

Extracts From the Laws of New York

Note: Only selected statutory provisions are reprinted in this Supplement. In some instances only the relevant portions of sections are included. For the complete texts it is suggested that reference be made in the statutes themselves.

The Religious Corporations Law

Article 2. General Provisions

Section 5. General powers and duties of trustees of religious corporations

- 5a. Investment of funds
12. Sale, mortgage and lease of real property of religious corporations

Article 3. Protestant Episcopal Parishes or Churches

Section 40. Meeting of incorporation

41. Certificate of incorporation
42. Corporate trustees, vestry; powers and duties thereof
43. Annual elections and special meetings of incorporated Protestant Episcopal parishes
44. Changing the number of vestrymen of Protestant Episcopal churches hereafter incorporated
45. Changing date of annual election, number and terms of office of church-wardens in Protestant Episcopal churches heretofore incorporated
46. Changing the qualifications of voters and the qualifications of wardens and vestrymen
48. Legacies
49. Eligibility of certain minors as lay delegates and to vote and hold office

5. General powers and duties of trustees of religious corporations

The trustees of every religious corporation shall have the custody and control of all the temporalities and property, real and personal, belonging to the corporation and of the revenues therefrom, and shall administer the same in accordance with the discipline, rules and usages of the corporation and of the ecclesiastical governing body, if any to which the corporation is subject, and with the provisions of law relating thereto, for the support and maintenance of the corporation, or providing the members of the corporation at a meeting thereof shall so authorize, of some religious, charitable benevolent or educational object conducted by said corporation or in connection with it, or with the denomination, if any which it is connected and they shall not use such property or revenues for any other purpose or divert the same from such uses. They may transfer all or any part of the real or personal estate of such corporation to such bank or trust company organized or existing under the laws of the state of New York, or to a national banking association whose principal office is located in the state of New York as may be designated by them or to a holding company, organized under the laws of the state of New York, of the same religious denomination, such property to be held in trust or in safekeeping or custody, to collect the income thereof and pay over the same to the trustees of such religious corporation at such times and in such manner as shall be agreed upon, and they may also, in their discretion, delegate and grant to the trustee of custodian designated by them all or any portion of the powers, responsibilities and discretionary authority possessed by them with respect to the retention and the investment and reinvestment of such property or any part thereof, and may from time to time modify such powers delegated by them or designate successor or different trustees or custodians within the limits and subjects to the regulations and restrictions contained in this section.

...By-laws may be adopted or amended, by a two-thirds vote of the qualified voters present and voting at the meeting for incorporation or at any subsequent meeting, after written notice, embodying such by-laws or amendment, has been openly given at a previous meeting, and also in the notices of the meeting at which such proposed by-laws or amendment is to be acted upon. By-laws thus adopted or amended shall control the action of the trustees. But this section does not give to the trustees of an incorporated church, any control over the calling, settlement, dismissal or removal of its minister, or the fixing of his salary; or any power to fix or change the times, nature or order of the public or social worship of such church.

5-a. Investment of funds

Subject to the discipline, rules and usages of the corporation and of the ecclesiastical governing body, if any, to which the corporation is subject and subject to the limitations and conditions contained in any gift, devise or bequest, ...the trustees of every religious corporation, created by or under a general or special law, may invest the funds of such corporation in such securities, investments or other property, real or personal, located within or without the state of New York, as to them shall seem advisable without being restricted to those classes of securities which are lawful for the investment of trust funds under the laws of this state...

12. Sale, mortgage and lease of real property of religious corporations

1. A religious corporation shall not sell, mortgage or lease for a term exceeding five years any of its real property without applying for and obtaining leave of the court therefore pursuant to section five hundred eleven of the not-for-profit

corporation law as that section is modified by paragraph (d-1) of subsection one of section two-b of this chapter, except that a religious corporation may execute a purchase money mortgage or a purchase money security agreement creating a security interest in personal property purchased by it without obtaining leave of the court therefore.

