A dominant, or perhaps the dominant paradigm of Russian Orthodox Christianity in the United States during the twentieth century was the mitigation of ecclesiastical disputes through property litigation. From 1917 until the 1990s Russian Orthodox Christians—individually and communally, clergy and lay—took to American civil courts to litigate for cathedrals, churches, monasteries, rectories, church halls, residential and commercial properties. At the root of these disputes, generally, were several fundamental questions: Who, in an age of Bolshevism, held control and authority over the Russian Church as it was constituted outside the Soviet Union? And in such communities, what was the legally enforceable relationship between spiritual authority and temporal property ownership? And, finally, to what extent might the courts be a tool deployed to normalize church order in the face of geopolitical uncertainty and ecclesiastical ambiguity?

The most significant example of such Russian church property litigation, and perhaps the most notorious, concerns St. Nicholas Russian Orthodox Cathedral in New York City. From 1918 until 1970, the cathedral was a surrogate for questions of church administration and authority in North America, questions which were litigated in a prolonged series of overlapping, and rather confusing civil property cases heard in state and federal courts between the 1910s and the 1960s. Scholarly appraisals of the St. Nicholas litigation—often, and misleadingly abbreviated as Kedroff—typically address but one phase of the case, which reached the US Supreme Court in 1952. Indeed, this case is important in its significant implications for American religious property law, as it is a substantial reframing of the Court’s landmark opinion in Watson v. Jones (1872). Yet these accounts

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1 The most complete is Richard W. Garnett, “The Story of Kedroff v. St. Nicholas Cathedral.” Supreme Court History 38 (March 2013), 80-93. For the contextualization of the 1952 case in the bigger picture of religious property law, see
too usually minimize, if not misunderstand the full historical context of the cathedral cases. The limited historiography of Orthodoxy in the United States includes at least one series of in-depth legal analyses of the St. Nicholas litigation, though these only sparingly discusses the case’s historical antecedents.² Far from an isolated episode, Kedroff is instead but the middle chapter in a much longer story that began with the fall of the Romanov dynasty after the February Revolution in 1917, and which did not definitively close until over fifty years later. Litigation over St. Nicholas Cathedral stands as a story of the Soviet era in microcosm, encompassing the full arc of the United States’ first Red Scare through the most incendiary Cold War fears of communist infiltration.

As such, this analysis is premised on the dispute over St. Nicholas Cathedral as understood in two primary stages. The first stage involves cases brought by John Kedrovsky. A suspended Russian Orthodox priest, Kedrovsky used property litigation first to destabilize archdiocesan administration in the wake of the Russian Revolutions of 1917, and then after 1923, to install himself as the legal Archbishop of North America. The second involves Kedrovsky’s son, John Kedroff, whose intention to release the cathedral from his family’s ownership and ecclesiastical control during the 1940s set the stage for a renewed, and far lengthier phase of litigation that twice placed the cathedral’s fate with the nine justices of the United States Supreme Court. As an introduction to the module for the Teaching Law & Religion Case Study Archive, this paper traces the cathedral cases from their first stirrings in 1918 through the beginning of its second, far more influential stage in the late 1940s.

² These constitute a series of blog posts written in 2011 by the Orthodox historian and trained lawyer Matthew Namee analyzing the 1952 Supreme Court case. Published in four parts, they may be found, beginning with the first installment, at the blog Orthodoxy History: Matthew Namee, “Moscow v. the Metropolia in the Supreme Court, Part 1: Justice Reed’s Majority Opinion.” Orthodoxy History, May 24, 2011. <https://orthodoxhistory.org/2011/05/24/moscow-v-the-metropolia-in-the-supreme-court-part-1-justice-reeds-majority-opinion/>., last accessed August 1, 2019.)
Property litigation shows us the extent to which several generations of Russian Orthodox Christians in the United States became deeply instilled with a sort of hyper-ecclesiology that intensified with the jurisdictional fragmentation of the church outside Russian borders after 1917. The emergence of competing claims to jurisdictional authority over the same geographical territory was a twentieth-century development within the Orthodox Church rooted in two factors: First, the mass migration of believers from across the Orthodox world into traditionally non-Orthodox countries, where they came to understand their connections to their ancestral lands in distinctly ethnic and religious forms; and second, the turmoil brought to the Orthodox world initially by the First World War, and then by the rise and expansion of communism across Eastern and Southern Europe after 1917. In the United States, these factors combined into an especially potent ecclesiological problem. For the first time, Orthodox believers from every national church in the Old World were living side by side, far from home, in the same industrial cities. By the 1920s, the establishment of separate ethnic churches, rather than a concerted effort towards a single, multinational Orthodox Church for the North American continent, bifurcated Orthodox communities across ethnic lines. This was further complicated by fractures within ethnicities themselves, a development that first, and most tangibly affected Russian-identifying communities.³

At the close of 1918, there was a single Russian Orthodox jurisdiction in the United States. By 1928, there were two, and by 1933, there were three. The emergence of jurisdictional fragmentation heightened believers’ propensities to think deeply, or better put, obsess greatly, over the hierarchical structure of the church. This fervent obsession was rooted in a significant,

vernacular understanding of American religious property law. In court, believers saw the ways traditional understandings of Orthodox ecclesiology could be adapted to the ways American courts already understood spiritual authority. They learned to organize their individual parishes, and in turn collect them together into their own independent jurisdictions, by adapting the structures of Orthodox ecclesiology to the stipulations of religious property law. By tethering church property to ecclesiastical authority, believers came to define their religious identities by the authority vested in one bishop over another. And they did so purely because American religious property jurisprudence demanded it.

Scholarship on religious property law ordinarily focuses on the legal questions of property ownership, seen by the courts outside its theological or doctrinal questions. In other words, while the legal questions are indeed important, they can serve to obscure the bigger picture behind why litigants approached the bar in the first place. In respects to Russian Orthodox property litigation during the twentieth century, the ecclesiastical questions evaluated by the court were the product of charged, largely political disagreements rooted in the evolving geopolitics of the Cold War. To control disputed properties, and indeed to build their jurisdictional bodies in the United States, believers—clergy and lay alike—came to surprisingly deep understandings of property law that gave them the tools to contort Orthodox ecclesiology to the demands of American jurisprudence.

These understandings came from the Supreme Court’s 1872 decision in *Watson v. Jones*. Described by one later legal scholar as “a synthesis of First Amendment concepts, common law contract principles, and judicial philosophy,” *Watson* wholly redefined the American legal understandings of how property functioned in a religious context.4 *Watson* was a dispute between two factions in a Presbyterian congregation in Kentucky. During the Civil War, a small, antislavery

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faction of parishioners, backed by their national church administration, attempted to usurp the pro-slavery majority within their congregation. In its decision, the Court recognized that religious property disputes were frequently surrogates for much larger, often dogmatically driven issues—in the case of Watson, slavery, race, and the influence of contemporary sociopolitical issues into a religious community. Any legal decision would invariably have implications beyond the question of the property at hand. At the same time, the Court determined its competency could only be the question of property. As a result, the Court determined that it could not make a valid determination on the fidelity of religious teaching, claiming the Court knows “no heresy and is committed to the support of no dogma.” 5 To this end, the Court could only defer to the decisions of the highest ascertainable religious authority. In the absence of such an authority, however, the will of the majority of the congregation should be recognized.

