



Heartland Presbytery

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February 16, 2016

Chairman John Barker
Kansas Statehouse, Room 519-N
300 Southwest 10th Street
Topeka, Kansas 66612

RE: Testimony Regarding HB2161

Dear Chairman Barker and Members of the Committee:

I am Charles Spencer, Executive Presbyter of Heartland Presbytery of the Presbyterian Church (USA). Heartland Presbytery has been engaged in mission, ministry and new church development in Kansas, since the formation of First Presbyterian Church of Leavenworth in 1856. We have continued this commitment through to the present and are currently pursuing a new church development in Wyandotte County. We purchase land, make investment in and commitment to building and staffing churches to serve the needs of their community. We do so with an expectation that we are free to exercise our faith, practices and polity in accord with our unique Presbyterian and Reformed tradition. Through HB2161, the State of Kansas appears to impose upon us a theology of property, practices of relationship between denomination and congregation, and a polity that is not consistent with our Reformed and Presbyterian tradition.

Presbyterians understand themselves to be a connectional denomination, hierarchical, but not episcopal in our governance. We have a theology of property that holds that local church property is held in trust for the whole church. Church property is acquired and developed often over the course of generations and with participation by local members, the presbytery, synod and General Assembly. In our theology of property Presbyterians affirm an ongoing and perpetual duty and responsibility to all who participate in the formation of our congregations. Current members of a congregation have input but not independence to disregard the investments of all of those who have gone before and of the other councils of the church. To protect all of these interests, property transactions by the local church require presbytery approval. This denominational involvement provides an appropriate check and balance to the whims of any one generation to disregard the intent of those who have gone before or to disregard the inheritance of those who shall come after. In light of our theology of property, our PC(USA) Constitution grants to presbyteries rather than congregations the authority to (G-3.-0303 b.) “control the location of new congregations and of congregations desiring to move as well as to divide, dismiss, or dissolve congregations in consultation with their members;” and (G-3.0303 f.) “consider and act upon requests from congregations for permission to take the actions regarding real property as described in G-4.0206.” HB 2161 appears to interfere in the authority of the presbytery with respect to congregations under our care and authority.

Presbyterians most fully assert their theology of property in the PC(USA) Constitution 4.02. The full text of the chapter is shared below to indicate that the Presbyterian Church (USA) has a full and carefully developed system of faith, practice and governance with respect to the property of our congregations, councils and other entities. I am very concerned that the HB2161 would preempt our system of faith, practice and governance for one of the state’s devising.

The laws of the State of Kansas should protect equally the theology and practices of church governance of all denominations and faiths. HB2161 appears to establish a particular theology and a single form of governance for all faiths and denominations. The current Kansas case law better protects the diverse theologies and systems of governance of all of the faith traditions within the state. HB2161 preempts a Presbyterian and Reformed understanding of church property, both interfering with our free exercise of our faith and making it difficult to imagine future investment by connectional and hierarchical churches in new church development within the state.

Respectfully submitted,

A handwritten signature in cursive script, reading "Charles W. Spencer". The signature is written in black ink and is positioned above the printed name.

Charles W. Spencer
Executive Presbyterian

Book of Order Chapter 4.02 for reference and information.

G-4.0201 The property of the Presbyterian Church (U.S.A.), of its councils and entities, and of its congregations, is a tool for the accomplishment of the mission of Jesus Christ in the world.

G-4.0202 The provisions of this Constitution prescribing the manner in which decisions are made, reviewed, and corrected within this church are applicable to all matters pertaining to property.

G-4.0203 All property held by or for a congregation, a presbytery, a synod, the General Assembly, or the Presbyterian Church (U.S.A.), whether legal title is lodged in a corporation, a trustee or trustees, or an unincorporated association, and whether the property is used in programs of a congregation or of a higher council or retained for the production of income, is held in trust nevertheless for the use and benefit of the Presbyterian Church (U.S.A.).

G-4.0204 Whenever property of, or held for, a congregation of the Presbyterian Church (U.S.A.) ceases to be used by that congregation as a congregation of the Presbyterian Church (U.S.A.) in accordance with this Constitution, such property shall be held, used, applied, transferred, or sold as provided by the presbytery.

G-4.0205 Whenever a congregation is formally dissolved by the presbytery, or has become extinct by reason of the dispersal of its members, the abandonment of its work, or other cause, such property as it may have shall be held, used, and applied for such uses, purposes, and trusts as the presbytery may direct, limit, and appoint, or such property may be sold or disposed of as the presbytery may direct, in conformity with the Constitution of the Presbyterian Church (U.S.A.).

G-4.0206 a. A congregation shall not sell, mortgage, or otherwise encumber any of its real property and it shall not acquire real property subject to an encumbrance or condition without the written permission of the presbytery transmitted through the session of the congregation.

b. A congregation shall not lease its real property used for purposes of worship, or lease for more than five years any of its other real property, without the written permission of the presbytery transmitted through the session of the congregation.

G-4.0207 The relationship to the Presbyterian Church (U.S.A.) of a congregation can be severed only by constitutional action on the part of the presbytery (G-3.0303b). If there is a schism within the membership of a congregation and the presbytery is unable to effect a reconciliation or a division into separate congregations within the Presbyterian Church (U.S.A.), the presbytery shall determine if one of the factions is entitled to the property because it is identified by the presbytery as the true church within the Presbyterian Church (U.S.A.). This determination does not depend upon which faction received the majority vote within the congregation at the time of the schism.

G-4.0208 The provisions of this chapter shall apply to all congregations of the Presbyterian Church (U.S.A.) except that any congregation which was not subject to a similar provision of the constitution of the church of which it was a part, prior to the reunion of the Presbyterian Church in the United States and The United Presbyterian Church in the United States of America to form the Presbyterian Church (U.S.A.), has been excused from that provision of this chapter if the congregation, within a period of eight years following the establishment of the Presbyterian Church (U.S.A.), voted to be exempt from such provision in a regularly called meeting and thereafter notified the presbytery of which it was a constituent congregation of such vote. The congregation voting to be so exempt shall hold title to its property and exercise its privileges of incorporation and property ownership under the provisions of the Constitution to which it was subject immediately prior to the establishment of the Presbyterian Church (U.S.A.). This paragraph may not be amended (G-6.05).