



Baltimore-Washington Conference

The United Methodist Church

THOMAS E. STARNES
CONFERENCE CHANCELLOR

11711 EAST MARKET PLACE

FULTON, MD 20759

WWW.BWCUMC.ORG

TEL. (202) 630-9948

EMAIL TOMSTARNES@STARNESPLLC.COM

Testimony of Thomas E. Starnes, on Behalf of The Baltimore-Washington Conference of The United Methodist Church

Re: SB0429 (Unfavorable as to § 7)

My name is Thomas E. Starnes and I serve as Chancellor of the Baltimore-Washington Conference of The United Methodist Church (“Conference”), which oversees the ministry of more than 600 local United Methodist churches located in Maryland, the District of Columbia, and the eastern panhandle of West Virginia. On behalf of the Conference, I submit this written testimony in opposition solely to the newly added §7 to Senate Bill 429, which proposes to direct the State Department of Assessments and Taxation (SDAT) to conduct “a study of property held in trust by the United Methodist Church” and, by year’s end, to “report to the General Assembly . . . on the impact of repealing” §§ 5-326 and 5-327 of the Corporations and Associations Article, provisions that accommodate the longstanding principle of United Methodist Church governance that all local United Methodist churches hold their property in trust for the benefit of the denomination as a whole and subject to the terms *The Book of Discipline of The United Methodist Church* (“*Discipline*”).

To be clear, the Conference has no objection to – on the contrary, the Conference fully supports – the balance of Senate Bill 429. As originally proposed, Senate Bill 429 and its counterpart House Bill 391 sought only to add to Subtitle 3 (governing Religious Corporations) a new Part VII relating specifically to Maryland-based Episcopal parishes located within the Episcopal Church’s Diocese of Washington, just as the previously enacted Parts V and VI apply to Episcopal parishes located in the Diocese of Maryland and the Diocese of Easton, respectively.

Indeed, the Conference’s support for Senate Bill 429 in its original form is readily explained by the fact that a principal objective of the bill is essentially identical to the objective served by the Methodist-related Code sections that, paradoxically, are implicitly targeted for repeal in the newly added § 7 to Senate Bill 429. That is, just as §§ 5-326 and 5-327 reinforce the ecclesiastical rule that all local United Methodist church property is held in trust for the benefit of the denomination as a whole, the newly proposed § 5-342(B) makes clear that all Maryland-based Episcopal parishes affiliated with the Diocese of Washington are “subject at all times to the Constitution and Canons . . . of the Protestant Episcopal Church in the United States of America,” which in turn expressly state that “[a]ll real and personal property held by or for the benefit of any Parish, Mission or Congregation *is held in trust for [the Protestant Episcopal Church in the United States of America] and the Diocese thereof in which such Parish, Mission or Congregation is located.*” *The Constitution and Canons of The Episcopal Church* (2022), Title I, Canon 7, § 4 at 59 (emphasis added). Moreover, essentially identical Code provisions achieve the same objective for Episcopal parishes located the Maryland Diocese and the Episcopal Diocese.¹

The Committee on Economic Matters will recall that the outright repeal of the United Methodist trust provisions in §§ 5-326 and 5-327 was previously proposed in House Bill 1382, but that bill received an

¹ See Md. Code, Corp. & Ass’ns §§ 5-334(b) (Diocese of Maryland) and 538(b) (Diocese of Easton) (providing that Episcopal parishes in those dioceses are “subject at all times to (1) The organization, government, and discipline of the Protestant Episcopal Church in the United States of America; and (2) The constitution and canons of that church and of the convention of the Protestant Episcopal Church in the Diocese of [Maryland or Easton, as the case may be].”

unfavorable report from the Subcommittee on Banking, Consumer Protection, and Commercial Law gave that bill on March 12, 2023. The Conference understands that the Subcommittee’s perspective was that it would be inappropriate—and potentially in violation of First Amendment principles that prohibit discriminating among religious denominations—to enact legislation that selectively targets for repeal provisions of the Religious Corporations subtitle that relate specifically to United Methodist congregations, without considering similar denomination-specific Code provisions that apply to local churches or parishes affiliated with the Episcopal Church (§§ 5-333 – 5-336), the Presbyterian Church (§§ 5-329 – 5-332), and the Roman Catholic Church (§§ 5-314 – 5-320).

