



# CONFERENCE RIGHTS;

OR,

## GOVERNING PRINCIPLES

OF THE METHODIST EPISCOPAL CHURCH, SOUTH, AS FOUND  
IN THE HISTORY, LEGISLATION, AND ADMIN-  
ISTRATION OF THE CHURCH.

WITH

*Suggestions as to Hurtful Tendencies, Inherent Defects,  
and Needed Changes.*

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BY T. A. KERLEY.

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**THIS VOLUME**

**IS AFFECTIONATELY DEDICATED TO MY WIFE,**

***MRS. MATTIE LITTON KERLEY,***

**AS A TOKEN OF APPRECIATION OF HER CHEERFUL  
AND PAINSTAKING ASSISTANCE IN  
ITS PREPARATION.**

**(iii)**





## PREFACE.

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If it be asked, "Why another book on Methodism?" our answer is: There is no work that undertakes to discuss the subject chosen in all of its different phases; and in view of this fact, as well as a revival of interest in the question, there seems to be a need for such a work.

We are not agreed among ourselves in regard to the governing principles of our Church, and the administration of our ecclesiastical economy. The most prolific source of disagreement and contention among us is the relative rights and powers of the episcopacy, on the one hand, and the General and Annual Conferences, on the other. This issue has been made over the interpretation and application of law, or the assertion of rights, based on usage growing out of certain theories of our economy, in which are involved the governing principles of the Church. Our divergent views have been made prominent over comparatively recent occurrences. These events shocked and stirred the Church at the time of their occurrence, and called attention to the importance of revising our ecclesiastical history with reference to ascertaining any dangerous tendencies that may have developed, and the importance of such readjustments as will remove the source of disturbance and harmonize the discordant elements, that the peace and prosperity of the Church may be secured. If wise and harmonious conclusions can be reached, our troubles, which in some respects have been unfortunate, will not prove an unmixed evil. We are hopeful of the outcome, though in the midst of angry elements.

There's a divinity that shapes our ends,  
Roughhew them how we will.

We take it that the parties in the Church who hold divergent views on our ecclesiastical economy and its administration are equally honest, and sincerely love the Church. These differences must be adjusted. This can be done only by a thor-

ough discussion of the whole question. This discussion, if it commands the respect of all true men, must have for its object the suppression of error and the enthronement of truth, instead of the defeat of an opponent and the triumph of self over the defeated. It must also be conducted in a Christian spirit, and with a proper respect for those with whom we differ. Because another does not accept our views, but advocates another theory than ours, we are not justified in charging him with designs on the Church, and coolly telling him: "If you cannot accept the economy of the Church, you had better go elsewhere. Such a course on your part is the only manly thing to do." The mistake in such advice is twofold: (1) it assumes that my theory is the economy of the Church; (2) it is rank heresy for some men to call in question any part of the economy of the Church and suggest needed changes. Such dictation will never bring us together.

We have endeavored to keep these principles before us while writing this volume. Our subject lies in the region of controversy—ecclesiastical controversy; and the world has had a very vivid impression of what that has meant in the past. The work has been done with a proper appreciation of the delicacies involved, and with the further fact in view that most men are very sensitive to criticism. They often construe a criticism into a personal assault, with a desire on the part of the critic to injure them. With such feelings, personal friendship is usually withheld. We wish to assure everyone with whom we have had occasion to differ that we have given them credit for honesty, and believe they are pursuing the policy they think best for the Church. We have not discussed men and their motives, but their opinions and theories. Neither have we discussed the ethics of our subject, but its legal and historical principles and bearings.

We have endeavored in the treatment of the question to give such full and impartial historical matter as that each one with whom we have had occasion to differ may have no cause for complaint, and that the reader, with data before him, may judge of the correctness of our conclusions and make up his own independent judgment.

There is no desire on our part to escape criticism, neither do we expect to escape it, for we are not so egotistical as to sup-

pose that we have solved the whole problem just as it ought to be done. More than once we have found it necessary to modify our views, and in some instances the results reached have not been entirely satisfactory. The main object we have had in view is to call attention to the subject, and induce a careful study of the questions at issue among a larger class of readers, especially the younger preachers and laymen who will soon have to face these problems. If this is accomplished, and some one is induced to present the subject in better form, we will be content. If the work is read, studied, and criticised in the same spirit in which it is written, only good will result; but if otherwise, harm may come. We send it on its mission with the desire that good, and only good, may come to the Church of our choice, which is above our chief joy. T. A. KERLEY.

Gallatin, Tenn., *July*, 1897.

## EDITORIAL NOTE.

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AT the suggestion of Brother Kerley, my name, as is usual when requested by the author, appears on the title-page of this volume as editor. The numerous criticisms of utterances of mine in these pages—to whose general tone and temper I take no exception, even though in some cases I may think myself misunderstood—will be sufficient evidence to the reader who completes the work of the wide differences of opinion between the author and the editor. With the exception of a brief correspondence on a single point, which was without result, no attempt has been made by the editor to modify the convictions or statements of the author. Dr. Philip Schaff, writing to one of the contributors to the American edition of Lange's Commentary, said: "While it is right and proper to translate a work and improve it, it is manifestly absurd to translate a work and refute it." If the word "edit" be substituted for "translate" in the foregoing sentence, it will represent with sufficient accuracy the principle which has restrained the editor from attempting to bring opinions set forth in this volume into harmony with his own.

The editor's responsibility in this case extends only to a close reading of the proofs to secure their typographical accuracy and conformity to the copy furnished; to the verification and correction of a few dates and statements of fact that were obvious slips; and to the addition of a footnote on page 283. The proofs were also submitted to the author and approved by him.

It remains only to add that there is much in this work which seems to the editor deserving of attention, and that some positions are taken which, in his judgment, are sound in principle, argument, and conclusion.

The most kindly relations have existed between author and editor during the passage of the work through the press.

JNO. J. TIGERT.

NASHVILLE, 4 December, 1897.

(viii)

# CONTENTS.

	PAGE
CHAPTER I.	
Episcopacy and Church Government.....	1
CHAPTER II.	
Origin and Development of the Government of English Methodism.....	27
CHAPTER III.	
Origin of Conference Government in American Methodism.	41
CHAPTER IV.	
Adoption of Conference Government in American Meth- odism.....	61
CHAPTER V.	
The Governing Body in American Episcopal Methodism from 1784 to 1808.....	93
CHAPTER VI.	
Constitution and Powers of the Delegated General Confer- ence. ....	118
CHAPTER VII.	
The Plan of Separation Adopted in 1844 Constitutional....	147
CHAPTER VIII.	
Veto Power of the Bishops... ..	172
CHAPTER IX.	
Episcopal Decisions.....	194
CHAPTER X.	
Manual of the Discipline.....	213

	<b>PAGE</b>
<b>CHAPTER XI.</b>	
The Kelley-Hargrove Case.....	243
<b>CHAPTER XII.</b>	
Report No. 5 of the Committee on Episcopacy, Adopted in 1894, in the Case of Bishop R. K. Hargrove.....	279
<b>CHAPTER XIII.</b>	
Rights and Powers of the Ministry in its Relation to the Respective Offices and Conferences.....	309
<b>CHAPTER XIV.</b>	
Local Preachers—Their Duties and Rights.....	338
<b>CHAPTER XV.</b>	
Judicial Department of the Methodist Episcopal Church, South .....	358
<b>CHAPTER XVI.</b>	
Relation of Laymen to the Government of the Methodist Episcopal Church, South .....	378

# CONFERENCE RIGHTS.

## CHAPTER I.

### EPISCOPACY AND CHURCH GOVERNMENT.

CHURCH government is not of divine origin in the sense that God has prescribed any specific form. The development of the form has been providential--Providence adapting the form to the demands of the times. "As to the external *form* of the Church, and the mode of governing it, neither Christ himself nor his apostles gave any express precepts."<sup>1</sup> The historical fact as to *form* is admirably stated by a modern writer, who is a prominent clergyman of the Church of England:

The large variations of form in one age as compared with another tend to show that the form was meant to be elastic, and that the importance which has frequently been attached to *fixity* of form has been exaggerated. That there should be form of some kind is not only inevitable but desirable. But the fact of the necessity and desirability of form is no proof of the necessity of this or that particular form; nor is the fact that a particular form was good for a particular age a proof that it is also good for another age. The history of the organization of Christianity has been in reality the history of successive readjustment of form to altered circumstances.<sup>2</sup>

For the edification of his Church, under whatever form and name it might exist, Christ appointed a

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<sup>1</sup> Mosheim's Ecclesiastical History, vol. i., p. 59.

<sup>2</sup> The Organization of the Early Christian Churches, by Edwin Hatch, M.A., D.D., fourth ed., p. 218.



ministry, which, in apostolic and post-apostolic times, had various functions and received various names, and these varied in relation to the environments of their own historical development. Like the external form of the Church, the ministry, in relation to the historic Church, has been determined in its modes of operation and grades and names by the conditions to be adjusted, rather than by any direct divine appointment. This fact is as true in relation to its origin as to its historic development. Schaff gives a correct account of the ministry as it existed from the time of its origin to the first part of the second century, in the following words:

We proceed to the officers of local congregations. These are of two kinds: presbyters, or bishops; and deacons, or helpers. The terms presbyter (or elder) and bishop (or overseer, superintendent) denote in the New Testament one and the same office, with this difference only, that the first is borrowed from the synagogue, the second from the Greek communities; and that the one signifies the dignity, the other the duty. The *identity* of these officers is very evident from the following facts:

(a) They appear always as a plurality or as a college in one and the same congregation, even in smaller cities, as Philippi.

