

Below is a summary of minutes that show how funds that were clearly restricted in their use “morphed” into funds that could be transferred due to a 1995 misinterpretation of some 1945 minutes. It is not intended to enumerate the many improper transfers from 2000 to 2016 (and thereafter), only to trace how the culture came to be. We seem to be victims of the saying that if a falsehood is repeated often enough, it becomes a fact . . .

Some Background & Terms

The nonoperating funds have historically been called “special” funds, then more recently “restricted” funds” in the minutes and audits. The “permanently restricted” and “temporarily restricted” terms first appeared in the 2000 audit. 2000 was during the transition from Canon Wancura to Canon Visconti, and matches exactly to the first time money was taken from the Churchyard Fund for non-Churchyard Fund purposes. “Temporarily restricted” is also sometimes called “Vestry restricted.” “Temporarily restricted” is used in situations where a donation is made to the organization without any restriction, and the managing board then decides to apply it to a particular fund or project. In that situation the managing board may redirect those funds to another purpose at a later time. To my knowledge (and based on reading through many decades of minutes), the only example of this to be found at Caroline Church is the Olga Weinert money.

In examining the minutes, audits, ledgers and journals from the last eight decades, the special funds have been fastidiously separated, either through separate accounts and/or separate journals/ledgers. Until the early 1980's the investments were not in the hands of brokers or advisors—the church held stock certificates and the audits indicated who counted those shares each year. Merrill Lynch accounts were opened in the early 1980's and there was some commingling of the stocks at Merrill Lynch, but the Caroline Church books kept them separate, *i.e.*, we used fund accounting. During this time, the books segregated the following funds out from General Fund:

Building Fund

Churchyard Fund

Remembrance Fund

Fence Fund: closed out to CY 12/31/81

Poor Fund: closed out to discretionary fund 12/31/81

O’Dowd closed out to Remembrance 12/31/83

The Vestry By-laws that preceded the major revision in 2003 were first adopted in 1977 and amended in 1983, 1984 and 1985. They call for the Remembrance Fund and Churchyard Fund to be held in separate accounts. Other “special funds” could be commingled in a single account as long as fund accounting was used to keep them separate on the books of the church. In 1979 Bill Minuse is repeatedly demanding that Churchyard receipts be placed in a separate account rather than in the general fund. I suspect he is objecting to what we have done: initially depositing special fund contributions in the general fund, marking them as “due to churchyard.” He apparently got his way before leaving the vestry.

The Churchyard Fund

The first crack in the wall seems to be in 1993. On May 13 the Vestry voted to use income from the Churchyard Fund to pay for the playground installation by the barn. Then at the June 24 meeting, treasurer John Love reported that he had consulted with the auditors, who told him that indeed this was not an appropriate use of Churchyard Fund monies. The Vestry then voted to instead take the money from Remembrance, where the occasional use of principal in memory of a departed member was within the scope of Remembrance Fund restrictions. Vestryman Dave Elling was present at both meetings.

The audit for 1992 was dated June 25 (one day after the above June Vestry meeting). It was presented to the Vestry at the July meeting. Likely not by coincidence, it contains the following statement:

The assets, liabilities, and fund balances of the organization are reported in four self-balancing fund groups as follows:

Operating funds, which include unrestricted resources, represent the portion of expendable funds that is available for support of operations.

Building fund represents resources restricted for building renovations and maintenance.

Churchyard fund represents funds that are subject to restrictions that the income be used for upkeep and maintenance of the churchyard.

Remembrance fund represents income restricted for use to commemorate the departed, an anniversary or other event of significance.

As this statement was **not** included in the prior audits by Neesham Sini and Reeves it is quite likely that it was inserted as a result of the attempted breach of the restrictions. Identical statements were placed in all the audits available (some late 1990's audits are missing), adding the Organ Fund in the 1995 audit. Love's quarterly financial reports on the special funds also have restrictive language for CY and Remembrance. As this was the case for every quarter over many years, the 1990's Vestries were clearly aware of this language.

In 1995, the June minutes show Dave Elling stating that he has been researching rules governing CY Fund. He stated there was a resolution 7/13/45 that "Basically it left 'sitting' Vestry as the guardians of the Church Yard Fund, with its current wisdom of the needs of the Church as the guiding light."

This seems to be the seed that results in the myth that the special funds can be used for other purposes.