2. The trustees of an incorporated Protestant Episcopal church shall not vote upon any resolution or proposition for the sale, mortgage or lease of its real property, unless the rector of such church, if it then has a rector, shall be present, and shall not make application to the court for leave to sell or mortgage any of its real property without the consent of the bishop and standing committee of the diocese to which such church belongs, or execute and deliver a lease of any of its real property for a term exceeding five years without similar consent of the bishop and standing committee of the diocese to which such church belongs; but in case the see be vacant, or the bishop be absent or unable to act, the consent of the standing committee with their certificate of vacancy of the see or of the absence or disability of the bishop shall suffice....

40. Meeting for incorporation

Notice of a meeting for the purpose of incorporating an unincorporated Protestant Episcopal parish or congregation, and of electing the first churchwardens and vestrymen thereof, shall specify the object, time and place of such meeting, and shall be made public for at least two weeks prior to such meeting, either by open reading of such notice in time of divine service, at the usual place of worship of such parish or congregation, or by posting the same conspicuously on the outer door of such place of worship. Only persons of full age who have been regular attendants at the worship of such parish or congregation and contributors to the support thereof for one year next prior to such meeting, or since the establishment of such parish or congregation, shall be qualified to vote at such meeting. The presence of at least six persons qualified to vote thereat shall be necessary to constitute a quorum of such meeting. The action of the meeting upon any matter of question shall be decided by a majority of the qualified voters voting thereon, a quorum being present. The officiating minister, or if there be none, or he shall be necessarily absent, any other person qualified to vote at the meeting, who is called to the chair, shall preside thereat. Such presiding officer shall receive the votes, be the judge of the qualifications of voters and declare the result of the votes cast at such meeting. The polls of the meeting shall remain open for one hour or longer, in the discretion of the presiding officer, or if required by a vote of the majority of the voters present. The meeting shall decide whether such unincorporated parish or congregation shall become incorporated. If such decision be in favor of incorporation, such meeting shall decide upon the name of the proposed corporation; what day, either a Sunday or secular day, shall be the date of the regular annual election; whether the vestrymen thereof shall be three, six, nine, twelve, fifteen, eighteen, twenty-one or twenty-four; and shall elect by ballot from the persons qualified to be voters thereat, who have been baptized, one-third of the number of vestrymen so decided upon to hold office until the first annual election to be held thereafter, one-third of such number, to hold office until one year after such annual election, and one-third of such number, to hold office until two years after such annual election; and shall elect from such qualified voters who are communicants in the Protestant Episcopal church, two persons to be churchwardens thereof, one to hold office until such annual election, and one to hold office until one year after such annual election.

41. Certificate of incorporation

If such meeting shall decide in favor of incorporation and comply with the next preceding section, the presiding officer of such meeting and at least two other persons present and voting thereat, shall execute and acknowledge a certificate of incorporation setting forth:

1. The fact of the calling and holding of such meeting;
2. The name of the corporation as decided upon thereat;
3. The county and the town, city or village, in which its principal place of worship is, or is intended to be located;
4. The day, either on Sunday or a secular day, upon which the annual election shall be held;
5. The number of vestrymen decided upon at such meeting;
6. The names of vestrymen elected at such meeting and the term of office of each;
7. The names of the churchwardens elected at such meeting and the term of office of each.

Such certificate, when accompanied by a certificate of the bishop of the diocese within which the principal place of worship of the proposed corporation is, or is intended to be located, to the effect that he consents to the incorporation of such church, shall be filed in the office of the clerk of the county specified in the certificate of incorporation; but in case the see be vacant, or the bishop be absent or unable to act, the consent of the standing committee, with their certificate of the vacancy of the see or of the absence or disability of the bishop, shall suffice.

