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"Temporal Authority and the High Court in United Methodism"
(Community, Power, Authority and
The Judicial Council of The United Methodist Church)

Working Group Paper
by
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Law and Covenant

“The Discipline is the book of law of The United Methodist Church.”¹ That is the first sentence in the “Episcopal Greetings” from the College of Bishops in The Book of Discipline of The United Methodist Church 1996, immediately following the salutation “Grace to you and peace from God our Father and the Lord Jesus Christ.” (1 Corinthians 1:3) The second paragraph then begins:

“This book of covenant sets forth the theological grounding of The United Methodist Church in biblical faith and affirms that we go forward as “loyal heirs to all that [is] best in the Christian past.”²

The official declaration of The Discipline as a book of law was put forth by The Judicial Council of The Methodist Church in 1953:

Therefore...the Discipline of The Methodist Church is a Book of Law governing every aspect of the life and work of the Church, including its regulations relating to its temporal economy and to the ownership, use and disposition of church property. It is the only official and authoritative law book of the Church.³

Prior to this Decision, the Episcopal Greetings expressed similar dynamics of covenant and law without explicitly naming the Discipline as book of church law:

...the Discipline became not a book of definite rules nor yet a formal code, but rather a record of successive stages of spiritual insight attained by Methodists under the Grace of Christ. We therefore expected that the Discipline would be administered not merely as a legal document, but as revelation of the Holy Spirit working in and through our people.⁴

How do the themes of covenant and law inform the nature of church, witness and mission in United Methodism? What is the nature, role and function of the Judicial Council of the United Methodist Church? How was it constituted? Is the Judicial Council essentially a “high court” in United Methodism similar to the U.S. Supreme Court? How has American jurisprudence played a role in the establishment and function of the Council? What is the relationship of the Judicial Council to other councils, conferences, individuals and their respective rights and powers within the United Methodist Church? Does the Judicial Council enact justice? Does it protect against unjust, “ill-considered or prejudicial actions” which may be considered or implemented by an administrative officer or legislative body?⁵

I will engage these questions as I provide a sketch of the origin and evolution of The Judicial Council in United Methodism. The evolution of the creation of this Judiciary in United Methodism will hopefully provide the context for then describing the framework for my current...
research involving a review of Judicial Council Decisions. related to the racial segregation of the jurisdictional conference structure in The Methodist Church and the path toward desegregation finally realized in The United Methodist Church.

The Judicial Council - Constituted in The 1939 Plan of Union
The establishment of The Judicial Council in 1939 as a constitutive element of The Plan of Union of three Methodist denominations, The Methodist Protestant Church, The Methodist Episcopal Church, South and The Methodist Episcopal Church to create The Methodist Church was lauded by its designers as a proper separation of legislative (delegated conferences), executive (episcopal leaders), and judicial (Judicial Council) powers of The Methodist Church. The establishment of the delegated conference in 1812 was essentially the beginning of the conference as a political entity. Another fundamental protection in the Restrictive Rules was the right to trial by clergy and members. There were many streams of experience surrounding the right to trial by appeal and tests for constitutionality which fed the eventual consensus among the participating churches in the Plan of Union with regard to The Judicial Council.

A primary test of constitutionality involving two fundamental components of polity occurred during the meeting of The General Conference of The Methodist Episcopal Church in 1844. The debates over Bishop James O. Andrew, slaveholder by bequest and deed of trust, shifted from moral arguments to constitutional questions. “The General Conference is restricted against doing anything which will destroy our itinerant general superintendency” argues James Finley. L.L. Hamline argued that the General Conference had authority to remove a bishop “for anything unfitness that office, or that renders its exercise unwholesome to the Church.” After The Separation in 1844, The Methodist Episcopal Church, South would be characterized by a view of the episcopal office as a separate authority though elected by the General Conference. The Methodist Episcopal Church emphasized the supreme authority of the General Conference.

