgar?

12 A. Would you like a specific example that I can document to  
13 give a footnote to prove that what I'm saying is not just  
14 something off the top of my head?

15 Q. Why not?

16 A. Okay. In 1866 18 clergy in the Diocese of South  
17 Carolina received stipends from the domestic committee, and I  
18 cite not only the minutes of the domestic committee of May  
19 the 7th, 1866, I referred to the diocesan journal 1866, Pages  
20 5 through 7, because that put where the individuals were,  
21 which parish or church was theirs, and all throughout Bishop  
22 Thomas' history he mentioned this aid from the national  
23 church. Of specific reference, the congregation of St.  
24 Helena's, as it was called then, and I quote from the most  
25 recent history of the parish of St. Helena by Ms. Payne, Ms.

1 Barbara Payne --

2 MR. RUNYAN: I believe the document speaks for itself.  
3 He's quoting from a document.

4 MR. TISDALE: Just tell us what it says without reading  
5 it.

6 THE WITNESS: It said that Mr. Walker had been put on  
7 the list of missionaries from the board, domestic board of  
8 missions, and that enabled him to resume his ministry at St.  
9 Helena.

10 Q. What year was that?

11 A. That was 1866. Actually he, if you look at the domestic  
12 minutes of May 7th, 1866; February 3rd, 1868; January 7th,  
13 1869; January 3rd, 1870, those are the minutes of the  
14 domestic committee. Also look at the minutes of the American  
15 Church Missionary Society, December 9, 1867, and Mr. Walker's  
16 name is listed in all of those cases.

17 Q. As receiving aid?

18 A. Same name, yes, sir.

19 Q. Dr. Edgar, by referring to your notes, have you prepared  
20 a chart to help you refresh your memory as to what you  
21 gleaned from your study of the documents and the  
22 organizations we talked about?

23 MS. GOLDING: Your Honor, I believe that if a document  
24 is used to refresh memory, the witness has to say in response  
25 to a specific question that he needs to refer to a document

1 or he needs to say that he doesn't recall, can he refer. I  
2 don't believe it's proper that a lawyer tells a witness to go  
3 to a document, as Mr. Tisdale's trying to phrase the  
4 questions.

5 Q. Dr. Edgar, by whatever resources --

6 THE COURT: Sustained.

7 Q. -- you have, can you give us an overview of the aid  
8 received by the Diocese of South Carolina --

9 A. Yes, sir. What I would like to --

10 Q. -- from the national church and its bodies?

11 A. Yes, sir.

12 THE WITNESS: And, Your Honor, what I'd like to do is  
13 there are different forms of aid and I'd like to break those  
14 up into categories.

15 THE COURT: Sure, that's appropriate.

16 THE WITNESS: We have already talked about the aid to  
17 specific clergy from the domestic committee and the American  
18 Church Missionary Society. Aid was then furnished between  
19 1911 and 1961 by the national council, and this was for  
20 missionary work, and it was broken down into support for  
21 white work and colored work to dioceses around the country.

22 And one of the source of the moneys for this national  
23 council work came from the United Thank Offering. In Bishop  
24 Thomas' 1930 address to the convention of South Carolina he  
25 noted it is striking -- may I quote from the convention?

1 THE COURT: Sure.

2 THE WITNESS: He said it is a striking fact that the  
3 increase in the membership of our colored churches in the  
4 past five years has been 50 percent more rapid than among the  
5 white, and he's referring to the aid given by the national  
6 council.

7 In 1928 Bishop Thomas reported, and again I quote,  
8 storms, poor crops and dozens of bank failures have created  
9 in some respects a difficult situation; however, we may say  
10 that the church's activities have gone forward normally and  
11 the work in the diocese helped by the national council has  
12 suffered no setback.

13 Q. Go ahead, sir.

14 A. In 1929 Bishop Thomas in his report to the convention,  
15 and I quote, for a long time there has been a feeling in this  
16 diocese that there should be no appropriation for the  
17 national council for our white work. Provision has now been  
18 made from diocesan funds to supply the needs which have  
19 heretofore been made by this appropriation, and formal notice  
20 has been forwarded on authority of the executive council  
21 releasing the national council from this appropriation, but I  
22 will note that in 19 -- through 1933 there were some small  
23 appropriations.

24 Q. From the national council?

25 A. From the national council, and the annual reports of the

1 national council for 1930, Page 175; 1931, Page 73; 1932,  
2 Page 67; 1933, Page 65; 1934, Page 64. And then from 1947 to  
3 1949 the Diocese of South Carolina received national support  
4 from the national council for white work, as it was called,  
5 and that's in quotes, white work, in the Navy yard, North  
6 Charleston area, and that reference is minutes of the  
7 national council, February 11 through 13, 1947; February 17  
8 through 19, 1948; February 8 through 10, 1949; April 25  
9 through 27, 1950, and it's also referred to in Bishop Thomas  
10 and his History of the Episcopal Church, Page 266.

11 Q. Anything else on aid up until recently from the  
12 Episcopal Church, the national church, to the diocese? How  
13 about 1989 when Hugo hit?

14 A. Oh, actually there are two disaster reliefs I'd like to  
15 refer to, sir.

16 Q. Please.

17 A. The first is after the aftermath of the great earthquake  
18 of 1886, disastrous earthquake in Charleston, Bishop Howe  
19 reported that he had received, the diocese had received,  
20 \$40,588.07 from 48 dioceses and 12 missionary districts in  
21 the Episcopal Church in the United States and from England  
22 and Japan, and he noted that except for one-tenths of the  
23 fund going to personal relief, the remainder went to repair  
24 churches and institutions.

25 Q. Of the diocese?



1 A. Of the diocese.

2 And the churches which received these funds, and it  
3 references the diocesan journal 1894, Page 54, were St.  
4 Michael's, St. Philip's, St. Paul's, St. Luke's, Grace, Holy  
5 Communion, Calvary and St. Mark's; Christ Church,  
6 Shepherdsboro; St. John's Chapel, Hampstead; Christ Church  
7 Parish, Mount Pleasant; St. Paul's Summerville; and  
8 Strawberry Chapel. The Laurens Street Church Home, St.  
9 Philip's Church Home and the House of Rest also received  
10 funds.

11 THE COURT: Why don't we stop right there because I want  
12 to be sure that I heard correctly. The beginning of that  
13 passage, read that to me again, please.

14 THE WITNESS: In the aftermath?

15 THE COURT: Yes.

16 THE WITNESS: In the aftermath of the great earthquake  
17 of August 31st, Bishop Howe reported that he had received  
18 \$40,588.07 from 48 dioceses and 12 missionary districts in  
19 the Episcopal Church.

20 There's a reason as to how that happened.

21 MR. PHILLIPS: Your Honor, based on that testimony, I  
22 was going to raise the objection it's not relevant.

23 THE COURT: I concur. It's from other dioceses. It's  
24 not from the national church.

25 MR. TISDALE: It's part of the church.

1 THE WITNESS: In response to an appeal from the house of  
2 bishops.

3 THE COURT: Okay. Then for what it's worth.

4 MR. TISDALE: Thank you, Your Honor --

5 THE WITNESS: Bishop Howe.

6 MR. TISDALE: -- for clearing that up.

7 THE WITNESS: Bishop Howe said -- and the reference is  
8 diocesan journal, 1894, Page 33 -- I put forth no circulars  
9 and sent out no advocates but confine myself to a simple  
10 statement of the disaster which had befallen us between the  
11 Associated Press and some of the principal churches. The  
12 house of bishops and a pastoral kindly seconded my statement.  
13 What I have received has come mainly from church offerings.