On filing such certificate in the office of the clerk of the county so specified therein the churchwardens and vestrymen so elected and their successors in office, together with the rector, when there is one, shall form a vestry and shall be the trustees of such church or congregation; and they and their successors shall thereupon, by virtue of this chapter, be a body corporate by the name or title expressed in such certificate, and shall have power, from time to time to adopt by-laws for its government. Such corporation shall be an incorporated church, and may be termed also an incorporated parish.

42. Corporate trustees, vestry; powers and duties thereof

No meeting of the vestry or trustees of any incorporated Protestant Episcopal parish or church shall be held unless either all the members thereof are present, or three days' notice thereof shall be given to each member thereof, by the rector in writing either personally or by mail, or if there be no rector or he be incapable of acting, by one of the churchwardens; except

that twenty-four hours; notice of the first meeting of the vestry or trustees after an annual election shall be sufficient, provided such meeting be held within three days after the election. In the event of the rector of a parish or church refusing or neglecting to call a meeting of the vestry or trustees of any incorporated Protestant Episcopal church, on the written request of two-thirds of all the wardens and vestrymen of the parish, the clerk of the vestry shall call a meeting of the same by giving at least fifteen days' written notice to be served on each member of the vestry personally; if personal service cannot be had, then upon such member by mailing the notice to his last known place of residence. To constitute a quorum of the vestry or board of trustees, there must be present either:

1. The rector and at least a majority of the whole number of wardens and vestrymen, or
2. One churchwarden and one more than a majority of the vestrymen or both churchwardens and a majority of the vestrymen, or
3. If the rector be absent from the diocese and shall have been so absent for over four calendar months, or if the meeting be called by the rector and he be absent therefrom or be incapable of acting, one churchwarden and a majority of the vestrymen, or both church wardens and one less than a majority of the vestrymen. But if there be a rector of the parish, no measure shall be taken, in his absence, in any case, for effecting the sale or disposition of the real property of the corporation, nor for the sale or disposition of the capital or principal of the personal property of the corporation, nor shall any act be done which shall impair the rights of such rector. The presiding officer of the vestry or trustees shall be the rector, or if there be none, or he be absent, the churchwarden who shall be called to the chair by a majority of the votes, if both the churchwardens be present; or the churchwarden present, if but one be present. At each meeting of the vestry or trustees each member thereof shall be entitled to one vote. The vestry shall have power to fill a vacancy occurring in the office of a churchwarden or vestryman by death, resignation or otherwise than by expiration of term, until the next annual election, at which, if such vacancy would continue thereafter, it shall be filled for the remainder of the unexpired term. If vacancies exist in the offices of churchwardens or vestrymen in such number that a quorum of the vestry or board of trustees is not in office at any time, the rector shall forthwith call a special election for the filling of such vacancies. If there be no rector, the churchwarden longest in office shall call such special election. Notice of such special election shall be read by the rector, or if there be none, or he be absent, by the officiating minister or by one of the churchwardens, on the Sunday next preceding such election, in the time of divine service. If for any reason the usual place of worship of the parish be not open for divine service on such Sunday such notice shall be posted conspicuously on the outer door of the place of worship for one week next preceding the election. Such notice shall conform to that required for an annual election. The provisions of section forty-three of this chapter relating to annual elections shall apply to such special election, except as inconsistent herewith. Such vacancies shall be filled at such election for the remainder of the unexpired terms. The vestry may, subject to the canons of the Protestant Episcopal church in the United States, and of the diocese in which the parish or church is situated, by a majority vote, elect a rector to fill the vacancy occurring in the rectorship of the parish, and may fix the salary or compensation of the rector.

