

The Diocese of Gracanica and Midwestern America (DG&MwA) has issued a decree that was adopted at the Diocesan Meeting in April 2011. This document contains greater perils than “the Constitution, Uniform rules and Regulations and General Regulations of the Serbian Orthodox Church in North and South America” (Constitution) that was forced on the New Gracanica churches. The Serbian Orthodox Church of North and South America (SOCNSA) Constitution has major flaws that threaten the existence of the local Serbian communities that have evolved with the Church as the central cornerstone of their existence. There are good examples of what happens when the community spirit is broken and the Church becomes simply a religious “fee for service”. The community element is lost and becomes independent which then leads the Church into financial difficulty since the parishioners are divided both in loyalty and purpose.

A review of clause by clause reveals where the problems are. It must be REJECTED by every local Church Board.

If your Church has a corporate structure in place, this will destabilize the corporate structure and will render it useless and meaningless.

#### Clause 1 & 2

Are basic and for the most part are not problematic, with the exception, that whichever church signs on, fully accepts the redistributed diocese boundaries.

#### Clause 3 Governing Documents

3.1. This [Mission Parish, Church-School Congregation] is governed by the Constitution, Uniform Rules and Regulations and General Regulations of the Serbian Orthodox Church in the North and South America.

ANY church board that adopts this is in effect accepting the Constitution in full.

3.2. This [Mission Parish, Church-School Congregation] is also governed by these Local Regulations (By-Laws). However, these Local Regulations (By-Laws) are merely a Local Addendum/Supplement to the three governing documents identified in 3.1. Should there ever be an inconsistency between these Local Regulations (By-Laws) and the governing documents named in 3.1, the governing documents identified in 3.1 prevail.

If you are in doubt about – the this 3.2 clearly states “the governing documents identified in **3.1 prevail.**”

3.3. These Local Regulations (By-Laws) have no force or effect until and unless they are approved by the Diocesan Bishop and the Diocesan Administrative Board.

The Diocesan Bishop MUST approve the local bylaws. Churches currently have their own established and approved by-laws.

3.4 Once approved by the Diocesan Bishop and the Diocesan Administrative Board, these Local Regulations (By-Laws), together with the governing documents identified in 3.1, automatically supersede and replace any and all previous bylaws, regulations, charters, articles, etc. which may have existed from the founding of the [Mission Parish, Church-School Congregation].

Sub article 3.4 will NULLIFY – all the current local by-laws. If a church does not accept this “seemingly polite request” then current local by-laws survive.

Article 4 – Special Local Procedural and Operational Provisions.

At first glance a local church may feel that it has some wiggle room. However you quickly learn how irrelevant the local church is.

4.1 provided for special local needs but they must be in the SOCNSA Constitution. Once again linking you to the ill-fated Constitution.

4.2 & 4.3 Clearly point out how much control is being exercised

(The following provisions are mandatory; other provisions may be proposed in the draft presented to the Diocesan Bishop and the Diocesan Administrative Board]

Take note of the “**mandatory**” vs “other provision **may** be presented to the Diocesan Bishop...”

Although this probably standard in most local Churches, they are now being mandated.

4.3.3 –Appropriation of Funds – a \$ limit is placed and if that amount is to be exceeded, the “Constitution” dictate.

4.3.6 Term limit is introduced. Not all Churches have such a limitation. This discretion is left to the local community to do what is the most appropriate for it at any given time. Keep in mind, most of the executive positions are hard work and very few parishioners are able and willing to donate that much time to runs an operation. Changed management, when not necessary leads to greater problems especially with the compliance with the tightening rules on Charities that have emerged since 9-11 both in the USA and Canada.

#### 4.4 Special Local Provisions related to Parishioners

Here once again as in article 3 above, note the “**mandatory**” aspect.

Once again note the linkage to article 3.1 and now the element of financial/stewardship obligations as identified in 4.4.1. This is a powerful point that could easily be used for ill purposes re: the good standing.

While 4.4.2 is a spiritual/sacramental obligation and no one that is not in accordance should be part of the Church Board, etc. This has been withheld on the demand of some Bishops for the wrong reason. Thereby the Bishop can and has order this in the past. This is a sure way to suppress anyone who might hold divergent points of view from the Bishop.

4.4.3. The [Executive Board, Mission Parish Trusteeship] shall certify if the parishioner has fulfilled his/her financial/stewardship obligations and requirements. This certification must be attained before the parishioner can participate in the administrative life of this [Mission Parish, Church-School Congregation].

This puts excessive stress on the Executive Board to evaluate the “financial/stewardship” of the parishioners. Would you want to be the one to judge this? On this basis the Executive needs to know your personal financial affairs. Notwithstanding that, there is no definition of how this is to be done. This opens the door to a great degree of potential misuse. i.e. Who will determine what the parishioner’s financial obligations are??? What is the stewardship obligation???

4.4.8 & 4.4.9 provide for some relief of the “financial/stewardship obligations” via a formal petition.