14 Q. Is that the house of bishops of the general convention?

15 A. Yes, sir.

16 Q. Now moving forward, you said there were two. Was the  
17 other one Hugo?

18 A. Hurricane Hugo.

19 Q. 1989?

20 A. 1989.

21 Q. What happened then, if you know?

22 A. The Presiding Bishops Fund for World Relief sent the  
23 Diocese of South Carolina \$100,000.

24 Q. All right, sir. Dr. Edgar --

25 THE WITNESS: Excuse me. Would you like a specific

1 reference for that, Your Honor?

2 Q. Go ahead and do it.

3 A. The reference is a letter from the Right Reverend Furman

4 C. S-T-O-U-G-H --

5 Q. Stough.

6 A. -- to the Right Reverend Edward L. Salmon, November 8,

7 1990, the topic, and those records are in the Presiding

8 Bishop's Fund For World Relief.

9 Q. Thank you. Dr. Edgar, has there been any recent -- and

10 I'm going to ask you to refer to Exhibit 510 -- aid from the

11 United Thank Offering, which you said was a part of the

12 national church, to this diocese?

13 A. Yes, sir. On January, 3rd, 2012, the Right Reverend

14 Mark J. Lawrence sent a letter to the United Thank Offering

15 grant submissions. He submitted a grant, and the address is

16 815 Second Avenue, New York, New York. Dear UTO grant

17 coordinator: I write in support for St. John's Episcopal

18 Church, a mission of the Episcopal Diocese of South Carolina,

19 in its application for a UTO grant.

20 Q. Was one granted?

21 A. Yes, it was.

22 Q. How much?

23 A. \$15,000.

24 Q. Okay. And is that in the letter we see as part of this

25 on June 27, 2012?

1 A. Yes, sir, grant number and the amount, Dear Bishop  
2 Lawrence.

3 Q. Anything else about financial aid to the diocese that  
4 you think significant that came out in your study?

5 A. No, sir.

6 Q. All right. Let's turn now and talk about briefly the  
7 pension fund, church pension fund, Exhibit 371. Is this a  
8 journal of the diocese of 1957?

9 A. Yes, sir.

10 Q. What can you tell us about what the church pension fund  
11 contributed to the clergy in the --

12 A. There was a report of --

13 MS. GOLDING: Your Honor, I'm going to make an  
14 objection. We've already established the church pension fund  
15 is a completely separate entity. Certainly there is a  
16 managing board with members from the national church, but it  
17 is a Delaware corporation. It is a completely separate legal  
18 entity from the defendant national church.

19 MR. TISDALE: It's part of the national church as are  
20 other units we've talked about I believe. It just happens to  
21 have its own structure.

22 MS. KOSTEL: I think we established through a witness,  
23 Your Honor, that the trustees of that entity are elected by  
24 the general convention, which means the general convention  
25 controls who's on the board.

1 MS. GOLDING: It's still a completely separate legal  
2 entity.

3 MR. TISDALE: Of course it's separate. It's a pension  
4 fund.

5 THE COURT: Here's my concern: My concern is that --  
6 and correct me if I'm wrong, but based on everything that I  
7 have heard, the pension fund is no freebie for the diocese or  
8 for the parishes. There's money that's paid in for the  
9 clergy. In other words, it's contributed to, it exists, it's  
10 a corporation, but it isn't charter, it isn't a gift. It is  
11 a pension fund just like many other pension funds. Am I  
12 incorrect about that?

13 MR. TISDALE: Your Honor, it's sponsored by the church  
14 for the benefit of the clergy of the church.

15 THE COURT: Right.

16 MR. TISDALE: And of course they contribute to it.

17 THE COURT: Okay.

18 MR. TISDALE: But that's not all that is paid out.

19 THE COURT: Well, it depends, doesn't it? Doesn't it  
20 depend on the market and the investments?

21 MR. TISDALE: Pensions are set.

22 THE COURT: Kind of like mine, you know, if I ever get  
23 there, but by the same token sort, if you use actuarial  
24 tables -- I guess this is my concern, particularly with --  
25 and I hear the testimony, but it isn't like -- I guess my

1 concern is that they kind of pay for it, you know.

2 MR. TISDALE: They do contribute to it.

3 MS. KOSTEL: Not to the management of it.

4 MR. TISDALE: But not to the management of it.

5 MS. KOSTEL: Which is what you pay for when you invest  
6 in an ordinary pension fund.

7 THE COURT: Sure, they did. Sure, they did.

8 MR. TISDALE: It's operated by the general convention of  
9 the Episcopal Church.

10 THE COURT: Of course. Here's the problem with having  
11 Dr. Edgar testify to that, because here's what's going to  
12 happen to Dr. Edgar: "Dr. Edgar, you looked at the balance  
13 sheet like for 1990 for the pension fund." What concerns me  
14 is he's going to say, "What? I'm an historian." And they  
15 ought to be able to ask him how much of the amounts that were  
16 contributed and invested by these different parishes went  
17 towards the salaries and the incomes and the benefits for the  
18 management of the pension fund. I think it's unfair to ask  
19 him that, and it's going to give me incomplete information,  
20 and I'm going to resist.

21 MR. TISDALE: Your Honor, I don't think he can provide  
22 that information. What I intended to ask him in four  
23 instances is how much the clergy of this Diocese of South  
24 Carolina in four years, in each of those years, received in  
25 benefits in total.

1 THE COURT: But it's not of any help to me. Let me tell  
2 you why, because here's what I know -- I don't know -- I  
3 don't know who made the money, because I don't know that  
4 given the actuarial tables, given the amounts of money  
5 obviously invested within the pension fund -- you know, South  
6 Carolina might have been a good deal because maybe some of  
7 the clergy folk before they hit the pension, maybe they died  
8 or they didn't vest. To me that's such an unfair question to  
9 ask him.

10 MR. TISDALE: All right. Your Honor, we don't have  
11 information beyond the amount of benefits, so what I would  
12 like to do is just, if you will allow me, just simply read in  
13 these exhibit numbers that relate to this for the record.

14 THE COURT: Okay. That will be fine, but I've got to  
15 tell you, in terms -- and let me be as clear as I know how to  
16 be. When you're looking -- when the Court is looking at what  
17 is fair and what is just, as we were talking about earlier in  
18 these matters, it's kind of hard to take what's a business  
19 deal that I know is a business deal and to tell me it's  
20 something other than a business deal, and that's what a  
21 pension -- that would be where I have to put the pension.  
22 Some years it's a good deal. Some years it's not such a good  
23 deal depending what happens with the market, depending how  
24 wise the investors are, and depending on a myriad of things,  
25 but if you want to offer that so that a number is in the

1 record, go right ahead, but I can tell you that --

2 MR. TISDALE: Your Honor, I can cut it short this way:  
3 If you'll allow me to identify the four exhibits and simply  
4 to say what his testimony would be in one sentence for each  
5 year, or I can ask him, whichever you prefer.

6 THE COURT: I understand. Here's what I'm going to do.  
7 If you want to proffer that, I want you to proffer it.

8 MR. TISDALE: It's going to be real quick.

9 THE COURT: But it would be inadmissible because it's  
10 not what it purports to be. Those are not gifts to the  
11 diocese.

12 MR. TISDALE: Your Honor, we'll proffer it quickly.

13 THE COURT: Go right ahead.

14 MR. TISDALE: Thank you.

15 Exhibit 371.

16 Q. Dr. Edgar, what is this journal the year for?

17 A. 1957.

18 Q. Does it indicate the amount of pension funds delivered  
19 to the clergy of South Carolina in the previous year?

20 A. \$24,659.40.

21 Q. Now let's look at Exhibit 401. Reported that year how  
22 much?

23 A. 1987.

24 Q. How much to clergy of the diocese from the pension fund?

25 A. It's broken down by categories, but the grand total is



1 \$246,165.80.