In the wake of Watson, state and federal civil courts alike have largely addressed church property cases on the basis of neutral principles of law, using documents such as deeds, trusts, statutes, articles of incorporation, and bylaws. Generally, American courts have deferred to the highest church authority as can be determined, declining to take any specific doctrinal position in church property disputes, instead focusing on questions of authority and administrative power and deferring to a religious organization’s internal decision-making and administrative processes. With these ideals in mind, church property disputes have inevitably boiled down to a series of interrelated legal questions: What is the accepted structure of such a religious institution, and who holds administrative authority within it? Does the hearing of a given case ask the court to make an

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5 Watson v. Jones (80 US 679) (1872)
executive determination on ecclesiastical or religious matters, and if so, to what extent does the court have jurisdiction in such a matter?\textsuperscript{6}

In many ways, these issues significantly mirrored those of the “trusteeism” controversies in American Catholicism in the late-eighteenth and early-nineteenth centuries, which significantly challenged the ways American jurisprudence grappled with hierarchical religious institutions. Like immigrant Catholics in antebellum America, Russian Orthodox laity and clergy alike struggled to find a singular adaptation of their Old World church and its traditional structures to the American social and legal situation. As Patrick Carey has noted in his study of American Catholic trusteeism, though certainly rooted in the European experience, trusteeism “arose from American republicanism, legal structures, changing social conditions, and the hegemony of American Protestant ecclesiastical practices.”\textsuperscript{7} What was more, a spirit of voluntaryism reigned, in which parishioners felt ownership over the property, buildings, and items they had paid for themselves—despite the church’s claims to the contrary. The American Catholic hierarchy had largely squashed trusteeism by the mid-nineteenth century. Even so, the top-down, hierarchical system of property ownership they concretized in their dioceses remained decidedly in tension against how individual states saw claims for religious property ownership. This was true for the Orthodox as well.

Both phases of the St. Nicholas litigation tell us much about the changing nature of Orthodox communities in the United States during the twentieth century, both in how they were perceived within the broader landscape of American religion, and within the church itself. Orthodox Christianity cuts a strange profile in America courts. In a tri-faith America that consistently sees Christianity solely in its Western forms, the Orthodox have been Orientalized into


They are neither Protestant nor Catholic, decidedly foreign, perhaps too small or marginal for significant engagement, even as they have been present on this continent in institutional form for nearly 250 years. In this way, this analysis is not primarily concerned with legal decisions themselves. Rather, I wish to explore how Orthodox litigants comport and explain themselves at the bar, as well as prompt a better understanding of how legal decisions directly impacted the religious worlds of believers who purchased, built, maintained, and/or used properties litigated in American courtrooms. In other words, I seek to understand how Orthodox Christians have contorted their beliefs, practices, and senses of authority to reveal the church’s evolving ecclesiology on this continent, in all its complexities and contradictions, and how property litigation molded the ways Orthodox Christians practiced their faith in North America.

St. Nicholas Cathedral in the History of Orthodoxy in North America

The foundations of the St. Nicholas Cathedral cases are the eighteenth-century roots of Russian Orthodox Christianity on the North American continent. The Russian Orthodox Church arrived in North America as an institutional expression in 1794 to serve the Russian Empire’s colonial and commercial interests in Alaska and the Pacific Northwest. Part of a longer missionary effort to expand the church’s reach into Siberia and the Far East, the Alaskan Mission fostered a syncretic form of Orthodox Christianity that was both decidedly Russian and deftly adapted to the indigenous languages and traditions missionaries encountered in the harsh arctic landscape. When Russia sold Alaska to the United States in 1867, the Orthodox presence there was comprised of Russian promyshlenniki (contract workers) and indigenous peoples, and too kreol believers born of

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8 For example, see Will Herberg’s response to Orthodox Christian Fred Lewis in a footnote to the 1960 edition of his seminal work Protestant Catholic Jew, in which Herberg categorically dismisses Lewis’ call to append Orthodox Christianity as a fourth major faith alongside Herberg’s triad. Will Herberg, Protestant Catholic Jew: An Essay in American Religious Sociology, revised edition (Garden City: Anchor Books, 1960), 45n29.
their unions. “Seward’s Folly” prompted a shift in the mission’s focus. In 1872, its headquarters were moved south to San Francisco, portending the church’s expansion eastward to meet the first measure of what would become a mass migration of working people from Eastern and Southern Europe. By century’s end, the thrust of the Russian Church’s North American Mission had shifted from the Pacific world to the Atlantic, with the majority of its parishes clustered around the factories, foundries, mills, and mines of the Upper Midwest and industrial Northeast. The mission was overseen by a bishop appointed by the Russian Holy Synod, staffed by missionary clergy largely born and educated in the Russian Empire, and underwritten by an annual stipend from Petrograd. Relatively quickly, however, the church’s expansion across the continent long outpaced financial support from Russia, foreboding a financial crisis that would reach its full flower only after 1917.

The growing immigrant face of Russian Orthodoxy in North America came through believers drawn to this continent by the promise of work in America’s industrial economy. These were (mostly) men who intended to return home with the capital to improve their families’ lives in agricultural regions of the Russian and Austro-Hungarian Empires. On arrival, they found an Orthodox missionary presence quickly organizing new communities to mitigate newly-arrived migrants’ transitions into the American industrial economy. One such community was the St. Nicholas parish of New York, established on Manhattan’s Lower East Side in the early 1890s. By 1895, St. Nicholas was a townhouse on Second Avenue that housed not only the church and living quarters for its two priests, but also social and educational spaces for its growing congregation.

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In 1900, St. Nicholas pastor Fr. Alexander Hotovitzky travelled to Russia to raise funds to build a new, permanent Russian Orthodox temple for the United States’ most cosmopolitan city. It was to be built on a narrow strip of mid-block street frontage the community had purchased the previous year. In Russia, Hotovitzky used a private audience with Tsar Nicholas II to obtain a significant personal donation of 5000 rubles, which constituted the first donation towards the 114,000 rubles Hotovitzky hoped to collect. He too obtained funds from luminaries like Count Sergei Witte and the famed priest Fr. John of Kronstadt. Hotovitzky soon had 80,000 rubles, which was bolstered by a collection held in all churches of the Russian Empire during epiphany celebrations in January of 1901.10

In 1902, a little over a year after the first cornerstone was laid, the new St. Nicholas temple was consecrated. A building of with Russian design elements fitted onto a block of East 97th Street between 5th and Park Avenues, the complex stood a matter of feet from the northeastern edge of Central Park. For Bishop Tikhon (Bellavin), head of the North American Mission, the new St. Nicholas temple was a sign of the faith’s permanence in the New World. “Up until now, while you have not had this temple, while you only have had a temporary accommodation for it, it has seemed to others, and you yourselves thought at times, that perhaps the entire cause of the Orthodox Church is temporary here,” Tikhon said at the consecration liturgy. “Today, with the establishment of this temple, these fears are dispersed.”11 Three years later, when the diocesan headquarters were moved east from San Francisco to Manhattan, Tikhon arrived to tell the St. Nicholas congregation it was, “…befitting that the Russian hierarch live precisely at this parish, which is the most Russian. And your temple, which is the biggest and most splendid in our Diocese,

should precisely be the cathedral temple.”¹² The cathedral was take on a heightened, increasingly important part of the church’s missionary work to the North American continent. And it too was to be a crucial cog in the ways the church would help Russian migrants make their way in the American industrial economy while still maintaining their linguistic, cultural, and most importantly, religious connections to an idealized version of Holy Orthodox Russia.

