

CLARIFYING THE OWNERSHIP OF CERTAIN CHURCH PROPERTIES LOCATED IN THE VIRGIN ISLANDS

JUNE 29, 1960.—Ordered to be printed

Mr. JACKSON, from the Committee on Interior and Insular Affairs,
submitted the following

R E P O R T

[To accompany H.R. 11854]

The Committee on Interior and Insular Affairs, to whom was referred the bill (H.R. 11854) to clarify the ownership of certain church properties located in the Virgin Islands, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE

The purpose of H.R. 11854, the draft of which was submitted and recommended by the Department of the Interior, is to remove a cloud from the titles to five pieces of property (approximately 2 acres in all) occupied by three Lutheran churches in the Virgin Islands and to convey to the churches whatever interest the United States may have in these properties.

NEED

Both the territorial government and the churches in question assumed, from the time the Virgin Islands were purchased from Denmark in 1917 until almost the present, that the properties covered by the bill were owned in fee simple by the churches. A few years ago, however, the title question was raised when one or more of the churches sought to negotiate a loan. It was then discovered that in 1906 a Danish law had transferred—

the real and movable property * * * which serve the
congregations of the National Church * * * to the owner-
ship of the State Treasury—

and that the 1917 convention by which the United States acquired the Virgin Islands specially ceded to the United States—

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the right of property in all public, Government, or crown lands, public buildings * * * and all other public property of every kind or description now belonging to Denmark * * *.

Notwithstanding another provision in the latter document that—
the congregations belonging to the Danish National Church shall retain the undisturbed use of the churches which are now used by them, together with the parsonages and other appurtenances * * *.

the Federal Government therefore appears to have some proprietary interest in the lands in question, even though it has never exercised any control over them, spent any funds to maintain them, or asserted any right to their use. Enactment of H.R. 11854 will overcome the problems which arise from this state of affairs.

COST

Enactment of H.R. 11854 will entail no expenditure of Federal funds.

RECOMMENDATION

The Governor of the Virgin Islands and members of the territorial legislature testified favorably on the legislation before the House Interior Committee. The executive communication from the Department of the Interior, dated April 14, 1960, containing a resolution from the Virgin Islands Legislature, is as follows:

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., April 14, 1960.

Hon. RICHARD M. NIXON,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Enclosed herewith is a draft of a proposed bill to clarify the ownership of certain church properties located in the Virgin Islands.

We suggest that this bill be referred to the appropriate committee for consideration, and we recommend that it be enacted.

It has recently come to our attention that considerable uncertainty exists respecting the nature of the interest held by certain Lutheran congregations in the Virgin Islands in the church properties currently occupied and long used as church property by them. This uncertainty, which arises because of a Danish law enacted in 1906, described further below, has resulted in the congregations' experiencing some difficulty in obtaining loans for improvements to be made upon their property. The proposed bill would remove any uncertainty respecting their title to the property, by conveying whatever right, title, or interest in the property the United States may now have, if any, to the congregations in question.

In 1906 a Danish colonial law was proclaimed which stated in pertinent part that " * * * the real and movable property * * * which serve for the purposes of * * * the congregations of the National Church, are transferred to the ownership of the State Treasury." As

a result of this law, it appears that title to lands held by Lutheran congregations in the Virgin Islands, as well as in other Danish colonies, passed to the Government of Denmark. The 1917 convention between the United States and Denmark, relating to the cession of the Virgin Islands, provides in article I that there is ceded to the United States all territory, dominion, and sovereignty possessed by Denmark in the islands of the Virgin Islands, and that the cession includes "the right of property in all public, government, or crown lands, public buildings * * * and all other public property of every kind or description now belonging to Denmark" (39 Stat. 1706, 1707). Article 2 of the convention provides in part that "The congregations belonging to the Danish National Church shall retain the undisturbed use of the churches which are now used by them, together with the parsonages appertaining thereunto and other appurtenances, including the funds allotted to the churches." From the foregoing, it appears that the title to the church properties held by Denmark prior to the 1917 cession passed to the United States under the convention, but that the congregations are entitled to undisturbed use of the properties. This conclusion was expressed by the Danish Government in a note verbale, dated November 14, 1958, in response to a request for an opinion by the U.S. Embassy in Copenhagen, such request having been made at the behest of the Board of American Missions of the United Lutheran Church in America.