2 Q. Let's look at Exhibit 408. This is 1994?

3 A. Yes, sir. Same question: Does that exhibit indicate  
4 the amount of pension funds that were delivered to the parish  
5 of this diocese by the church pension fund, if we can find it  
6 on the exhibit.

7 MS. KOSTEL: Sorry. I've written down an incorrect page  
8 number. Let's just move on. Move on.

9 Q. Let's then go to Exhibit 416.

10 A. 2002.

11 Q. 2002. Does it indicate the amount of pension funds in  
12 total delivered by the church pension fund to the clergy of  
13 the Diocese of South Carolina.

14 A. It does not. It goes by category. It does not deliver  
15 a total.

16 Q. Can you give us the categories and the amounts?

17 A. Yes, sir. For clergy retired by age, \$519,831.60; to  
18 surviving spouses, \$142,156.80; early retirement or  
19 disability, \$347,103.60; 30-year retirement or disability,  
20 \$129,793.20.

21 Q. The amount is not totaled?

22 A. No, sir, there's no total listed.

23 Q. All right. Okay. Dr. Edgar, I appreciate the time  
24 you've given us, and I would like you to answer any questions  
25 that opposing counsel have of you.

1 MR. TISDALE: Thank you very much, Your Honor.

2 THE COURT: Thank you so much.

3 National church, any questions?

4 MR. BEERS: No, Your Honor.

5 MS. KOSTEL: No. Thank you.

6 THE COURT: All right. From the plaintiffs?

7 MS. GOLDING: Thank you, Your Honor.

8 THE COURT: Yes.

9 CROSS-EXAMINATION BY MS. GOLDING:

10 Q. Mr. Edgar, if I understand it correctly, you were  
11 retained in early, what, January 2013 by Mr. Tisdale?

12 A. I was, yes, sir -- yes, ma'am. Excuse me.

13 Q. And you were retained to search church history; is that  
14 correct?

15 A. To search the records of the church, yes.

16 Q. Okay. And since that time, since early 2013, to the  
17 present you've been in frequent contact with Mr. Tisdale and  
18 Ms. Kostel; is that correct?

19 A. I have been in contact, not necessarily, but I've been  
20 in contact, yes, ma'am.

21 Q. And you've also had occasional contact with Mr. Beers;  
22 is that correct?

23 A. Ma'am, I am hard of hearing. When you turn away, I  
24 can't hear you.

25 Q. I apologize.

1           You've had occasional contact over the last year and a  
2 half with Mr. Beers as well?

3   A.    Yes, ma'am.

4   Q.    And you were retained I guess in -- I think you told me  
5 in the calendar year 2013 you received about \$27,000 for your  
6 research work?

7   A.    Yes, ma'am.

8   Q.    And in this year, 2014, before, of course, your  
9 testimony today, you've received about \$17,000?

10   A.    Actually I have only received half of that, but I billed  
11 for \$17,000.

12   Q.    I gotcha. Okay.

13           And, now, as I understand with respect to your  
14 expertise, you are not a sociologist or a psychologist; is  
15 that correct?

16   A.    That is correct.

17   Q.    You are not an accountant, you are not a bookkeeper; is  
18 that correct?

19   A.    That is correct.

20   Q.    And generally you are not a religious historian; is that  
21 correct?

22   A.    Not as a specified subcategory, but in the history of  
23 South Carolina and in American history, religion is part of  
24 the general culture.

25   Q.    Right, but you don't hold yourself out to this Court and

1 say I'm a religious historian, do you?

2 A. No, ma'am.

3 Q. Let's go right to the finances that you were just  
4 talking about a few minutes ago.

5 You did not put together or make an effort to summarize  
6 the contributions made by St. Philip's to the plaintiff  
7 diocese, did you?

8 A. It was not in the report.

9 Q. But did you make any effort to gain information as to  
10 the contributions made by St. Philip's to the plaintiff  
11 diocese?

12 A. No, ma'am.

13 Q. Did you make any effort to obtain any information about  
14 any of the contributions made by these 36 parishes to the  
15 plaintiff diocese in this lawsuit?

16 A. No, ma'am.

17 Q. Wouldn't you agree that contributions by third parties  
18 such as the 36 plaintiffs to the plaintiff diocese is a  
19 significant factor that should be taken into consideration?

20 MS. KOSTEL: Objection, Your Honor. This witness did  
21 not purport to weigh intake or output. He just testified as  
22 to what came from the national church, and so what  
23 Ms. Golding is asking him to talk about is not just beyond  
24 the scope of direct; it has nothing to do with what he  
25 testified about.

1 THE COURT: In other words, the objection -- let me just  
2 be clear. The objection is that the testimony wasn't offered  
3 by this witness for the purpose of showing to the Court  
4 moneys that had been -- let me not say moneys -- value that  
5 had been given to the diocese for this reason.

6 MS. KOSTEL: From the parishes.

7 THE COURT: To the parishes, to the diocese; in other  
8 words -- see, that's a little bit -- that's what I was  
9 getting at with regards to the pension fund, is that that  
10 testimony looks as though it is being offered for the purpose  
11 of saying, you know, there's a whole lot of money that the  
12 national church has given to this diocese and given these  
13 parishes, a lot of money, and, Judge, in order for you to be  
14 just, you've got to take that into consideration, how much  
15 money has been given. And I thought that was the reason that  
16 that question was asked, was for the purpose of depicting  
17 that, so if, in fact, that's the reason that information was  
18 offered, well then this is absolutely fair.

19 MS. KOSTEL: Okay.

20 THE COURT: Because, I mean, if I'm giving you a million  
21 dollars and you give me \$25,000, you're doing a lot better  
22 than I am, and so I got one part of the story, but what I  
23 don't have is the other part. I have nothing to assess if  
24 that was a good thing or not. So if that's what it was  
25 offered for, then this is absolutely fair cross-examination.

1 If it was just offered as, I don't know, sort of irrelevant  
2 information --

3 MS. KOSTEL: It's fair, I think, if Ms. Golding has a  
4 foundation for insinuating that money came the other way.

5 THE COURT: I understand. I think you've got it.

6 MS. GOLDING: Thank you, Your Honor.

7 Q. So, Mr. Edgar, if I'm understanding what you're telling  
8 me, is that you weren't instructed to go out and research and  
9 to determine the contributions made by any one of these  
10 plaintiff parishes to the plaintiff diocese, were you?

11 A. No.

12 Q. No, you were not, or is it no to my question?

13 A. Would you repeat the question, please, ma'am?

14 Q. Thank you.

15 If I understand what your testimony and your role in  
16 this case is, you were not instructed by any of the  
17 defendant's counsel or anyone on behalf of the defendant to  
18 determine the contributions or value made by any one of these  
19 plaintiff parishes to the plaintiff diocese?

20 A. Strictly with regard to the pension fund?

21 Q. No, sir, with regard to any contributions made by a  
22 plaintiff parish to the plaintiff diocese.

23 A. The plaintiff parish, okay. The annual financial  
24 contributions to the diocese, I did look at that, yes.

25 Q. And so tell me, how much did St. Philip's contribute to

1 the diocese in the year 1907?

2 A. I have no idea.

3 Q. Okay. Any year?

4 A. I did not take down that information.

5 Q. Did you obtain that information for any plaintiff parish  
6 for any year?

7 A. No, ma'am.

8 Q. Well, you just said that you did see that there were  
9 numbers, dollars, given by plaintiff parishes to the  
10 plaintiff diocese; is that correct?