42-a Additional powers of the corporate trustees and vestry

Notwithstanding and in addition to the provisions of section five of this chapter, and subject always to the trust in which all real and personal property is held for the Protestant Episcopal Church and the Diocese thereof in which the parish, mission or congregation is located, the vestry or trustees of any incorporated Protestant Episcopal parish or church, the trustees of every incorporated governing body of the Protestant Episcopal Church and each diocese are authorized to administer the temporalities and property, real and personal, belonging to the corporation, for the support and maintenance of the corporation and, provided it is in accordance with the discipline, rules and usages of the Protestant Episcopal Church and with the provisions relating thereto, for the support and maintenance of other religious, charitable, benevolent or educational objects whether or not conducted by the corporation or in connection with it or with the Protestant Episcopal Church. (Added L. 1991)

43. Annual election and special meetings of incorporated

Protestant Episcopal parishes

1. The annual election of a Protestant Episcopal parish, hereafter incorporated, shall be held on the day, either a Sunday or secular day, designated in its certificate of incorporation.
2. The annual election of an incorporated Protestant Episcopal parish or church heretofore incorporated shall be held on the day fixed for such annual election, by or in pursuance of law, or if no such date be so fixed, then on such day, either a Sunday or a secular day, as may be determined by vote of the vestry.
3. Special meetings of any Protestant Episcopal parish or church heretofore or hereafter incorporated may be held on any Sunday or secular day fixed by the vestry.
4. Notice of such annual election or special meeting shall be read by the rector of the parish, or if there be none, or he be absent, by the officiating minister or by a church warden thereof, on each of the two Sundays next preceding such election or special meeting, in the time of divine service, or if, for any reason, the usual place of worship of the parish be not open for divine service, the notice shall be posted conspicuously on the outer door of the place of worship for two weeks next preceding the election or special meeting. Such notice shall specify the place, day and hour of holding the election or special meeting. The notice of the annual election shall also specify the number and terms of office of each church warden and the vestrymen whose terms of office shall then expire, or whose office shall then be vacant for any cause, and the office for which each such officer is to be then elected. The notice of a special meeting shall specify the matter or question to be brought before such meeting and no matter or question not specified in such notice shall be acted on at such meeting.

5. The presiding officer of such annual or special meeting shall be the rector of the parish, if there be one, or if there be none, or he be absent, one of the church wardens elected for the purpose by a majority of the duly qualified voters present, or if no church warden be present, a vestryman elected in like manner. Such presiding officer shall be the judge of the qualifications of the voters; shall receive the votes cast; and shall declare the result of the votes cast. The presiding officer of such annual or special meeting shall enter the proceedings of the meeting in the book of the minutes of the vestry, sign his name thereto, and offer the same to as many qualified voters present as he shall think fit, to be also signed by them.

6. Persons of full age belonging to the parish, who have been baptized and are regular attendants at its worship and contributors to its support for at least twelve months prior to such election or special meeting or since the establishment of such parish, shall be qualified voters at any such election or special meeting. Whenever so permitted by the canons of the diocese, persons of less than full age, but of the age of eighteen years or more, and having like qualifications except as to age, may vote at the annual elections and special meetings of any parish of such diocese, whenever such parish shall so determine in the manner provided in said section forty-six.

7. The action of an annual or special meeting upon any matter or question shall be decided by a majority of the qualified voters voting thereon. The polls of an election shall continue open for one hour and longer in the discretion of the presiding officer, or if required by a vote of a majority of the qualified voters present and voting. The church wardens and vestrymen shall be elected by ballot from persons qualified to vote at such election, and no person shall be eligible for election as church warden, unless that person be also a confirmed communicant in the Protestant Episcopal church, or be eligible for election as vestryman, unless that person shall have been baptized. Whenever so permitted by the canons of the diocese persons of less than full age but of the age of eighteen years or more and having like qualifications except as to age, shall be eligible for election as church warden or vestryman in any parish, whenever such parish shall so determine in the manner provided.

8. At each annual election of an incorporated Protestant Episcopal parish hereafter incorporated, one church warden shall be elected to hold office for two years; and one-third of the total number of vestrymen of the parish shall be elected to hold office for three years.

