Baltimore-Washington Conference
The United Methodist Church

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# Testimony of Thomas E. Starnes, Chancellor
# The Baltimore-Washington Conference of The United Methodist Church
# Re: Senate Bill 172 -- UNFAVORABLE

## BRIEF STATEMENT OF GROUNDS FOR REJECTING SENATE BILL 172

1. *The Office of the Attorney General has determined that Senate Bill 172 is* ***unconstitutional****, reasoning based on established precedent that its enactment would* ***violate the Free Exercise rights of The United Methodist Church*** *guaranteed by the First Amendment to the United States Constitution and Article 36 of the Maryland Declaration of Rights.*
2. *Senate Bill 172 is unconstitutional for the additional reason that it* ***selectively discriminates against The United Methodist Church****, precluding that denomination alone from relying upon common place trust provisions to protect its equitable interest in local church property, while leaving intact the legal enforceability of such provisions on behalf of the Episcopal Church, the Presbyterian Church, and even other Methodist denominations, including the African Methodist Episcopal ("AME") Church and* the *African Methodist Episcopal Zion ("AME Zion") Church.*
3. *Senate Bill 172 addresses issues that are the core focus of* ***litigation currently pending before the Appellate Court of Maryland****.*

## BACKGROUND & BASIS FOR TESTIMONY

My name is Thomas Starnes, and I serve as Chancellor of the Baltimore-Washington Conference of The United Methodist Church ("Conference"), which under the episcopal leadership of Bishop LaTrelle Easterling oversees the ministry of 558 local United Methodist churches that conduct ministry in Maryland, the District of Columbia, and the eastern panhandle of West Virginia.[1] I also provide legal advice on occasion to the Peninsula-Delaware Conference of The United Methodist Church ("Pen-Del Conference"), over which Bishop Easterling also presides, and which oversees another 289 United Methodist churches located on Maryland's Eastern Shore and in Delaware. Taken together, more than 650 local United Methodist congregations affiliated with those two conferences are located in Maryland, and I submit this testimony in opposition to Senate Bill 586 not merely on behalf of BW Conference and the Pen-

[1] In United Methodist polity, Chancellors essentially function as outside general counsel to the Bishop and to the Annual Conference over which the Bishop presides. See *The Book of Discipline of The United Methodist Church* (2020/2024) *("UMC Discipline")*, ¶ 603.8.

Del Conference, but also on behalf of their Maryland-based local churches and the more than 100,000 Maryland citizens that are members of those churches.

My knowledge of the matters impacted by SB172 is based in part on my service as Chancellor, but equally (if not more so) on my having served as counsel of record on behalf of the interests of The United Methodist Church and other connectional denominations in civil litigation filed to adjudicate ownership rights to local church property held pursuant to trust provisions of that sort SB 172 seeks to nullify when it comes to United Methodist congregations located in Maryland. I am particularly familiar with the approach Maryland's highest courts have adopted in such cases, having represented the interests of the African Methodist Episcopal Zion Church and the African Methodist Episcopal Church in *From the Heart Church Ministries, Inc. v. Philadelphia-Baltimore Annual Conference,* 184 Md. App. 11, *cert. denied,* 408 Md. 148 (2009); *From the Heart Church Ministries, Inc. v. African Methodist Episcopal Zion Church, Mid-Atl. II Episcopal Dist.,* 370 Md. 152, 179, 803 A.2d 548 (2002); and *Mt. Olive African Methodist Episcopal Church of Fruitland, Inc. v. Board of Incorporators of African Methodist Episcopal Church Inc.,* 348 Md. 299 (1997).

In addition, I am lead counsel for the Conference in a lawsuit currently pending before the Appellate Court of Maryland, in which 38 local United Methodist churches asked the Circuit Court for Anne Arundel County to terminate or modify the trusts imposed on their properties, whether by the very provisions of the Maryland Code that SB 172 seeks to repeal and replace, or by the trust provisions included in the *UMC Discipline*, and quite often in the local church's own deeds, articles of incorporation, or bylaws. Accordingly, I am well-positioned to testify that the focus of SB 172 is substantially the same as a core focus of litigation that is currently pending before the Maryland's courts.[2]

## THE OFFICE OF THE ATTORNEY GENERAL HAS DETERMINED THAT SENATE BILL 172 IS UNCONSTITUTIONAL

The primary basis for opposing SB 172 is that it is an exact, word-for-word replica of *last year's* Senate Bill *586*, which likewise was passed by the Senate but then died in the House of Delegates in the wake of the conclusion reached by the Office of the Attorney General on March 26, 2025, that the bill's new proposed § 5-326 of the Corporations and Associations Article of the Maryland Code, if enacted, would violate the Free Exercise rights of The United Methodist Church, as guaranteed guaranteed by the First Amendment Constitution of the United States and by Article 36  of the Maryland Declaration of Rights. A true and accurate copy of that Letter of Advice is attached hereto as Ex. A.

There can be no question that the Attorney General's Letter of Advice concerning last year's SB 586 applied with equal force to this year's SB 172. That conclusion is fully supported by a side-by-side comparison of the two bills, which reveals that their terms are identical. *Compare* Ex. B (attaching the full text of SB 586 from the 2025 Session) *with* Ex. C (attaching the full text of SB 172). Furthermore, in an email dated January 27, 2026 (attached hereto as Ex. D), in response

[2] The case pending before the Appellate Court of Maryland is *The Methodist Church of Cape St. Clare, et al. v. the Baltimore-Washington Conference of The United Methodist Church, Inc., et al.*, No. 1812, September Term, 2024 (ACM-REG-1812-2024), Appeal from the Circuit Court for Anne Arundel County, Case No. C-02-CV-23-000500 (Hon. Michael E. Malone, Judge).

to an inquiry received from Sen. James, Assistant Attorney General Sandra Brantley expressly *confirmed* that the conclusion reached last year with respect to SB 586 would likewise apply to SB 172, adding that Assistant Attorney General performed "a search to see if case law has changed and did not find anything new to the contrary of what she said last year." Ex. D.

The legal reasoning employed by the Office of the Attorney General in its Letter of Advice is sound and fully supported by well-established legal precedent. The points made by the Attorney General, moreover, are echoed and amplified in written testimony I submitted to the House Economic Matters Committee in connection with its March 25, 2025 hearing on SB 586. A true and accurate copy of that testimony is attached hereto as Ex. E and incorporated herein by reference.[3]

For all the reasons stated in the Attorney General's Letter of Advice and my prior attached written testimony, I urge the Government, Labor, and Elections Committee to issue an unfavorable report on Senate Bill 172, on the ground that it violates the Free Exercise rights of The United Methodist Church guaranteed by the First Amendment to the United States Constitution and Article 36 of the Maryland Declaration of Rights.