In order to keep a check on legislative power in The Methodist Episcopal Church South, the bishops were granted veto power in 1854. This was modified in 1870 to include a written review of constitutionality by the bishops. Presidents of The Methodist Protestant Annual Conferences were expected to rule on questions of law as they arose in the administration of the conference; these rulings were reported to the next General Conference.
In their 1856 episcopal address, the bishops encouraged the General Conference of The Methodist Episcopal Church to establish a Conference of Appeals:

Similar difficulties are felt in trying appeals by this body. Cases may come before you so complex and voluminous, that the mere reading of the papers pertaining to one of them could scarcely be accomplished in a whole day, to say nothing of the time spent in the pleadings. And to expect fixed attention of over two hundred delegates, hurried with other important business, two or three days to one case is unreasonable. Besides, under the present rule, it often means that a brother expelled or suspended cannot have his appeal heard, and his case finally determined, for three years or more.¹⁵

If the members and ministers of our Church have the right of trial by committee, and of appeal to a new and competent tribunal, then constitutional rights are secured. These are grave matters and worthy of patient consideration by The General Conference. As cases of trial and appeal increase in proportion, and as our ministers, traveling and local, multiply every year’s experience renders some relief more and more desirable.¹⁶

The suggestion for a Conference of Appeals eventually led to a Committee on Appeals in 1868 and a Judiciary Committee in 1876.¹⁷

Similarly, in 1910, Martin E. Lawson, a Missouri Conference delegate and practicing attorney introduced the idea of a Court of Appeals in The Methodist Episcopal Church, South.

It’s sole jurisdiction was to hear and decide appeals of ministers. Its decisions were final. It was the first court of last resort in the Methodist Churches. It was an innovation, but it worked well.¹⁸

The scope of this Court of Appeals was expanded to include the power to decide questions of administrative law upon appeals from boards or councils within The Methodist Episcopal Church, South. Now named The Judicial Council, and confirmed by the annual conferences, it was included in the new constitution of The Methodist Episcopal Church, South in 1934. The most significant decision of The Judicial Council of The Methodist Episcopal Church, South concerned the controversy over the legality of the union of the churches during the 1938 General Conference of The Methodist Episcopal Church, South. This seemed to be a precursor of decisions of The Judicial Council of The Methodist Church related to consensus on mergers. According to Martin E. Lawson, then President of the Council:

It was contended by some prominent members that it was necessary to provide the favorable vote in each and every annual conference before unification was possible and, as one conference had a negative majority of eight votes, the MEC, South had not legally agreed. That technical point was urged with much vigor. The bishops appealed to the Judicial Council. The question was fully argued, carefully considered. An opinion was filed sustaining the legality of unification...¹⁹
The Plan of Union of The Methodist Church called for the establishment of The Judicial Council by the first General Conference of The Methodist Church in 1940. During The Uniting Conference of The Methodist Church in 1939, the Committee on Judicial Administration and Committee on Ministry offered the concept of an Interim Judicial Council. The committee also proposed the same form of The Judicial Council in The Discipline of The Methodist Episcopal Church, South. The floor debate centered around nominations from the floor or by the bishops. In addition to revealing again the interplay between the power of the delegated conference and the general superintendency, some speeches offered preferences for the character and qualifications of Judicial Council members:

Therefore, I want to say, sir that it seems to me very important that in nominations from the floor, if there are such, and in nominations, if I may say so, from another higher source, we shall have a large number of men not only of thorough legal training, but men who have been admitted to the Bar, and men who will keep clearly in mind the purely legal and technical side of the decisions of this Council.

On the other hand, sir, it is very important that we have men whose training may not be primarily legal, but whose training has been of such character in respect of ecclesiastical action, in respect to ecclesiastical history, especially of the history of Methodism in the United States, that we will always have immediately at the command of this Council from within the Council the type of understanding which comes from large and clear experience in our own activities.

With the amendments adopted which called for nominations of members from the bishops as well as from the floor of The General Conference, Francis Bayley who convened the Committee on Judicial Administration, urged support from the members of The Uniting Conference:

I may say that upon that subcommittee there was a group of fine lawyers who were giving unstintingly of their knowledge to this work, but the lawyers differed. It seemed clear to us that since the lawyers differed, if we attempted to improve what our Southern brethren had had and if anywhere in the Church any group should take us into court on the ground that we had exceeded our power under the harmonizing provision, the court might differ with us. Therefore it seemed the counsel of wisdom to raise no such question.

The proposal was affirmed and an interim Judicial Council elected until the meeting of The General Conference in 1940. In 1940 there was some discussion of the appellate jurisdiction conferred by the 1939 Uniting Conference. There was a decision to authorize publishing decisions of The Judicial Council. Clarification of the specific duties and powers conferred by The General Conference would be determined during The 1944 General Conference. These included the steps for appeal to the Council, the power to utter declaratory decisions equally binding as an appeal when there are multiple interpretations, and the ability of the Judicial Council to refuse moot and hypothetical questions.