Stage One: The John Kedrovsky Cases, 1918-1928

When the February Revolution of 1917 toppled the Romanov dynasty, one of its immediate impacts was the severance of the relationship between the Russian Orthodox Church and the Russian state. This had a substantial ripple effect in North America, where the Russian Archdiocese had long relied upon a significant, though long-inadequate annual stipend to fund the work of American Orthodox Rus’. After February, all funds from Russia to fund missionary work abroad ceased. In a matter of weeks, the archdiocese found itself in a severe financial crisis. Clerical salaries went unpaid. Mortgage payments were ignored, in time nearly causing several important properties to be lost at public auction. A major church council convened in Moscow in the summer of 1917, where archdiocesan head Archbishop Evdokim (Mischersky) hoped to restore missionary funds for North America. Such hopes were dashed, however, when the October Revolution erupted outside the council’s walls. The Bolshevik repression of the church was swift and immediate, interrupting reliable communication between church authorities in Moscow and archdiocesan leaders in America. Then, to make matters worse, Evdokim elected to remain in Russia, leaving the administration of his archdiocese to the well-meaning, yet administratively ineffective Bishop Alexander (Nemolovsky). Managing a diocese which by the end of 1918 had

¹² “A Sermon – Preached at the first service in the New York Cathedral, on September 25, 1905,” in Saint Tikhon of Moscow: Instructions & Teachings for the American Orthodox Faithful (1898-1907), Alex Maximov and David C. Ford, eds. (Waymart: St. Tikhon Monastery Press, 2016), 213.
incurred debts of $240,000 (nearly $4 million in 2018), Alexander scrambled to alleviate a series of interconnected and increasingly insurmountable crises. During these months of intense emergency, Alexander’s well-meaning, yet shaky leadership did little to improve what was quickly becoming an unthinkable and unmanageable situation.\textsuperscript{13}

In the northeast, a group of clergy and laity under the loose leadership of Fr. John Kedrovsky of Brooklyn, New York coalesced as the Federation of Clergy and Laity of the Russian National Orthodox Church. They assailed Alexander in public broadsides, impugned other archdiocesan leaders as ineffective, immoral, and corrupt, and called for a new model of democratic, representational church leadership. During the summer of 1918, Alexander suspended Kedrovsky and several other priests connected to his federation from their positions in the archdiocese. In response, Kedrovsky went to court, suing to remove Alexander from his post and shed light on what he saw as corrupt and ineffective leadership within the diocesan administration.

Born in 1879, the son of a deacon in a provincial church in what is today Ukraine, John Kedrovsky came to North America in 1902, by some accounts as punishment for misdeeds during his time serving as a pastoral assistant (\textit{psalomshchik}) in a parish near where he was born. Though initially assigned to a difficult missionary position in Alaska, Kedrovsky begged off to a posting in Pennsylvania. There he worked as a \textit{psalomshchik} until he was ordained to the diaconate, and then the priesthood in 1905, serving parishes in Michigan, Pennsylvania, Connecticut, and New York.\textsuperscript{14}

It was while he was the pastor of the Holy Trinity parish in Brooklyn that Kedrovsky became an irascible and unapologetically radical voice for reform and financial accountability

\textsuperscript{13} Orthodoxy America, 1794-1976, Constance Tarasar, ed. (Syosset: Orthodox Church in America Department of History and Archives, 1975), 177-179; Gregory Afonsky, \textit{A History of the Orthodox Church in America, 1917-1934} (Kodiak: St. Herman’s Theological Seminary Press, 1994), 31.

within the troubled North American Diocese. In 1919, Kedrovsky successfully convinced a New York Supreme Court justice to appoint a non-Orthodox receiver, Episcopalian lawyer Francis S. Bangs, over the archdiocese’s properties and financial assets.\(^{15}\) And while Kedrovsky managed to publicly call the archdiocesan finances into question, he was less successful in forming a large and lasting coalition that could in any way rival the larger, albeit still reeling national church. Suspended from the priesthood and holding the allegiance of little more than a parish in Hartford, Connecticut, which ignored his suspension and operated in independence from the archdiocese, Kedrovsky faded into obscurity for several years.

During this time, Alexander’s ability to manage his archdiocese further crumbled. In the summer of 1922, he abandoned his position, ceding his diocese to Metropolitan Platon (Rozhdestvensky). Alexander was handing his diocese to someone who knew America well, and to a capable administrator with unquestioned respect across the Russian Church as it was constituted abroad. After serving as Archbishop of North America from 1907 to 1914, Platon had returned to Russia to become one of the most eminent and prominent churchmen of the pre-revolutionary era.\(^{16}\) In 1919, displaced from his see in Odessa by the Russian Civil War, Platon crossed back to America, where he established himself as a refugee and helped to mobilize resistance against the Bolsheviks from afar.\(^{17}\) Platon agreed to take the post on condition that he not be held responsible for Alexander’s debts. In late July, Alexander set sail for Constantinople, and Platon set to work in New York.\(^{18}\)


The following summer, with Platon affirmed as the archdiocesan hierarch by a vote of the Third All-American Sobor, convened in Pittsburgh late the previous year, John Kedrovsky unexpectedly reemerged. In August 1923, Kedrovsky traveled to Moscow to be ordained as an archbishop by a Soviet-backed church reform movement, which named him as their Archbishop of North America. Kedrovsky’s ordination came at a crucial moment of chance. The Patriarch of Moscow, the head of the Russian Church, was held under state house arrest and violently coerced into signing a supposed, and widely ignored abdication document. In his stead, a group of bishops and priests, colloquially called the Living Church, declared themselves to be the true spiritual authority of the Russian Church. They gave thanks to Soviet authorities as they convened a spiritual court against the patriarch in absentia for his counter-revolutionary activities. The Living Church advocated controversial reforms, including the married episcopate, which most Orthodox Christians instinctively rejected. Most period observers suspected the Living Church was wholly infiltrated by the Bolshevik government; with the opening of Soviet archives after 1991, scholars now affirm those suspicions were demonstrably true. The Living Church was privileged, and indeed supported by the state in hopes that they might foment a schism within the church, and in turn help to erode religious belief in a militantly atheist Soviet Union. After 1923, the state recognized the Living Church as the legal, governing body of the Russian Orthodox Church.\(^{19}\)

That summer, the Living Church invited John Kedrovsky to Moscow to be consecrated a bishop. Kedrovsky was not an unknown element to the Living Church’s Holy Synod. Among its members was Evdokim, the former Archbishop of North America, who had embraced the Living Church.\(^{19}\)

\(^{19}\) I am choosing to use the terminology “Living Church” as shorthand for what is often also called renovationism (обновленчество) or the “renovationist schism” (обновленческий раскол), the Living Church (живаia тцерковь, or zhivotserkovnichestvo) was but one of several renovationist factions that coalesced into a cohesive movement in 1922 and 1923. For the early history of renovationism, see James W. Cunningham, A Vanquished Hope: The Movement for Church Renewal in Russia, 1905-1906 (Crestwood: St. Vladimir’s Seminary Press, 1981). The most complete history of the movement, particularly in its revitalization after 1917, is Edward Roslof, Red Priests: Renovationism, Russian Orthodoxy, and Revolution, 1905-1946 (Bloomington: Indiana University Press, 2002).
Church in 1922. Evdokim apparently trusted Kedrovsky, and too knew him as an antagonistic foe of the existing diocesan administration in New York. By 1923, Kedrovsky had largely faded into obscurity, leading a parish in Hartford, Connecticut that operated independently, outside the ecclesiastical oversight of the national church. So it was a matter of mutual convenience that Kedrovsky, a married man and the father of three children, accepted consecration as a bishop of the Living Church. Kedrovsky would be given another opportunity to wield power in the North American Diocese, and the controversial, radical Living Church would have a bishop who might take control of its parishes—and its New York cathedral.

Kedrovsky returned to New York in November 1923 and stormed into the cathedral rectory. Seated at its dining room table, he displayed documents he claimed gave him spiritual authority over the entire North American archdiocese, and legal control over its properties. The only problem was that there was already an Archbishop of North America, Metropolitan Platon, who came downstairs from his room in the cathedral rectory to see local police escort Kedrovsky from the building. As the officers deposited Kedrovsky kicking and screaming onto East 97th Street, the purported archbishop exclaimed that he would “bring vengeance upon the Russian Orthodox Church.”