For many decades, and in some cases for well over 100 years, the Lutheran congregations of the Virgin Islands have considered that the properties which they now occupy and use were and are owned by them. The properties have always been regarded by the government of the Virgin Islands as belonging to the churches and have always been treated as tax-exempt property by virtue of their use for church purposes.

Parish funds, supplemented by grants as needed from the Board of American Missions of the United Lutheran Church in America, have always been used to maintain and improve the properties involved. In fact, during the period of time since the cession of the Virgin Islands to the United States, the Board of American Missions has extended well over \$100,000 in direct grants to the Lutheran Church congregations in question, primarily for improvements to such properties. No Federal funds have ever been expended on these properties.

In the circumstances as related, uncertainty appears to exist with respect to the interests, if any, which the United States may have in these properties, and this uncertainty creates a cloud on their title. We therefore believe that legislation should be enacted to eliminate the uncertainty and thus quiet title to all of the properties involved. This, we believe, can best be accomplished by enactment of legislation, as proposed in the accompanying bill, which would divest the United States of whatever interest it may now have in and to the tracts in question.

Five tracts, involving approximately 2 acres in all, are involved. Of these, two are located on St. Thomas and are occupied by the Frederick Lutheran Church of Charlotte Amalie, No. 7 Norre Gade being used as a church and No. 23 Kongens Gade for a parsonage. Section 1 of the proposed bill is concerned with these tracts. Section 2 relates to the two tracts now occupied by the Lutheran Church of

Christiansted, St. Croix. The first of these (No. 4 King Street) is in use as a church and the other (No. 51 King Street) as a parsonage. Section 3 relates to the fifth tract, which is property in Frederiksted in use as a church property by the Holy Trinity Church of Frederiksted.

The Virgin Islands Legislature has formally requested the enactment of this proposed legislation. In Resolution No. 136, approved by the Governor on October 2, 1959, the legislature memorialized the Congress to enact legislation relating to the five tracts "so that clear and perpetual title in fee simple be established in each of the said congregations to the properties used by each." A copy of the Resolution No. 136, which contains further detailed information concerning the problem which has arisen, is attached. Additionally, the Board of American Missions of the United Lutheran Church in America and the three congregations in question are in full support of the proposed bill.

The Bureau of the Budget has advised that there is no objection to the submission of the proposed legislation to the Congress.

Sincerely yours,

ROGER ERNST,
Assistant Secretary of the Interior.

A BILL To clarify the ownership of certain church properties located in the Virgin Islands

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there is hereby conveyed to the Frederick Lutheran Church of Charlotte Amalie, St. Thomas, Virgin Islands, all of the right, title, and interest of the United States in and to the following tracts of land, and improvements located thereon:

(a) The tract designated as No. 7 Norre Gade (including No. 34 Kongens Gade), King's Quarter, in the Town of Charlotte Amalie, St. Thomas, Virgin Islands, as described in the Surveyor's Records for the Town of Charlotte Amalie, Book I, Folio 4, Survey of December 15, 1836, consisting of 13,290 square feet, more or less; and

(b) The tract designated as No. 23 Kongens Gade, King's Quarter, in the Town of Charlotte Amalie, St. Thomas, Virgin Islands, as described in the Surveyor's Records for the Town of Charlotte Amalie, Book I, Folio 52, Survey of March 25, 1843, consisting of 8,638 square feet, more or less.

SEC. 2. There is hereby conveyed to the Christiansted Lutheran Church of Christiansted, St. Croix, Virgin Islands, all of the right, title, and interest of the United States in and to the following tracts of land, and improvements located thereon:

(a) The tract designated as No. 4 King Street, in the Town of Christiansted, St. Croix, Virgin Islands, as described in the records of the Office of the Public Surveyor, Christiansted, St. Croix, consisting of 12,005 square feet, more or less; and

(b) The tract designated as No. 51 King Street, in the Town of Christiansted, St. Croix, Virgin Islands, as described in the records of the Office of the Public Surveyor, Christiansted, St. Croix, consisting of 6,073 square feet, more or less.

SEC. 3. There is hereby conveyed to the Holy Trinity Lutheran Church of Frederiksted, St. Croix, Virgin Islands, all of the right, title, and interest of the United States in and to the tract of land, and improvements located thereon, designated as No. 11, 12, 13, and 14 Hospital Street and 11, 12, 13, and 14 New Street, in the Town of Frederiksted, St. Croix, Virgin Islands, as described in the records of the Office of the Public Surveyor, Christiansted, St. Croix, consisting of 45,134 square feet, more or less.