9. At each annual election of an incorporated Protestant Episcopal parish or church heretofore incorporated, two church wardens and the total number of its vestrymen shall be elected to hold office for one year thereafter, unless the term of office of but one church warden or of but one-third of its vestrymen shall then expire, in which case one church warden shall be elected to hold office for two years, and one-third of the total number of its vestrymen shall be elected to hold office for three years.

10. Each church warden and vestryman shall hold office after expiration of his term until his successor shall be chosen.

44. Changing the number of vestrymen of Protestant Episcopal parishes hereafter incorporated

If the vestry of a Protestant Episcopal parish, hereafter incorporated, shall by resolution, recommend that the number of vestrymen of such parish be changed to either three, six, nine, twelve, fifteen, eighteen, twenty-one or twenty-four vestrymen, notice of such recommendation shall be included in the notice of the next annual election of such parish, or in the notice of a special meeting to be held not less than six months before the time fixed for holding the next annual election thereafter, and be submitted to such annual or special meeting. If such recommendations be ratified by such meeting, the presiding officer thereof, and at least two qualified voters present thereat, shall execute and acknowledge a certificate setting forth such resolution of the vestry, the fact that notice thereof had been given with the notice of such annual election or with the notice of such special meeting as the case may be; that the meeting had ratified the same; and the number of vestrymen so decided on. Such certificate shall be filed in the office of the clerk of the county in which the original certificate of incorporation is filed and recorded, and such change in the number of vestrymen shall take effect at the time of the next annual election thereafter. If the number of vestrymen be thereby increased, then, in addition to the number of vestrymen to be elected at such annual election, one-third of such increased number of vestrymen shall be elected to hold office for one year thereafter, one-third of such increased number shall be elected to hold office for two years thereafter, and one-third of such increased number shall be elected to hold office for three years thereafter. If the number of vestrymen by such change be reduced, such reduction shall not affect the term of office of any vestryman duly elected, and at such next annual election and at each annual election thereafter, one-third of such reduced number of vestrymen shall be elected to hold office for three years.

45. Changing date of annual election, number and terms of office of vestrymen and terms of office of churchwardens in Protestant Episcopal churches heretofore incorporated

If the vestry of a Protestant Episcopal parish, heretofore incorporated, shall by resolution, recommend that the date of the annual election be changed to another day, either a Sunday or secular day, or that the number of vestrymen be changed to three, six, nine, twelve, fifteen, eighteen, twenty-one or twenty-four, and that the terms of office of the churchwardens be changed so that one warden shall be elected annually, notice of such recommendation shall be included in the notice of the next annual election of such parish, or in the notice of a special meeting to be held not less than six months before the time fixed for holding the next annual election thereafter, and be submitted to such annual or special meeting. If such recommendation be ratified by such meeting, the presiding officer thereof and at least two qualified voters present thereat, shall execute and acknowledge a certificate setting forth such resolution of the vestry; the fact that notice thereof had been given with the notice of the annual election, or with the notice of the special meeting, as the case may be; that such meeting had ratified the same; the

date determined upon the annual election of the parish; the number of vestrymen so decided on; and the fact that the meeting determined to thereafter elect churchwardens, so that the term of one warden shall expire annually. Such certificate shall be filed in the office of the clerk of the county in which the original certificate of incorporation is filed and recorded. If the meeting determine to change the date of the annual election; the next annual election shall be held on the day determined on at such meeting and the terms of the vestrymen and churchwardens which, pursuant to law, would expire at the next annual election shall expire and their successors shall be elected on such day. If the meeting determine to change the number of vestry and manner of electing wardens and vestrymen, there shall be elected at the first annual election thereafter, one-third of the number of vestrymen so determined on, to hold office for three years; one-third thereof to hold office for two years; and one-third thereof to hold office for one year; and one churchwarden to hold office for one year, and one to hold for two years; and thereafter at the annual election there shall be elected one-third of the number of vestrymen determined on at such meeting and one churchwarden. Any Protestant Episcopal parish, heretofore incorporated, which has changed the number of its vestrymen and the manner of electing wardens and vestrymen pursuant to the provisions of this section, may make further changes in the number of its vestrymen in the manner provided in section forty-four of this chapter.