Reviewing 4.4 in its entirety, clearly leaves one to ask the question, Do I really want to disclose all this personal information” and for what purpose? Does this mean that if one is not in “good standing” under the financial/stewardship, a local priest will be ordered not to provide this parishioner with the spiritual and religious rights. So if one can go to a “Fee for Service” Church, a person can “pay” for the religious elements. Ask yourself, did our Lord Jesus ask for payments for the Holy and Spiritual sacraments that he introduced to the Church.

The conclusion one should draw from this, is that if you do not get involved, you do not need to disclose. The Church doors will not be closed to you or will they? Most churches today have hundreds if not thousands of “parishioners” who come to church occasionally. Currently, there is no financial/stewardship obligation on them. Why should they change this? If a Church makes an attempt to enforce this, that Church will alienate these parishioners. Rather that attempt to increase and re-introduce the Orthodox faith to our brothers and sisters who for years suffered under oppression. This will drive them away and lead them to eventual assimilation with the masses where we now live. Our forefathers left their homelands partly to gain freedom from persecution. They maintained their identity through their “Church Communities.”

Article 5 – Committees – noting offensive.

#### **Article 6 – Auxiliaries**

6.1 identifies only 3 such organizations. And in 6.2 these are dissolved and created annually. Note again the mention of the Diocesan Bishops authority and governing documents of 3.1 above.

6.4 Set limits on the auxiliary organization, and “the auxiliary organization must transfer those funds...”

6.5-6.7 for the most part is acceptable.

#### **Folklore and other your organizations**

Our dance groups would revolt and we would lose all control – Note the Diocesan Bishop’s role here.

6.8. Youth organizations (including but not limited to folklore groups and sports teams) are not considered auxiliary organizations and are by their nature part of the educational program of this [Mission Parish, Church-School Congregation] and as such are under the direct jurisdiction and control of the Diocesan Bishop, his local educational designee, the Parish Priest, and the Diocesan Department of Education.

Churches are already experiencing problems in attracting and maintaining the youth. An examination of Church attendance on any regularly scheduled service effectively discloses that youth are no longer regulars. Bringing in such draconian measures will further alienate the youth.

#### Article 7 – Property.

7.1 once again go back to 3.1 and which eventually leads you right back to the SOCNSA Constitution.

7.1. The governing documents identified in 3.1 contain provisions which define and govern the ownership, administration and disposition of the real and personal property of this [Mission Parish, Church-School Congregation].

Putting all of the elements together, the most offensive element of the Constitution is then enshrined here.

With this document, the corporation although recognized are reduced to nothing as they are merely "Trustees" for the Church boards, that the Bishops have full control of, etc.

This means NO Autonomy... And if in doubt

corporation number . This State of Corporation is merely the corporate arm of the [Mission Parish, Church-School Congregation] and, as such, this State of Corporation is subject to the discipline, rules and regulations of the [Mission Parish, Church-School Congregation], the Diocesan Bishop, the Diocesan governing authorities and the Serbian Orthodox Church, which has been recognized by the Supreme Court of the United States of America as a "Hierarchical Church," whose decisions are final and binding under US law and are not subject to inquiry and interpretation by US secular authorities and courts. *Serbian Orthodox Diocese v. Milivojevich*, 426 U.S. 696 (1976). As required by the governing documents identified in 3.1,

The corporation is "merely the corporate arm of the ..."

Note the use of "Hierarchical Church". Once a Church signs on here, then the legal system of the United States (Canada has similar effect) no longer has any right to protect the property from the ultimate control of the Bishop. This is achieved through the "Hierarchical Church" doctrine. Again note the reference to article 3.1 above.

7.3 – although not titled, clearly restricts and imposes limits on any corporation to be merely a trustee to hold property.

In the event that another corporate entity (not identified in 7.2) has heretofore been or shall hereafter be established under state or provincial or local law for the purpose of holding title to real or personal property which de-facto or equitably properly belongs to this [Mission Parish, Church-School Congregation] or which de-facto or historically was purchased by, maintained by, operated by and used by this [Mission Parish, Church-School Congregation] and/or its parishioners as a church, church hall, parish home, picnic grounds, cemetery, cultural center or otherwise, then, notwithstanding the fact that title to such property is nominally held in the name of such corporate entity, said property shall be deemed to be property owned by this [Mission Parish, Church-School Congregation]. At all times, such corporate entity shall hold such property irrevocably in trust for the benefit of this [Mission Parish, Church-School

An indication that this will be used in other SOCNSA Diocese is disclosed by the fact of the use of the term “provinces”. There is no such “jurisdictions” in the DG&MWA. A clear indication that this will be introduced in the Canadian Diocese of the SOCNSA.

#### Furthermore, the corporate structure

Congregation]. The articles of incorporation, by-laws and any other substantive corporate instruments shall be amended to provide that all persons who are members of this [Mission Parish, Church-School Congregation] shall immediately and automatically be deemed to be members of said corporate entity and the duly elected [Executive Board, Mission Parish Trusteeship] and officers of this [Mission Parish, Church-School Congregation] shall automatically be deemed to be the sole directors and officers of said corporate entity. Such

This section of 7.3, now eliminates any independence and legal protection that the corporate structure provides.