## SENATE BILL 172 VIOLATES THE FIRST AMENDMENT'S RELIGION CLAUSES FOR THE FURTHER REASON THAT IT DISCRIMINATES AGAINST THE UNITED METHODIST CHURCH

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. Any enactment of Senate Bill 172 will violate this distinct principle of First Amendment jurisprudence because it selectively targets for nullification only those trust provisions that attach to United Methodist congregations that are based in Maryland, leaving entirely enforceable the virtually identical trust provisions that apply to local churches affiliated with multiple other denominations, including the Episcopal Church, the Presbyterian Church, the AME Church, and the AME Zion Church.[4]

Even assuming it was constitutionally permissible for Maryland to nullify the longstanding practice of connectional denominations to use trust provisions to safeguard their interest in local church property, there would remain no justification whatever for nullifying the use of such provision for United Methodist properties alone.

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[3] To avoid redundancy, Ex. E does not include copies of the exhibits that were attached to the written testimony I submitted last year.

[4] Case law and church documents demonstrate that all of these denominations use trust provisions to protect the parent church's interest in local church property. See *From the Heart Church Ministries, supra* (AME Zion Church); *Mt. Olive African Methodist Episcopal Church of Fruitland, Inc., supra* (AME Church); The Constitution and Canons of The Episcopal Church, Title I, Canon 7, § 4 (2022); The Constitution of the Presbyterian Church (U.S.A.), Part II (Book of Order 2023-2025), G-4.0203, at 64.

## THE TRUST PROVISIONS ADDRESSED IN SENATE BILL 172 ARE AT ISSUE IN LITIGATION CURRENTLY PENDING BEFORE THE APPELLATE COURT OF MARYLAND

As reflected in the Amended Complaint appended hereto as Ex. F, the crux of the lawsuit that is currently pending before the Appellate Court of Maryland is the plaintiff churches' request for a declaratory judgment that they may "disaffiliate" from The United Methodist Church, and retain their property free and clear of the denomination's beneficial interest, notwithstanding the express trust provisions set forth in the Maryland Code, the *Discipline*, and in many cases in the congregation's own deeds or articles of incorporation. *See Amended Complaint* (Ex. B), ¶¶ 1-3 (summarizing plaintiffs' claims); *Id*., ¶¶ 78-79 (making explicit reference to *Md. Code Corps & Ass'ns* §§ 5-326 and 5-327, the trust provisions that SB 172 seeks to repeal and replace with the state's own "disaffiliation" provision).

In an Order dated October 11, 2024, the Circuit Court for Anne Arundel County granted summary judgment to the Conference, Bishop Easterling, and the Conference's Board of Trustees, dismissing all of the plaintiffs' claims. That lawsuit, however, has *not* concluded. Rather, the plaintiff churches appealed the Circuit Court's decision to the Appellate Court of Maryland, where the appeal remains pending.

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March 26, 2025

The Honorable Pam Queen
Maryland General Assembly
427 Lowe House Office Building
Annapolis, Maryland 21401
*Via email*

***RE: Senate Bill 586 — Corporations and Associations – Methodist Church Trust Requirement Repeal and Disaffiliation Requirements***

Dear Delegate Queen:

You have requested a letter of advice concerning whether Senate Bill 586 ("Corporations and Associations – Methodist Church Trust Requirement Repeal and Disaffiliation Requirements"), as passed by the Senate, would violate free exercise rights guaranteed by the First Amendment to the U.S. Constitution and Article 36 of the Maryland Declaration of Rights.[1] Senate Bill 586 would repeal existing §§ 5-326 – 5-327 of the Corporations and Associations Article ("CA") and allow a local church to disaffiliate from the United Methodist Conference and retain ownership of its property, subject to the local church reimbursing the Conference for certain financial investments made by the Conference. Proposed CA § 5-326. In my view, the new proposed CA § 5-326 presents a significant risk of violating constitutionally guaranteed free exercise rights to the extent it would not allow the United Methodist Church to specify through (or would not permit courts to recognize) other legally enforceable ways how local church property is to be owned and the retention of such property upon a local church's disaffiliation. However, the bill's repeal of §§ 5-326 – 5-327 is likely constitutional.

[1] In a prior letter of advice concerning amendments to Senate Bill 586, which were adopted, I addressed potential issues relating to the Contract Clause, unconstitutional impairment of vested rights, and separation of powers, but did not address First Amendment issues, which are the focus of this letter. *See Letter of Advice to the Honorable C. Anthony Muse from Assistant Attorney General Natalie R. Bilbrough* (March 13, 2025).

The First Amendment and Article 36 prohibit the State from using legislation to interfere with how a church controls its operations, interprets its religious doctrine, or governs itself. As relevant here, "[m]ost importantly, the First Amendment prohibits civil courts from resolving church property disputes on the basis of religious doctrine and practice." *Jones v. Wolf*, 443 U.S. 595, 602 (1979). "Subject to these limitations, however, the First Amendment does not dictate that a State must follow a particular method of resolving church property disputes … 'so long as it involves no consideration of doctrinal matters, whether the ritual and liturgy of worship or the tenets of faith.'" *Id*. (quoting *Maryland & Virginia Eldership of Churches of God v. Church of God at Sharpsburg, Inc.*, 396 U.S. 367, 368 (1970) (Brennan, J., concurring)). In blessing a "neutral-principles" of law approach to deciding church property disputes, the U.S. Supreme Court explained that

> [u]nder the neutral-principles approach, the outcome of a church property dispute is not foreordained. At any time before the dispute erupts, the parties can ensure, if they so desire, that the faction loyal to the hierarchical church will retain the church property. They can modify the deeds or the corporate charter to include a right of reversion or trust in favor of the general church. Alternatively, the constitution of the general church can be made to recite an express trust in favor of the denominational church. … And the civil courts will be bound to give effect to the result indicated by the parties, provided it is embodied in some legally cognizable form.

*Jones*, 443 U.S. at 606; *see also id*. at 603-04 (stating that "a religious organization can ensure that a dispute over the ownership of church property will be resolved in accord with the desires of the members" by "specifying what is to happen to church property in the event of a particular contingency" through appropriate reversionary clauses and trust provisions).

Under the neutral principles of law doctrine, Maryland courts will examine deeds, local church charters, the State statutes governing the holding of church property, and the provisions in the constitution of the general church concerning the ownership and control of church property. *Babcock Mem'l Presbyterian Church v. Presbytery of Baltimore of United Presbyterian Church in U.S.*, 296 Md. 573, 589 (1983). Accordingly, the Maryland Supreme Court has described "three ways in which hierarchical denominations may insure that they maintain control over local church property:

> 1. requiring the local churches to place reverter clauses in the deeds to its property;
>
> 2. providing in their constitutions or other authoritative sources for the reversion of local church property upon the withdrawal by a local congregation, with an implied consent by the local church to the reversion provision;
>
> 3. obtaining from the General Assembly an Act providing for that result."