(b) The same officers of the church of Ephesus are alternately called presbyters and bishops.

(c) Paul sends greetings to the "bishops" and "deacons" of Philippi, but omits the presbyters because they are included in the first term; as also the plural indicates.

(d) In the pastoral epistles, when Paul intends to give the qualification for *all* church officers, he again mentions only two, bishops and deacons, but uses the term presbyter afterwards for bishop. Peter urges the "presbyters" "to feed the flock of God," and to fulfill the office of bishops with disinterested devotion, and without "lording it over the charge allotted to them."

(e) The interchange of terms continued in use to the close of

the first century, as is evident from the epistle of Clement of Rome (about 95), and still lingered toward the close of the second.<sup>1</sup>

If the terms presbyter and bishop are used interchangeably in the New Testament, why are both employed? This question is answered as to the origin of the office of elder as follows:

The simple machinery of the primitive Church had just been completed at Jerusalem. A new office had been created, that of elders. (Acts xi. 30.) It is of great moment to us to determine exactly its origin and its functions; only by this means can we judge fairly the pretensions of the various ecclesiastical systems. The office of elder was not without precedent. We find it in those numerous synagogues in which the Jews, distant from Jerusalem, met on the Sabbath to read the Scriptures.

Each one was governed by a sort of senate or council, whose authority was much like that of the judges appointed in each town on the conquest of the promised land. (Deut. xvi. 18.) The council of the synagogue had a president, called the ruler of the synagogue, or master, or rabbi; [but he] had no peculiar dignity which raised him above his colleagues in the hierarchy. He was the first among his peers, *primus inter pares*. Unquestionable passages prove that the same synagogue often had several rulers or presidents. All the elders probably occupied the position in turn. Such an organization was essentially democratic; it presents no analogy with the Levitical priesthood, or the episcopacy of the third century.<sup>2</sup>

In addition to this statement, Pressensé gives the origin of elder and bishop in these words: "At Jerusalem, as in all the churches of Jewish origin, elders alone were known. The name bishop appears only in the churches of Greek origin."<sup>3</sup> As already

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<sup>1</sup> History of the Christian Church, by Schaff, vol. i., pp. 491-493. Consult also Lightfoot, The Epistles of St. Paul—Philippians, ed. 1888, pp. 96-98; History of the Reformation, by Burnett, vol. i., p. 585.

<sup>2</sup> Early Years of Christianity: Apostolic Era, by Pressensé, pp. 83-85.

<sup>3</sup> *Ibid.*, p. 86. See also The Epistles of St. Paul, by Lightfoot, ed. 1888, pp. 193-195.

quoted, Schaff says elder "is borrowed from the synagogue," and bishop "from the Greek communities." He also says that elder "signifies the dignity," and bishop "the duty." Lord King says:

The definition of a presbyter may be this: a person in holy orders, having thereby an inherent right to perform the whole office of a bishop; but being possessed of no place or parish, not actually discharging it without the permission and consent of the bishop of a place or parish. So a presbyter had the same power with a bishop whom he assisted in his cure; yet being not the bishop or minister of that cure, he could not then perform any parts of his pastoral office without the permission of the bishop thereof.<sup>1</sup>

The authorities just quoted give the following reasons why presbyter and bishop are both used in the New Testament, in the face of the fact that they are employed interchangeably:

1. "Presbyter" is of Jewish origin, and is borrowed from the service of the synagogue; while "bishop" is of Greek origin, having been borrowed from the Greek communities, and is closely connected with their presidents of councils or assemblies.

2. Elder signifies the dignity, and bishop the duty or service.

3. According to Lord King, a bishop is one who is in charge of a church; and an elder is one who has "an inherent right to perform the whole office of a bishop," but is in charge of no parish where he can discharge the duties of his office, only as he assists the bishop in his work. So soon as the elder takes charge of a parish, he is the equal of a bishop—he is a bishop.

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<sup>1</sup> Primitive Church, ed. 1851, pp. 61, 62.

The identity of a presbyter and bishop was kept up through the first and a part of the second century. During this time no distinctions were made between them save those just indicated. On this point Pressensé says:

Episcopal pretensions have frequently been founded on the passages in Paul's epistles where the word bishop occurs; but an attentive examination of the texts shows that the two words, elder and bishop, are used interchangeably, and that in the language of Paul they are synonymous, representing one and the same office. This identity of the office of bishop with that of elder is so very apparent in the New Testament that it was admitted by the whole ancient Church, even at the time of the rise of the episcopate, properly so called. "The elder is identical with the bishop," said St. Jerome.<sup>1</sup>

It is important to note in this connection how, since presbyters and bishops were the same in apostolic times, and for more than a hundred years after, the bishop was singled out from the presbyters, and given a distinct place in the ministry, with superior powers and duties. This change was not brought about by Christ and his apostles. It had an unpretentious beginning, and is of human origin and slow growth. It is difficult to say just when the change was introduced. Neander gives one of the first instances, perhaps, in which a distinction is made between elder and bishop. He says:

What we find existing in the second century enables us to infer, respecting the preceding times, that soon after the apostolic age the standing office of president of the presbytery must have been formed; which president, as having preëminently the oversight over all, was designated by the special name of *episcopos*, and thus distinguished from the other presbyters.

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<sup>1</sup>Apostolic Era, pp. 347, 348.

Thus the name came at length to be applied exclusively to this presbyter.<sup>1</sup>

On the same point Lightfoot says:

The emergency which consolidated the episcopal form of government is correctly and forcibly stated. It was remarked long ago by Jerome that before factions were introduced into religion by the prompting of the devil the churches were governed by a council of elders; but as soon as each man began to consider those whom he had baptized to belong to himself, and not to Christ, it was decided throughout the world that one elected from among the elders should be placed over the rest, so that the care of the Church should devolve on him, and the seeds of schism be removed. And again, in another passage, he writes to the same effect. When afterwards one presbyter was elected that he might be placed over the rest, this was done as a remedy against schism, that each man might not drag to himself, and thus break up, the Church of Christ. To the dissensions of Jew and Gentile converts, and to the disputes of Gnostic false teachers, the development of episcopacy may be mainly ascribed.<sup>2</sup>

The following statement will throw light on the above distinction as given to the president of the body of elders:

The apostles originally appointed men to superintend the spiritual, and occasionally even the secular, wants of the churches, who were ordinarily called elders, from their age; sometimes overseers (bishops), from their office. They are also said to *preside*, never . . . to *rule*, which has far too despotic a sound.<sup>3</sup>

Farrar says the distinction was introduced gradually. "By the time of Irenæus the distinction between 'bishop' and 'presbyter,' which is not found

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<sup>1</sup> History of the Christian Religion and Church, eleventh American edition, vol. i., p. 190.

<sup>2</sup> The Epistles of St. Paul: Philippians, ed. 1888, p. 206.

<sup>3</sup> McClintock and Strong's Cyclopaedia, vol. i., p. 818.

in the writings of the New Testament, had been gradually introduced.”<sup>1</sup>

Toward the close of the second century Irenæus makes a slight distinction between bishop and presbyter, but it was a distinction of no special significance. Jerome, in giving an account of the change from government “by the common council,” on account of heresies and divisions, states that one of the presbyters became president, with authority “to watch over the church and suppress schisms.”<sup>2</sup> This is an increase of power over the scriptural president. It is an office with authority to rule; but while this enlarged power of the president was made, there was an important check on the abuse of power; for as late as the middle of the third century the church of Alexandria, through the twelve elders, elected one of their number president.<sup>3</sup> This distinction of election, and grant of power superior to the other elders, was distinguished by the term bishop, who was regarded as superior only by way of eminence, for he was still regarded as *primus inter pares*.<sup>4</sup>

Early in the history of the Christian Church heresy developed, and caused dissensions which in some places at times threatened the destruction of the Church. In opposition to this, and as a protective measure, there was developed the idea of unity, the chief strength of which was centralization of power. These ideas found their natural and practical expression in the episcopate, and this condition of

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<sup>1</sup>The Early Days of Christianity, author's ed., p. 621.

<sup>2</sup>History of the Christian Church, by Schaff, vol. ii., p. 140.

<sup>3</sup>*Ibid.*, p. 140.

<sup>4</sup>*Ibid.*, p. 142.

things lent importance to the office of bishop, and put larger powers in his hands.

Unity and centralization were augmented by the further fact that the early Christian congregations formed a kind of charitable society, which served as a small beginning for the connectional idea; and these united congregations needed a visible head to administer their affairs and distribute their charities, and in the Greek communities this work devolved on the bishop. These facts indicate that there was in the early Church an historical necessity for something like the president or bishop, with power to meet the object of the office.