46. Changing the qualifications of voters and the qualifications of wardens and vestrymen

If the vestry of a Protestant Episcopal parish heretofore incorporated shall by resolution recommend that the qualifications of voters and the qualifications of wardens and vestrymen be changed to conform in both cases to the requirements of section forty-three of this chapter, notice of such recommendation shall be included in the notice of the next annual election of such parish, and be submitted to the meeting. If such recommendation be ratified by such meeting the presiding officer thereof and at least two qualified voters present thereat shall execute and acknowledge a certificate setting forth such resolution of the vestry, the fact that notice thereof had been given with the notice of such annual election, and that the meeting had ratified the same. Such certificate shall be filed in the office of the clerk of the county in which the original certificate of incorporation is filed and recorded.

48. Legacies

Any devise or bequest of real or personal property to an unincorporated parish, mission, congregation, chapel or religious society under the jurisdiction of or in communion with the Protestant Episcopal Church, for the purposes of such gift, may be taken, held and administered for the benefit of such devisee or legatee by the diocesan corporation of the diocese in which such devisee or legatee is situate, and such diocesan corporation shall have the power, subject to the provisions of article five of the not-for-profit corporation law and of section twelve of this chapter, to lease, improve, mortgage, sell, convey and transfer any property so held.

49. Eligibility of certain minors as lay delegates and to vote and hold office

Whenever the constitution or canons of a diocese of the Protestant Episcopal church in the state of New York so permit, persons of less than full age but of the age of eighteen years or more shall be eligible to serve as lay delegates to and to vote at any convention of the diocese, when duly chosen by the parish or mission and shall also be eligible for election to or appointment to any lay office of the diocese.

[Effective September 1, 1972, certain provision of the Not-For-Profit-Corporations Law are made applicable to religious corporations. For applicability see Not-For-Profit-Corporations Law 103 and Religious Corporations Law 2-b.]

Domestic Relations Law

By Whom A Marriage Must Be Solemnized

11. By whom a marriage must be solemnized

No marriage shall be valid unless solemnized by either:

1. A clergyman or minister of any religion,...

Note: A clergyman or minister of any religion having authority of his denomination, order, church or synagogue may solemnize marriages in this state whether or not ordained, a resident of this state or occupying a pulpit, and there is not statutory provision relative to the age at which one may solemnize a marriage.

1969, Op. Atty. Gen. (Inf.) Nov. 18

Marriage Licenses

13. Marriage licenses

It shall be necessary for all persons intended to be married in New York state to obtain a marriage license from a town or city clerk in New York state and to deliver said license, within sixty days, to the clergyman or magistrate who is to officiate before the marriage ceremony may be performed...

14. Town and city clerks to issue marriage licenses; from...

There shall be endorsed upon the license or annexed thereto at the end thereof, subscribed by the clerk, an abstract of the facts concerning the parties disclosed in their affidavits or verified statements at the time of the application for the license made in conformity to the provisions of section fifteen of this chapter.

There shall also be stated upon the license the exact period during which the marriage may be solemnized. The license issued, including the abstract of facts, and the certificate duly signed by the person who shall have solemnized the marriage therein authorized, shall be returned by him...to the office of the town or city clerk who issued the license within five days succeeding the date of the solemnizing of the marriage therein authorized and any person or persons who shall willfully neglect to make such return within the time above required shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than twenty-five dollars or more than fifty dollars for each and every offense.