The problem is that Dave misinterpreted the whole 1945 discussion and resolution passed at the July meeting. In May of 1945 the Vestry approved a new set of Churchyard **rules**, and they apparently

represented a much stricter set of requirements for who could be buried and how approvals could be rescinded if the member did not continue to contribute, etc. Those rules appear at the end of the May minutes, but subsequent minutes indicate those rules actually contain some amendments made in subsequent meetings. The May 11 adoption of the rules, June 15 further discussion, and July 13 resolution Dave is referring to is pasted here:

May 11 minutes:

For the Churchyard Committee, Mr Melville, the Chairman, presented a suggested revision of the churchyard regulations which had been placed before the Vestry before but on which action had not been found possible. The regulations were studied and discussed carefully, paragraph by paragraph, and on motion of Mr Dearborn, seconded by Mr Edwards, the Clerk was instructed to promulgate the regulations as of May 11 1945 with all the corrections suggested. The motion specifically provided for the collection of an application fee to cover the cost of registration, etc, this in amount of \$10 and raised the interment fee to \$50 for members of the Parish and \$100 for others. Making this motion, emphasis was placed upon the importance of providing adequate endowment for the churchyard in order that its safety might be assured. The endowment now available is barely half enough to provide proper maintenance

June 13 further discussion:

The Clerk presented again on behalf of the Churchyard Committee the suggested revision of the churchyard rules, which had previously been sent to all Church Wardens and Vestrymen, and read several letters in acknowledgment of the rules. Suggestions concerning further change had been made only by the Church Wardens. Each of these suggestions was carefully reviewed and certain minor changes made as a result of this review. The rules then were referred again to the Churchyard Committee for completion in legal language with the assistance of counsel and with instructions that the rules of 1935 now filed in the front of the Minute Book be transferred to the date when they had been adopted and that the new rules, when finally revised, be included with the minutes of the meeting of May 11, as well as in the front of the book; further, that the rules after revision by counsel be referred to the Rector for final approval. All of this was directed on motion of Dr Gerstenberg, seconded by Mr McDermont

July 13 resolution:

On motion of Mr Melville, seconded by Dr Gerstenberg, the meeting:

RESOLVED that in the adoption of the revised Churchyard rules on May 11 1945, the Rector, Church Wardens and Vestrymen recognize that some of the injunctions and prohibitions contained in them may be impracticable of application in certain instances that may arise but, recognizing this fact, the rules nevertheless were adopted in order that the Church might be adequately protected in the maintenance of the Churchyard and in the retaining for proper use of the limited area available for Churchyard purposes, and expressly asserted that they expect to be open-minded in waiving any of these requirements as may seem unduly onerous in specific instances when the need seems to be indicated. In general, it is the belief of the body that the Church is better protected by strong rules that may be waived from time to time than by weaker rules which may be circumvented, and that a proper sense of responsibility exists in connection with the Churchyard and that power given to the body by these rules will be exercised with discretion

What this means is that the resolution has nothing to do with flexibility in use of the Churchyard Fund, but rather the ability to waive some of the new Churchyard Rules. In fact I spotted at least two occasions in the 1940's where the Vestry did indeed waive the rule to allow burials of WWII soldiers apparently killed in action. But the seed was planted.

Some years later, after Canon Wancura has left (but before Canon Visconti has been hired), and Joan Neuls (the bookkeeper and protector of our finances) has retired, Dave Elling is Senior Warden in charge. There is a need to establish a transition fund for the new rector search. On September 6, 2000 a motion is passed to move \$20,000 from Churchyard to the new Transition Fund. By year's end, that has grown to \$50,000. The minutes show some confusion as to if it has come from Churchyard or Remembrance, but the end of year statements show the entire \$50,000 came from Churchyard. The precedent is now established.

The 2000 audit for the first time uses the terms "temporarily restricted" and "permanently restricted." Churchyard, Remembrance, Organ, Building and Transition are classified "temporarily restricted" with Fr. Jim's Fund being the only "permanently restricted" fund. There is no explanation for this major change in the audit itself. Note 1 continues to contain short paragraphs outlining the restrictions of the special funds, but do not use either the "temporarily" or "permanently" words. There is no mention in the minutes that the audit was even presented to the Vestry.

The 2001 audit is missing. 2002 audit has the same structure as 2000. 2003 audit is missing, but it was also done by Sini & Reeves. The 2004 audit was done by George Rehn (who continued until being replaced by the audit committee for the 2016 audit). Rehn followed the general structure established by Sini & Reeves, separating unrestricted (Operating), temporarily restricted (all special funds except Fr. Jim's Fund) and permanently restricted (Fr. Jim's Fund).

Query: Did all or most of the Churchyard Fund come from the Melville family? That's what I heard but it has been contradicted by some. The fact is that in the 1976 audit, the Melville stock is at \$113,000 and represents 100% of the Churchyard investments. That's book value, not market value. Shortly thereafter, we divest that to diversify the holdings. The Fund value jumps because it values its stocks at the market value on the date of acquisition, so the newly acquired stocks have a much higher value—the Melville stocks had grown greatly. The market has increased greatly since the 1970's and we changed over to valuing our holdings at market. So Churchyard went to around \$1,000,000 by the year 2000. But the seed was clearly from the Melville family. And the minutes make it very clear they did not want it used for anything else. In fact he investigated establishing a separate Board of Trustees to keep the money out of the Vestry's control. Ward Melville was a wise man indeed.