[Resolution No. 136]

Bill No. 1016

THIRD LEGISLATURE OF THE VIRGIN ISLANDS OF THE UNITED STATES,
1ST SPECIAL SESSION, 1959

RESOLUTION MEMORIALIZING THE CONGRESS OF THE UNITED STATES TO
ENACT PRIVATE LEGISLATION WITH RESPECT TO TITLE TO CERTAIN
CHURCH PROPERTIES IN THE VIRGIN ISLANDS

Whereas at the time of cession of the Danish West Indies to the United States in 1917, the Convention between the United States and Denmark provided in Article 1, in part, that there is ceded to the United States all territory, dominion, and sovereignty possessed by Denmark, and that—

“This cession includes the right of property in all public, government, or crown lands, public buildings, wharves, ports, harbors, fortifications, barracks, public funds, rights, franchises, and privileges, and all other public property of every kind or description now belonging to Denmark together with all appurtenances thereto.”; and

Whereas Article 2 of the said Convention provided in pertinent part that—

“It is understood that this cession does not in any respect impair private rights which by law belong to the peaceful possession of property of all kinds by private individuals of whatsoever nationality, by municipalities, public or private establishments, ecclesiastical or civic bodies, or any other associations having legal capacity to acquire and possess property in the islands ceded.

“The congregations belonging to the Danish National Church shall retain the undisturbed use of the churches which are now used by them, together with the parsonages appertaining thereunto and other appurtenances, including the funds allotted to the churches.”; and

Whereas the United States Senate in giving its advice and consent to the ratification of the Convention, did so on the condition that “such advice and consent are given with the understanding, to be expressed as a part of the instrument of ratification, that such Convention shall not be taken and construed by the High Contracting Parties as imposing any trust upon the United States with respect to any funds belonging to the Danish National Church in the Danish

West Indian Islands, or in which the said Church may have an interest, nor as imposing upon the United States any duty or responsibility with respect to the management of any property belonging to said Church, beyond protecting said Church in the possession and use of church property as stated in said Convention, in the same manner and to the same extent only as other churches shall be protected in the possession and use of their several properties.”; and

Whereas the United States Senate, as a further condition to the ratification of the Convention, specified that this particular matter be made the subject of an exchange of notes between the Governments of the United States and Denmark “so as to make it plain that this condition is understood and accepted by the two Governments, the purpose hereof being to bring the said Convention clearly within the Constitutional powers of the United States with respect to church establishment and freedom of religion.”; and

Whereas the foregoing conditions were fulfilled by the exchange of formal notes between the two High Contracting Parties on January 3, 1917, and, thereafter, the said Convention was duly ratified by both Governments and the ratifications exchanged in Washington, D.C., on January 17, 1917; and

Whereas prior to the Cession of the Virgin Islands to the United States, and on April 6, 1906, a Danish Colonial Law was proclaimed, Section 51 of which stated:

“The public buildings, and the real and movable property, including articles of inventory, etc., which serve for the purposes of the Government, the Military Force, and the congregations of the National Church, are transferred to the ownership of the State Treasury. In case of a dispute as to what, in accordance herewith, becomes the property of the State Treasury, the question shall be decided by the King.”; and

Whereas at the request of the Board of American Missions of the United Lutheran Church in America, a religious organization having affiliations with certain congregations now using properties which might be affected by said Law, the United States Embassy in Copenhagen in 1957 requested advice from the appropriate Danish authorities with respect to title to the properties, hereinafter described in more detail; and

Whereas by a “Note Verbale,” dated November 14, 1958, the Danish officials expressed the opinion that title to certain properties passed to the Danish Government in accordance with the above-quoted section 51 of the Danish Law of April 6, 1906, and, hence, that title to such properties passed to the United States at the time of the cession of the Virgin Islands in 1917, subject, however, to the specific reservation that the churches were to retain the undisturbed use of such properties; and

Whereas the properties which were the subject of said Note Verbale included the following:

(1) Church property, 7 Norre Gade (including No. 34 Kongens Gade) in King’s Quarter in the Town of Charlotte Amalie on the Island of Saint Thomas, Virgin Islands of U.S.A., appearing in the Surveyor’s Records for the Town of Charlotte Amalie, Book I, Folio 4, Survey of December 15, 1836;

(2) Parsonage property, 23 Kongens Gade, in the King’s Quarter in the Town of Charlotte Amalie on the Island of St.