*Mt. Olive Afr. Methodist Episcopal Church of Fruitland, Inc. v. Bd. of Incorporators of Afr. Methodist Episcopal Church Inc.*, 348 Md. 299, 315 (1997); *accord Maryland & Virginia Eldership of Churches of God*, 396 U.S. at 370 (Brennan, J., concurring).

Putting aside other ways the United Methodist Church has specified what is to happen to local church property in the event of disaffiliation, the United Methodist Church's control over local church property has been safeguarded by "obtaining from the General Assembly an Act providing for that result," as contemplated by the Maryland Supreme Court. Specifically, current CA § 5-326 specifies in relevant part that all assets owned by any Methodist Church "[s]hall be held by the trustees of the church in trust for the United Methodist Church." In 2010, this Office gave its view that these provisions did not violate the First Amendment to the United States Constitution. *See Letter of Advice to the Honorable Donna M. Stifler from Counsel to the General Assembly Dan Friedman* (July 20, 2010).

In a situation similar to the one at hand, the United States Court of Appeals for the Fifth Circuit held that an Alabama statute violated the First Amendment where it authorized a 65 percent majority of a local Methodist church to determine the existence of a change of social policies within the parent church and to withdraw local church property from the use and control of the parent, notwithstanding the fact that local Methodist churches were held in trust for the use of the parent. *Northside Bible Church v. Goodson*, 387 F.2d 534, 535, 538 (5th Cir. 1967). Recognizing that "State and federal courts alike are obliged to uphold the laws and rules of church governing bodies against dissident factions," the *Goodson* court explained that "[the statute] grants to this legislative body the right, power and authority to change established systems of church ownership without regard to the ecclesiastical law of the denomination. The warning of Madison becomes fact if the legislature is permitted to write into the ecclesiastical law of connectional denominations a control of local church property by a 65% Majority." *Id*. at 537, 538.

The *Goodson* court further noted that the organization of the Methodist Church placed the statute "in a particularly untenable position" because the Methodist Church operates through an itinerant ministry where ministers are assigned and re-assigned from church to church. *Id*. at 538. "Thus the parent organization … has a peculiar interest in assuring the availability and cooperation of a local group which it has brought into being. [The statute] brazenly intrudes upon this very basic and traditional practice of The Methodist Church, and supersedes the processes available within the church structure for the settlement of disputes." *Id*.; *see also Goodson v. Northside Bible Church*, 261 F. Supp. 99, 103 (S.D. Ala. 1966), *aff'd*, 387 F.2d 534 (5th Cir. 1967) ("The Methodist Church has a constitutionally protected freedom to provide for the method of the selection and assignment of its clergy so long as no improper methods of choice are used. One of the methods selected by it is the trust clause. To allow the trust clause to be overridden by a legislatively defined majority is to defeat that constitutional right.").

Here, Senate Bill 586's proposed new CA § 5-326 would permit local United Methodist churches to retain ownership of local church property upon disaffiliation. To the extent that this provision would apply retroactively or would control property disposition notwithstanding the existence of a trust clause in a deed, conveyance, charter, or articles of incorporation, or any trust obligations imposed by *The Book of Discipline of The United Methodist Church*, it is likely unconstitutional.[2] By legislatively requiring that local churches be allowed to retain ownership of local church real property in certain circumstances, contrary to the United Method Church's established method of local churches holding property in trust for the parent church (as expressed elsewhere, such as in *The Book of Discipline*, deeds, etc.), Senate Bill 586 likely crosses the line from neutral law to impermissible interference with religious exercise. While on its face Senate Bill 586 does not require an impermissible interpretation of church doctrine or ecclesiastical issues, and is thus distinguishable from the Alabama statute and others that have been invalidated,[3] the bill could effectively nullify a hierarchical denomination's own decisions concerning church property ownership, without providing any way for the Methodist Church to otherwise put into effect its own intention. In other words, the new proposed CA § 5-326 is not simply putting into statutory form the church's own specified result of what is to happen to its property in the event of disaffiliation. In addition, as mentioned in *Goodson*, invalidating trust provisions could potentially impact other aspects of the Methodist Church's protected free exercise, such as its use of itinerant clergy. To that end, it is my view that a court would likely find that the new proposed CA § 5-326 violates the Constitution and Article 36 of the Declaration of Rights.

To the contrary, the current CA §§ 5-326 and 5-327 do not infringe upon the free exercise of religion because they follow the property ownership arrangement that the United Methodist Church has already established for itself and exist to provide clarity to the courts through a neutral law. *See Letter of Advice to the Honorable C. Anthony Muse and the Honorable Aisha N. Braveboy from Counsel to the General Assembly Dan Friedman*, at 1 (March 14, 2014) (noting that CA §§ 5-326 –5-327 served to codify a part of the United Methodist Church's code of discipline by which all local church property is held for the benefit of the general conference of the United Methodist Church). Similarly, repealing these statutes would not impact any other methods the United Methodist Church has used to ensure hierarchical control over local church property. *See id.* (advising that neither the adoption nor the repeal of §§ 5-326 and 5-327 would violate free exercise rights). Thus, it is my view that the portions of Senate Bill 586 that repeal current law would likely

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[2] The issue of retroactivity is separately addressed in the attached *Letter of Advice to the Honorable C. Anthony Muse from Assistant Attorney General Natalie R. Bilbrough* (March 13, 2025).

[3] The Alabama statute at issue in *Goodson* authorized the local group to withdraw upon a determination of a *change of social policies* within the parent church and called for a judicial determination of the facts relative to the alleged changes in social policy. *Goodson*, 387 F.2d at 535 (emphasis added). Likewise, a Georgia statute struck down by the U.S. Supreme Court required "the civil judiciary to determine whether actions of the general church constitute such a 'substantial departure' from the tenets of faith and practice existing at the time of the local churches' affiliation that the trust in favor of the general church must be declared to have terminated." *Presbyterian Church in U.S. v. Mary Elizabeth Blue Hull Mem'l Presbyterian Church*, 393 U.S. 440, 449-50 (1969). "To reach those questions would require the civil courts to engage in the forbidden process of interpreting and weighing church doctrine." *Id*. at 451.

not be considered unconstitutional as it would not require any particular determination as to church property ownership.[4]

I hope this letter is responsive. Please let me know if you have any further questions.