Other Funds

I've mainly focused on the Churchyard Fund. The Building Fund and Organ Fund are pretty much self explanatory. Notably, the Georgia Beck bequest of almost \$280,000 was made to the Organ Fund and was immediately transferred in it's entirety to Remembrance. This was patently illegal without *cy pres* relief from the courts. Ginny Apmann, the Executrix, approved of this, but as Executrix she has no authority to do so. It was her job to transfer the money to the Organ Fund and she did her duty. We moved it illegally.

The Remembrance Fund: I found a document which I will attach. Three important dates to note. The document is dated January 1, 1961 (well after the establishment of the Fund). It is found in the preface of the minutes book covering 1968 to 1976. And very importantly it is discussed in the audit for 1973. They have found the document. Here's the excerpt from the 1973 audit:

We recently obtained a brochure dated January 1, 1961 which indicates the purpose of establishing the Remembrance Fund. Briefly, it is "to accumulate, gradually, through the years to come, an endowment fund to be held permanently in trust, the income from which may be used by the Parish for its usual expenses and obligations and, from time to time, by use of principal or income, as the Vestry finds appropriate, to provide permanent commemorative memorials in and about the church and for its use."

On the basis of the foregoing, we believe it advisable and recommend that separate bank accounts be established for the cash portion of the principal of this fund; namely, \$27,207 at December 31, 1973.

The underscore is their's not mine. This document alone defeats any argument that the Remembrance Fund is "temporarily restricted," and of course the very notion of both the Churchyard and Remembrance Funds, each about a century old, are "temporarily" restricted is on its face absurd. In any event this minutes book entry also establishes that the principal of the Remembrance Fund may only be used from time to time to provide permanent commemorative memorials in and about the church and for its use. The principal may not be invaded to cover the budget shortfall.

As contained in the 1968 to 1976 CCB minutes book, in front preface materials.....

THE REMEMBRANCE FUND
OF
CAROLINE CHURCH OF BROOKHAVEN

ITS TWO-FOLD PURPOSE

1. To provide a means whereby ~~any and every member of the Parish~~ ^{there} may establish a permanent memorial to a departed relative or a friend, or commemorate successive anniversaries or other events of special significance .
~~to himself or his loved ones.~~

2. To accumulate, gradually, through the years to come, an endowment fund to be held permanently in trust, the income from which may be used by the Parish for its usual expenses and obligations and, from time to time by use of principal or income, as the Vestry finds appropriate, to provide permanent commemorative memorials in and about the Church and for its use.

APPROPRIATE OCCASIONS FOR COMMEMORATION

Birthdays and other anniversaries; Baptisms, Confirmations, First Communions, Weddings and Bereavements, etc.

Recoveries from Illness
Escapes from Danger
Safe Returns from Journeys
Days of Achievements
Festival Occasions

Times of Success and Prosperity
Times of Election to Office
Times of National Rejoicing
Times of Family Reunions
Times of Religious Privileges

REMEMBRANCE OF ANNIVERSARIES

It is of the nature of anniversaries worthy of commemoration, that they be remembered with each recurring year. And, too, not only a birthday, but the date of any other event, remembered through all the years as on an occasion for great thankfulness, may become an anniversary; and be commemorated not only by an initial gift, but by successive gifts, year after year (at the option of the donor), as remembrance and feeling may dictate.

HOW TO GO ABOUT IT

Enclose with each donation a memorandum giving, first, the name and address of the donor; and, second, the anniversary or special event to be commemorated. This may be placed in the offering plate, at any Church service, in an envelope marked "Remembrance Fund". Or it may be mailed to the Treasurer, Caroline Church, Setauket. Checks should be made out to Caroline Church. All gifts will be credited as indicated and receipts sent.

AMOUNT

Any memorial or special event may be commemorated with a donation of one dollar (or more).

Bequests, by Will, may be made payable to "Caroline Church of Brookhaven for the Remembrance Fund".

THE BOOKS OF REMEMBRANCE

In the Church will be preserved two Books of Remembrance--the Book of the Departed and the Book of the Living.

In the first will be recorded the names of the Departed in remembrance of whom Memorials have been established.

In the second will be the names of those for whom gifts have been established during their lifetime.

These Books of Remembrance will contain no record of the amount donated.

SUMMARY

It will thus be seen that every Memorial established will become a Personal Memorial and these many memorials will constitute "The Remembrance Fund of Caroline Church of Brookhaven," for the perpetual maintenance of the Church and its work, and in commemoration, through all the years, of its faithful workers.

January 1, 1961