This phase of litigation, heard in New York civil courts between 1924 and 1928, hinged on Kedrovsky’s ability to prove himself, and not Platon, as the legitimate archbishop, and that he represented the true spiritual authority of the Russian Orthodox Church. In short, the civil courts were asked to determine the valid ecclesiastical authority of Russian Orthodoxy in the United States, and by extension the validity of the Living Church in the Soviet Union. As such, the first

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phase of cathedral cases reflects the critical link between spiritual authority and temporal property concerns central to cases like these.

In 1909, during Platon’s first period in North America, the archdiocese adopted a comprehensive national statute, a significant portion of which was devoted to questions of property ownership. This was an important question at a time when northeastern parishes were still vacillating between the Orthodox Church and Greek Catholicism. 21 Hoping to prevent communities from taking properties with them when they switched allegiances to the so-called Unia, parishes were required to place many of their properties not in the names of local church trustees, but rather in the name of the ruling archbishop. The statute differentiated property into two categories. The first concerned “objects necessary for church use,” which included “movable and immovable property offered for the purpose of improving the building, the vestments and the vessels,” and too funds garnered from candle sales and fees for sacraments like weddings and funerals. Physical property in the first category was to be deeded in the name of the archbishop, “in trust for the congregation.” The second was property intended for religious instruction and charitable works. The first category could only be disposed of by permission of the national church, while local communities could own and control property of the second category. In this way, physical property necessary for worship, i.e., church temples themselves, would remain held by the Orthodox Church through the national diocese, even if a given congregations chose to align themselves with the Catholic Church. 22 Unsurprisingly, parishes were not fast to comply. Church

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22 “Normal'nyi Ustav dlia prikhodov S.-Amerikanskoi Pravoslavnoi Eparkhii,” Russian Orthodox-American Messenger, March 31, 1909. English translations of the pertinent sections concerning property are found in “The Normal Statute
leaders would spend the following years applying pressure on communities to bring their deeds into compliance, with mixed results. By 1923, some 150 parish deeds were held in the name of the archdiocesan bishop. John Kedrovsky claimed the documents he received in Moscow during the summer of 1923 gave him the legal right to all of them.

During the spring of 1924, Platon’s archdiocese took an unprecedented step to alter the implications of Kedrovsky’s lawsuit, then still awaiting a hearing in court. Meeting in Detroit at the Fourth All-American Sobor (council), 147 delegates voted to declare themselves temporarily autonomous from the Moscow Patriarchate. To do so, they invoked a 1920 directive by Patriarch Tikhon (Bellavin) for bishops and dioceses that found themselves both outside Russia’s borders and out of contact with their ecclesiastical superiors. In such cases, “…the bishop immediately enters into relations with the bishops of neighboring dioceses for the purpose of organizing a higher instance of ecclesiastical authority for several dioceses in similar conditions (in the form either of a temporary Supreme Church government or a Metropolitan district, or anything else).”

North America was now untethered from its mother church. In the words of Valery Greaves, Platon’s legal counsel, the archdiocese, “…must exist self-dependently (on our own) in the future. No one must either appoint or recall or dismiss Bishops without the approval of the North American Orthodox Church. We must establish the Church Authority ourselves.” A telegram was sent to Tikhon informing him of the council’s decision, stating that, “these actions were taken as a way of self-preservation.” By this, they meant self-preservation in the face of John Kedrovsky.

for the Parishes of the American Orthodox Diocese,” Russian Orthodox-American Messenger, December 14, 1911, 414; and Russian Orthodox-American Messenger, December 28, 1911, 436.

23 For the full text of Ukaz 362, see <https://www.synod.com/Istoria/ukaz_362.html>, last accessed March 14, 2019.
24 Quoted in Afonsky (1994), 92. For period accounts of the Detroit sobor, see “Russians to Set Up New Church Here,” New York Times, March 30, 1924; “Rule of Russian Church Here At Stake,” Binghamton Press, April 9, 1924; “Russ Orthodox Meet Held Here,” DFP, April 3, 1924; “Real Co-operation Between the Russian Orthodox Church and Ours,” Spirit of Missions, May 1924, 350-351.
The litigation went to trial during the autumn of 1924, and was heard in the courtroom of New York Supreme Court Justice John Ford. Kedrovsky’s case hinged on an artful retelling of the history of the Russian Church since 1917, a story in which the “old church” was a backwards, repressive foil of Soviet progress, and in which the Living Church was now working towards the spiritual rebirth of the Russian people through nothing less than an Orthodox Reformation. The court saw a document signed and notarized at a Moscow office of the People’s Commissariat of Justice, naming Kedrovsky Archbishop of North America, and another that handed him legal title to all of the archdiocese’s properties. They heard the words of an eminent Methodist bishop, Lewis Hartman, who had gone to Russia that summer. In Moscow, Hartman met with Living Church leaders who assured him that the “old church” was nothing more than a counter-revolutionary relic. Hartman returned to America to claim in the pages of his Boston-based newspaper, Zion’s Herald, that he had seen nothing to indicate anti-religious violence or intimidation, nor anything to suggest the Living Church represented anything less than a legitimate expression of the whole Russian Church. Even though Hartman spoke not a word of Russian, Kedrovsky’s case relied heavily on Hartman’s account of religion in Soviet Russia.26

Lawyers for Platon called Kedrovsky a Soviet agent, a representative of a false church who rose to power through intimidation, violence, and Bolshevik state support. And Platon had eyewitnesses of his own, Russian priests now in America who had seen Soviet anti-religious violence firsthand, who had visited the patriarch under house arrest, who could attest to the close relationship between the Living Church and the Soviet state, and could report that most believers in Russia still considered the Patriarch the rightful head of the church. And in absence of official documents affirming Platon’s authority over North America, prohibited to be carried into the West

26 For Hartman’s account of his trip to Moscow, see The Russian Church Reformation,” Zion’s Herald, June 6, 1923; “The White Light of Facts,” Zion’s Herald, June 6, 1923.
by the Soviet police who closely guarded the Patriarch, these witnesses carried the patriarch’s oral acceptance of Platon as the rightful Archbishop of North America.

Justice Ford issued his decision on December 24, 1924, ruling in Platon’s favor. He determined that Platon held possession of the cathedral and other national church properties. In Ford’s view, Kedrovsky had not clearly proven his own credentials to dispossess Platon of the property. “It is settled that the Courts must keep as far away as possible from theological questions and purely ecclesiastical disputes,” Ford wrote, “but when the adjudication of property rights requires such examination, they will not hesitate to push their inquiries just as far into doctrinal fields as the necessities of the case require.”

In this case, Ford placed the onus on Kedrovsky to prove that the 1923 Living Church council that deposed Patriarch Tikhon had been legitimate. Ford determined the council had been held, “…in a foreign country which has not yet emerged from the chaos of external war and internal strife and whose government is not even recognized by our own.” Accepting Platon’s argument that Tikhon remained the recognized head of the Russian Church, Ford determined that Tikhon had not convened, nor presided over the Living Church council. “That shifts the burden of proof of proving its regularity and hence its authority on the [sic] to plaintiffs.”

This is not to say that Ford was prepared to make a doctrinal statement on the renovationists’ legitimacy. “This civil tribunal is not going to say that the sobor of 1923 was schismatic,” Ford noted.

That is the function of the higher church authorities. It surely is not mine. But I do say that the defendants and their adherents have reasonable ground for holding the sobor schismatic and hence for adhering to the church of Tikhon, the old church which has the undoubted right to the use of the trust properties.