Marriage of Minors

15. Duty of town and city clerks...

2. If it appears from the affidavits and statements so taken, that the persons for whose marriage the license in question is demanded are legally competent to marry, the said clerk shall issue such license except in the following cases. If it shall appear upon an application that the applicant is under eighteen years of age, before the town or city clerk shall issue a license, he shall require documentary proof of age...If it shall appear upon an application of the applicants as provided in this section or upon any information required by the clerk that either party is at least sixteen years of age but under eighteen years of age, then the town or city clerk before he shall issue a license shall require the written consent to the marriage from both parents of the minor or minors or such as shall then be living, or if the parents of both are dead, then the written consent of the guardian or guardians of such minor or minors....

3. If it shall appear upon an application for a marriage license that either party is under the age of sixteen years, the town or city clerk shall require, in addition to the consents provided for in this section, the written approval and consent of a justice of the supreme court or of a judge of the family court, having jurisdiction over the town or city in which the application is made, to be attached to or endorsed upon the application, before the license is issued....

15-a. Marriages of minors under sixteen years of age

Any marriage in which either party is under the age of sixteen years is hereby prohibited....

Penalty And Protection For Clergyman

17. Clergyman or officer violating article; penalty

If any clergyman or other person authorized by the laws of this state to perform marriage ceremonies shall solemnize or presume to solemnize any marriage between any parties without a license being presented to him or them as herein provided or with knowledge that either party is legally incompetent to contract matrimony as is provided for in this article he shall be guilty of a misdemeanor and on conviction thereof shall be punished by a fine not less than fifty dollars nor more than five hundred dollars or by imprisonment for a term not exceeding one year.

18. Clergyman or officer, when protected

Any such clergyman or officer as aforesaid to whom any such license duly issued may come and not having personal knowledge of the incompetency of either party therein named to contract matrimony, may lawfully solemnize matrimony between them.

Note: A clergyman performing a marriage ceremony is not required to investigate the qualifications of the parties further than to ascertain that the proper license has been issued to them which by this section fully protects him provided he does not have personal knowledge of the incompetency of either party.

Kellogg v. Kellogg, 122 Misc. 734.

Time Limits Within Which Marriages May Be Solemnized

13-b. Time within which marriage may be solemnized

A marriage shall not be solemnized within twenty-four hours after the issuance of the marriage license, unless authorized by an order of a court of record as hereinafter provided, nor shall it be solemnized after sixty days from the date of the issuance of the marriage license. Every license to marry hereafter issued by a town or city clerk, in addition to other requirements specified by this chapter, must contain a statement of the day and the hour the license is issued and the period during which the marriage may be solemnized. It shall be the duty of the clergyman . . . performing the marriage ceremony . . . to annex to or endorse upon the marriage license the date and hour the marriage is solemnized. A judge or justice of the supreme court of this state or the county judge of the county in which either party to be married resides, or if such party is under sixteen years of age, the judge of the family court of such county, if it shall appear from an examination of the license and any other

proofs submitted by the parties that one of the parties is in danger of imminent death, or by reason of other emergency public Interest will be promoted thereby, or that such delay will work irreparable injury or great hardship upon the contracting parties, or one of them, may make an order authorizing the immediate solemnization of the marriage and upon filing such order with the clergyman . . . performing the marriage ceremony . . . such clergyman may solemnize such marriage without waiting for such three day period and twenty-four hour period to elapse. The clergyman . . . must file such order with the town or city clerk who issued the license within five days after the marriage is solemnized. Such town or city clerk must record and index the order in the book required to be kept by him for recording affidavits, statements, consents and licenses, and when so recorded the order shall become a public record and available in any prosecution under this section. A person who shall solemnize a marriage in violation of this section shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of fifty dollars for each offense, and in addition thereto, his right to solemnize a marriage shall be suspended for ninety days.

Marriage-How Solemnized

12. Marriage-How solemnized

No particular form or ceremony is required when a marriage is solemnized as herein provided by a clergyman or magistrate, but the parties must solemnly declare in the presence of a clergyman or magistrate and the attending witness or witnesses that they take each other as husband and wife. In every case, at least one witness besides the clergyman or magistrate must be present at the ceremony....