Simultaneously with these developments was propagated another class of ideas that were in their nature an advance on all others. About the year 115 Ignatius taught that the bishop was separate from the presbyter. Irenæus, about the year 180, contended that the office of bishop was a "continuation of the apostolate," and "an unbroken episcopal succession" from them. Near the middle of the third century Cyprian associated episcopacy with "the idea of a special priesthood and sacrifice." These ideas were not very distinct, and it is probable that the authors did not discern in them the germ of their historical development; for as late as the year 258 "the functions of the bishop were not yet strictly separated from those of the presbyters."<sup>1</sup>

Out of the heresies and divisions of the early Church the counter movements of union and centralization connected with the development of the episcopate, along the line of enlarged powers of the pres-

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<sup>1</sup> History of the Christian Church, by Schaff, vol. ii., pp. 142-144, 149, 150.

ident, on the one hand, and the relation of episcopacy to the apostolic office and the priesthood and sacrifice, on the other, was a growth of another kind, but all in harmony with each other, and moving toward one common end.

At one time the bishops were equal in dignity and authority, and each had the oversight of his own congregation or church; but in the development of the idea of unity there were churches--on account of their geographical or political relation to other churches--that gained power over the others. Through these centers of influence the disputes of the smaller churches, as well as the disagreements among the different churches, were often settled. This gave to the bishop of the central church a dignity and an influence not enjoyed by the country bishops. This community of churches came in time to be considered as a sort of episcopal district, over which the bishop of the central church presided, and exercised an authority over the other bishops and churches of his diocese. The next step was to group these episcopal districts together in their relation to a common center, and make a metropolitan bishop of the one who had charge of the central church, with power to superintend the general interests of the whole territory. In this way the church and bishop of Rome came to be recognized as the head of the whole Church. At first the position of the bishops of the central churches was "a purely honorary distinction."<sup>1</sup>

The office of these metropolitan bishops was destined to be more than "a purely honorary distinc-

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<sup>1</sup> History of the Christian Church, by Schaff, vol. ii., pp. 152-157.



tion," for "the bishops of Rome at an early date were looked upon as metropolitan pastors, and spoke and acted accordingly, with an air of authority which reached far beyond their immediate diocese." <sup>1</sup> This statement is confirmed by the fact that Clement, bishop of Rome, about the close of the first century, wrote a letter of sympathy and advice to the church of Corinth, which "reveals the sense of a certain superiority over all ordinary congregations." <sup>2</sup>

Another assumption of power was developed about the close of the second or the beginning of the third century, when "the bishop of Rome was substituted for the church of Rome," and "when Victor in his own name excommunicated the churches of Asia Minor for a trifling difference of ritual." <sup>3</sup>

High ground was taken when, in the third century, "Callistus, to the great grief of part of the presbytery, laid down the principle that a bishop can never be deposed or compelled to resign by the presbytery, even though he have committed a mortal sin." <sup>4</sup>

In harmony with the development of authority and power, and as another side-light to the one movement, Cyprian, "starting from the superiority of Peter, transferred the same superiority to the bishop of Rome, as the successor of Peter, and accordingly called the Roman Church the Chair of Peter, and the formation of priestly unity the root also and mother of the Catholic Church." <sup>5</sup>

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<sup>1</sup> History of the Christian Church, by Schaff, vol. ii., p. 157.

<sup>2</sup>*Ibid.*, p. 158.

<sup>3</sup>*Ibid.*, p. 158.

<sup>4</sup>*Ibid.*, p. 161.

<sup>5</sup>*Ibid.*, p. 161.

A logical deduction from the position of the Church, with its conception of unity and authority, as inherent in the episcopacy, is that there can be no salvation only through the medium of the Church. This conception developed somewhat after the following order: "The scriptural principle, 'Out of *Christ* there is no salvation,' was contracted and restricted to the Cyprianic principle, 'Out of the (visible) *Church* there is no salvation'; and from this there was only one step to the fundamental error of Romanism, 'Out of the Roman Church there is no salvation.'" <sup>1</sup>

Another branch of this ecclesiastical tree is seen in the fact that the Church held the balance of power until about the year 325. In the middle of the second century these councils held public meetings, and "bishops, with the priests, deacons, confessors, and laymen in good standing," were members; but "after the Council of Nicæa (325) bishops alone had seat and voice"; and the bishops, moreover, did not act as representatives of their churches, nor in the name of the body of the believers, as formerly, but in their own right, as successors of the apostles." <sup>2</sup>

The gradual but constant assumption of power and invasion of rights gathered strength from every available quarter, and fed voraciously on its own growth. By the year 325 it had laid a broad and sure foundation for more aggressive and daring usurpations.

Building on the organic unity of the Church, with

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<sup>1</sup> History of the Christian Church, by Schaff, vol. ii., p. 174.

<sup>2</sup> *Ibid.*, p. 178. On the development of the powers of the bishops, and the causes leading to the attainment of such powers, the reader can consult, in addition to Schaff's History of the Christian Church, Giesler's Church History, vol. i., pp. 361-396.

its head at Rome, with all subordinate appendages contributing to thirst for power and ambition for papal supremacy, Innocent III., who was pope from 1198 to 1216, "could broach without concealment the idea, which was already sufficiently widespread, of a theocracy embracing the whole world, in which the pope was to rule as the vicar of God, and in the disputes of princes, as well as all other difficult state causes, to decide as supreme judge."

With the assumption of papal supremacy by Innocent III., "the legislative power of the Church passed so exclusively into his hands that nothing more than a deliberative voice was allowed in councils," and "he was so entirely master of the laws that he was not bound by them himself, and in the case of others had power to dispense with them *anti factum*, as well as to absolve others."

When once the doctrine of papal supremacy had been established, the way was prepared for the climax of all absurdities—papal infallibility. History tells us that it began to take shape with the doctrine of supremacy. "It arose in the middle ages in connection with the pseudo-Isodorian decretals."<sup>1</sup>

The foregoing summary of history gives a tolerably plain account of the rise and progress of episcopal church government as it developed into all the pretensions of the Roman Catholic Church. From a small, innocent, and seemingly necessary beginning it has grown into a monster of oppression. With its growth superstition, ignorance, and corruption kept pace. "It would afford an interesting and important topic of inquiry to trace *in history* the simultaneous

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<sup>1</sup>Schaff-Herzog Encyclopedia of Religious Knowledge, vol. ii., p. 1077.

growths of *prelatical assumption* and superstition, as side by side, faithful and inseparable coadjutors, they strode on to an undivided dominion over the understanding, the conscience, and the liberties of mankind.”<sup>1</sup>

In confirmation of the above statement Mosheim says of the morals of the fourteenth century: “That the governors of the Church, as well of higher rank as of inferior, were addicted to all those vices which are the most unbecoming in men in their stations, is testified most abundantly. . . . All the honest and good men of that age ardently wished for a *reformation of the Church, both in its head and in its members.*”<sup>2</sup>

The same author says of the fifteenth century that “no teacher or writer of any eminence can be named who does not plainly and greatly lament the miserable state of the Christian Church, and anticipate its ruin unless God should interpose for its rescue. The disorders both of the pontiffs and of others in holy orders were so manifest that no one dared to censure such complaints.”<sup>3</sup>

It is difficult to see how anyone can read the history of this question and not be impressed with the fact that not only did immorality grow up with the development of episcopacy, but that the corruptions are the result of the pretensions and usurpations of those in orders. The ecclesiastical pretensions, in themselves so absurd and oppressive, together with the widespread immorality, prepared the way for and

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<sup>1</sup> *The Puritans and Their Principles*, by E. Hall, third ed., 1847, p. 360.

<sup>2</sup> *Ecclesiastical History*, vol. ii., p. 260.

<sup>3</sup> *Ibid.*, p. 319.

led to the Reformation. The struggle for emancipation was a long and painful one, and on some minds and in some directions success was only partial.

Attention is now called to the relation of the Church of England to our subject. That this Church for a long time held to only two orders in the ministry, and that a bishop was an officer and nothing more, is well established. The "Institution of a Christian Man," known as the "Bishop's Book," declares that "bishops and priests are spoken of as one and the same office."<sup>1</sup> This, it is maintained, is the doctrine of the New Testament. The book was published in 1537, which was soon after the separation of the Anglican Church from the Church of Rome. Burnett says: "The 'Bishop's Book' was the standard of religion; so that whatsoever was not agreeable to that was judged heretical, whether it leaned to the one side or the other."<sup>2</sup>

In addition to the views just referred to, the Church of England recognized non-episcopal churches as a part of the true Church, and admitted the validity of presbyterian ordination. The thirty-third article bearing on this point is: "It is not necessary that traditions or ceremonies be in all places one, or utterly like; for at all times they have been divers, and may be changed according to the diversity of countries, times, and men's manners, so that nothing be ordained against God's word." To the same effect is the following:

Cranmer and some of the original founders of the Anglican Church, far from maintaining the divine and indispensable

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<sup>1</sup> Burnett's History of the Reformation, vol. ii., p. 586.

<sup>2</sup>*Ibid.*, p. 485.

right of episcopal government, held bishops and priests to be the same order.<sup>1</sup>

When the representatives of the Church of England first began to use the phrase, "three orders in the ministry," they explained that by the use of such words they did not intend to invalidate the ministry of other churches, but to express their views on the question, and maintain that they had a valid ministry. With this explanation the position was innocent, and seemed to be fraught with no future dangers.

