



*Together. One Body.*

February 17, 2016

Chairman John Barker  
Kansas Statehouse, Room 519-N  
Topeka, Kansas 66612

Dear Chairman Barker,

Writing as a representative of over 100+ Presbyterian congregations in Kansas, consisting of thousands of members, I urge you to reject House Bill 2161 and any attempts to adopt a so-called "neutral principles" approach to adjudicating church property disputes.

There is no evidence that Kansas' current approach to church property disputes is flawed. Nor is it clear that the courts are unable to adequately and impartially decide between opposing parties. Instead, there are particular congregations that do not like the way their church decides these matters, and they would like to not be subject to them. This is not a matter for the legislature to decide.

While proponents of the legislation claim that the application of "neutral principles" is a more fair approach to resolving church property disputes, the Presbyterian Church (U.S.A.) (along with our colleagues in the United Methodist Church, the Episcopal Church in America, and the Evangelical Lutheran Church in America) respectively disagree. In fact, the adoption of HB 2161 as written would instead inject the state into what is properly internal church disputes, deciding beforehand for a particular congregation, and against the interests of the Presbyterian Church and, collectively, its other member congregations.

The 1979 United States Supreme Court opinion in *Jones v. Wolf* describes the fair adoption and application of "neutral principles," but does not require this method for the state. *Jones v. Wolf* makes clear that a court may legitimately apply "neutral principles" only to the extent it can do so without involving the state in church polity and/or dogma. For this reason, *Jones v. Wolf* stipulated that those churches which claimed a property interest in individual congregations ought to establish a trust clause in their respective constitutions, and that an appropriate "neutral principles" standard would include an examination of those church constitution provisions alongside secular documents such as deeds and corporate bylaws and articles of incorporation.

Other denominations may handle their own affairs in their own manner, but the Presbyterian Church's investment in ministry in Kansas has been predicated on a historic

understanding of interdependence between individual congregations and the denomination. Indeed, in 1983 the national General Assembly of the Presbyterian Church (U.S.A.) responded to the Jones v. Wolf ruling by adding a trust provision to our constitution, making explicit our historic understanding of church property and dispute resolution under our polity.

But, HB2161 does not recognize those denominational trust provisions, and states that only secular documents can be analyzed. This goes against the intent of Jones v. Wolf and changes the long-standing relationship between the denomination and churches in Kansas. Because secular trust documents were not required under Jones v. Wolf and cannot be obtained in many instances, it effectively decides this internal church property disputes in favor of the particular congregation.

Jones v. Wolf considered a church constitution's trust provision an essential part of the neutral principle test, allowing hierarchical denominations a measure of protection over their resources and particular theological convictions about the relationships of congregations to the larger church. An abandonment of the "hierarchical deference test" in favor of HB 2161 means the state has preemptively decided for the individual congregation in each case, and ignores what is often decades, if not centuries, of denominational involvement with these congregations.

With all respect, enacting this legislation would prove to be an infringement on the right of denominations to govern themselves. This is the third time this legislation, or its equivalent, has appeared before you, and once again I urge you to reject HB 2161.

Grace and Peace,



The Rev. Landon Whitsitt Executive and Stated Clerk  
The Synod of Mid-America, Presbyterian Church (USA)