11 A. That's part of parochial reports, yes, ma'am.

12 Q. And it would be fair to state that those numbers that  
13 you saw were substantially more than the numbers that you saw  
14 from the national church; wouldn't that be correct?

15 A. In what year, ma'am?

16 Q. In any year.

17 A. It depends upon the year.

18 Q. Okay.

19 A. If you're referring to the 1860s, the payment of clergy,  
20 up to a third or a half of the clergy salaries in 1866, '67  
21 were paid for by the national church.

22 Q. So we've got 1866 and 1867. You say that the national  
23 church paid?

24 A. They paid stipends to clergy, and I mentioned those  
25 references.

1 Q. Would you agree that in 1866 and 1867 there were  
2 expenses of the plaintiff diocese that were in addition to  
3 salaries to clergy?

4 A. Explain, ma'am. I don't understand your question.

5 Q. Well, do you think the plaintiff diocese had employees  
6 that it had to pay that were not clergy?

7 A. Not very many.

8 Q. Okay. But do you recall any contribution by the  
9 national church to pay for the plaintiff diocese's employees?

10 A. Actually, ma'am, for school teachers and Mr. Toomer, Mr.  
11 Porter's school, absolutely. They paid for school teachers  
12 and --

13 Q. I didn't mean to interrupt you. I'm sorry.

14 A. That's okay.

15 Q. Let's go pull out those journals then for 1866 and 1867.  
16 Do you have those?

17 MS. GOLDING: We didn't get any hard copies of their  
18 exhibits, Your Honor, so that's why Ms. Kostel had it on --

19 THE COURT: Right.

20 MS. GOLDING: So can I get them?

21 THE COURT: What do you want?

22 MS. GOLDING: 1866 and 1867, the journals.

23 MS. KOSTEL: Of the diocese?

24 MS. GOLDING: Yes, which you --

25 MS. KOSTEL: Yes.



1 MS. GOLDING: Thank you.

2 MS. KOSTEL: What page?

3 MS. GOLDING: I don't have any idea. You have as an  
4 exhibit some references to the 1866 and 1867 journals that  
5 this gentleman is talking about.

6 MS. KOSTEL: But the diocese has the journals, all of  
7 them, Your Honor, because you have all the documents. So you  
8 want the whole journals?

9 MS. GOLDING: Yes. And if we could go to the finance  
10 sections.

11 MS. KOSTEL: Is that it?

12 Q. It appears that this is page -- I'm sorry -- 33. Do you  
13 have that in front of you, Mr. Edgar?

14 A. Yes, ma'am, but I can't read it.

15 Q. On page 33 you see a list of contributions from all the  
16 parishes; is that correct?

17 A. Yes, ma'am. Ma'am, I'm having a very hard time reading  
18 this.

19 MS. KOSTEL: Let me blow it up.

20 THE WITNESS: Okay.

21 Q. So those contributions from all of these parishes, you  
22 will agree that those contributions far outweigh -- are  
23 significantly more than any contribution by the national  
24 church, would you not?

25 A. I would have to see the total before I could answer that

1 question.

2 Q. Okay. Let's see if we can scroll down.

3 A. No, ma'am.

4 Q. Or go to the next page. Now we have to bend or head  
5 sideways?

6 MR. KOSTEL: Yes. I'm sorry.

7 A. The total there is \$1,402.53.

8 Q. Let's go to the next page. And these look like  
9 additional contributions.

10 A. \$120.

11 Q. Okay. And so let's go to the next page.

12 MS. KOSTEL: I think that's it.

13 Q. Okay. Do you recall the amount of money that the  
14 national church gave in 1866?

15 A. Yes, ma'am; more than \$6,000.

16 Q. Okay. And where did you get that?

17 A. From the records of the national -- of the American  
18 Church Missionary Fund. It's also referenced in the good  
19 Reverend Porter's autobiography. He mentions the sum. It's  
20 also --

21 Q. Let's go find your copy then. You've got your file  
22 here. Let's go get that, the \$6,000 in 1866.

23 A. Okay.

24 Q. Thank you.

25 A. That is going to be the minutes of the domestic

1 committee, 1866, and we're going to need to also -- I'd also  
2 like to look at -- the specific sum, 6,000, is also mentioned  
3 in Mr. Porter's autobiography, but I don't have a copy of  
4 that. It's also mentioned in Bishop Thomas' history of the  
5 church. I did not bring a copy of that.

6 Q. Well, you looked at the national church's records.  
7 That's what I'm interested in.

8 A. Yes, ma'am.

9 Q. That's what I need.

10 A. Yes, ma'am.

11 Q. You can go get it, if Your Honor would permit.

12 THE COURT: Absolutely.

13 MS. KOSTEL: What is it you're asking him to get?

14 MR. TISDALE: The records of the national church.

15 THE COURT: We'll take a break while we try to regroup  
16 and find your document. We'll take 15 minutes. Thank you.

17 THE WITNESS: Yes, ma'am.

18 (Recess held.)

19 THE COURT: All right, folks. Let's see if we can come  
20 back to order, please. Thank you so much everyone.

21 And, oh, good, you got the document. You got the  
22 report?

23 MS. GOLDING: I have not gotten it. Have you found the  
24 report?

25 THE COURT: He did and we printed it.

1 MS. GOLDING: Is this it? Okay. Here you go.

2 THE WITNESS: Yes, ma'am.

3 Q. Now, the document that you have I have as Page 12. Is  
4 that correct?

5 A. Yes, ma'am.

6 Q. And this appears to be your summary that you put  
7 together?

8 A. Yes, ma'am.

9 Q. Okay. And in your summary, from my review of it, it  
10 appears that with respect to the seminary, the school, the  
11 center -- and I believe that was located in Columbia; is that  
12 correct?

13 A. No, ma'am, it was located in Spartanburg. That's where  
14 Converse is now.

15 Q. Very good. And at that point in 1886 the national  
16 church paid \$6,000 to some of the teachers at the seminary?

17 A. Yes, ma'am.

18 Q. Okay. So that's the \$6,000 you're referring to?

19 A. No, ma'am, it is not.

20 Q. Okay.

21 A. If you'll go to Page 15, May the 7th, and this was a  
22 quotation from the meeting of the domestic committee.

23 Q. Do you have a copy of the minutes?

24 A. They're online. I don't have my copy. I don't have a  
25 copy with me.

1 Q. Okay.

2 MS. GOLDING: Do you mind if I approach? May I approach  
3 the witness so he can show me?

4 THE COURT: You may.

5 Q. Okay. I don't see any quotes.

6 A. Right here, ma'am (indicating).

7 Q. I'm just blind. I apologize. Very good.

8 A. South Carolina, very interesting letters from Bishop  
9 Davis containing nominations were read. The Reverend A.  
10 Toomer Porter, agent of Bishop Davis, came before the  
11 committee at their request and made very interesting  
12 statements in relation to the condition, and I couldn't read  
13 that word. It's all in -- I thought it was accounts of the  
14 diocese. ACCTS is an older abbreviation for the term  
15 "account."

16 Ordered that \$6,000 be appropriated to the Diocese of  
17 South Carolina and that the nominations of Bishop Davis be  
18 confirmed, the stipend named by him to date from April the  
19 1st, 1866 and for the present to be paid quarterly in  
20 advance.