It would not be difficult to show that the first introduction of highchurch ideas into the ritual of the Church of England was a relic of Romanism, just as it can be shown that Wesley bequeathed to Methodism phrases not altogether consistent with his well-known views on the ministry, and which may yet serve as small seeds from which to grow highchurch notions.<sup>2</sup>

Archbishop Laud defines the relation of the ante-reformation and post-reformation churches. He says, representing the Roman Catholic Church as asking the Church of England, "Where was your church before Luther?" Laud's answer is: "It was just there where theirs is now—one and the same church still, no doubt of that; one in substance, but not in condition of state and purity; their part of the same church remaining in corruption, and our part of the same church under reformation."<sup>3</sup>

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<sup>1</sup> Hallam's Works: Constitutional History of England, vol. i., p. 388, footnote.

<sup>2</sup> For a full treatment of this phase of the question, see Neeley's Evolution of Episcopacy.

<sup>3</sup> The Reformation of the Church of England, by J. H. Blunt, M.A., vol. ii., p. 494.

With this view of the relation of the Church of England to the Roman Catholic Church is laid a foundation for more episcopal extravagance and absurdities. Hallam states some of these as follows:

The system pursued by Bancroft and his imitators, Bishops Neile and Laud, was just such as lowborn and little-minded men, raised to power by fortune's caprice, are ever found to pursue. They began by preaching the divine right, as it is called, or absolute indispensability of episcopacy; a doctrine of which the first traces, as I apprehend, are found about the end of Elizabeth's reign. They insisted on the necessity of episcopal succession regularly derived from the apostles. They drew an inference from this tenet that ordinations by presbyters were in all cases null; and as this affected all the reformed churches in Europe except their own—the Lutherans not having preserved the succession of their bishops, while the Calvinists had altogether abolished that order—they began to speak of them not as brethren of the same faith, united in the same cause, and distinguished only by differences little more material than those of political commonwealths (which had been the language of the Church of England ever since the Reformation), but as aliens, to whom they were not at all related, and schismatics, with whom they held no communion; nay, as wanting the very essence of a Christian society.<sup>1</sup>

Bancroft "was the first Anglican divine who publicly maintained the *divine right* of bishops. This was in a sermon preached at St. Paul's Cross, February, 1588-9, in which he maintained that bishops were, as an order, superior to priests and deacons; that they governed by divine appointment; and that to deny these truths was to deny a portion of the Christian faith."<sup>2</sup> Bancroft "became bishop of London in 1597. . . . He was a highchurchman, asserting

<sup>1</sup> Constitutional History of England, vol. i., pp. 387, 388.

<sup>2</sup> McClintock and Strong's Cyclopedia, vol. i., p. 631.

that the episcopal authority is based upon a divine right.”<sup>1</sup> Bancroft’s doctrine of the divine right of bishops, not very strongly stated, was destined to assume an influential position; for Hallam says it was “pretty distinctly asserted, if I mistake not the sense, in the canons of 1606.”<sup>2</sup> Hallam also states that “Laud, in his famous speech in the Star Chamber, 1637, and again on his trial, asserts episcopal jurisdiction to be of divine right.”<sup>3</sup> It is further stated that “when he performed a theological exercise for his bachelor of divinity degree in the divinity school, Laud also maintained that without episcopacy there can be no true Church.”<sup>4</sup>

“Such opinions were comparatively unknown in Oxford, but that they exercised considerable influence on the minds of the younger men is shown by the bitter hostility which Laud met with from Abbott and other leading men of the party, which had hitherto had everything its own way.”<sup>5</sup> Hallam says: “Laud had been reprovved by the University of Oxford, in 1604, for maintaining in his exercise for bachelor of divinity that there could be no true Church without bishops, which was thought to cast a bone of contention between the Church of England and the reformed upon the continent.”<sup>6</sup>

As represented by Bishop Hall, the divine right of bishops was derived from the apostles; but this

<sup>1</sup> Schaff-Herzog Encyclopedia of Religious Knowledge, vol. i., p. 196.

<sup>2</sup> Constitutional History of England, vol. i., p. 388, footnote.

<sup>3</sup> *Ibid.*, p. 454.

<sup>4</sup> The Reformation of the Church of England, by J. H. Blunt, M.A., vol ii., p. 491.

<sup>5</sup> *Ibid.*, pp. 491, 492.

<sup>6</sup> Constitutional History of England, vol. i., p. 388, footnote.



did not satisfy Laud, as is evident from his criticism of Hall's views. On this point Laud said: "*Whether episcopacy was a distinct order, or only a higher degree of the same order; and of his advancing the divine right of episcopacy no higher than the apostles; whereas he would have it derived from Christ himself.*"<sup>1</sup>

Laud developed his Roman Catholic tendencies and highchurch notions further, as the following statement will show: "The episcopal chapel at Winchester House was full of what Prynne afterwards called 'popish furniture,' which Laud took as the pattern for his own chapels at Aberguily, London House, and Lambeth."<sup>2</sup> Commenting on these things, "Peter Smart . . . complained, in a sermon preached on July 7, 1628, that there was . . . an inundation of ceremonies, crosses, and crucifixes, and chalices and images, copes and candlesticks, and tapers and basins, and a thousand fresh trinkets which attend upon the mass; all which we have seen in this church since the communion table was turned into an altar. Before we had ministers, but now we have priests and sacrifices and altars, with much altar furniture and many massing implements."<sup>3</sup>

The foregoing history reveals the fact that the Church of England, within one hundred years of the excesses and corruptions of the Church of Rome, and deeply conscious of the cost of deliverance from such extravagances and tyranny, passed from a scrip-

<sup>1</sup>Life and Times of Bishop Hall, pp. 161, 162.

<sup>2</sup>The Reformation of the Church of England, by Blunt, vol. ii., p. 501.

<sup>3</sup>*Ibid.*, p. 502.

tural ministry to the divine right of bishops; from the recognition of the validity of presbyterial ordination and presbyterial church government to the claim that there is no true ordination except through the historic episcopate; and no true Church but one with such a ministry; and from the view that salvation is possible in other churches to the conceit that only through the ordinances of the Anglican Church, administered by a divinely appointed bishop, is salvation possible.

The episcopal form of church government has filled a large place in the history of Christianity, and it occupies an influential position in the world to-day. As we have seen, it has been in existence a long time, and we have no reason to doubt that in some form it will remain till the end of time. The good that has been done through its efforts is beyond computation. Its possibilities for the present and the future are world-wide. As an agency for propagating the gospel it has facilities peculiar to itself. Non-episcopal witnesses testify that its connectionalism and powers of combination and centralization give to it peculiar advantages, and render it susceptible of a world-wide expansion. It can more readily adjust its ministry and supply every nook and corner of the world with the gospel than any other system. None are left out because of poverty, hardship, sacrifice, and danger. The ministry of episcopal churches is more regularly and constantly employed than the ministry of non-episcopal churches.

A Methodist preacher, who is considered active, without some special work to do in connection with his church is hard to find. A Methodist church

without more or less pastoral oversight is equally hard to find.

Another commendable feature is the ease with which pastors and churches are adjusted to each other. In Episcopal Methodism thousands of preachers are changed annually, involving many interests and sacrifices, with a minimum of friction. There are no painful delays, involving divisions and strife in the churches. Often when friction is developed it is adjusted before the year is gone. Surely a power so lodged as to work out such results in the Church, if properly guarded and wisely applied, is a great feature in church government. None can fail to recognize the advantages in episcopal government, and to applaud its wonderful achievements through a wise adjustment of the agents at command.

But while all of this is true, we cannot shut our eyes to the fact that this form of government is a human device, is imperfect, and capable of abuse. Weakness and dangerous possibilities are inherent in its principal elements of strength. Its weakness is in proportion to its strength, its dangers in proportion to its influence.

There are four elements of danger in episcopal church government that run into each other, either one of which, when fully developed, is sufficient to wreck the whole Church unless heroically treated in time.

1. The first danger is the ease with which power is concentrated in the hands of the few; and not only concentrated, but increased from time to time with but little opposition. We have seen its development step by step from the president of the body of pres-

byters to the infallibility and unlimited powers of the pope over all things spiritual and temporal. From the same humble source of presbyter powers have multiplied and claims have been made until when the bishop is reached in the Church of England the Church is made dependent on him for its existence, and salvation is possible only through him. This has issued in the rankest religious bigotry, that unchurches everything that does not bear the stamp of its own pretensions. As human nature is the same, what has happened once may happen again. The source of this increase of power is threefold.

(1) Its enlargement is sought after and encouraged by those intrusted with powers of government. In the report of the Committee on Episcopacy, made to the General Conference in 1870, it is said that "power is cumulative, aggressive, self-willed. . . . Uncontrolled power is grasping and ambitious," and "needs . . . a bridle." This does not necessarily argue that such persons are corrupt. It is a tendency of human nature to increase that which it has, and this is often done under the persuasion that it is best for the interest involved. In addition to this, there is the desire for leadership, and the pride of position, in organizing and carrying out plans that are born of power. The man may go so far in the exercise of his powers, and increase them, until he becomes so infatuated with his own importance that he will become a religious bigot and tyrant in the name of his Lord. Self-deception and logical suicide in the hands of large powers will carry one to desperate lengths.