Sincerely,

Natalie R. Bilbrough
Assistant Attorney General

[4] If faced with a claim under the Free Exercise Clause, in addition to evaluating whether repeal of CA §§ 5-326 – 5-327 would burden religious belief or action (which I believe it would not do), a court would also consider whether the law's repeal was motivated by hostility to religion or a particular religion. *Masterpiece Cakeshop v. Colorado C.R. Comm'n*, 584 U.S. 617, 634-39 (2018); *Kennedy v. Bremerton Sch. Dist.*, 597 U.S. 507, 525 n.1 (2022). I can foresee an argument that the current law bestows a religiously neutral "benefit" upon the United Methodist Church, and that by taking away the benefit for only one denomination but not others who have similar "benefits" under State law, the General Assembly has disfavored a single religious community. A plaintiff may try to use this rationale to imply hostility or impermissible discrimination. However, as long as the legislative record reflects religiously neutral and rational reasons for repealing CA §§ 5-326 – 5-327, I see no ultimate merit in this argument.

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March 13, 2025

The Honorable C. Anthony Muse
Maryland Senate
422 Miller Senate Office Building
Annapolis, Maryland 21401
*Via email*

***RE: Senate Bill 586 — Corporations and Associations – Methodist Church Trust Requirement – Repeal***

Dear Senator Muse:

You have requested a letter of advice on the constitutionality of Senate Bill 586 ("Corporations and Associations – Methodist Church Trust Requirement – Repeal") with the addition of a proposed amendment (SB0586/173520/01) that would allow a local church to disaffiliate from the United Methodist Conference ("Conference") and retain ownership of its property, subject to the local church reimbursing the Conference for certain financial investments made by the Conference. The proposed amendment has the potential to raise additional issues relating to the Contract Clause, unconstitutional impairment of vested rights, and separation of powers, to the extent it would apply retroactively. In my view, however, the proposed amendment is not clearly unconstitutional because either (1) it does not apply retroactively (or a court would interpret it so as not to apply retroactively), thus avoiding any impairment of vested rights or contractual obligations, or (2) if a court were to interpret it to apply retroactively, a court might find that the law provides for just compensation to the Conference through the reimbursement requirement. I explain further below.

Because the proposed amendment would require a different result as to the disposition of a disaffiliated local church's property than would have occurred under existing Corporations and Associations Article ("CA"), §§ 5-326 and 5-327 and under existing contracts or agreements between the local church and the Conference, it has the potential to impair contracts in violation

of the Contract Clause,[1] as well as abrogate vested rights in violation of the Maryland Constitution, *if it is applied retroactively*. The Maryland Supreme Court "has consistently taken the position that retroactive legislation, depriving persons or private entities of vested rights, violates the Maryland Constitution, regardless of the reasonableness or 'rational basis' underlying the legislation." *Dua v. Comcast Cable of Maryland, Inc.*, 370 Md. 604, 625 (2002); *see also Harris v. Whiteley,* 98 Md. 430, 442 (1904) ("[I]t was beyond [the Legislature's] power to divest or impair ... any vested rights of property acquired under previously existing laws."); *Dryfoos v. Hostetter*, 268 Md. 396, 408 (1973) (acknowledging that the Legislature cannot, by statute, "take a property interest from one person and vest it in another").

In the past, former Counsel to the General Assembly Dan Friedman raised the potential of a vested rights issue in connection with prior bills that would have repealed CA §§ 5-326 and 5-327:

> If, in the future, an individual local church seeks to leave the United Methodist Church, and if the parties are unable to arrive at an amicable property settlement, litigation may result. In that litigation, the United Methodist Church would argue that the statutes and the underlying code of discipline give it a vested property right in the local church property. The local church might advance any number of arguments to the contrary, including (l) that they associated with the United Methodist Church or its predecessors before the June 1, 1953 effective date of the law and, thus, that the 1953 law deprived them of their vested property rights and was, thus, unconstitutional as applied to them; and/or (2) that local church's surrender of its rights in its own property was otherwise ineffective. There is no limit to the myriad factual scenarios that might be presented to a court and I cannot predict the outcome. It may be that in certain circumstances, a court finds the statute or the repeal of the statute unconstitutional as applied in a given scenario. Such a possibility is inevitable but does not require us to find that the existing law or the repeal bill is unconstitutional.

*Letter of Advice to the Honorable C. Anothony Muse and the Honorable Aisha N. Braveboy from the Counsel to the General Assembly Dan Friedman* (March 14, 2014).

Despite the potential constitutional issues, I believe that constitutional issues can be avoided in one of two ways.

First, statutes are presumed to apply only prospectively, unless there is "clear evidence, legally sufficient to rebut that presumption, that the legislature intended for the statute to apply retroactively." *State Ethics Comm'n v. Evans*, 382 Md. 370, 387 (2004). Further, "even if such

[1] The Contract Clause of the U.S. Constitution prohibits states from passing any law "impairing the Obligation of Contracts." U.S. Const., Art. I, § 10, cl. 1. A law is subject to Contract Clause scrutiny if it would substantially impair an existing contractual relationship. *E.g., McDaniel v. American Honda Fin. Corp.*, 400 Md. 75, 89-90 (2007). However, legislation that substantially impairs an existing contract may still be constitutional if it is reasonable and necessary to serve a legitimate or important public purpose. *E.g.*, *Baltimore Teachers Union v. Mayor & City Council of Baltimore*, 6 F.3d 1012, 1018-19 (4th Cir. 1993).

[legislative] intent is adequately established, a statute will not be permitted to so apply if such an application would impair a vested right." *Id*. The Maryland Supreme Court has also stated that "whenever a statute is susceptible, without doing violence to its express terms, of being understood either prospectively or retrospectively, courts of justice invariably adopt the former construction. A statute ought not to have a retroactive operation unless its words are so clear, strong, and imperative that no other meaning can be annexed to them, or unless the intention of the Legislature could not be otherwise satisfied; and especially ought this rule to be adhered to where such a construction would alter the pre-existing situation of the parties, or would affect or interfere with their antecedent rights." *Williams v. Johnson*, 30 Md. 500, 507-08 (1869).

This Office has previously assessed a proposal similar to the one here that would have allowed a local church to retain ownership of property on withdrawal from the parent church. Former Counsel Friedman stated that a court would likely "interpret the new law to apply only prospectively and only to property disputes caused by a withdrawal from the parent church" so as to "preserve the vested rights of the parent church in the local assets." *Letter of Advice to the Honorable C. Anothony Muse from the Counsel to the General Assembly Dan Friedman* (April 2, 2010) (assessing amendment to Senate Bill 1091 of 2010). So too, it is my view that a court faced with a potentially unconstitutional abrogation of vested rights or impairment of contract, could interpret the proposed amendment to apply only prospectively, either because there is not clear legislative intent that it should be applied retroactively, or because such application would be unconstitutional.