28 “Judge’s Decision,” Russian Orthodox-American Messenger, July-December 1924, 53.
29 “Judge’s Decision,” Russian Orthodox-American Messenger, July-December 1924, 59.
In Ford’s view, Kedrovsky’s ecclesiastical credentials were “valid on their face,” yet would need to be legally verified. Such a case had not been made. Ford emphasized that Lewis Hartman’s statements verifying Kedrovsky’s claim to authority proved least persuasive. “Dr. Hartman’s deposition as little probative value upon this point,” Ford wrote.

Indeed, very little of his testimony is other than hearsay. This is not the slightest reflection upon his veracity or good faith. He is a Methodist clergyman who does not speak Russian. He attended the sobor as an invited guest or honorary guest. He doubtless testified truthfully to what occurred in the sobor as he understood the proceedings and expressed his honest views upon its regularity and good intention. But those views in the nature of things must have been founded upon what was told him. His opportunities to learn the real inwardness of this Russian convocation were obviously limited in no slight degree.  

Ford pored over a translation of the Living Church council’s minutes. He found nothing to convince him that the council had been legally convoked by the imprisoned patriarch, nor that it had any connection to the guidelines set out in 1917 for subsequent local councils. “Indeed the [Council’s] fulsome praise of the Soviet Government and all that it had done and proposed to do and its unserved pledge of loyalty to the dictatorship,” Ford wrote, “remind one of a rabid partisan, political convention rather than of a supreme ecclesiastic body having the spiritual care of eighty million souls.” He saw nothing in the council’s decisions that could be used to argue for the unity of the church in America. To Ford, “…the acts of the [council] of 1923 point to schism from the ancient church for whose benefit the trust [binding the use of the properties in question] was created.” Ford looked for proof of that trust in a catechism printed by the North American Diocese for use in its parochial schools. Extracting his understanding of Orthodox ecclesiology from a small pamphlet meant for children, he deduced that to an Orthodox Christian, “…his church is the reservoir of all spiritual gifts and authority from God to men. It is placed in the keeping of the

30 “Judge’s Decision,” Russian Orthodox-American Messenger, July-December 1924, 53.
31 “Judge’s Decision,” Russian Orthodox-American Messenger, July-December 1924, 55.
hierarchy. They alone can dispense the divine favors it contains.” 32 While he would not explicitly denounce Kedrovsky and the Living Church as schismatic, Ford concluded that Platon had every right to believe as much, and in turn reject Kedrovsky’s claim to his position.

Ford too expressed an opinion that Kedrovsky represented a clear and grave Bolshevik threat to a religious institution based in America. He suspected that Kedrovsky’s success in America, drawing on the support of a church Ford deemed “a product of the Russian dictatorship,” would have grave implications for a nation only four years removed from its Red Scare. “The property used by the Russian Church totals in value an immense sum,” Ford wrote. “If the Soviet authorities can gain control of all these, what a base for their revolutionary propaganda they will have secured.” 33 The Bolsheviks’ aspirations to carry their red banner across the globe were well known, and to Ford’s mind, their teachings were “all the more dangerous when insidiously carried on in the guise of religious doctrine by agents garbed in the reverential vestments of a great church.” 34

In sum, not only did Platon have a right to the properties, but the American judiciary had every responsibility to ensure those rights to prevent global revolution. Platon would keep his cathedral; Kedrovsky’s case was summarily dismissed.

An irate Kedrovsky immediately appealed the case, which reached a full panel of the New York Supreme Court in late 1925. Just as Kedrovsky had done the year before, he argued his case around the religious situation in Russia in 1923. He again leaned heavily on Hartman to reiterate the Living Church’s legality and his own ecclesiastical legitimacy, and cast doubt Platon’s credentials as Metropolitan of North America. Platon countered by arguing that the renovationists had been resoundingly rejected by the Russian faithful, and had been almost entirely supplanted

32 “Judge’s Decision,” Russian Orthodox-American Messenger, July-December 1924, 58.
33 “Judge’s Decision,” Russian Orthodox-American Messenger, July-December 1924, 59.
34 “Judge’s Decision,” Russian Orthodox-American Messenger, July-December 1924, 62.
following Tikhon’s release from Lubyanka Prison. From that moment, Platon’s counsel maintained, most believers had accepted Tikhon’s abdication as politically coerced, then moved on as if it had never happened. The steady stream of formerly renovationist clergy who hurriedly repented back into the Tikhonite fold too showed that much had been swiftly forgotten. As such, Platon maintained that consensus showed Tikhon had, and remained the head of the Russian Church until his death in April 1925. And as Platon was Tikhon’s chosen representative in North America, Platon claimed valid and unquestionable authority over its local archdiocese.

In their decision in the case, filed on November 27, 1925, the New York Supreme Court overturned Ford’s 1924 ruling by a 4-1 margin. The justices found that Ford had ruled out of anti-Bolshevik emotion, and not the bare facts of the case. Acceding to legal precedent that the court was solely competent to defer to the highest ascertainable ecclesiastical authority, the appeals court cited the potent combination of Kedrovsky’s documents and Hartman’s eyewitness testimony to determine that the renovationists had legally replaced Tikhon. Thus, the Living Church synod, and not the patriarch had the authority to appoint a ruling bishop for North America. “It is not disputed that the Supreme Church Administration [the Living Church’s Holy Synod] was the de facto administration of the Russian Church,” the court found. “Dr. Hartman stated this was so and he could state it from actual observation.” This was enough for the court to deny Platon’s claims.

To set aside the actions of the second Sobor under these conditions in favor of the shadowy claim of the defendant Rojdesvensky, on the theory that the doctrinal necessities of the Russian Church require it, would put a civil tribunal of New York in ascendancy over the ecclesiastical authority in the decision of a purely ecclesiastical question with which it can have no concern.35

The court’s sole dissent came from Justice Francis Martin. “[Kedrovsky] is the servant of a group who have reached a position of power in their church organization through the revolution

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35 *Kedrovsky v. Rojdesvensky* (214 A.D. 483) (1925)
in Russia and what appear to be questionable means,” Martin wrote. “It is extraordinary that they should have the aid of a court of equity to displace those who are administering the trust strictly as it was intended to be administered.”

In the eyes of the State of New York, St. Nicholas Cathedral now belonged to John Kedrovsky. Platon delivered a farewell sermon at the cathedral on November 29, though he retained possession of the complex until one last-gasp appeal. After a January 1926 hearing argued along the same lines of earlier iterations in the case, six justices of the New York Court of Appeals filed a unanimous decision in Kedrovsky’s favor on March 30. Achieving what portended to be a final victory after nearly a decade of legal wrangling, Kedrovsky issued a statement through his lawyer expressing satisfaction that the decision “ended the long controversy over the succession of the legal authority in the Russian church since the Russian revolution,” and prepared to enter St. Nicholas as Archbishop of North America. Flanked by a police sergeant at the cathedral steps on Saturday, April 3, Kedrovsky’s lawyer evicted the remnants of Platon’s clergy and staff. Platon was satisfied to leave the premises quietly and let the court process once again take its course. “I will say this,” Platon told the New York Times, “I am absolutely confident that eventually in America truth must triumph. Strong in that faith, I am willing to allow future events to speak for themselves.” Platon, and his congregation, moved downtown to a new cathedral, a space carved out of a spacious, underused Episcopalian chapel on Houston Street in Manhattan’s Lower East Side. By year’s end, Platon’s congregation had taken a new spiritual

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36 Kedrovsky v. Rojdesvensky (214 A.D. 483) (1925)
37 “Platon to Retain Rectory,” NTEP, November 30, 1925.
38 Kedrovsky v. Rojdesvensky (242 N.Y. 547) (1926)
patron for their new Holy Virgin Protection Cathedral, and continued without the building that
had housed their congregation since 1902.41