(2) A movement on the part of those in office for

the enlargement of their powers meets a sympathetic response from without. There are always enough who, when led on by strong minds born to rule, and backed by holy lives, to follow without investigation, or so much as question whether or not it be wise, to give increased momentum to the movement. Then there are others who love to have an ultimatum in which to rest, and they gradually and unconsciously glide into that condition of things which has the show of final appeal. In the estimation of such people it is the last possible analysis of truth, and is stamped with such approval as gives the impress of infallibility. It is so pleasant to them to rest with undisturbed security in the house that has been built for them that they conclude that it has been handed down from heaven.

(3) The accumulation of power in the hands of the few is aided by those whose love of peace is so strong that they overlook the important saying, "first pure, then peaceable," and quietly submit to tendencies they believe to be dangerous, and abuses they know to be wrong. They are not born to contend, but rather to endure repeated wrongs in the interest of what they esteem the chief virtue—peace.

With these classes and characteristics of human nature as factors in the problem, concentration of power in the hands of the few becomes a source of danger that cannot be guarded too carefully.

2. The second source of danger that is inseparably connected with a grant of large and flexible powers in ecclesiastical hands is a tendency to develop a truckling ministry. Under such influences slaves are made that are afraid of their own shadows, in-

stead of men loyal to truth, who fear not the face of man in the presence of wrong. When you put a class of persons in the hands of a man, with power to send them anywhere, to do the hardest work on the most meager support, when wife and children are to be poorly fed and clothed, and deprived of social privileges and educational advantages, and it is understood that the man of power has favorites on account of pretended loyalty, and this loyalty is rewarded with favorable locations, you place a temptation before many men to surrender convictions and manhood for the sake of place. There are always men who show great deference for and assume great loyalty toward men superior in office who are to direct them in life; and they do it not because they are truly loyal, and have proper respect for men of power, but simply for the loaves and fishes. One arbitrary act, done to punish a man for some supposed act of disloyalty either to the law of the Church or its officers, with no probability of redress, will do more to make sycophants of a hundred others than anything else that could befall them. The exercise of power may be so wisely used as to develop and strengthen true manhood, and is often done; but unfortunately the other is also done. The real success of episcopal government depends on the encouragement and development of the highest order of manhood in the ministry.

3. The natural and inevitable child of the union of tyranny and sycophancy is corruption, both in the ministry and laity. This is the third source of danger to episcopal government. The development of the historic episcopate, with all of its collateral

supports, led men who filled the position to lord it over God's heritage, and under their tyranny was developed such corruption in the Church, both in the ministry and laity, as the historian is seldom called upon to record. Like causes in these modern times will produce like results.

4. The last source of danger we note is that episcopal government is a field of strife. Usurpation of power and the practice of tyranny will inevitably lead to a time-serving ministry and corruption of the Church, or to hard-fought battles for the rights of the many. The Reformation and the movement of the Wesleys, in their last analysis, were a protest against and a revolt from the tyranny, sycophancy, and corruption of episcopal abuse of power. This drew the churches on the continent of Europe and in England out of the Church of Rome, and the former out of the episcopal form of government into the presbyterian form, because "the hierarchy sided with the papacy," and the latter only remained episcopal "because the bishops generally were in harmony with King Henry VIII. in his opposition to the pope."<sup>1</sup> An episcopal form of government, unless sufficiently guarded by law and wisely administered, is a fertile source of discord and strife. Its history is the history of usurpation and contention.

Episcopal Methodism has been remarkably free from the developments of other episcopal bodies, but it must be remembered that the former is only a little over a hundred years old, and that those whose history we have been studying were as old or older before they began to sow the seeds of their own trou-

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<sup>1</sup> Nœley's *Evolution of Episcopacy*, p. 52.

bles. The foundations are laid and troubles begin to develop themselves when the Church takes on the pride of history, and seeks to make respectability consist in a respectable origin, and contends for a ministry with orders as many and respectable as any other Church rather than for the fidelity and purity of the membership. The claim is now being made that the Methodist Episcopal Church, South, has three orders in the ministry, and that this distinguishes her from the Methodist Episcopal Church. This contention is based on the claim that the founders of Methodism believed in three orders in the ministry. It is also claimed that the episcopacy and the Conference are coördinate branches of Methodism, and that the episcopacy antedates the Church and originated it. These things in the hands of their authors may be very innocent, and in the minds of those who hold them there may be no conscious trace of highchurch notions. In addition to this, our bishops have the veto power as a check on what they regard as unconstitutional legislation, and the exercise of this power has gone to the extent of deciding what is the constitution of the Church. The bishops also have judicial powers, and it is now claimed by them and for them that they are the supreme judicial department of the Church, and these powers are held up before the world as a wise arrangement and a safe protection against all innovations. But what may another generation see in these things? May they not be seeds thrust into a fertile soil, from which will grow many dangerous encroachments? Are not the pretensions of the Roman Catholic Church and the Protestant Episcopal Church the



logical outcome of causes just as small and innocent as these claims? It behooves us to watch.

Let us hold on to our episcopal form of government, with such modifications from time to time as may be needed; but let us see to it that our bishops are regulated by well-defined laws, and that they be held to a rigid account. It matters not in whose hands power may be lodged, "eternal vigilance is the price of liberty."

## CHAPTER II.

### ORIGIN AND DEVELOPMENT OF THE GOVERNMENT OF ENGLISH METHODISM.

THE first Methodist Conference was held in London June 25, 1744, with the following clergymen present: John Wesley, Charles Wesley, John Hodges, Henry Piers, Samuel Taylor, and John Mereton.<sup>1</sup> These clergymen invited Thomas Richards, Thomas Maxfield, John Bennett, and John Downes, Mr. Wesley's lay preachers, to participate in the business of the Conference.<sup>2</sup>

The first Conferences met in response to Mr. Wesley's call, and, with the exception of a short period, only those whom he invited attended. He tells us that he invited them to confer with him, and not to control him.<sup>3</sup>

The history of the period shows that Mr. Wesley created the Conference to meet the providential development of his work. The circuits had to be formed and supplied with preachers, and Mr. Wesley was careful that those whom he put in charge of the work have good moral characters, and that they be well versed in the doctrines and discipline of Methodism. For all these things he needed the advice of his brethren, but he reserved the right to himself to decide all questions.<sup>4</sup>

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<sup>1</sup> Wesley's Works, vol. v., p. 194.

<sup>2</sup> History of Wesleyan Methodism, by George Smith, p. 223.

<sup>3</sup> Wesley's Works, vol. v., pp. 220, 221; vol. vii., p. 309.

<sup>4</sup> Coke and Moore's Life of Wesley, p. 266.

Mr. Wesley and his colaborers held to the view that he was providentially clothed with full power not only to direct but to control the Methodist movement in its formative periods. His mature judgment and will constituted the law by which all who became associated with him in his work were to be governed. He recognized that he exercised large powers, and he was fully aware that the preachers and people would submit to no one else as they did to him, for he said, "They will not thus submit to any other."<sup>1</sup>

Mr. Wesley's relation to and power over the Conference is correctly stated as follows:

Mr. Wesley encouraged those who were members of the Conferences to express their judgment with the greatest freedom. But let it not be supposed that the Conferences which Mr. Wesley called had any governing power. The members of the Conference discussed, but Mr. Wesley decided. They debated, but he determined. Mr. Wesley was the government; and though he invited the preachers to confer with him, he did not propose to abandon any of his original power. They had a voice by his permission, but he reserved the right to direct.<sup>2</sup>

If the question be asked, Why, then, in view of the relation of Mr. Wesley to the Conference, did he hold Conferences? the answer is that in this way he reached the mature judgment of his associates in the work, and that through this channel he was educating the preachers and people for self-government after his death.<sup>3</sup>

There are two facts in regard to Mr. Wesley's power over Methodism that must be kept in mind:

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<sup>1</sup> Wesley's Works, vol. v., p. 221; vol. vii., p. 228.

<sup>2</sup>The Governing Conference in Methodism, by Rev. Thomas B. Neeley, D.D., Ph.D., LL.D., pp. 9, 10.

<sup>3</sup>*Ibid.*, p. 15.

1. His authority was exercised *only* as the preachers and people *voluntarily* put themselves under his direction, and he emphasized this fact as the condition of continuing his authority over them. They were at liberty to withdraw from him whenever they chose to do so; and in so doing they did not withdraw from the Church, but only from a society within the Church.

2. This voluntary membership in a society could be dissolved at any time, for any cause, without sin; but when these societies were merged into a Church, and it became to them the visible expression of their personal relation to Christ, the case became quite otherwise. Membership in such a body is a *duty*. This duty carries with it the right to a voice in the government. Therefore Mr. Wesley could not say to them, "If you do not like my will as law, you can withdraw." It is only the majority of the Church that can say this, and then not until the minority have exhausted their legal rights to convince the majority. Neither can the minority withdraw from the Church until they have used all proper efforts, within the Church, to convince the majority. Duties and rights demand this much of all parties.

Mr. Wesley held a unique place in Methodism. He was, under God, its father and founder. There are many peculiar factors in it that made possible what Mr. Wesley did. Under other circumstances these things would not have been tolerated in him or any other man. All things considered, the power he exercised was a necessity, produced good results, and on these grounds can be defended; but on general principles, and in the hands of anyone that sustained

a different relation to Methodism, personal government would be both unwise and unsafe. It was no doubt apparent to all who were connected with the work that purely personal government could not be perpetuated indefinitely. In fact, principles were announced at the very beginning which were destined to take on form and displace personal government. In the course of time a more liberal form of government would have to be inaugurated.