21 There were 18 clergy who received -- this is out of the  
22 quote now. This is from the record. There were 18 clergy  
23 who received stipends from the domestic committee. W. O.  
24 Prentiss -- and I have in brackets where he was from. I got  
25 his particular church from the diocesan journal -- received

1 \$600, Jay Maxwell Pringle of Christ Church, Columbia, \$600;  
2 John D. McCullough, who served Advent, Spartanburg and  
3 Nativity, Unionville, \$400; William Johnson, Edisto Island,  
4 \$400; J. R. Walker, D.D., St. Helena, Beaufort, \$350; Edward  
5 T. Walker, officially listed in the diocesan journals as  
6 being from St. Helena but was officiating at Trinity,  
7 Edgefield, 250; Andrew H. Cornish, St. Paul's, Pendleton,  
8 250; Le Grand F. Guerry, who was rector of Zion, Richland  
9 County, but the missionary funding was for Holy Comforter,  
10 Sumter; and St. Philip's, Bradford Springs, \$300.

11 Q. Unless you want to, it's not necessary that you read.

12 MR. TISDALE: Please let him finish.

13 THE WITNESS: Le Grand F. Guerry, who was rector of  
14 Zion, Richland County, but the missionary funding was for  
15 Holy Comforter, Sumter, and St. Philip's Bradford Springs,  
16 \$300; Robert P. Johnson, rector St. Stephen's and Upper St.  
17 John's, the funding for his work at Upper St. John's, 250;  
18 Alexander W. Marshall, D.D., St. John's Chapel, Charleston.  
19 Stiles Mellichamp, M-E-L-L-I-C-H-A-M-P, officially was the  
20 rector of St. James, James Island, but the funding was for  
21 his missionary work at Redeemer, Orangeburg, \$250; Barnwell  
22 B. Sams, Holy Apostles, Barnwell, \$250; Julius J. Sams, St.  
23 Mark's, Chesterville, Good Shepherd, Yorkville, \$250; William  
24 P. DuBose, missionary at Winnsboro, \$250; Thomas F. Gadsden,  
25 missionary in Christ Church Parish, \$250; Clement F. Jones,

1 Calvary, Glenn Springs, \$200; P. F. Stevens, Black Oak,  
2 Middle St. John's Parish, \$200; John H. Cornish, St. Thaddeus  
3 Aiken, \$250. Later in the year more clergy stipends were  
4 provided, James A. Stoney, Bluffton, \$200; Lucien,  
5 L-U-C-I-E-N, C. Lance, All Saints, Waccamaw, \$200.

6 Q. Now, next I want you to look at -- let's go into the  
7 journal, the plaintiff diocese journal, for 1968, and I'm  
8 going to present for you, before you, Pages 95 and 96, and  
9 since you like to read, I'm going to ask you to read it to  
10 the Court, those two entries.

11 MS. KOSTEL: What year was that, Henrietta?

12 MS. GOLDING: 1868, Page 95.

13 THE WITNESS: 1868 or 1968.

14 MS. GOLDING: 1868.

15 MS. KOSTEL: I assume you said 19.

16 MS. GOLDING: 1868. Page 95 and 96. Do you have that  
17 in front of you?

18 THE WITNESS: Mm-hmm.

19 Q. Can you read that into the record --

20 A. Yes.

21 Q. -- starting with Page 95.

22 A. Okay. I can't read it.

23 Q. Would you rather have the written version -- I mean the  
24 hard copy version?

25 A. The evidence submitted to your committee is too partial

1 to arrive at a satisfactory conclusion, nor have the funds of  
2 the several parishes and individuals alone suffered in the  
3 general ruin in which as a church we are involved. The  
4 treasurer of the society for the advancement of Christianity  
5 reports that whereas before the war its permanent funds  
6 amounted to \$89,108, its income 7,443, it is at present  
7 reduced to \$33,485. Its income is \$2,096. The treasurer of  
8 the bishops fund reports before the war, \$70,186; income,  
9 \$4,200, now, \$59,995; income, \$1,605.

10 Q. You can continue to read, please.

11 A. The treasurer of the theological seminary reports its  
12 entire funds is lost, its supporters too impoverished to  
13 continue their subscriptions. The testimony is pitifully  
14 uniform, showing heavy, in many instances total loss of  
15 church funds and of private means among the members of our  
16 household of faith. Like causes have wrought like effects in  
17 greater or less degree in every section of the diocese with  
18 scarcely an exception. The financial resources of our parish  
19 are more straightened than at the close of the war, which  
20 itself left them on the verge of bankruptcy. Two years of  
21 unsuccessful planting have brought them only more deeply into  
22 debt.

23 The answers handed in exhibit the following facts in  
24 regard to the funds of the parish: In six the receipts have  
25 depreciated in value from 50 to 75 percent. In all others



1 reported, the loss has been total. In this connection one of  
2 the most depressing features to us is that these losses have  
3 fallen most heavily upon the class, parentheses, that of  
4 planters, closed parentheses, and in the section of the  
5 state, parentheses, the low country, closed parentheses,  
6 where our church was strongest, where the parishes were not  
7 only self-sustaining but contributed of their abundance by  
8 far the major part of our available funds for diocesan  
9 purposes.

10 The churches in the up country, with one or two  
11 exceptions, were never and are not now, as appears from the  
12 answers before us, in a condition to dispense with pecuniary  
13 aid. As the natural, if not wholly unavoidable result of  
14 such financial prostration, your committee have piteous  
15 exhibit to make of salaries. Ministers -- shall I --

16 Q. It's not necessary to read any further unless your  
17 attorneys want you to. I wanted you to read the sections you  
18 just read.

19 A. Okay.

20 Q. Thank you.

21 Next I would like for you -- I would like to pull up --  
22 let's go to 1925, the journal for 1925. That's the diocese  
23 plaintiff's exhibit. The last page that I want is 10693.

24 MS. KOSTEL: I'm sorry. Could you clarify what journal  
25 that is?

1 MS. GOLDING: That is the 1925 journal, and it's Page  
2 102 in that journal.

3 Q. Can you see Page 102 in that journal?

4 A. Yes, ma'am. I'm sorry. I've got trifocals, ma'am.

5 Q. Please take your time. At the bottom it has total  
6 amount expended by the diocese and it has \$146,453.04.

7 A. Yes, ma'am.

8 Q. Did I read that correctly?

9 A. You read that correctly.

10 Q. How much of that amount was contributed by the national  
11 church?

12 A. I do not know off the top of my head.

13 Q. Let's now go to 1945. The 1945, this would be Page 129,  
14 diocesan exhibit. The last is 11934. I'm sorry, the next  
15 page is 131. Page 131, the last column, it's 130 and 131,  
16 and the last column has total receipts and it has a grand  
17 total at the bottom. Can you see that?

18 MS. KOSTEL: I'm not sure this is an objection, but is  
19 this in evidence?

20 MS. GOLDING: No, I didn't offer these in evidence. He  
21 just said that he -- Your Honor, he reviewed all of these,  
22 and so I was asking him a question from the document.

23 MS. KOSTEL: Okay. I thought you gave an exhibit  
24 number. I'm sorry.

25 MS. GOLDING: No, I didn't.

1 MS. KOSTEL: Okay.

2 THE WITNESS: \$254,712.86.

3 Q. Out of that amount, how much did the defendant, national  
4 church, contribute?

5 A. I don't know, but that's an incomplete record of what  
6 the national church did in gifts, loans and grants and  
7 mortgages. That's not included in that report.

8 Q. Now let's go to 1965. And I'd ask if you could look at  
9 Page 130. At 130 it has a total summary of dollar amount.  
10 Can you read that dollar amount in that?

11 A. \$826,623.42.

12 Q. And how much of that amount did the national church  
13 contribute?

14 A. I do not know.

15 Q. Now let's look at 1985, the 1985 journal, and  
16 specifically Page 152.

17 MS. KOSTEL: Objection, Your Honor. Is this -- are you  
18 trying to get evidence in about those numbers? Because  
19 that's not -- that's not a proper way to get evidence in,  
20 having him read from a document that's not in evidence.