Note: An attempt by a clergyman or magistrate to perform a marriage ceremony by radio without being actually present with the parties would be in derogation of this section.

1922, Op. Atty. Gen. 202

No authority exists in this State for a so-called marriage by proxy.

1940, Op. Atty. Gen. 137

Of Business Methods In Church Affairs

Canon 1.7 (Of The Canons Of General Convention)

Sec. 1. In every Diocese, Parish, Mission, and Institution, connected with this Church, the following standard business methods shall be observed:

(1) Funds held in trust, endowment and other permanent funds, and securities represented by physical evidence of ownership or indebtedness, shall be deposited with a National or State Bank, or a Diocesan Corporation, or with some other agency approved in writing by the Finance Committee or the Department of Finance of the Diocese, under a deed of trust, agency or other depository agreement providing for at least two signatures on any order of withdrawal of such funds or securities.

But this paragraph shall not apply to funds and securities refused by the depositories named as being too small for acceptance. Such small funds and securities shall be under the care of the persons or corporations properly responsible for them.

This paragraph shall not be deemed to prohibit investments in securities issued in book entry form or other manner that dispenses with the delivery of a certificate evidencing the ownership of the securities or the indebtedness of the issuer.

(2) Records shall be made and kept of all trust and permanent funds showing at least the following

- (a) Source and date.
- (b) Terms governing the use of principal and income.
- (c) To whom and how often reports of condition are to be made.
- (d) How the funds are invested.

(3) Treasurers and custodians, other than banking institutions, shall be adequately bonded; except treasurers of funds that do not exceed five hundred dollars at any one time during the fiscal year.

(4) Books of account shall be so kept as to provide the basis for satisfactory accounting

(5) All accounts of the Diocese shall be audited annually by an independent Certified Public Accountant. All accounts of Parishes, Missions or other institutions shall be audited annually by an independent Certified Public Accountant, or independent Licensed Public Accountant, or such audit committee as shall be authorized by the Finance Committee, Department of Finance, or other appropriate diocesan authority.

All reports of such audits, including any memorandum issued by the auditors or audit committee regarding internal controls or other accounting matters together with a summary of action taken or proposed to be taken to correct deficiencies or implement recommendations contained in any such memorandum, shall be filed with the Bishop or Ecclesiastical Authority not later than 30 days following the date of such report, and in no event, not later than September 1 of each year, covering the financial reports of the previous calendar year.

(6) All buildings and their contents shall be kept adequately insured.

(7) The Finance Committee or Department of Finance of the Diocese may require copies of any or all accounts described in this Section to be filed with it and shall report annually to the Convention of the Diocese upon its administration of this Canon.

(8) The fiscal year shall begin January 1.

Sec.2. The several Dioceses shall give effect to the foregoing standard business methods by the enactment of Canons appropriate thereto, which Canons shall invariably provide for a Finance Committee or a Department of Finance of the Diocese.

Sec. 3. No Vestry, Trustee, or other Body, authorized by Civil or Canon law to hold, manage, or administer real property for any Parish, Mission, Congregation, or Institution, shall encumber or alienate the same or any part thereof without the written consent of the Bishop and Standing Committee of the Diocese of which the Parish, Mission, Congregation, or Institution is a part, except under such regulations as may be prescribed by Canon of the Diocese.

Sec. 4. All real and personal property held by or for the benefit of any Parish, Mission or Congregation is held in trust for this Church and the Diocese thereof in which such Parish, Mission or Congregation is located. The existence of this trust, however, shall in no way limit the power and authority of the Parish, Mission or Congregation otherwise existing over such property so long as the particular Parish, Mission or Congregation remains a part of, and subject to, this Church and its Constitution and Canons.

Sec. 5. The several Dioceses may, at their election, further confirm the trust declared under the foregoing Section 4 by appropriate action, but no such action shall be necessary for the existence and validity of the trust.