The Subcommittee’s decision to give House Bill 1382 an unfavorable report was sound. Longstanding precedent of the U.S. Supreme Court holds that the “clearest command of the Establishment Clause is that one religious denomination cannot be officially preferred over another,” *Larson v. Valente*, 456 US 228, 244 (1982), and that the “constitutional prohibition of denominational preferences is [also] inextricably connected with the continuing vitality of the Free Exercise Clause.” *Id.* at 245. Further, as indicated above, existing Code provisions governing Episcopal parishes located in Maryland, along with similar provisions governing Presbyterian congregations,² have long accommodated the fundamentally identical trust provisions those denominations use to reinforce their *connectional* (as distinct from *congregational*) form of church governance. To leave those Code provisions intact—and thereby continuing to make Episcopal and Presbyterian trusts binding as a matter of Maryland statutory law—while selectively repealing the Code provisions that reinforce the trust imposed in the United Methodist Church’s *Discipline*, would plainly violate Free Exercise and Establishment Clause principles by discriminating among religious denominations.”

Now, without making any reference to failed House Bill 1382 and its selective targeting of a single denomination, an eleventh-hour floor amendment to Senate Bill 429 seeks to resuscitate that same discriminatory approach by “requiring the State Department of Assessments and Taxation” to conduct “a study of property held in trust by the United Methodist Church” and by year’s end “report to the General Assembly . . . on the impact of repealing” precisely the same sections of the Corporations and Associations Article that were the subject of the failed HB1382. Even assuming the SDAT is equipped to conduct, or has access to information relevant to assessing, the “impact of repealing” §§ 5-326 and 5-327, there is no articulated basis for undertaking to conduct such a study, let alone any justifiable basis for confining the study to just one of the religious denominations whose trust provisions are reinforced by denomination-specific provisions in the Maryland Code.

In truth, all such Code provisions – those relating to The Episcopal Church, The Presbyterian Church, and The United Methodist Church – serve perfectly legitimate public purposes long recognized by courts and commentators alike, which include facilitating the peaceful and conclusive resolution of church property disputes, while at the same time accommodating the free exercise rights of all religious sects to develop and apply their own rules of church governance, including rules relating to the ownership of church property. *See Jones v. Wolf*, 443 U.S. 595, 606 (1979); *Watson v. Jones*, 80 U.S. 679, 728-29 (1871); *Maryland & Va. Eldership of Churches of God v. Church of God at Sharpsburg, Inc.*, 249 Md. 650, 241 A.2d 691 (1968), vacated, 393 U.S. 528 (1969), on remand, 254 Md. 162, 254 A.2d 162 (1969), *aff’d*, 396 U.S. 367 (1970). In other words, the Episcopal, Presbyterian, and United Methodist denominations have a free exercise right to require local church property to be held for the benefit of their respective denomination’s as a whole, and a state statute that honors and respect those provisions – let alone one of several such statutes – should not be slated for repeal or the subject of any “study” to determine the “impact” of any such repeal.

² Regarding Presbyterian congregations, § 5-330 of the Corporations and Associations Article provides that they “may be incorporated only in conformity with the constitution of the United Presbyterian Church in the United States of America.” In turn, like the Episcopal Church’s *Constitution* and the United Methodist *Discipline*, the *Constitution of the Presbyterian Church* provides, “All property held by or for a particular church, . . . whether legal title is lodged in a corporation, a trustee or trustees, or an unincorporated association, . . . is held *in trust* nevertheless for the use and benefit of the Presbyterian Church (U.S.A.)” *The Constitution of the Presbyterian Church (U.S.A.), Part II (Book of Order 2023-2025)*, G-4.0203, at 64 (emphasis added).