21 MS. GOLDING: Page 152.

22 THE COURT: These documents are from the journals,  
23 right?

24 MS. GOLDING: Yes, every one of them is in a journal.

25 THE COURT: As I understand it, the purpose of this

1 information is for impeachment; is that correct?

2 MS. GOLDING: Absolutely.

3 THE COURT: Very well, thank you.

4 Overruled.

5 MS. KOSTEL: But the fact -- excuse me. The fact of the  
6 number is not a piece of evidence, correct?

7 THE COURT: Well, here's what it is: The question  
8 simply is here's a number. In this number, do you know which  
9 portion of this number was contributed by whomever and the  
10 answer is no.

11 MS. KOSTEL: Yes.

12 THE COURT: It really goes to impeachment. I can't  
13 discern from that contributions.

14 Q. 152, Page 152 from the 1985 journal, do you see that in  
15 front of you?

16 A. Yes, ma'am.

17 Q. Total receipts, it has a summary of several years. In  
18 the year 1979 there were receipts of \$4,221,679?

19 A. Yes, ma'am.

20 Q. How much of that came from the defendant the national  
21 church?

22 A. I do not know.

23 Q. In 1980 there were receipts of \$4,792,202. How much of  
24 that came from the defendant the national church?

25 A. I do not know.

1 Q. 1981, total receipts of \$5,490,012. How much from the  
2 national church?

3 A. I do not know.

4 Q. 1982, \$5,776,687. How much from the defendant the  
5 national church?

6 A. I do not know.

7 Q. 1983, \$6,564,081. How much from the national church?

8 A. I do not know.

9 Q. 1984, 7 million --

10 A. I do not know.

11 Q. 1984, \$7,365,805. How much of that came from the  
12 defendant the national church?

13 A. I do not know.

14 Q. Okay. Let's now go to the year 1995.

15 MS. KOSTEL: Your Honor, I'm going to object if this is  
16 just for impeachment.

17 THE COURT: Yes.

18 MS. KOSTEL: It seems like it's cumulative at this  
19 point.

20 THE COURT: I understand.

21 MS. KOSTEL: Yes.

22 Q. I'd ask you to look at Page 89 in the 1995 journal.

23 A. Again, it's very small.

24 Q. Okay. Here, I'll be glad to give you this.

25 MS. KOSTEL: I'll renew my objection, Your Honor.

1 THE COURT: All right. Overruled.

2 Q. Can you see it has the Diocese of South Carolina?

3 A. Yes.

4 Q. The actual income for 1994?

5 A. Yes, ma'am.

6 Q. It has \$1,626,046 as actual income?

7 A. Yes, ma'am.

8 Q. How much of that came from the national church?

9 A. I do not know.

10 Q. Do you know how much of the contributions in the  
11 calendar year 2005 came from the national church --

12 A. No, ma'am.

13 Q. -- to the plaintiff?

14 Okay. Now, there were several exhibits. There was  
15 Defendant's Exhibit 415 which was an excerpt of the 2001  
16 journal. In fact, do you recall that you testified that the  
17 All Saints Parish at Pawleys Island there was a resolution  
18 that stated that this parish was in violation of the  
19 constitution and canons of the diocese and the national  
20 church; is that correct?

21 A. That is what I read from the journal, yes, ma'am.

22 Q. But you did not read that that resolution to permit All  
23 Saints Parish a voice and vote had passed, did you?

24 A. Yes, I did.

25 Q. Oh, I apologize. So was All Saints Parish in 2001 given

1 a voice and vote?

2 A. I'm sorry. I'm sorry. Was given a seat and voice, not  
3 vote.

4 Q. So it was given seat and voice but not vote?

5 A. That's what the journal said.

6 Q. Okay. And even though it was deemed that All Saints was  
7 not, was not in union with the national church, nor the  
8 plaintiff diocese; is that correct?

9 A. That is correct.

10 Q. Okay. Also in Defendant's Exhibit 331, which was a 1917  
11 journal, there was a change of the fiscal year, but you did  
12 not, or if I did not hear you correctly, you did not read  
13 that it had gone to vote and that the vote had passed to  
14 change the fiscal year; is that correct?

15 A. I don't recall.

16 Q. Okay. And adopting the pension fund, there was a  
17 resolution, but you did not read the vote. Do you recall  
18 that?

19 A. I don't recall.

20 Q. Now, you'll agree that it's normal for nonprofit  
21 corporations to receive -- to attempt to seek and receive  
22 grants; is that correct?

23 A. Yes.

24 Q. Okay. And requesting a grant is a voluntary act; is  
25 that correct?

1 A. Correct.

2 Q. And the body that gives the grant, that's a voluntary  
3 act; is that correct?

4 A. I think it would depend upon the situation.

5 Q. Okay. Well, do you have any knowledge that any of the  
6 grants that may have been given by the national church in  
7 this case were not voluntary?

8 A. All of the grants had certain criteria. You'd have to  
9 come to a very specific grant, specific program, whether it's  
10 this or any other nonprofit, and I have sat on a number of  
11 nonprofit boards.

12 Q. I guess then you can't answer my question. You don't  
13 know if any of the grants given by the defendant national  
14 church were voluntary or not, do you?

15 A. If they met criteria, they did.

16 Q. You need to answer my question. I'm asking you, is  
17 there a grant given by the defendant national church that was  
18 not voluntary --

19 A. No.

20 Q. -- to the plaintiff diocese?

21 A. No.

22 Q. Okay. The word "accession," you referenced the word  
23 "accession" because that's referenced in the constitution and  
24 canons of the plaintiff diocese; is that correct?

25 A. Yes, ma'am.



1 Q. And the word "accession" comes from the word accede; is  
2 that correct?

3 A. I'm not a linguistic specialist, ma'am.

4 Q. Well, would you agree with me that the word "accede"  
5 means to agree?

6 A. Yes.

7 Q. And it would be fair to state that the definition of  
8 that word has not changed for the last 200 years?

9 A. I could not -- again, I am not a linguistic specialist.

10 Q. Now, in your review of the constitutions and canons of  
11 the plaintiff diocese, you saw that there were provisions for  
12 at least the last 100 years that permitted its canons and  
13 constitutions to be amended?

14 A. Correct.

15 Q. And that provision in the constitution of the plaintiff  
16 diocese didn't make any exception as to which article in the  
17 constitution could or not be amended, did it?

18 A. No.

19 Q. And that's the same thing, true for the canons, that  
20 provision in the canons that permitted amendment didn't say,  
21 well, you can't amend Canon 1 but you can amend the others.  
22 It didn't have a pick and choose, did it?

23 A. No, ma'am.

24 MS. GOLDING: I have no further questions. Thank you,  
25 Your Honor.

1 THE COURT: All right. Yes. Anyone else on behalf of  
2 plaintiffs? Yes, sir.

3 CROSS-EXAMINATION BY MR. RUNYAN:

4 Q. Good afternoon, Dr. Edgar.

5 A. Good afternoon. Sir, could you please speak up. Again,  
6 I am very hard of hearing.

7 Q. I will do my best. I am routinely accused appropriately  
8 of not speaking loud enough, so I will yell.

9 All right. Better?

10 A. Yes. Thank you very much.

11 Q. Good. Thank you.

12 Just a couple things. What Ms. Golding was asking you  
13 about, in terms of contributions or grants, in your studies  
14 you did not learn the interrelationships of all these  
15 organizations in terms of their boards and their board  
16 memberships and the control of them; is that correct?