The Judicial Council of The Methodist Church was established. Although the inauguration of the
Council in the Methodist Episcopal Church, South had given jurisdiction to consider appeals by clergy, the primary jurisdiction of The Judicial Council of The Methodist Church would be related to questions of law - organic, administrative law. Appeals by clergy would be go to a jurisdictional council. Establishment of jurisdictions was another constitutional element of The 1939 Plan of Union. The newly created Judicial Council would encounter constitutional tests related to this new conference design in The Methodist Church.

**The Jurisdictional Conferences: Segregation**

In the earliest discussions of The Plan of Union of The Methodist Church, it seemed that segregation of African American Methodists in the new organization was to be the response to the question “What shall be done with the black membership?” In a proposal from some members of The Commission on Union:

> The Colored Methodists would best be served through a union of all the colored churches and members with the active financial and personal interests of the unified church... If the union of colored churches cannot be cured, try a plan for the union of the Colored Methodist Episcopal Church and the colored membership of The Methodist Episcopal Church. If that is not practical, make another General Conference District for the colored membership, giving them the additional power to elect their bishops (with authority limited to their own district) and, as a fair offset, their delegates would not have voting power in the General Conference.

The final decision for The Plan of The Union of The Methodist Church created six jurisdictional conferences in the United States: five geographical conferences and one racial conference known as the Central Jurisdiction. The new constitution of the Methodist Church instituted The Central Jurisdiction which covered forty-eight states overlapped with other geographical conferences. The Central Jurisdiction connection was not regional, located by geography. A defining “boundary” was race. The rejection, humiliation, and loss of dignity experienced by African Americans in response to their prescribed place, role, and status embodied in the new church organization was evident during The Uniting Conference:

> ... when the General Conference rose to sing “We Are Marching to Zion,” the African American delegates remained seated and some of them wept.

Attitudes and practices of segregation were deeply imbedded in the fabric of the United States. At the same time that Methodists concerned about racial segregation were called to political justice, The laws and courts of the U.S.A. were promoting segregation in politically volatile climate. Despite earlier amendments (Thirteen, Fourteen and Fifteen, 1865, 1870, 1875) granting freedom for slaves, due process rights and voting rights for African American men, The U.S. Supreme Court decisions supported segregation. In fact, the *Plessy v. Ferguson* Decision of 1896 opened the door to a “separate but equal” manner of life in the U.S.A. Civil and human rights became part of the Gospel witness among many Methodists including Women’s Missionary Societies. These powerful energies surrounded what became a legislative and political journey toward desegregation of the Central Jurisdiction in The Methodist Church.
A Legislative and Judicial Road to Desegregation

The jurisdictional conference being a component of the conference structure embodied in The Constitution of The Methodist Church. Steps toward its elimination would necessarily involve constitutional changes. The 1944 General Conference affirmed the statement “We believe that God is Father of all peoples and races, Jesus Christ is his Son, that we and all men are brothers, and that man is of infinite worth as a Child of God”. It called for study of ultimate elimination of racial discrimination, but the report back to the 1948 General Conference was referred to various boards and agencies of The Methodist Church for study and action. The call for witness to the gospel of Christ included the legislative and political arenas among the community of Methodists and pleadings before the highest judicial body of The Methodist Church - The Judicial Council.


Desegregation in The Methodist Church - elimination of the Central Jurisdiction through transfer and merger - was not completed until 1973 within The United Methodist Church.

The Plan of Union which united the Evangelical United Brethren Church and The Methodist Church would effectively eliminate the racial segregation of conferences in the United States in its constitution. A constitutional amendment legislated in 1956 and ratified in 1958 had set the pattern for transfers among charge conferences and annual conferences and mergers between jurisdictional conferences. Enabling legislation adopted by The General Conference in 1966 would enable the uniting churches to move into the positions mandated by The General Conference. This legislation was before The Judicial Council two times and finally its was declared:

No Annual Conference of The United Methodist Church may unilaterally block the elimination of an Annual Conference based on race, even during the twelve year transitional period, if such elimination be in accord with the program outlined in...the Enabling Legislation or pursuant to any other constitutional procedure undertaken to secure a racially inclusive church. October 27, 1967

Elimination of The Central Jurisdiction involved over a dozen decisions by The Judicial Council. I am reviewing these decisions and related records of arguments. In addition to tracing a legislative and judicial history of this “labyrinth” route, I am conducting personal interviews and reviewing pertinent correspondence and writings of those who walked this path.