At the first Conference the following principles were announced as underlying the Methodist movement on its ecclesiastical side:

It is desired that everything be considered as in the immediate presence of God; and that we may meet with a single eye, and as little children, who have everything to learn; that every point may be examined from the foundation; that every person may speak freely what is in his heart; and that every question proposed may be fully debated, and bolted to the bran.

The first preliminary question was then proposed, namely, How far does each of us agree to submit to the unanimous judgment of the rest? It was answered, In speculative things each can only submit so far as his judgment can be convinced; in every practical point, so far as we can without wounding our several consciences.<sup>1</sup>

At the second Conference it was agreed that care should be taken to check no one, either by word or look, even though he should say what is quite wrong, and that every point might be fully debated and thoroughly settled. It was resolved to beware of making haste, or of showing or indulging any impatience, whether by delay or contradiction.

*Q.* Is not the will of our governors a law? *A.* No; not of any governor, temporal or spiritual. Therefore, if any bi-hop wills that I should not preach the gospel, his will is no law to me. *Q.* But what if he produce a law against your preaching? *A.* I am to obey God rather than man.<sup>2</sup>

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<sup>1</sup>Smith's History of Wesleyan Methodism, pp. 228, 229.

<sup>2</sup>*Ibid.*, pp. 241, 242.

These liberal principles were augmented and accelerated by the practical questions that confronted the early Methodists. In England both Mr. Wesley and his preachers had their attention called to the future government of Methodism when he should be called to his reward. "What shall be the form of government?" was a live question. "Mr. Wesley had no preconceived plan for the formation and establishment of the Wesleyan Societies, but he simply followed the leadings of Providence."<sup>1</sup> That this is true is evident from the following. In 1749 the preachers asked Mr. Wesley this question: "If God should call you away, what would be the most probable means of preventing the people from being scattered?"<sup>2</sup> Mr. Wesley answered them as follows: "Let all the assistants for the time being immediately go up to London, and consult what steps are fittest to be taken; and God will then make the way plain before them."<sup>3</sup>

Notwithstanding this fact, one point seems to have been settled, for at an early period in Mr. Wesley's ministry "it was agreed that after the decease of my brother and me the preachers should be stationed by the Conference."<sup>4</sup>

In 1769 Mr. Wesley read a long paper to the Conference, in which he gave this advice:

On notice of my death, let all the preachers in England and Ireland repair to London within six weeks.

Let them seek God by solemn fasting and prayer.

Let them draw up articles of agreement, to be signed by those who choose to act in concert.

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<sup>1</sup> Wesleyan Polity, p. 15.

<sup>2</sup>*Ibid.*, p. 13.

<sup>3</sup>*Ibid.*, p. 13.

<sup>4</sup> Wesley's Works, vol. vii., p. 309.

Let those be dismissed who do not choose it, in the most friendly manner possible.

Let them choose, by votes, a committee of three, five, or seven, each of whom is to be moderator in his turn.

Let the committee do what I do now—propose preachers to be tried, admitted, or excluded, fix the place of each preacher for the ensuing year, and the time of the next Conference.

Can anything be done now in order to lay a foundation for this future union? Would it not be well for any that are willing to sign some articles of agreement before God calls me hence?

Suppose something like these:

“We, whose names are underwritten, being thoroughly convinced of the necessity of a close union between those whom God is pleased to use as instruments in this glorious work, in order to preserve this union between ourselves, are resolved, God being our helper,

“1. To devote ourselves entirely to God, denying ourselves, taking up our cross daily, steadily aiming at one thing: to save our own souls and them that hear us.

“2. To preach the old Methodist doctrines, and no other, contained in the Minutes of the Conferences.

“3. To observe and enforce the whole Methodist discipline, laid down in the said Minutes.”<sup>1</sup>

The above paper was brought forward by Mr. Wesley “at the Conferences of 1773, 1774, and 1775, at each of which they received the signatures of all the preachers present, amounting in number to one hundred and one.”<sup>2</sup>

While Mr. Wesley’s paper was before the Conferences a new plan for the future government of Methodism was introduced. Mr. Wesley wrote Mr. Fletcher a letter, in which he said:

The wise men of the world say, “When Mr. Wesley drops,

<sup>1</sup> Wesleyan Polity, pp. 13-15.

<sup>2</sup>*Ibid.*, p. 448.

then all this is at an end." And so it surely will unless, before God calls him hence, one is found to stand in his place. For

'Οὐκ ἀγαθὸν πολυκοιρανιῇ εἰς κοίρανος ἔστω.<sup>1</sup>

I see more and more, unless there be one *προεστως*,<sup>2</sup> the work can never be carried on. The body of the preachers are not united, nor will any part of them submit to the rest; so that either there must be one to preside over all, or the work will indeed come to an end.<sup>3</sup>

After describing the kind of a man needed, Mr. Wesley urges Mr. Fletcher to undertake the work. Commenting on this matter, Dr. Whitehead said:

He well knew the embarrassments Mr. Wesley met with in the government of the preachers, though he alone, under the providence of God, had given existence to their present character, influence, and usefulness; he was also well acquainted with the mutual jealousies the preachers had of each other, and with their jarring interests; but above all, with the general determination which prevailed among them not to be under the control of any one man after the death of Mr. Wesley.<sup>4</sup>

In reply to Dr. Whitehead, the Rev. Henry Moore said:

Respecting the preachers, Mr. Fletcher, it is plain, had no feelings in common with Dr. Whitehead. The wish to have Mr. Fletcher at their head, in case of Mr. Wesley's removal, originated with themselves. They pressed Mr. Wesley to apply to him, and on his reporting Mr. Fletcher's answer, they were so encouraged, that they requested that the application should be renewed.<sup>5</sup>

It is clear from the above that whatever was to be the exact relation of Mr. Fletcher to the preachers after Mr. Wesley's death was of their own choice,

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<sup>1</sup> It is not good that the supreme power should be lodged in many hands: let there be one chief governor.—*Editor*.

<sup>2</sup> A person who presides over the rest.—*Editor*.

<sup>3</sup> Wesley's Works, vol. vi., p. 687.

<sup>4</sup> Whitehead's Life of Wesley, pp. 485, 486.

<sup>5</sup> Moore's Life of Wesley, ed. 1825, vol. ii., p. 219.



and not an attempt on the part of Mr. Wesley to force him on them in a way that would have been objectionable.

In his reply to Mr. Wesley, Mr. Fletcher declined to take upon himself the responsibilities of the position offered him, but proposed to do what he could to keep the Methodists together after the death of Mr. Wesley.<sup>1</sup>

When Mr. Wesley received Mr. Fletcher's answer he made him a visit, and subsequently wrote him another letter<sup>2</sup> in regard to his taking control of the Methodists after the death of Mr. Wesley. Mr. Fletcher gave his final answer as follows:

I could, if you wanted a traveling assistant, accompany you, as my little strength would admit, in some of your excursions. But your recommending me to the societies as one who might succeed you, should the Lord take you hence before me, is a step to which I could by no means consent. It would make me take my horse and gallop away.<sup>3</sup>

A little later on we will try to ascertain the relation Mr. Fletcher was to sustain to the Methodists in the event he had accepted the invitation.

The question that had more to do in finally determining the form of government for English Methodism than all others was the chapel question as it was involved in the "Model Deed." Mr. Tyerman says it provided that the trustees should permit Mr. Wesley, and such other persons as he might appoint, to have the free use of the chapels; and in case of his death, the same right was secured to his brother Charles and William Grimshaw. After the death of

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<sup>1</sup> Moore's Life of Wesley, ed. 1825, vol. ii., pp. 217, 218.

<sup>2</sup> Tyerman's Life of Wesley, vol. iii., p. 150.

<sup>3</sup> Moore's Life of Wesley, vol. ii., p. 223.

these persons the trustees were then to permit such persons to occupy the chapels as the yearly Conference might appoint from time to time.<sup>1</sup>

Mr. Wesley built the first chapel in 1739, and he allowed the trust deed to be drawn in the presbyterian form; but at the suggestion of Mr. Whitefield, Mr. Wesley induced the trustees to consent to a change in the form, so that they might not have the power to say who should preach in the same. After this Mr. Wesley was careful to have the deeds give him the right to appoint the preachers, and in most instances this was done.

In spite of the care taken in this matter, another question of a serious nature was raised. Of this Mr. Wesley says:

But a considerable difficulty still remained. As the houses at Bristol, Kingswood, and Newcastle were my property, a friend reminded me that they were all liable to descend to my heirs. I was struck, and immediately procured a form to be drawn up by three of the most eminent counselors in London, whereby not only these houses, but all the Methodist houses hereafter to be built, might be settled on such a plan as would secure them, so far as human prudence could, from the heirs of the proprietors, for the purpose originally intended.<sup>2</sup>

We learn from Mr. Moore<sup>3</sup> and Mr. Tyerman<sup>4</sup> that in spite of the care of Mr. Wesley in regard to the trust deeds, and his belief that they were absolutely safe, some of the wisest preachers had great fears that there were defects in the deed, and that after Mr. Wesley's death the Methodists would lose all. Final-

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<sup>1</sup>Tyerman's *Life of Wesley*, vol. iii., p. 417.