A prospective interpretation or application would also avoid a potential separation of powers issue. Since the Conference and disaffiliated local churches are currently litigating issues concerning terms of disaffiliation, if the amended bill would require the resolution of issues in the lawsuit in a local church's favor, this would likely be found to violate the separation of powers.[2] *See, e.g.*, *Dorsey's Lessee v. Gary*, 37 Md. 64 (1872) (legislature cannot authorize courts to reopen final judgments); *Miller v. Fiery*, 8 Gill 45 (Md. 1849) (legislature may not adjudicate dispute); *see also Letter of Advice to the Honorable Brian E. Frosh from the Counsel to the General Assembly Dan Friedman* (March 30, 2010). But since the proposed amendment applies to any Methodist church in the State and if it applies prospectively, then the bill would not impose a result on the court in any pending lawsuit.

Second, even if the amended bill, if enacted, were to apply retroactively, it is possible the court would find that an impairment of the Conference's vested property rights is constitutional to the extent a court agreed that the new law provided just compensation to the Conference. Recently, the Maryland Supreme Court affirmed that the "Constitution of Maryland prohibits all legislation that retroactively abrogates vested property rights *without just compensation*, no matter the circumstances." *Roman Cath. Archbishop of Washington v. Doe*, No. 10 SEPT. TERM, 2024, 2025 WL 375996, at *5 (Md. Feb. 3, 2025) (emphasis added). But where just compensation is provided, a taking is permissible under the Constitution. Here, the amended bill would require that the local church "reimburse the [ ] Conference for financial investments made by the [ ]

[2] *The Methodist Church of Cape St. Claire, et al. v. The Baltimore Washington Conference of the United Methodist Church, et al.*, Case No. C-02-CV-23-000500 (Circuit Ct. for Anne Arundel County, March 13, 2023).

Conference for the acquisition, maintenance, or improvement of real property used by the local church" as determined by an accounting provided by the Conference of all funds it "has contributed for the acquisition, maintenance, and improvement of the real property used by the local church." Proposed CA § 5-326. Whether this reimbursement qualifies as "just compensation" pursuant to Article III, § 40 of the Maryland Constitution would be an issue for the court under the circumstances of a particular case, but in my view, the reimbursement requirement prevents the bill from being facially unconstitutional to the extent it would apply retroactively.

To the extent retroactive application of the proposed amended bill in a particular case would impair other contractual obligations existing between the Conference and a local church, or would impair other vested rights beyond the Conference's right to the real property of the local church, it might be unconstitutional. In particular, analysis under the Contract Clause involves factual determinations and balancing that could vary depending on a church's particular circumstances.[3] However, I do not believe that a potential Contract Clause violation makes the proposed amended bill clearly unconstitutional on its face.

Accordingly, it is my view that the proposed amendment to Senate Bill 586 is not clearly unconstitutional. I hope this letter is responsive. Please let me know if you have any further questions.

Sincerely,

Natalie R. Bilbrough
Assistant Attorney General

[3] The Fourth Circuit uses a multi-factor test to evaluate whether a law substantially impairs a contractual obligation. *See City of Charleston v. Public Serv. Comm'n*, 57 F.3d 385, 392-94 (4th Cir. 1995). If a court finds a substantial impairment, it will then apply the Contract Clause balancing test, which examines whether the change is reasonable and necessary to serve a legitimate or important public purpose. *See Baltimore Teachers Union*, 6 F.3d at 1021-22.

# SENATE BILL 586

C1 5lr3020
HB 1382/24 – ECM

By: **Senator Muse**
Introduced and read first time: January 23, 2025
Assigned to: Judicial Proceedings

A BILL ENTITLED

AN ACT concerning

**Corporations and Associations – Methodist Church Trust Requirement – Repeal**

FOR the purpose of repealing a requirement that the assets of any Methodist Church be held in trust for the United Methodist Church and be subject to the control of the United Methodist Church; repealing a certain provision of law providing that the absence of a trust clause in any deed or conveyance executed before a certain date does not exclude certain local churches from certain provisions of law or responsibilities related to the United Methodist Church; and generally relating to Methodist churches.

BY repealing
Article – Corporations and Associations
Section 5–326 and 5–327
Annotated Code of Maryland
(2014 Replacement Volume and 2024 Supplement)

BY renumbering
Article – Corporations and Associations
Section 5–328
to be Section 5–326
Annotated Code of Maryland
(2014 Replacement Volume and 2024 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

**Article – Corporations and Associations**

**[**5–326.

EXPLANATION: **CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.**
**[**Brackets**]** indicate matter deleted from existing law.

All assets owned by any Methodist Church, including any former Methodist Episcopal Church, Methodist Protestant Church, Methodist Episcopal Church, South, the Washington Methodist Conference, or Evangelical United Brethren Church, whether incorporated, unincorporated, or abandoned:

(1) Shall be held by the trustees of the church in trust for the United Methodist Church; and

(2) Are subject to the discipline, usage, and ministerial appointments of the United Methodist Church, as from time to time authorized and declared by the general conference of that church.**]**

**[**5–327.

The absence of a trust clause in any deed or other conveyance executed before June 1, 1953, does not relieve or exclude a local church in any way from its Methodist connectional responsibilities or from the provisions of this part and does not absolve a local congregation or board of trustees of its responsibility to the United Methodist Church, if such an intent of the founders or the later congregations and boards of trustees is indicated by:

(1) The conveyance of the assets to the trustees of the local church or any of its predecessors;

(2) The use of the name, customs, and polity of the United Methodist Church in such a way as to be known to the community as part of this denomination; or

(3) The acceptance of the pastorate of ministers appointed by a bishop of the United Methodist Church or employed by the superintendent of the district in which the local church is located.**]**

SECTION 2. AND BE IT FURTHER ENACTED, That Section(s) 5–328 of Article – Corporations and Associations of the Annotated Code of Maryland be renumbered to be Section(s) 5–326.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2025.

# SENATE BILL 172

C1 6lr1155
SB 586/25 – JPR (PRE–FILED)

By: **Senator Muse**
Requested: October 10, 2025
Introduced and read first time: January 14, 2026
Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Corporations and Associations – Methodist Churches – Trust Requirement**
3 **Repeal and Disaffiliation**

4 FOR the purpose of repealing a requirement that the assets of any Methodist Church be
5 held in trust for the United Methodist Church and be subject to the control of the
6 United Methodist Church; repealing a certain provision of law providing that the
7 absence of a trust clause in any deed or conveyance executed before a certain date
8 does not exclude certain local churches from certain provisions of law or
9 responsibilities related to the United Methodist Church; providing that a local
10 church that disaffiliates from the United Methodist Conference shall retain
11 ownership of its real property, subject to a certain reimbursement requirement; and
12 generally relating to Methodist churches.