Uptown on East 97th Street, John Kedrovsky had at long last garnered the legal legitimacy
he so coveted. “He can now clamp his mitre firmly on his head,” the New York Evening Post noted,
“grasp his crook and walk with true ecclesiastical dignity from the residence adjoining the cathedral
to the high altar.”42 Kedrovsky soon discovered, however, that it would not be so easy. He found
that virtually all of Platon’s congregation had followed their bishop to Houston Street, though
Kedrovsky feigned indifference. “As far as I am concerned the dispute with Archbishop Platon is
ended,” he told the New York Times. “While I know that Archbishop Platon will take many of the
former members of this church with him I also know that they are adherents of the old regime,
who still thinks that Church and State should be united.”43 More distressing to Kedrovsky was that
there would not be the mitre the Evening Post anticipated. While Platon had gone quietly, he had
not left empty-handed. That first Sunday, Kedrovsky discovered Platon had taken the vestments,
liturgical vessels, and other movable items necessary for worship.44 Though Kedrovsky had won
the cathedral, Platon intended to give him precisely, and only, that.

Stage Two: Towards the “Kedroff” Cases, 1926-1945

By the mid-1930s, it seems John Kedrovsky’s family constituted much, if not all the
cathedral community, as well as its clerical leadership. And while Kedrovsky comported himself as
Archbishop, and later Metropolitan of North America, his reach barely reached past the

41 “New Home of the Russian Church,” Russian Orthodox-American Messenger, November-December, 1927, 132. See also
Manhattan cathedral. He ostensibly held the support of what remained of the Living Church in the Soviet Union, whose leaders continued to consider Kedrovsky their representative in the United States. And Kedrovsky too increasingly leaned on the shadowy world of independent bishops, the so-called *episcopus vagantes*, whose isolation from established denominations and willingness to lend a hand for episcopal consecrations and ordinations were required.

John Kedrovsky died in 1934, leaving the cathedral to his son, Nicholas Kedroff. The next year, two independent bishops consecrated Nicholas to the episcopate and named him Bishop of North America. The cathedral’s administration now included another son, John Kedroff, and Kedrovsky’s son-in-law, Michael Maslov, both of whom were ordained as renovationist priests. It was mostly a family affair, now under the shortened surname of Kedroff. Together, the Kedroff family struggled to maintain the large, aging cathedral complex. By the end of the 1930s, the building’s roof was noticeably leaking. In the sanctuary, water-damaged icons were peeling from the walls. Nicholas Kedroff took to the *New York Times* in 1937 to plead for $25,000 needed to secure the complex. “As a cultural possession of all New Yorkers,” Nicholas said, “the cathedral should be of interest to all those of artistic sensibility.” The family’s pleas continued for several years; the *Times* even printed a large picture of Maslov precariously perched on the roof applying patches himself for lack of funds to hire a professional in time to mark the building’s thirty-fifth anniversary.

45 The renovationist Holy Synod’s published statistics for its dependent dioceses and parishes as of January 1925 indicate the “North American Eparchy” had one bishop, thirty-three parishes, and thirty-seven clergy, a likely inflated number that does not correspond with what limited information exists on Kedrovsky’s activities during this period. In 1927, the number of parishes and clerics in America were not reported, aside from the presence of one archbishop (Kedrovsky); by 1936, the North American Eparchy no longer appeared in its statistics. (See data tables in Protoierei Valerii Lavrinov, *Obnuelechenski raskl v potretakh ego deiatelei* (Moscow 2016), 693-5.) In 1933, Archbishop Benjamin (Fedchenkoff) reported to his superiors in Moscow that Kedrovsky held perhaps 20-30 parishes, though with a caveat: “They have seized church property; they have almost no parishioners.” (“Prilozhenie k pervomu dokladu arkhiiepiskopa Veniamina (Fedchenkova) iz Ameriki,” in Mitropolit Veniamin (Fedchenkov), *Sluzhenie v Amerike (1933-1947)* (Moscow 2016), 262.


anniversary celebrations. By 1938, the family was asking for a million dollars to save the cathedral. Then, in 1944, Nicholas died, leaving the cathedral to his brother. It was an untenable situation, and one which drove John Kedroff to turn back to the Moscow Patriarchate.

The Kedroff family’s attempt to cede the cathedral came at a critical moment in which the ecclesiastical landscape of American Orthodox Rus’ had significantly changed. In 1933, Moscow dispatched then-Archbishop Benjamin (Fedchenkoff) to America to normalize the Russian Church’s relationship with the Russian Metropolia. Benjamin’s entreaties were interpreted as political from their outset, with many believers in the United States expressing instinctive wariness that the archbishop represented a church authority fully compromised by Metropolitan Sergius’ 1927 declaration of loyalty to the Soviet government. A lecture by Benjamin in Manhattan soon after his arrival turned into an open debate with clergy representing Platon, then ended with jeers that Benjamin’s work was being funded by “Stalin money.” Soon, negotiations stalled when it became clear Benjamin would premise a resumption of administrative relations only if Platon and

49 “The Dean Repairing Roof of the Russian Cathedral Here.” *New York Times* November 26, 1937
50 “Cathedral Asks $1,000,000.” *New York Times* March 20, 1938.
51 During this period, the Metropolia was still under the terms of its “temporary agreement” with the Russian Orthodox Church Outside Russia (ROCOR). This paper does not directly address ROCOR in any detail, as it never made an explicit claim to St. Nicholas Cathedral, was never a party to any cathedral litigation, and did not make the same kinds of jurisdictional and geographic claims as either the Metropolia or the Exarchate. Geographically nebulous by design, ROCOR held sporadic relationships with the Metropolia, the extent of which remain an open question amongst church historians. It is agreed that the Metropolia and ROCOR fostered close relations until 1926, then were administratively tied under the so-called “temporary agreement” from 1935 until 1946. ROCOR historiography generally maintains that the Metropolia was an intrinsic part of ROCOR, while the longstanding historiographic claim of Metropolia and OCA historians has generally been to consider the two bodies as administratively separate, but eucharistically connected during the periods in question. After breaking ties, instigated by the Metropolia’s negotiations with Moscow (described later in this paper), ROCOR moved its headquarters to New York in 1952, establishing itself as a third, fiercely isolated jurisdiction from the Metropolia and Moscow alike. ROCOR remained pointedly isolated from Moscow after 1926, believing the church compromised by accommodation to the Soviet state, until it entered the Moscow Patriarchate as an autonomous church through the signing of an Act of Canonical Communion in 2007. A statement produced by ROCOR and the OCA in 2008 to address these historical questions, interestingly, makes little, if any definitive or specific historical claims at all. See: “OCA Holy Synod of Bishops blesses Joint Statement of OCA, ROCOR Commissions,” Orthodox Church in America, December 10, 2010. <https://oca.org/news/archived/oca-holy-synod-of-bishops-blesses-joint-statement-of-oca-rocor-commissions>, last accessed August 2, 2019.
his bishops signed loyalty oaths to the Soviet government, and also agreed not to take part in Anti-Soviet political activism. At that year’s annual spring pilgrimage to St. Tikhon Monastery in Pennsylvania, Platon had declared that he was faced with the prospect of, “preaching communism from the pulpit.” Platon ultimately demurred, favoring to keep the Metropolia administratively independent, even as it continued to consider Moscow its spiritual mother.