17 A. No, sir, I did not.

18 Q. And you're not an expert in canon law?

19 A. No, sir.

20 Q. Okay. And I guess you recognize that as a rule the  
21 money that the diocese has and for the most part the money  
22 that the national church has comes from the person in the  
23 pew?

24 A. That I do not know.

25 Q. Okay. And I guess you understand, do you, that giving,

1 whether it's the person in the pew or the parish to the  
2 diocese or the diocese to the national church, is a voluntary  
3 thing, do you not?

4 A. Tithing is biblical, yes, sir.

5 Q. Well, it's not voluntary if it's a biblical issue, but  
6 there isn't any way to compel it?

7 A. No, there's no way to compel it.

8 Q. And you don't know whether the Southern Baptist  
9 Convention grants or lends money at a low interest rate to  
10 its Baptist churches, do you?

11 A. I do not.

12 Q. Or the United Methodist Church?

13 A. No, I do not.

14 Q. Okay. I just want to ask you to look at a couple of  
15 these journals, and we're going to read just a few things on  
16 the relationship if we could?

17 A. All right, sir.

18 Q. I ask you to bring up the 1849 diocese journals. If you  
19 would turn to Page 22, tiny script, if you would please blow  
20 up the top part of that first full paragraph.

21 A. If I knew who was saying this, whether it's his report  
22 or a bishop's address -- I have no idea who, what's the  
23 source of this.

24 Q. Well, you can look at the whole thing if you want. This  
25 is bishop's address. Do you feel uncomfortable reading it?

1 A. No, I don't feel un -- I just need to know whether it  
2 was a committee report or the bishop. I can't say -- or the  
3 standing committee. It makes a difference, but if you say  
4 this is the bishop's report, I will take your word for it.

5 Q. If you would like to see the whole thing, I'll be happy  
6 to give it to you.

7 A. I would like to see it, yes, sir.

8 Q. While they're doing that, would you just please read  
9 that into the record?

10 A. There are some principles at the foundation of our  
11 ecclesiastical polity to which for the important inferences  
12 to be deduced from them I now ask your consideration. The  
13 Protestant Episcopal Church is a confederacy, not a  
14 consolidation. Each diocese in some respects is independent  
15 of the confederacy, in all respects of each other -- of each  
16 of the sister -- okay. Wait a minute. Each diocese in some  
17 respects is independent of the confederacy and in all reports  
18 of each of the other sister dioceses. Any measure which is  
19 beyond the limits of the delegated or constitutional powers  
20 of the confederacy is of course not an enactment but a  
21 recommendation. It is not authoritative but merely advisory.  
22 This is too plain to be denied. It is theoretically admitted  
23 by all, but I submit it's practically regarded by all.

24 Q. Thank you, sir.

25 MS. GOLDING: Your Honor, he made a misstatement in

1 that, in reading that.

2 THE COURT: All right.

3 MS. GOLDING: He said each diocese in some respects, I  
4 believe he said in some reports but it should be in some  
5 respects.

6 THE WITNESS: Excuse me.

7 THE COURT: All right.

8 MS. KOSTEL: Is he going to be allowed to see the whole  
9 document?

10 MR. RUNYAN: You can show it to him on redirect. I  
11 don't have a question.

12 Q. You want to verify that it's the bishop's address,  
13 Doctor, I'll be happy to give it to you. You did read all  
14 these, right?

15 A. Yes, sir, I did.

16 Q. Okay.

17 A. Thank you, sir.

18 Q. Tell us, please, sir, who said those words.

19 A. Yes, Bishop Gadsden's address.

20 Q. Thank you, sir. I really don't want to spend a whole  
21 lot of time reading, so I'm just going to ask you a few  
22 questions, if you don't mind.

23 Do you remember reading anything to the effect that a  
24 lot of the dioceses in the United States had not paid what  
25 the Episcopal Church had asked them in some years?

1 A. I'm sorry. Please repeat that.

2 Q. Do you remember reading anything to the effect in one of  
3 the bishops' addresses that a lot of dioceses in the country  
4 had just not paid what the Episcopal Church had asked them to  
5 pay?

6 A. I do not recall that, no, sir.

7 Q. All right. And do you remember reading anything to the  
8 effect that the Diocese of South Carolina was going to  
9 withhold money because the national convention was in serious  
10 need of reform and streamlining?

11 A. Which year, sir?

12 Q. It would have been --

13 A. The rhetoric sounds very familiar, but I don't know what  
14 year.

15 Q. 1997.

16 A. Nineteen what?

17 Q. '97.

18 Sound unusual to you or not unusual?

19 A. No, sir, it does not sound unusual to me at all.

20 Q. Okay. Dr. Edgar, you made a couple of comments or read  
21 some things about standing committee consents?

22 A. Yes, sir.

23 Q. Do you recall those? Do you know the difference between  
24 a consent to an ordination and a consent to an election?

25 A. Yes.

1 Q. Okay. And a standing committee, when they provide their  
2 consents, what are they consenting to?

3 A. I'm sorry?

4 Q. When a standing committee consents to a bishop or bishop  
5 suffragan that is before them for their consents, what are  
6 they doing?

7 A. There are two different ways of consent. If it is not a  
8 diocesan, the standing committee must give consent for bishop  
9 coadjutors and suffragan bishops to the election, and then  
10 after the election they must give consent to the -- to the --  
11 for that person becoming a bishop.

12 Q. What is a testimonial?

13 A. It is a signed document that they approve.

14 Q. And why are they asked to give a testimonial?

15 A. The national canon requires the standing committees and  
16 bishops give their canonical consent to a person's election.

17 Q. You don't really know what a testimonial is, do you,  
18 Doctor?

19 A. I've seen them, but other than that, no, sir.

20 Q. Okay. And you know before a bishop can be ordained to  
21 be a bishop with jurisdiction that he has to get the consents  
22 of the standing committees of the diocese and the bishops  
23 with jurisdiction?

24 A. That I do know, yes, sir.

25 Q. And that's consent to ordination; is that correct?

1 A. You're talking about elections or?

2 Q. I'm talking about what they give consent to. Is that  
3 consent to ordination?

4 A. Yes.

5 MR. RUNYAN: Thank you.

6 Thank you, sir.

7 THE COURT: That's it. Very well. Anyone else? Very  
8 well. Redirect?

9 REDIRECT EXAMINATION BY MS. KOSTEL:

10 Q. Just a couple of things, Professor Edgar. I just want  
11 to clarify. Ms. Golding asked you about what happened with  
12 All Saints, and I think I've forgotten the year when it would  
13 not -- was not willing to conform as required by the canon.  
14 To be clear, it was allowed to have seat and voice but not  
15 vote, correct?

16 A. Correct.

17 Q. And that ordinarily would have had vote, correct?

18 A. Correct.

19 Q. Okay. The second question is Mr. Runyan pointed out to  
20 you I guess at some point in the late '90s the diocese --  
21 there was some rhetoric in the diocese about not providing  
22 funds to the national church, right?

23 A. Correct.

24 Q. And you said that was familiar rhetoric?

25 A. Yes, ma'am.



1 Q. And familiar because you've been reading the journals  
2 into this century, correct?

3 A. Correct.

4 Q. And yet we saw an example in 2012 where the diocese was  
5 still asking for aid from the national church, correct?

6 MS. GOLDING: Your Honor --

7 MR. RUNYAN: Your Honor, she's leading a bit.

8 MS. KOSTEL: Fair enough. I'll withdraw it. I'll  
9 withdraw it.

10 Q. Mr. Runyan asked you the question about the flow of  
11 funds from the diocese to the church in the current times  
12 starting in I think he said the late 1990s. What evidence  
13 did you see in your review of the documents of aid about flow  
14 of funds between the diocese and the national church?