13 BY repealing
14 Article – Corporations and Associations
15 Section 5–326 and 5–327
16 Annotated Code of Maryland
17 (2025 Replacement Volume)

18 BY adding to
19 Article – Corporations and Associations
20 Section 5–326
21 Annotated Code of Maryland
22 (2025 Replacement Volume)

23 BY renumbering
24 Article – Corporations and Associations
25 Section 5–328
26 to be Section 5–327
27 Annotated Code of Maryland

EXPLANATION: **CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.**
**[**Brackets**]** indicate matter deleted from existing law.

(2025 Replacement Volume)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

**Article – Corporations and Associations**

**[**5–326.

All assets owned by any Methodist Church, including any former Methodist Episcopal Church, Methodist Protestant Church, Methodist Episcopal Church, South, the Washington Methodist Conference, or Evangelical United Brethren Church, whether incorporated, unincorporated, or abandoned:

(1) Shall be held by the trustees of the church in trust for the United Methodist Church; and

(2) Are subject to the discipline, usage, and ministerial appointments of the United Methodist Church, as from time to time authorized and declared by the general conference of that church.**]**

**5–326.**

**(A) SUBJECT TO SUBSECTIONS (B) AND (C) OF THIS SECTION, A LOCAL CHURCH MAY DISAFFILIATE FROM THE UNITED METHODIST CONFERENCE AND RETAIN OWNERSHIP OF ITS PROPERTY.**

**(B) A DISAFFILIATING LOCAL CHURCH SHALL REIMBURSE THE UNITED METHODIST CONFERENCE FOR FINANCIAL INVESTMENTS MADE BY THE UNITED METHODIST CONFERENCE FOR THE ACQUISITION, MAINTENANCE, OR IMPROVEMENT OF REAL PROPERTY USED BY THE LOCAL CHURCH IN ACCORDANCE WITH SUBSECTION (C) OF THIS SECTION.**

**(C) (1) THE UNITED METHODIST CONFERENCE SHALL PROVIDE A DISAFFILIATING LOCAL CHURCH WITH A FULL AND TRANSPARENT ACCOUNTING OF ALL FUNDS THE UNITED METHODIST CONFERENCE HAS CONTRIBUTED FOR THE ACQUISITION, MAINTENANCE, AND IMPROVEMENT OF THE REAL PROPERTY USED BY THE LOCAL CHURCH FROM WHICH THE AMOUNT OF THE REIMBURSEMENT REQUIRED UNDER SUBSECTION (B) SHALL BE DETERMINED.**

**(2) A DISAFFILIATING LOCAL CHURCH MAY NOT BE REQUIRED TO REIMBURSE THE UNITED METHODIST CONFERENCE FOR ANY AMOUNTS ATTRIBUTABLE TO FINANCIAL INVESTMENTS FOR THE ACQUISITION, MAINTENANCE, OR RENOVATION OF REAL PROPERTY MADE BY THE LOCAL CHURCH.**

1 **[**5–327.

2 The absence of a trust clause in any deed or other conveyance executed before June
3 1, 1953, does not relieve or exclude a local church in any way from its Methodist
4 connectional responsibilities or from the provisions of this part and does not absolve a local
5 congregation or board of trustees of its responsibility to the United Methodist Church, if
6 such an intent of the founders or the later congregations and boards of trustees is indicated
7 by:

8 (1) The conveyance of the assets to the trustees of the local church or any
9 of its predecessors;

10 (2) The use of the name, customs, and polity of the United Methodist
11 Church in such a way as to be known to the community as part of this denomination; or

12 (3) The acceptance of the pastorate of ministers appointed by a bishop of
13 the United Methodist Church or employed by the superintendent of the district in which
14 the local church is located.**]**

15 SECTION 2. AND BE IT FURTHER ENACTED, That Section(s) 5–328 of Article –
16 Corporations and Associations of the Annotated Code of Maryland be renumbered to be
17 Section(s) 5–327.

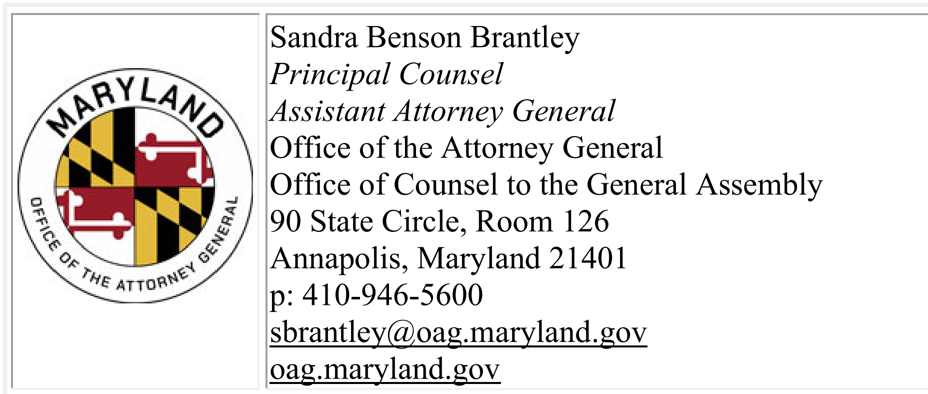
18 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
19 October 1, 2026.

## Thomas Starnes

**From:** Brantley, Sandy (OAG) <sbrantley@oag.state.md.us>
**Sent:** Tuesday, January 27, 2026 5:00 PM
**To:** James, Mary-Dulany Senator
**Cc:** 'Mary-Dulany James'; Deschenaux, Samuel; Delaney, Maggie; Bilbrough, Natalie
**Subject:** RE: Senate Bill 172 - Corporations and Associations – Methodist Church Trust Requirement Repeal and Disaffiliation Requirements

Senator James: We confirm our conclusion is the same as last year in the letter you attached. AAG Natalie Bilbrough did a quick search to see if case law has changed and did not find anything new to the contrary of what she said last year.

Sandy

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**From:** James, Mary-Dulany Senator <MaryDulany.James@senate.maryland.gov>
**Sent:** Tuesday, January 27, 2026 9:43 AM
**To:** Brantley, Sandra <sbrantley@oag.state.md.us>
**Cc:** 'Mary-Dulany James' <mdjames21@gmail.com>; Deschenaux, Samuel <SDeschenaux@senate.maryland.gov>; Delaney, Maggie <MDelaney@senate.maryland.gov>
**Subject:** Senate Bill 172 - Corporations and Associations – Methodist Church Trust Requirement Repeal and Disaffiliation Requirements

You don't often get email from marydulany.james@senate.maryland.gov. Learn why this is important

Dear Ms. Brantley,

Attached please find your letter of advice dated March 26, 2025 finding that the third reading version of Senate Bill 586 (2025) "presents a significant risk of violating constitutionally guaranteed free exercise rights to the extent it would not allow the United Methodist Church to specify through (or would not permit courts to

recognize) other legally enforceable ways how local church property is to be owned and the retention of such property upon a local church's disaffiliation."