The patriarchate responded by deposing Platon, declaring his clergy and parishes schismatic, and charging Benjamin to form a separate jurisdiction in North America under Moscow’s control. However, much, if not nearly all the Russian-identifying parishes from the pre-1924 archdiocese remained loyal to Platon. Benjamin’s Exarchate would number less than fifty parishes. Some came from a loose confederation of Carpatho-Russian parishes under the administration of Archbishop Adam (Philippovsky). Others had long histories as autonomous, independent parishes. There were perhaps even a few ostensibly under John Kedrovsky’s control. Thus, there were two competing jurisdictional bodies of vastly different size, each claiming spiritual authority over the Russian Orthodox Christians in the United States, and both headed by a titular bishop of North America.

In 1943, as the Soviet Union turned the full measure of its population and resources to wartime national defense, Josef Stalin revived the Russian Orthodox Church as a vehicle for patriotic unity. Less than a decade removed from the Stalinist state’s mass closure of churches and

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54 Archimandrite Serafim (Surrency), The Quest for Orthodox Church Unity in America (New York: Saints Boris and Gleb Press, 1973), 43. The full extent of this loyalty pledge has been debated; yet as Archimandrite Serafim (Surrency) notes in his evaluation of this incident, the essence was that while the wording and content of such pledges were flexible, they were fundamentally intended as a means of self-preservation to ensure that bishops under Moscow’s control would not be explicitly anti-Soviet. “Seen in context,” Serafim writes, “it was reasonable and proper at the time but from the point of view of the emigration it is easy to see how it could be easily misconstrued and/or deliberately misrepresented.” Burden reported his account of the pilgrimage to Serafim some decades later. At the time, both priests were serving in New York under the jurisdiction of the Moscow Patriarchate.

55 For summaries of the formation of the Moscow jurisdiction, see Surrency (1973), 42-44, and Afonsky (1994), 110-114. Note that this does not include the various ethnic vicariates that were a part of the Russian Archdiocese before 1924 (Syro-Arab, Serbian, and Albanian), all of which had separated themselves from Russian administration and formed their own jurisdictions during the 1920s.
the brutal repression and killing of clergy during the purges of 1937-8, this was a turn of events few anticipated. The church’s stature had grown since the beginning of the war, buoyed by a groundswell of piety, Soviet expansion into the religiously fertile Baltic states and Western Ukraine, and too Stalin’s strategic desire to use religion as a geopolitical tool for cooperation with the Soviet Union’s Western allies. For the first time since Patriarch Tikhon’s death in 1925, the church was permitted to hold a patriarchal election, which affirmed the longstanding locum tenens, Metropolitan Sergius (Stragorodsky), as Patriarch of Moscow. Churches and monasteries reopened, many bishops and priests were freed, and state policy moved away from promoting atheism to instead carefully manage and steer the work of “religious cults” towards political ends.\(^56\) The patriarchate’s newfound revitalization too marked a final chapter for the Living Church in the Soviet Union, with many of the remaining renovationist clergy repenting back to the patriarchate. After the 1946 death of renovationist leader Alexander Vvedensky, the Living Church effectively ceased to exist, though it had been in decline since the late 1920s. Of the Living Church’s demise, church historian Edward Roslof summated that, “…neither believers nor secular policymakers accepted the idea of a Soviet Orthodox Church.”\(^57\)

In America, the Metropolia resumed liturgical commemorations of the Patriarch of Moscow in November 1943, signaling what portended to be a thaw in its relationship with its mother church. Then in 1945, after the death of the elderly Patriarch Sergius, the Metropolia sent two delegates to Moscow, Bishop Alexis (Panteleev) and Father Joseph Dzvonchik, for the council that would elect his successor. The Metropolia’s delegates arrived in Moscow to a warm reception, even as their travel delayed to the extent that they missed the patriarchal election. Yet they were

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denied the right to participate in liturgical services. In effect, the Patriarchate was bluntly informing the delegates that the Russian Church still considered the Metropolia to be schismatic, though it was open to further negotiation. The American delegation was presented with documents demanding the Metropolia’s agreement—at the national church level, and too in all parishes—to refrain from anti-Soviet political activities. The Metropolia was too required to accept Moscow’s unilateral right to approve their choice of ruling bishop. The next year, at the Seventh All-American Sobor in Cleveland, delegates voted 187-61 to resume their diocese’s ties to the Russian Church, though under the conditions that the autonomy they had fostered for the two decades since the 1924 sobor be retained.\textsuperscript{58} It was amidst this moment of attempted reunion, as well as the end of the Living Church, that John Kedroff returned St. Nicholas Cathedral to Moscow.

After Nicholas Kedroff died in 1944, the Metropolia sued his brother, John, for the cathedral property. In response, with his cathedral congregation dwindling, and the complex beyond the family’s ability to repair, the final Kedroff son chose to end his family’s enterprise, avoid the controversies of a lawsuit, and return the cathedral to the church that had constructed it: The Moscow Patriarchate. Kedroff initially tried to negotiate, apparently bypassing Metropolitan Benjamin and instead speaking with Archbishop Alexei (Sergeev) of Rostov, then in America to conduct new negotiations with the Metropolia.\textsuperscript{59} Kedroff purportedly received a series of promises from Alexei, including that he would be able to retain the cathedral residence until his death. Upon learning of these promises—and receiving last-minute instructions to report to the cathedral for Kedroff’s re-ordination to the diaconate—Metropolitan Benjamin (Fedchenkoff), who remained

\textsuperscript{58} See “The Seventh All-American Council – 1946,” in Orthodox America, 1794-1976, Constance Tarasar, ed. (Syosset: Orthodox Church in America Department of History and Archives, 1975), 199-200. The full text of Patriarch Alexis I’s ukaz concerning a reunion between the Metropolia and Moscow can be found in Surrency (1973), 135-6.

\textsuperscript{59} Aleksei’s visit to America was marked by his curious, discrete distance from Metropolitan Benjamin (Fedchenkoff), Moscow’s Patriarchal Exarch, apparently refusing even to concelebrate services. It seems Aleksei was acting unilaterally from Benjamin, namely in regards to the Kedroff negotiations.
the Patriarchal Exarch of North America, made his disagreement loudly known. “I firmly protested,” Benjamin wrote of the incident, “announcing that the building did not belong to the Kedrovskys, nor to the Archbishop [Alexei], nor to me: it is the property of the Russian Church.” Following what Benjamin called a “long and painful argument” with both Kedroff and Alexei, all agreed to a simple transfer. John Kedroff would be ordained to the diaconate, and then to the priesthood (which occurred in October 1945), Moscow would receive the entire cathedral complex, and the Kedroff family would vacate the premises.

Benjamin was aghast at what he found once he took possession of the building. The cathedral roof was “full of holes,” the crosses atop four of the temple’s seven cupolas were askew, electrical wiring was hopelessly antiquated, and the furnace in a state of decay. And there was “intolerable filth everywhere—except for their [the Kedroff’s] rooms.” Moscow would spend thousands of dollars to bring the building into safe, usable condition. Benjamin clearly resented the vast sums of money involved, as well as the promises Alexei made to Kedroff without Benjamin’s knowledge. In his estimation, the whole episode was, “…undoubtedly risky and unreasonable.”

Moscow’s assumption of the property, however, too brought the patriarchate into the legal wrangling still pending between John Kedroff (now a patriarchal priest) and the Metropolia.