Thomas, Virgin Islands of U.S.A., appearing in the Surveyor's Records for the Town of Charlotte Amalie, Book I, Folio 52, Survey of March 25, 1843;

(3) Church property, No. 4 King Street in the Town of Christiansted, on the Island of St. Croix, Virgin Islands, according to the Public Surveyor's Records;

(4) Parsonage property, No. 51 King Street in the Town of Christiansted, on the Island of St. Croix, Virgin Islands, according to the Public Surveyor's Records;

(5) Church property, Nos. 11, 12, 13 & 14 Hospital Street in the Town of Frederiksted, on the Island of St. Croix, Virgin Islands, according to the Public Surveyor's Records; and

Whereas each of said properties is now being used as church property, and has been so used continuously for a period commencing prior to the enactment of the 1906 law, and in some instances for a period upwards of one hundred and fifty years; and

Whereas the congregations which are now using the said church properties are the following:

(a) The Frederick Lutheran Church of Charlotte Amalie, St. Thomas, Virgin Islands, now using properties as described under items (1) and (2) above;

(b) The Lutheran Church of the Lord God of Sabaoth (now designated as "Christiansted Lutheran Church"), of Christiansted, St. Croix, Virgin Islands, using properties as described in items (3) and (4) above; and

(c) Holy Trinity Lutheran Church of Frederiksted, St. Croix, Virgin Islands, now using properties described in item (5) above; and

Whereas the respective congregations have, ever since the time of the initial occupancy of the respective properties as indicated, considered that they had, and have, full rights of ownership in such properties; and

Whereas it appears from available land records that it was the intent that title to said church properties be vested in the appropriate church bodies, but such land records are incomplete and a definite uncertainty remains with respect to the title of said properties, particularly by reason of the 1906 law, referred to above, and the opinion expressed by the Danish authorities in the Note Verbale of November 14, 1958; and

Whereas the history of negotiations between the Government of Denmark and the United States Government clearly indicates an intention to leave undisturbed the rights of private ownership and use of church properties in the Virgin Islands; and

Whereas it is desirable and proper from the standpoint of both public and private interests that right to use and clear title be conclusively established with respect to all church properties in the Virgin Islands by appropriate action of the Congress of the United States, since title to the said lands may be asserted by the United States by interpretation of some of the foregoing quoted documents: Now, therefore, be it

Resolved by the Legislature of the Virgin Islands:

SECTION 1. That the Congress of the United States is hereby memorialized to enact private legislation with respect to the above-specified properties in a manner so that clear and perpetual title in

fee simple be established in each of the said congregations to the properties used by each, as follows:

(a) Church property located at 7 Norre Gade (including No. 34 Kongens Gade), and the Parsonage property located at 23 Kongens Gade, both in King's Quarter in the Town of Charlotte Amalie on the Island of St. Thomas, Virgin Islands of U.S.A. to the Frederick Lutheran Church of Charlotte Amalie, St. Thomas, Virgin Islands;

(b) Church property located at No. 4 King Street, and parsonage property located at No. 51 King Street, both in the Town of Christiansted, on the Island of St. Croix, Virgin Islands of U.S.A. to the Lutheran Church of the Lord God of Sabaoth (commonly designated as "Christiansted Lutheran Church") of Christiansted, St. Croix, Virgin Islands; and

(c) Church property located on Hospital Street, including Nos. 11 to 14, inclusive, in the Town of Frederiksted on the Island of St. Croix, Virgin Islands of U.S.A. to Holy Trinity Lutheran Church of Frederiksted, St. Croix, Virgin Islands.

SEC. 2. That properly attested copies of this resolution be sent to the President of the United States, to the President of the Senate, to the Speaker of the House of Representatives, to the chairman of the Committees on Interior and Insular Affairs of the Congress, and to the Secretary of the Interior of the United States.

Thus passed by the Legislature of the Virgin Islands on September 28, 1959.

Witness our hands and the seal of the Legislature of the Virgin Islands this 29th day of September A.D. 1959.

WALTER I. M. HODGE,
President.

JOHN L. MADURO,
Legislative Secretary.

The above resolution is hereby concurred in.

Witness my hand and Seal of the Government of the Virgin Islands of the United States at Charlotte Amalie, St. Thomas, this 2d day of October A.D. 1959.

[SEAL]

JOHN D. MERWIN, *Governor.*

Certified a true copy.

JOHN D. MERWIN, *Governor.*

COMMITTEE RECOMMENDATION

The Committee on Interior and Insular Affairs recommends the enactment of H.R. 11854.