In that the first reading version of SB172 (2026) is identical to the third reading version of SB586, except for the effective date in Section 2, do you reach the same conclusion that SB172 "presents a significant risk of violating constitutionally guaranteed free exercise right"? The hearing on SB172 is tomorrow at 11am, so a quick turnaround would be greatly appreciated.

Very Truly Yours,

Mary-Dulany James

**Baltimore-Washington** Conference
The United Methodist Church

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# Testimony of Thomas E. Starnes, Chancellor The Baltimore-Washington Conference of The United Methodist Church

## Re: Senate Bill 586

## (UNFAVORABLE)

## INTRODUCTION & SUMMARY

My name is Thomas Starnes. I serve as Chancellor of the Baltimore-Washington Conference of The United Methodist Church ("BW Conference"), which under the episcopal leadership of Bishop LaTrelle Miller Easterling oversees the ministry of more than 600 local United Methodist churches that conduct ministry in Maryland, the District of Columbia, and the eastern panhandle of West Virginia.[1] I also provide legal advice from time to time to the Peninsula-Delaware Conference of The United Methodist Church ("Pen-Del Conference"), over which Bishop Easterling also presides, and which oversees another 293 United Methodist churches located on Maryland's Eastern Shore and in Delaware. Taken together, approximately 700 of the United Methodist churches affiliated with those two conferences are located in Maryland, and I submit this testimony in opposition to Senate Bill 586 not merely on behalf of BW Conference and the Pen-Del Conference, but also on behalf of their Maryland-based local churches and the more than 100,000 Maryland citizens that are members of those churches.

I previously presented written and oral testimony to the House Economic Matters Committee in connection with the Committee's hearing on February 25, 2025, regarding House Bill 1182, the terms of which are identical to the terms of Senate Bill 586 *in its original form*. To minimize redundancy, I have attached hereto as Exhibit A the written testimony I previously submitted on February 21, which outlines in detail the reasons why the General Assembly should decline to approve even the more

[1] In United Methodist polity, Chancellors essentially function as outside general counsel to the Bishop and to the Annual Conference over which the Bishop presides. See *The Book of Discipline of The United Methodist Church* (2020/2024), ¶ 603.8. My knowledge of the matters addressed in this testimony, however, is not limited to my service as Chancellor of the BW Conference. In addition, I have served as counsel on behalf of the interests of The United Methodist Church and a number of other connectional denominations in civil litigation filed to resolve ownership rights to church property held by a local church pursuant to trust provisions in the parent churches favor. I am particularly familiar with the approach Maryland's highest courts have adopted in such cases, having represented the interests of the African Methodist Episcopal Zion Church and the African Methodist Episcopal Church in *From the Heart Church Ministries, Inc. v. Philadelphia-Baltimore Annual Conference,* 184 Md. App. 11, *cert. denied,* 408 Md. 148 (2009); *From the Heart Church Ministries, Inc. v. African Methodist Episcopal Zion Church, Mid-Atl. II Episcopal Dist.,* 370 Md. 152, 179, 803 A.2d 548 (2002); and *Mt. Olive African Methodist Episcopal Church of Fruitland, Inc. v. Board of Incorporators of African Methodist Episcopal Church Inc.,* 348 Md. 299 (1997).

limited objective of those cross filed bills in their original form. The Committee will recall that the *initial* objective of SB 586 and HB 1182 was solely to *repeal*, without offering any replacement for, §§ 5-326 and 5-327 of the Corporations and Associations Article, provisions that since 1953 have accommodated the longstanding principle of United Methodist Church governance that all United Methodist church property is held in trust for the benefit of the denomination as a whole and subject to the terms of *The Book of Discipline of The United Methodist Church* ("*Discipline*"). The reasons identified in my prior testimony for leaving those Methodist trust provisions in the Maryland Code still apply. In short:

1. It is entirely constitutional for the Maryland legislature to adopt statutory provisions that expressly allow for the distinct rules of church governance of certain religious denominations—as the Maryland Code does not merely for The United Methodist Church, but the Roman Catholic, Episcopal, and Presbyterian Churches—rather than force-fitting such "*connectional*" (or "hierarchical") denominations into the "*general* provisions of the Religious Corporations law," which Maryland precedent holds "contemplates a *congregational* form of church government." Mt. Olive, 348 Md. at 314.

2. SB 586 and HB 1182 would selectively target the Methodist trust provision for repeal, while leaving intact the Maryland Code provisions that relate to Presbyterian and Episcopal congregations, and which likewise function to make statutorily enforceable trust obligations imposed on those congregations property by the constitutions and canon law of their respective denominations. *See* Ex. A at 2-3, *discussing* Md. Code, Corp. & Ass'ns § 5-330 (regarding Presbyterian congregations), and §§ 5-334(b), 5-338(b), and 5-342(b) (regarding Episcopal congregations). Such discriminatory treatment of similarly structured denominations conflicts with established Supreme Court precedent holding 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.

While the above-mentioned concerns remain, the principal focus of the testimony presented here is the amendment that was made to SB 586 before it was passed by the Senate. No longer content with simply repealing §§ 5-326 and 5-327, Senate Bill 586 as amended adds an entirely new § 5-326 that purports to bestow on all United Methodist churches in Maryland a state-conceived right to "*disaffiliate* from the United Methodist Conference and retain ownership of its property," SB 586, Amendment No. 2, § 5-326(A), free and clear not merely of the trust obligations recognized in the current iterations of §§ 5-326 and 5-327, but apparently even to the extent such trust obligations have been imposed by the express terms of the *Discipline* (as they have been since 1797), or for that matter by any express trust provisions that may appear in the local church's own deeds, articles of incorporation, or bylaws.

In short, for all intents an purposes, Senate Bill 586 proposes to nullify The United Methodist Church's beneficial interest in church property located in Maryland whenever a local church unilaterally opts to exercise a state-sponsored right to sever its ties with The United Methodist Church. The only limitation the bill proposes to place on that option is a requirement that the "disaffiliating local church shall reimburse the United Methodist Conference for financial investments made by the United Methodist Conference for the acquisition, maintenance, or improvement of real property used by the local church," § 5-326(B), but then only to the extent the Conference proves up the amount of its

investment in "a full and transparent accounting." *Id*. § 5-326(C).