15 A. Of course he mentioned 1997, nineteen ninety -- no. I'm  
16 sorry. There were loans, grants, mortgage to different  
17 congregations in the diocese of -- to the Diocese of South  
18 Carolina, churches in the Diocese of South Carolina, but I  
19 think that's what you're asking, Ms. Kostel.

20 Q. From entities of the national church, correct?

21 A. Okay. Again, sorry.

22 Q. I'm asking about moneys flowing from the national church  
23 to the diocese during this period.

24 A. Yes.

25 Q. There were still moneys flowing from the national

1 church?

2 A. Yes.

3 MS. KOSTEL: Okay. That's all. Thank you.

4 THE COURT: All right.

5 MR. TISDALE: Nothing from us, Your Honor.

6 THE COURT: Very well. Recross.

7 RECROSS-EXAMINATION BY MR. RUNYAN:

8 Q. One quick point on that, Doctor: As far as you can  
9 tell, when moneys flow down from the Episcopal Church, they  
10 go through the diocese, don't they?

11 A. In terms of a mortgage, yes.

12 Q. In terms of the way they go, they go to the diocese and  
13 then they go wherever they go?

14 A. It depends upon, again, the particular fund.

15 Q. You have seen checks cut to parishes directly?

16 A. In terms of -- I have not actually seen a check cut. I  
17 have seen checks cut to the diocese.

18 Q. I guess that was my question, wasn't it?

19 One final question: For all you know during this period  
20 of time you looked at this, the finances flowing down, there  
21 could have been as much as 900 percent going the other way,  
22 couldn't there?

23 A. I'm sorry, sir. Again?

24 Q. There could have been as much as 900 percent of that  
25 amount going the other way, couldn't there?

1 A. I'm sorry. I still cannot -- you're saying there could  
2 have been 900 percent going the other way?

3 Q. That is exactly what I'm saying.

4 A. Okay.

5 Q. You didn't look at that, did you?

6 A. No, sir.

7 Q. You didn't ask to look at it and no one asked you to  
8 look at it?

9 A. No, sir.

10 MR. RUNYAN: Thank you.

11 THE COURT: All right. Anything further? Cross?  
12 Recross rather?

13 Okay. Thank you, sir. You may come down. All right.  
14 It's 5:00. So I do believe that there is the remaining issue  
15 of the documents with regards to the parishes.

16 MS. KOSTEL: Yes.

17 THE COURT: Is there anything that we need to talk about  
18 to be sure that that is facilitated so that it can occur?

19 MS. KOSTEL: I think I have spoken with at this point 19  
20 or 20 parishes and we've managed to get to the point we don't  
21 need a witness for the documents. We're going to have some  
22 relevancy issues. I'm ready whenever the other folks are  
23 ready to approach me, and time is of the essence because if  
24 we do need a witness, obviously I need to know very quickly.

25 THE COURT: With regards to authenticity?

1 MS. KOSTEL: Yes.

2 THE COURT: Got it. Okay. Great.

3 So, you know, if there are -- if there are issues with  
4 regards to authenticity vis-à-vis any of the documents for  
5 the parishes -- let me say that again because I don't want to  
6 mislead anybody. I'm talking about authenticity, not  
7 relevance, not -- I'm trying to think of anything else, any  
8 other issue but authenticity which could be interposed as an  
9 objection, authenticity can be fixed, and so the request of  
10 the defendants is that if there is an objection regarding  
11 authenticity, please let them know because that's one that  
12 they can fix.

13 If at this point there is a parish who has their  
14 documents, who has their documents, and you have concerns  
15 regarding authenticity, speak now or forever hold your peace.

16 MR. CAMPBELL: Your Honor, I do have one or two. I'm  
17 happy to work with Ms. Kostel as soon as we finish and I  
18 think if we can probably resolve it after we speak.

19 THE COURT: Great.

20 MS. DURANT: Your Honor, Bess Durant for Holy Comforter.  
21 Same issue; I think it will be very easily resolvable with  
22 Ms. Kostel.

23 THE COURT: You'll speak with her this evening, just so  
24 if she needs to get somebody down here, she can do that.

25 MS. DURANT: Yes, Your Honor, be happy to.

1 THE COURT: Yes, sir?

2 MR. ORR: Your Honor, Larry Orr. I spoke with  
3 Ms. Kostel about Frank Mack and St. Matthew Ft. Motte. He's  
4 been unavailable, but he'll be here tomorrow, and I think  
5 he's going to talk with her in the morning about his  
6 documents. Whether he's got any objections, I don't know,  
7 but I think they'll be able to work that it out.

8 MS. KOSTEL: To be clear, we have three more lists we'll  
9 get out tonight, and then we will have to confer.

10 THE COURT: Three more lists. Three parishes?

11 MS. KOSTEL: Yes, just that I haven't finished.

12 THE COURT: Do those parishes know?

13 MS. KOSTEL: Yes. Do they know that they're getting --

14 THE COURT: That it is coming.

15 MS. KOSTEL: Oh, yes; St. Bartholomew's, Holy Trinity  
16 and St. David's.

17 THE COURT: Wonderful, wonderful, wonderful. And what I  
18 would be so grateful is if you could -- those three parishes,  
19 if they could just please let Ms. Kostel know in the morning  
20 if there is an objection, regarding authenticity now, not any  
21 other grounds, but authenticity, please let her know in the  
22 morning again. Again, that gives her an opportunity to fix  
23 that one.

24 All right. Anything else for the good of the order, so  
25 to speak, from the plaintiffs?

1 MS. GOLDING: Nothing.

2 MR. RUNYAN: No, Your Honor.

3 THE COURT: From the defendants?

4 MR. TISDALE: No, Your Honor.

5 All right. Let me mention this to you: We do not as of  
6 this point -- and that may change in a couple years, but as  
7 of this point in South Carolina we do not have the ability to  
8 accept as part of the record electronic filings and  
9 electronic exhibits. We're working on it, but we do not have  
10 it as of yet. So with regards to exhibits, if there are  
11 exhibits that either party or any party wishes to make part  
12 of the record, unfortunately, I'm going to have to request  
13 that there be hard copies simply because we do not at this  
14 point have the ability to accept electronic filings. We will  
15 in a couple of years, but we don't as of this point.

16 So I just share that with you. We've been dealing with  
17 the electronic forms, but if you need them to be part of the  
18 record, we're going to have to have hard copies. Thank you.

19 MR. PHILLIPS: One other thing: We'd like to know about  
20 the witnesses for tomorrow.

21 MS. KOSTEL: We'll let you know soon. We have to figure  
22 it out.

23 THE COURT: Very soon. All right. Thanks.

24 (Trial of the case adjourned for the day.)

25

- - -

1 CERTIFICATE OF REPORTER

2 STATE OF SOUTH CAROLINA

3 COUNTY OF DORCHESTER

4

5 I, the undersigned Ruth L. Mott, Official Court Reporter  
6 for the State of South Carolina, do hereby certify that the  
7 foregoing is a true, accurate and complete transcript of  
8 record of all the proceedings had and evidence introduced in  
9 the matter of the above-captioned case, relative to appeal,  
10 in the First Judicial Circuit Court for Dorchester County,  
11 South Carolina, on the 21st of July, 2014.

12 I further certify that I am neither related to nor  
13 counsel for any party to the cause pending or interested in  
14 the events thereof.

15 September 9, 2014

16

17 /S/ Ruth L. Mott

18 Official Court Reporter

19

20

21

22

23

24

25