Note the use of the word **“PUNISH”** in the following final passage of article 7.3

corporation has heretofore been and shall hereafter continue to be deemed a corporate arm of this [Mission Parish, Church-School Congregation]. This [Mission Parish, Church-School Congregation] and the Diocesan Council shall have concurrent jurisdiction and authority to enforce the provisions of this paragraph in any secular court of law against such corporate entity and those persons acting in concert therewith who refuse to comply with the provisions of this paragraph. In addition, upon charges brought by the Diocesan Bishop, the Diocesan Council or any member in good standing of this [Mission Parish, Church-School Congregation], the Diocesan Ecclesiastical Court shall have the full power to discipline and punish any person refusing to comply with the provisions of this paragraph in accordance with all church canons, laws, rules and regulations.

Adopting this change will expose anyone in the corporation to persecution from the Bishop, if they do not get what they want.

#### Article 8 – rules

- 8.1 All Assemblies (Annual, Special), [Executive Board, Mission Parish Trusteeship] meetings and Committee meetings shall be conducted in accordance with Roberts Rules of Order, to the extent that said Rules of Order do not conflict with the governing documents identified in 3.1.

Once again 3.1 of above supersedes, clearly stating that the Constitution prevails once again.

#### Article 9 – Amendments

This article deals with the need for 2/3 vote to amend, but it does not stipulate what is required to bring this amendment to the Local Church By-Laws into force. Notwithstanding a 2/3 vote,

- 9.4 The proposed amendments have no force or effect until and unless they are approved by the Diocesan Bishop and the Diocesan Administrative Board.

Clearly note “approved by the Diocesan Bishop” - The Bishop now is provided full “VETO” power.

The resolution to be adopted by the local Churches is very clear. Binding provision of the SOCNSA Constitution.

1. We are loyal sons and daughters of the Serbian Orthodox Church and as such recognize and follow the tenets, traditions, and teachings of the Serbian Orthodox Church, as prescribed by the Holy Assembly of Bishops. We hereby expressly subject ourselves and agree to be bound by the discipline, rules and usage of the Serbian Orthodox Church in the North and South America as set forth in the Constitution, the Uniform Rules and Regulations and General Regulations of the Serbian Orthodox Church in North and South America.

The clear expression to be “BOUND”

NO freedom to leave:

- 2 We understand and agree that this [Mission Parish, Church-School Congregation] is and shall remain an integral part of the Serbian Orthodox Diocese of New Gracanica and Midwestern America, and we expressly reject and waive on our behalf and on the behalf of all future parishioners of said [Mission Parish, Church-School Congregation], any ability to unilaterally withdraw from said Diocese (or any future Diocese of the Serbian Orthodox Church which would have geographical jurisdiction over this [Mission Parish, Church-School Congregation]), recognizing that such a withdrawal would be completely inconsistent and contrary to the canon law and order of the Serbian Orthodox Church.

Key words,

“we expressly **reject and waive** on our behalf and on the behalf of all future parishioners ..., any ability to unilaterally withdraw...”

One should ask why are the Churches asked to do this, except to provide the ultimate control to the Bishop through the SOCNSA Constitution.

Once a Church approves the so called amendments as requested in this document, then the local Church boards and other bodies will lose any measure of control or independence to maintain the Church as a center of a community.

4. As set forth in said Local Regulations (By-Laws), all previously adopted regulatory enactments (Charters, Articles of Incorporation, Deeds and By-Laws) of this [Mission Parish, Church-School Congregation], enacted and promulgated for any reason, once said Local Regulations (By-Laws) are approved by the Diocesan Bishop and the Diocesan Administrative Board, shall be null, void, and of no effect legal or otherwise, upon this Congregation, and all acts done or taken there under shall be null and void ab initio.

Note the use Note also “null, void, and of no effect legal or otherwise,...” and again of “null and void ab initio.” The English translation of “ab initio” means from the beginning.

If there is any dispute or disagreement, anyone one who is **loyal...**, “**shall continue to administer and to enjoy full and complete possession and control of all property...**”

5. We resolve and agree that, in the event of any dispute among the parishioners of this [Mission Parish, Church-School Congregation], those parishioners whose allegiance and loyalty remains with the Serbian Orthodox Church, as determined by the Episcopal Council of the Serbian Orthodox Church of the North and South America, shall continue to administer and to enjoy full and complete possession and control of all property both tangible and intangible, personal, and real, of this [Mission Parish, Church-School Congregation].

Based on all of the above, Churches are urged to **REJECT** this so called demand.

Your Annual Assembly should accept this Addendum at its next regular session, having added all the necessary changes pertinent to your Church-School Congregation's needs.

Any church that subject itself by adopting this document has forever relinquished control of all that our forefathers have worked so hard to preserve for us and our descendants.

Before you do anything, make sure that your executive has obtained legal advice. Keep in mind once approved and adopted, all of your past controls will be lost and your Church will have no further recourse from that point on.