*Kedroff v. St. Nicholas Cathedral*

The crux of the late-1940s litigation was a measure passed by the New York legislature in 1945, which amended the Metropolia’s state incorporation to give the Metropolia alone the right

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60 Mitropolit Veniamin (Fedchenkov), *Sluzhenie v Amerike (1933-1947)* (Moscow 2016), 532.
61 The Patriarchate’s standard practice was to receive former renovationists only at the ecclesiastical rank held they had left the Orthodox Church, as it considered the Living Church a heretical, schismatic body without valid ordinations. Since John Kedroff had been a layman, indeed only a child, when his father brought their family into the Living Church, he repented as a layman, then requested ordination to serve as a priest.
62 Mitropolit Veniamin (Fedchenkov), *Sluzhenie v Amerike (1933-1947)* (Moscow 2016), 532-33. Benjamin too asserted that the Kedroffs had demanded a sum of $20,000 to vacate the cathedral, or a promise that the patriarchate would buy them a new home.
to legal authority over Russian Church properties in the state. In a memorandum to the Metropolia’s Metropolitan Council written shortly before John Kedroff ceded the cathedral, legal counsel Ralph Montgomery Arkush argued that under American religious property jurisprudence, the Metropolia’s property arrangements left all 358 of its parish properties secure from potential new litigation from the Kedroffs—and too from Moscow. “[The Metropolia] is the duly constituted successor of the North American Diocese of the Russian Church,” Arkush wrote, its autonomy having been twice affirmed by All-American sobors, and which too had “…been sustained by the courts.” What was more, while John Kedrovsky’s arguments in the 1920s were now considered specious, those of his sons were even more so. Arkush argued that Kedroff’s authority lay only over “Renovated” parishes in North America, meaning that “…the 358 American parishes which have no desire to be affiliated with the ‘Renovated’ [Living Church] synod need pay no attention to it and in due time its appointees should be ejected from St. Nicholas Cathedral.” With reunification with Moscow seemingly within reach, Arkush argued that if this indeed came to pass, “…the American courts in their disposition of such matters as may come before them will be guided by the exact terms covering the relationship between the Mother Church and the Church here.”

Indeed, talks towards reunification were held in October 1945, leading to optimism that over a decade of schism and mistrust would end, even as litigation lay pending on the New York civil court docket. In April 1946, the Patriarchate went so far as to posthumously lift Platon’s suspension. During the summer of 1947, as the Metropolia negotiated with a delegate from the Patriarchate, Metropolitan Gregory (Chukov) of Leningrad, over the decisions of the Cleveland sobor, Moscow ceded the cathedral to the Metropolia as a gesture intended to free itself from

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exposure in the pending cathedral litigation. Bishop Leonty (Turkevich), who had been the cathedral’s dean when it was lost to John Kedrovsky, celebrated an emotional Divine Liturgy upon an agreement being reached. Leonty sprinkled the cathedral with holy water and celebrated the day’s services. And in an important symbolic gesture, Leonty awarded the mitre (a jeweled crown worn by priests and awarded only for lengthy and/or meritorious service to the church) to longtime missionary priest and former cathedral dean Fr. Sergius Snegireff, who two decades before had been at the forefront of Platon’s defense against Kedrovsky. This brief period of cooperation would end in the autumn, when talks reached a final impasse. Rather than continue within the church itself, both parties cast their fate with the American civil courts. While it had not intended to become a party to the lawsuit, Moscow was now a player in the fight for St. Nicholas Cathedral.

In February 1948, New York Supreme Court Justice Bernard Botein ruled in Moscow’s favor. Basing his decision on Watson v. Jones, Botein determined that the 1945 legislated changes to the Metropolia’s state incorporation, while intended to correct for changes in the North American ecclesiastical landscape, applied only to churches that belonged to the Metropolia—not to all Russian Orthodox properties across the state of New York, regardless of jurisdiction. “All that the new article... accomplished was to provide a framework for jurisdiction and authority over churches and their property in accordance with the rules, regulations, and usage of the [Metropolia], applicable only to Russian Orthodox churches which might thereafter be organized or which, having theretofore been incorporated, should thereafter be reincorporated,” Botein wrote. “Since St. Nicholas Cathedral falls within neither of those categories, it follows that its use is not subject to the direction of the [Metropolia].” The cathedral belonged to Moscow.

66 “Impasse is Reported by Russian Prelate,” New York Times, November 1, 1947. The most complete account of these negotiations may be found in Surrency (1973), 52-59.
For Archbishop Leonty, who had less than a year before celebrated a triumphal return liturgy in his former cathedral, the decision was a significant injustice—and a grave blow. “An edifice is not power in itself. God is not in strength, but in truth,” Leonty wrote in an editorial in the *Russian American Orthodox Messenger*.

The consideration that received important significance in Justice Botein’s decision was this: Who gave the money to build this or that edifice? But isn’t the question thus situated: For whom, and for what, were sacrifices given? The properties were acquired for the satisfaction of spiritual needs here, for people residing in America, and not for those who continued to live across the ocean.68

Despite the protestations of Leonty and others in the Metropolia’s leadership, who mounted a vigorous appeal, the New York Appellate Court upheld Botein’s decision in January 1950.69 However, the New York Court of Appeals reversed the decision that December, returning the cathedral to the Metropolia.70 The appellate court found that it could not ignore that the New York legislature had acted in good faith, using information at its disposal about the nature of religious belief in the Soviet Union, when it permitted the Metropolia to alter its state incorporation.

In other words, while the court could not rule on the validity of those facts, it could recognize that the legislature had taken reasonable measures to do so itself. Writing for the majority, Justice Albert Conway explained that, “…our Legislature concluded that the Moscow Patriarchate was no longer capable of functioning as a true religious body, but had become a tool of the Soviet Government primarily designed to implement its foreign policy. Whether we, as judges, would have reached the same conclusion is immaterial. It is sufficient that the Legislature reached it, after full consideration of all the facts.”71 As such, Moscow did not have a right to the cathedral. The building would once

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again change hands, this time to the Metropolia. This set the stage for an appeal before the United States Supreme Court.

As shown in the module that accompanies this paper, through the 1952 case, and its 1960 rehearing, the United States Supreme Court refocused its opinion in *Watson v. Jones* (1872) to grant the Moscow Patriarchate the cathedral, finding that religious institutions held constitutional rights to select clergy and operate free of state interference. It also established that the court must always defer to the church’s own decisions in questions of religious faith and ecclesiastical rule. And most interesting in regards to the case’s longer history is the accepted historical premise behind the argument of the case, freely acknowledged by both litigants: John Kedrovsky was never a legitimate representative of the Russian Orthodox Church, and that the court erred in awarding him the cathedral in the 1920s. The cathedral’s definitive status would not be resolved until 1970, when the Moscow Patriarchate granted the Metropolia autocephalous, or self-ruling status, forming the Orthodox Church in America (OCA). As part of that agreement, St. Nicholas Cathedral remained with the Moscow Patriarchate, serving as the administrative see of the Patriarchal Parishes in the United States, as well as Moscow’s representation church (*metochion* or *podvor’e*) to the OCA.

The 1952 St. Nicholas case is now considered foundational in American religious property law, though is frequently encountered outside its lengthier, and much more colorful historical context. The case colloquially known as *Kedroff* began not in 1945, but in 1918, part of a longer story, and a longer legal contestation, of Russian Orthodoxy in this country, based in the messy, transnational implications of communism. And most importantly, this becomes the blueprint for three generations of church property disputes in places like Los Angeles and Philadelphia, Mayfield, Pennsylvania and Garfield, New Jersey, and other places in between. Orthodox Christians learned how to use the courts to their advantage, or more cynically, how to divide their religious communities over property. This was a vernacular understanding of American religious property
jurisprudence, passed through communities as common knowledge. Reckoning the space between home and abroad meant using the law to litigate ecclesiastical legitimacy. Put another way, for Russian Orthodox Christians, the space between law and religion was the defining characteristic of their religious lives for much of the twentieth century, helping to solidify ecclesiastical relationships, determine the ownership and usage of religious spaces, and contrast believers from one another along lines of jurisdictional loyalties.