<sup>2</sup>Wesley's *Works*, vol. vii., pp. 326, 327.

<sup>3</sup>*Life of Wesley*, vol. ii., p. 246.

<sup>4</sup>*Life of Wesley*, vol. iii., pp. 420, 421.

ly Dr. Coke was chosen to travel through the connection and make a careful investigation of the matter. He found that these fears were well grounded, for he discovered "that the Conference was not an assembly that the law would recognize," and "that the Conference of the people called Methodists" needed a legal definition. This question presented a grave problem for solution. What Dr. Coke did to meet the difficulty he tells as follows:

I desired Mr. Clulow, of Chancery Lane, London, to draw up such a case as I judged sufficient for the purpose, and then to present it to that very eminent counselor, Mr. Maddox, for his opinion. This was accordingly done, and Mr. Maddox informed us in his answer that the deeds of our preaching houses were in the situation we dreaded; that the law would not recognize the Conference in the state in which it stood at that time, and consequently that there was no central point which might preserve the connection from splitting into a thousand pieces after the death of Mr. Wesley. To prevent this, he observed that Mr. Wesley should enroll a deed in chancery, which deed should specify the persons by name who composed the Conference, together with the mode of succession for its perpetuity; and at the same time such regulations be established by the deed as Mr. Wesley would wish the Conference should be governed by after his death.

This opinion of Mr. Maddox I read in the Conference held in the year 1783. The whole Conference seemed grateful to me for procuring the opinion, and expressed their wishes that such a deed might be drawn up and executed by Mr. Wesley as should agree with the advice of that great lawyer, as soon as possible.

Soon after the Conference was ended Mr. Wesley authorized me to draw up, with the assistance of Mr. Clulow, all the leading parts of a deed which should answer the above-mentioned purposes. This we did with much care; and as to myself, I can truly say, with fear and trembling, receiving Mr. Maddox's advice in respect to every step we took, and laying the whole ultimately at Mr. Wesley's feet for his approbation. There re-

mained now nothing but to insert the names of those who were to constitute the Conference. Mr. Wesley then declared that he would limit the number to one hundred.<sup>1</sup>

According to the Deed of Declaration, Mr. Wesley made the membership of his legal Conference one hundred.<sup>2</sup> This gave great offense to some who were left out of the deed. In 1785 Mr. Wesley gave the following explanation of why he named one hundred as the membership of the Conference: "My first thought was to name a very few, suppose ten or twelve persons. Count Zinzendorf named only six who were to preside over the community after his decease. But on second thoughts I believed there would be more safety in a greater number of counselors, and therefore named a hundred, as many as I judged could meet without too great an expense, and without leaving any circuit naked of preachers while the Conference met."<sup>3</sup>

Dr. Coke thought it would have been better for all the preachers in full connection to have been included in the membership of the Conference. Mr. Tyerman agreed with Dr. Coke on this point.<sup>4</sup> No doubt the position of Dr. Coke and Mr. Tyerman is the correct one. It would have met the only serious objection to the famous deed. To meet the dissatisfaction on this account a petition was presented to Mr. Wesley and the legal Conference, requesting that the members of the same sign an agreement that they would take no advantage of their brethren who had been left out of the deed, but would invite them to

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<sup>1</sup> See Drew's *Life of Coke*, ed. 1818, pp. 37-39.

<sup>2</sup> For Deed of Declaration see *Wesleyan Polity*, pp. 23-30.

<sup>3</sup> *Wesley's Works*, vol. vii., p. 309.

<sup>4</sup> *Life of Wesley*, vol. iii., p. 242.

the first Conference.<sup>1</sup> In response to this petition, Mr. Wesley wrote a letter to the Conference, in which he said: "Never avail yourselves of the Deed of Declaration to assume any superiority over your brethren; but let all things go on, among those itinerants who choose to remain together, exactly in the same manner as when I was with you, so far as circumstances will permit."<sup>2</sup>

Accordingly, when the Conference convened for the first time after Mr. Wesley's death, they adopted the following minute: "That all the preachers who are in full connection with them shall enjoy every privilege that the members of the Conference enjoy, agreeably to the above-written letter of our venerable deceased father in the gospel."<sup>3</sup>

The Deed of Declaration would, after the death of Mr. Wesley, put an end to personal government in English Methodism. All governing power by this deed was transferred to the Conference, which was henceforth to be the governing body in Wesleyan Methodism.

While Mr. Wesley followed the leadings of Providence as to the permanent government of his followers across the water, yet he seems to have been impressed all along that it would in some way be Conference government. "Wesley assures us that some years before the Deed of Declaration was executed it was the general wish of preachers and people that these powers should, after his death, be exercised by the Conference. He distinctly stated that the preach-

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<sup>1</sup> Tyerman's Life of Wesley, vol. iii., p. 424.

<sup>2</sup> Wesley's Works, vol. vii., pp. 310, 311.

<sup>3</sup> Wesleyan Polity, p. 32.

ers, so far as they were concerned, had agreed to this, and that nine-tenths of the people desired it.”<sup>1</sup>

For more than thirty-five years the idea of Conference government was prominently before Mr. Wesley and his preachers, and received repeated and careful consideration. The only exception to this was Mr. Wesley's effort, at the earnest request of the preachers, to secure Mr. Fletcher as his successor. It is by no means clear that it was intended, or even desired, that the government of Methodism, under the leadership of Mr. Fletcher, should be personal. There is no evidence that it was so intended, but much to the contrary. It is more than probable that his services were intended to be of such a character as would easily harmonize with Conference government. On this point Dr. T. B. Neeley says: “Whether it was Mr. Wesley's intention to transmit to Mr. Fletcher the precise form and quantity of governmental authority which he possessed and used, may be considered an open question. . . . It may be that though he desired Mr. Fletcher to be chief, at the same time he intended that the latter should act conjointly with the Conference.”<sup>2</sup>

In Mr. Tyerman's discussion of Mr. Fletcher as the successor of Mr. Wesley, he says the latter “was convinced that this [Methodism perpetuated] could not be done unless the ruling and administrative power could be confined not to the Conference, or to a committee of the Conference, but to a single person.”<sup>3</sup> The foregoing history of the question will not

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<sup>1</sup> Smith's History of Wesleyan Methodism, p. 521.

<sup>2</sup> Governing Conference in Methodism, p. 42.

<sup>3</sup> Life of Fletcher, by Tyerman, p. 2.

sustain Mr. Tyerman's position. Mr. Wesley gave abundant evidence that he believed just to the contrary of Mr. Tyerman's statement. According to Mr. Moore, it was the preachers that first suggested Mr. Fletcher as their leader, and urged Mr. Wesley to secure his services. In addition to this, Mr. Wesley says the people would not obey anyone else as they had him. If he believed this, he would not have attempted to force them to adopt such a course.

## CHAPTER III.

### ORIGIN OF CONFERENCE GOVERNMENT IN AMERICAN METHODISM.

CONFERENCE government in American Methodism is the product of many influences. There was an underlying principle, and this principle was imbued with the spirit of American independence. The pioneer Methodist preachers partook of this spirit, and although in theory the English rule remained intact, the American spirit found occasions for expression, and rarely ever lost an opportunity. The first ten years of our ecclesiastical history revealed defects in our form of government, and showed the necessity for change rather than the adoption of any definite principle of government other than the one received from England. From 1773 to 1784 was an epoch-making period which expended most of its force in foundation principles through the adjustment of the practical difficulties that arose in the government of the Church. These statements will find their confirmation in a brief recital of our history on its ecclesiastical side for the period named.

The first "general assistant" of American Methodism, Mr. Thomas Rankin, distinguished himself more by causing dissatisfaction with the government of the societies than by anything else he did. His conduct led some to entertain thoughts of changing their form of church government. This young ecclesiastical officer, thoroughly imbued with English ideas, and sent over by Mr. Wesley to bring



American Methodism to a strict observance of the English rules and model it after the English type, was unfortunate in his official manners. He was disposed to make too much of authority, and was entirely too rigorous in his administration to be acceptable. He was not popular with either preachers or people, and when his work is viewed in all of its bearings his inefficiency is revealed. Mr. Asbury speaks of him as having an "overbearing spirit,"<sup>1</sup> which he says "excited my fears."<sup>2</sup> He also says that Mr. Rankin "was furious in the evening," and that he "was much grieved at the manner of his conversation."<sup>3</sup>

Mr. Asbury received a letter from Mr. Strawbridge in which he said: "It is thought by many that there will be an alteration in the affairs of our church government."<sup>4</sup> Mr. Asbury records a conversation he had with Mr. Strawbridge, in which he says: "I saw brother S., and entered into a free conversation with him. His sentiments relative to Mr. R. corresponded with mine."<sup>5</sup> Mr. Asbury, in a letter to Mr. Benson, written a short time before Mr. Asbury's death, throws light on Mr. Rankin's administration, and reveals the fact that there was much more involved in it than appears on the surface, as the following extracts will show:

I spare the dead, and yet I think that a degree of justice is due to the memory of such an apostolic man as John Wesley. I perfectly clear him in my own mind, and lay the whole blame of the whole business upon Diotrephes [Mr. Rankin], of the

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<sup>1</sup>Journal, vol. i., p. 81.

<sup>2</sup>*Ibid.*

<sup>3</sup>*Ibid.*, pp. 102, 103. See also Stevens's History of the M. E. Church, vol. i., pp. 227, 228.