The broader framework of my research involves a review of Judicial Council Decisions in relation to the covenant of inclusiveness within the constitution of The United Methodist Church:

Inclusiveness of the Church — The United Methodist Church is part of the church universal, which is one Body in Christ. Therefore all persons, without regard to race, color, national origin, status, or economic condition, shall be eligible to attend its worship services, to participate in its programs, and, when they take
appropriate vow, to be admitted into its membership in any local church in the
connection. In The United Methodist Church no conference or other organizational
unit of the Church shall be structured so as to exclude any member or any constituent
body of the Church because of race, color, national origin, status, or economic
condition. 37

I will continue to engage the aforementioned questions regarding law and covenant and consider
“How does the nature of the organic organization of the United Methodist connection and its
covenants bear witness to the love of Christ among its community and creation?”

1. The Book of Discipline of The United Methodist Church 1996 (Nashville: The United

2. Ibid.

3. Judicial Council Decision No. 96, Decisions of the Judicial Council of The Methodist Church,
1940-1968 (Nashville: The United Methodist Publishing House). This decision was rendered in
response to the specific question “Is the Discipline of The Methodist Church a Book of Law?”
The question was raised by the Rev. Oscar M. Polhemus in relation to a lawsuit in the secular to
recover abandoned church property. One of the references in the ruling of the Judge was a
sentence from the Episcopal Greetings of the Discipline 1950 which stated that “the Discipline
became not a book of definite rules nor yet a formal code, but rather a record of successive stages
of spiritual insight attained by Methodists under the Grace of Christ”. (as quoted in Decision No.
96)

4. Discipline of The Methodist Church, 1952 as quoted in Judicial Council Decision No. 96 in
Decisions, 1940-1968.

5. See the discussion on Interpretation of the Constitution in “United Methodism”, in Bucke, ed.,
History of American Methodism, 510.

6. Martin E. Lawson, member of The Judicial Council of the Methodist Episcopal Church, South
(1934-1938) and The Methodist Episcopal Church (1939-1952), “The Genesis and Development
of the Judicial Council of The Methodist Church,” (Madison, NJ: Judicial Council Records of The
General Commission on Archives and History of The United Methodist Church), n.d.
The parallel to the separation of powers within the United States government was
acknowledged and acclaimed by many at the time as an excellent system of laws and regulations.
See also A Record the Proceedings of the Uniting Conference of The Methodist Church, 1939,
pp 494-497 and Nolan B. Harmon, The Organization of The Methodist Church: Historic


12. Debates, 150 as quoted in Richey, p. 105

13. Debates, 129 as quoted in Richey, p. 105


15. Because The General Conference was the appellate body, unresolved or unheard cases were necessarily delayed until the next conference.


19. Ibid.


10. Dr. Bayley is referring to a secular court.

22. The General Conference had the power to harmonize the Disciplines of the three churches.

23. Proceedings of The Uniting Conference, 1939, pp. 471-472. In light of the secular Methodist Property case which ensued after The Plan of Separation in 1844, this comment appears even more judicious. The case, in which the plaintiff, The Methodist Episcopal Church, South, sought
to divide the property of the Methodist Book Concern of The Methodist Episcopal Church was finally settled by The U.S. Supreme Court. Contrary to the claims of The Methodist Episcopal Church that the ministers and members who withdrew to organize constituted an unauthorized separation. The Court stated that the decision was made with proper authority and was legitimate:

But we do not agree that this Division was made without the proper authority. On the contrary, we entertain no doubt but that the General Conference of 1844 was competent to make it; and that each division of the Church, under separate organization, is just as legitimate, and can claim as high a sanction, ecclesiastical and temporal, as the Methodist Episcopal Church first founded in the United States. The same authority which founded that Church in 1784 has divided it, and established two separate and independent organizations occupying the place of the old one.

It is interesting to note that the U.S. Supreme Court further claimed that “the General Conference represents the sovereign power” in all other matters concerning the welfare of the church not so limited by the Six Restrictive Rules embodied in The Constitution of the Church in 1808. For the churches of American Methodism - voluntary associations in the context of the U.S.A.- the voices of U.S. courts would begin to intermingle with Methodism’s language and conversation related to power, rights and temporal authority.

16. Ibid., p. 497.

25. *The Daily Christian Advocate*, May 1, 1940


33. Thomas, *Dilemma*, pp. 74-75.


37. *Discipline, 1996*, Paragraph 4, Article IV.