

EFFECTS OF AMALGAMATION OF PARISHES ON CHURCH ASSETS

Under Section 9(4) of the *Anglican Church Act*, the Bishop may, by an instrument in writing, combine two or more parishes, take territory from one parish and add it to another parish, or take territory from a parish and create a new parish for that territory. This may only be done by the Bishop in certain circumstances, as set out in Section 9 of the *Act*.

Section 10(5) of the *Act* provides as follows:

Where two or more parishes are combined pursuant to Section 9, the parish corporations of those parishes are amalgamated and continue as one parish corporation under a name approved by the Bishop by written instrument of amalgamation.

Section 10(7) provides as follows:

Where two or more parish corporations are amalgamated pursuant, to subsection (5), to form a single parish corporation,

- (a) the real and personal property of those corporations which are so amalgamated vest in the single parish corporation;
- (b) the obligations and liabilities of those corporations which are so amalgamated are the obligations and liabilities of the single parish corporation; and
- (c) the Synod is deemed to have guaranteed payment and performance of all of the obligations and liabilities of the single parish corporation which are existing immediately following the amalgamation.

The result is that where two parishes are amalgamated to form one parish corporation, legal title to all assets of the two amalgamating entities are vested in the single parish corporation.

Pursuant to Section 6(15) of Canon 35, where a parish consists of more than one church, the parish council shall annually prepare a consolidated budget for the parish that is binding upon each church in the parish, estimate the operating expenses for the ensuing year, and determine the amount that each church shall pay to the parish during the year as its share of the operating expenses of the parish. Under Section 6(16) of Canon 35, the amount that each church shall pay during any year as its share of the operating expenses is that proportion of the operating expenses that the total of all church income for the year bears to the total of all income for the year of all the churches constituting the parish.

Under Section 7 of Canon 35, a church may establish a council for the church, to be known as the church council, but is not obliged to do so. Where a church council is not established for a church, the care and business of the church shall be carried out by the parish council for the parish of which the church forms a part, or by one or more wardens and a treasurer elected by and responsible to an annual meeting of the church.

Under Section 16 (2) of Canon 35, the treasurer of a church shall, under the general direction of the church council, or where there is no church council, under the general direction of the parish council of the parish of which the church is a part, perform the required duties set out in Canon 35 as they apply to the church. Where monies are received for the church, the treasurer shall ensure that they are immediately deposited in a chartered bank, credit union, or trust company selected by the church council to the credit of the church in one or more accounts as may be determined by the church council.

It should be noted that, even if title to church assets has vested in the amalgamated parish corporation, the assets may have been given to the original church for a specific purpose and as such would be impressed with a trust. In such circumstances, the amalgamated parish corporation would acquire the assets subject to the trust obligation, and could not use them for any other purpose. For example, if a parishioner left money to a church for the upkeep and maintenance of that church, the new amalgamated parish corporation would have to continue to use the monies and any accruing interest for the benefit of the church specified in the parishioner's will. This is similar to what would happen with regard to Cemetery Fund monies under Canon 39, which provides that the income arising from the investment of Cemetery Fund monies must be used for the upkeep and repair of the cemetery property.

Accordingly, while the amalgamation of several parishes might result in the new amalgamated parish corporation having title to the investments and Cemetery Fund monies, the new corporation would have to continue to use certain investments for the purposes specified by the original donors or for the cemetery to which the Cemetery Fund investments relate.

It would still be possible for a parishioner to leave money by his or her will to be used for the upkeep and maintenance of his or her church. The amalgamation of parishes to form a new parish corporation comprised of two or more churches would not change this.