It should go without saying that this amended version of Senate Bill 586 constitutes a flagrant violation of the free exercise rights of The United Methodist Church. Indeed, as explained below, a strikingly similar state statute enacted by Alabama's legislature has previously been invalidated by the United States Court of Appeals for the Fifth Circuit, based on binding precedent issued by the U.S. Supreme Court.

**THE PROPOSED NEW VERSION OF § 5-326 VIOLATES THE FIRST AMENDMENT**

There can be no serious doubt that SB 586 constitutes an unconstitutional infringement of the religious freedoms protected by the First Amendment and Maryland's Declaration of Rights. Supreme Court precedent is "clear . . . that 'the First Amendment severely circumscribes the role that civil courts may play in resolving church property disputes.'" Jones v. Wolf, 443 U.S. 595, 602 (1979) (quoting Presbyterian Church v. Hull Church, 393 U. S. 440, 449 (1969)). And with equal force, the Supreme Court forbids state legislatures from enacting statutes that purport to dictate the outcome of church property disputes in a fashion that effectively nullifies the result required by the church's own ecclesiastical rules. As the Supreme Court explained long ago:

> Ours is a government which by the "law of its being" allows no statute, state or national, that prohibits the free exercise of religion. There are occasions when civil courts must draw lines between the responsibilities of church and state for the disposition or use of property. Even in those cases when the property right follows as an incident from decisions of the church custom or law on ecclesiastical issues, the church rule controls. This under our Constitution necessarily follows in order that there may be free exercise of religion.

*Kedroff v. St. Nicholas Cathedral*, 344 U.S. 94, 120-21 (1952).

In *Kedroff*, the above-quoted principle was applied to invalidate a statute the New York legislature had enacted in 1945 which recognized a convention of North American-based Russian Orthodox churches as "administratively autonomous" from the Moscow-based hierarchy of the Russian Orthodox Church. The Court of Appeals of New York had relied upon that statute in holding that the right to the use and occupancy of St. Nicholas Cathedral belonged to an archbishop chosen by that purportedly "autonomous" convention of American-based churches, and not to a distinct archbishop recognized by the church hierarchy in Moscow.

In overruling the New York Court of Appeals' decision, the U.S. Supreme Court concluded that the "controversy concerning the right to use St. Nicholas Cathedral is strictly a matter of ecclesiastical government," which turned on "the power of the Supreme Church Authority of the Russian Orthodox Church to appoint the ruling hierarch of the archdiocese of North America." Kedroff, 344 U.S. at 116. Quoting extensively from its earlier decision in Watson v. Jones, 80 U.S. (13 Wall.) 679 (1871), Kedroff made clear that the freedom guaranteed to religious organizations by the First Amendment includes "an independence from secular control or manipulation—in short, power to decide for themselves, free from state interference, matters of church government as well as those of faith and doctrine." Kedroff, 344 U.S. at 116. In turn, the Court concluded that the New York statute infringed the Russian Orthodox Church's protected freedoms over core matters of church government:

> By fiat it displaces one church administrator with another. It passes the control of matters strictly ecclesiastical from one church authority to another. It thus intrudes for the benefit of one segment of a church the power of the state into the forbidden area of religious freedom contrary to the principles of the First Amendment.

*Kedroff*, 344 U.S. at 119.

The unconstitutionality of SB 586 is even more readily apparent from the decisions rendered by federal trial and appellate courts in *Goodson v. Northside Bible Church*, 261 F. Supp. 99 (S. D. Ala. 1966), *aff'd*, 387 F. 2d 534 (5th Cir. 1967), which invalidated an Alabama statute that in similar fashion effectively nullified the legal efficacy of the Methodist "trust clause." (Copies of these decisions are attached). The Alabama statute, known as the Dumas Act and enacted in 1959, set forth a right of a local church congregation "to sever its connection with [its] parent church and retain ownership of the local church property free and clear of any trust" in the parent church's favor whenever "a 65% majority of [the church's] adult members . . . finds and declares itself to be in disagreement with the . . . laws, discipline, social creeds and jurisdictional system of the parent church with respect to its social standards, practices or policies existing at the time the local church became affiliated or merged with the parent church." Id., 261 F. Supp. at 100. Relying on this statute, a 65% majority Trinity Methodist Church in Mobile declared themselves in disagreement with existing social policies of The Methodist Church; announced their separation from The Methodist Church; reincorporated as the Northside Bible Church; and retained possession of the local church property.

In response, the Presiding Bishop and other officers of the Alabama-West Florida Conference of The Methodist Church filed suit to protect the denomination's beneficial interest the local church property in accordance with the express trust provisions included in the Discipline, not to mention in the local church's own deed. Relying primarily on the Supreme Court's landmark rulings in Kedroff and Watson v. Jones, both the U.S. District Court for the Southern District of Alabama and the U.S. Court of Appeals for the Fifth Circuit wasted no time concluding that the Dumas Act violated the constitutionally protected freedom of The Methodist Church to adopt for itself "a connectional, as opposed to a congregational, structure." Goodson, 261 F. Sup. at 101 (emphasis added). More to the point, the trial and appellate courts recognized that the Methodist "trust clause" serves the "important and necessary" purpose of "safeguarding" a "distinctive feature" of Methodist polity—namely, its insistence upon "an itinerant ministry," in which "ministers are assigned to churches by the officials of the parent body rather than by act of the local congregation." Id. at 102.

The terms of Senate Bill 586 clearly share the same flaw that doomed Alabama's Dumas Act. It terminates the legal efficacy, in Maryland at any rate, of trust provisions that have performed a vital function in Methodist church governance from the denomination's founding. In fact, if anything, the terms of Senate Bill 586 make it easier for the members of a local United Methodist church in Maryland to nullify those trust provisions. Under the proposed new version of § 5-326, the local church's "disaffiliation" need not be approved by the vote of a super majority of the church's membership; a bare majority will suffice. Nor will Maryland congregations be obliged to demonstrate the existence of any disagreement with the denomination's social policies or other principles. From all that appears, a bare majority can vote to obtain a state-approved release from its trust obligations for any reason, or for no reason at all.

Finally, the likelihood that Senate Bill 586 will be invalidated on First Amendment grounds is enhanced by the fact that it selectively allows trusts in favor of The United Methodist Church to be unilaterally terminated by that denomination's local churches, while leaving intact Maryland Code provisions that will continue to bind all Maryland-based congregations affiliated with the Episcopal Church and the Presbyterian Church to trust obligations imposed in the constitutions and canons of those denominations. Just as the Code includes provisions that relate solely to Methodist churches, it also includes provisions that relate specifically to Episcopal and Presbyterian churches, and that demand compliance with trusts in favor of those denominations.

**CONCLUSION**

For all of the foregoing reasons, and for the reasons outlined in my prior testimony, I urge the House Economic Matters Committee to issue an unfavorable report on Senate Bill 586.