<sup>4</sup>Asbury's Journal, vol. i., p. 107.

<sup>5</sup>*Ibid.*, p. 109.

Tower of London. Little did I think that we had such an enemy that had the continual ear and confidence of Mr. Wesley. This I believe from good testimony, eye and ear witnesses, who, some years after, when they saw that my mind was so deeply affected that I did not get clear of it for some years after Mr. Wesley's death. Dr. Coke and John Harper told me what they had seen and heard and known and felt. Dr. Coke said that as often as Mr. Wesley went to see Diotrephes, he came back with his mind strangely agitated, and dissatisfied with the American connection; that he did not know what to do to put him to rights; and the counsel of Diotrephes, in a full Conference, was in substance this: "If he [Diotrephes] had the power and authority of Mr. Wesley, he would call Frank Asbury home directly." John Harper was the man who was present in the Conference and heard this advice given, and told me several years after, in America, with his own mouth. Yet I spare the dead, and must write the truth that he [Diotrephes] wrote to the Messrs. Wesley for counsel and advice in our critical situation—advice which we thought truly apostolic and worthy of the minister of the gospel of the Son of God—in substance, was to give as little offense as possible, either to Jew or Gentile, or to the Church of God; to have nothing to do with the affairs of this world if he could help it, and mind the business of our spiritual calling. Diotrephes made this instruction pretty public among the preachers and the people, and then they charged him with violating every part of it. He was positive beyond all description that the Americans should be brought back to the old government, and that immediately. It appeared to me that his object was to sweep the continent of every preacher that Mr. Wesley had sent to it, and of every respectable traveling preacher from Europe who had graduated among us, whether English or Irish. He told us that if we returned to our native country we should be esteemed as such obedient, loyal subjects that we should obtain ordination in the grand Episcopal Church of England, and come back to America with high respectability after the war was ended. Francis did not believe it.

Mr. Wesley wrote concerning Diotrephes, honest George, and Francis: "You three be as one; act by united counsels." But who was to do that with Diotrephes? Matters did not fit well between Diotrephes and him, and poor Francis

was charged with having a gloomy mind, and being very suspicious, etc. It would be presumed, because Francis was a little heady, that Diotrephes wrote to Mr. Wesley to call Francis home immediately. Be it as it might, Mr. Wesley wrote such a letter to Francis, and Francis wrote in answer that he would prepare to return as soon as possible, whatever the sacrifice might be. Then Diotrephes said: "You cannot go; your labors are wanted here." Francis said: "Mr. Wesley has written for me; I must obey his order." Diotrephes said: "I will write to Mr. Wesley, and satisfy him." Shortly after came a letter from Mr. Wesley to Francis, in substance this: "You have done very well to continue in America and help your brethren, when there was such a great call."<sup>1</sup>

Bishop Paine, commenting on Mr. Asbury's letter to Mr. Benson, gives his estimate of Mr. Rankin as follows:

He spent the greater part of his time in London, seems always to have had the confidence of Mr. Wesley, and no doubt at one time expected to occupy the position in America which Mr. Asbury attained. It was perhaps natural that he should feel disappointed at the result, and be tempted to criticize with undue severity the man, who, without wishing to do so, had superseded him. He may have been honest in his opinions as to the expediency of the course taken by Mr. Asbury and his associates in the premises, and it is to be hoped he was unconscious of the blinding influence of a disappointed expectation. Charity would trust that it was so; but in any event, he subjected his motives to a severe and just imputation in bringing about a temporary alienation of Mr. Wesley from the pure and faithful bishop. "Diotrephes" loved "the preëminence," and "received not" St. John. It is feared that Mr. Asbury found his "Diotrephes" in Mr. Rankin.<sup>2</sup>

The foregoing history reveals the following facts in Mr. Rankin's administration:

1. In point of ability he was inferior to some over whom he had been placed. This was especially true

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<sup>1</sup> Paine's *Life of McKendree*, vol. ii., Appendix, pp. 297-299, 307.

<sup>2</sup> *Ibid.*, pp. 289, 290.

of Mr. Asbury. Mr. Rankin was also defective in judgment.

2. He was ambitious, and had a propensity to rule. In this he was rigorous and overbearing, making too much of authority. His manner was offensive, and he failed to gain the sympathy and respect of those he had been appointed to direct, but on the contrary repulsed them. Both Bishops Asbury and Paine attribute to him a desire to have the preëminence.

3. He prejudiced Mr. Wesley against Mr. Asbury and the American Methodists. In this he did great harm. Mr. Asbury more than any other was in his way, and he sought to have him called back to England; and the order was given by Mr. Wesley, but afterwards reconsidered.

4. This was the man that "always had the confidence of Mr. Wesley." Mr. Asbury said of Mr. Rankin: "Little did I think that we had such an enemy that had the continual ear and confidence of Mr. Wesley." This confidence made him bold, for he said "in a full Conference" that "if he had the power and authority of Mr. Wesley he would call Frank Asbury home directly." Dr. Coke told Mr. Asbury that as often as Mr. Wesley went to see Mr. Rankin "he came back with his mind strangely agitated, and dissatisfied with the American connection." Not only did he have the confidence of Mr. Wesley, but he had a decided influence over him.

5. The conduct of Mr. Rankin, and his position in the Church and influence over Mr. Wesley, led some, among them Mr. Asbury, to entertain the thought "that there would be an alteration in the affairs of our church government."

6. So it seems that the first dissatisfaction of a serious nature with our church government was brought about by those in power, trusting above all others, and holding in office, a man that had made himself offensive by his inferior administration and dictatorial, overbearing disposition. Such men as Thomas Rankin, put in office and held there by the authorities over the protests of preachers and people, when it is manifest that they are not the men for the positions they hold, will do more than everything else to suggest thoughts of altering our church government. An arbitrary disposition offensively expressed, in our high Church officials, will do more to bring us to a quadrennial episcopacy and an elective presiding eldership than all the attacks from all the enemies without the pale of Methodism.

No doubt the troubles brought about by Mr. Rankin's administration led Mr. Asbury and a few preachers to hold a caucus, or preliminary conference, before the meeting of the Conference in 1777. This caucus agreed on the following points: (1) Mr. Rankin must not baptize. (2) A plan was agreed on for stationing the preachers. (3) No certificates were to be signed avouching good character for such of the preachers as might return to Europe. (4) A committee of control, to act in the absence of the general assistant, was appointed.<sup>1</sup> As far as we know, the wishes of the caucus were adopted. It is a matter of record that items (1)<sup>2</sup> and (4) were adopted. On the fourth item, Mr. Watters says: "Gatch, Dromgoole, Glendenning, Ruff, and myself were ap-

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<sup>1</sup> Asbury's Journal, vol. i., p. 186.

<sup>2</sup> Life and Times of Lee, p. 78.

pointed a committee to act in the place of the general assistant, in case they should all go [to Europe] before next Conference.”<sup>1</sup>

Notwithstanding the rule that none but the general assistant could decide questions, these two facts are in evidence that the caucus and Conference decided some things independent of the general assistant.

The one question that had more to do in determining the form of government of American Methodism than all others was the administration of the ordinances. Jesse Lee tells of the destitution of the people in this respect, as follows: “In many places for a hundred miles together there was no one to baptize a child, except a minister of the Established Church; the greatest objection to this plan therefore was that by far the greatest part of them were destitute of religion.”<sup>2</sup>

The Methodists were therefore clamoring for the ordinances, and they could not see why Methodist preachers were not fully competent to meet the demand. On this point Dr. L. M. Lee says: “This matter they had pressed upon their pastors from the commencement of Methodism in the colonies; but they were coldly refused or severely rebuked.”<sup>3</sup>

In the face of these demands the Conference of 1773, the first in America, adopted the following on the question: “Every preacher who acts in connection with Mr. Wesley and the brethren who labor in America is strictly to avoid administering the ordinances of baptism and the Lord’s Supper. All the

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<sup>1</sup> Life of Watters, p. 57.

<sup>2</sup> History of the Methodists, p. 48. See also Life of Garrettson, by Bangs, p. 110, and Life of Jesse Lee, p. 75.

<sup>3</sup> Life and Times of Jesse Lee, p. 76.

people among whom we labor are to be earnestly exhorted to attend the church, and to receive the ordinances there; but, in a particular manner, to press the people in Maryland and Virginia to the observance of this minute.”<sup>1</sup>

Mr. Lee comments on the rule as follows: “The necessity of this rule appeared in the conduct of Mr. Strawbridge, a local preacher, who had taken on him to administer the ordinances among the Methodists without the consent of their preachers, who at that time were all lay preachers.”<sup>2</sup>

The rule controlled the preachers for the time being, but what effect did it have on the people? On this point Dr. L. M. Lee says: “The language of this rule shows at how early a date the Methodists of Virginia evinced their unwillingness to receive the ordinances from the godless men then officiating at the altars of the Church. And however earnestly the preachers may have pressed this matter upon the people, very little success seems to have attended the effort. . . The rule adopted by the Conference of 1773, although intended to compel the attendance of the people of Maryland and Virginia upon the services and sacraments of the Established Church, was ineffectual. It neither made them attend the church and receive the ordinances *there*, nor induced them to relinquish the hope of obtaining them at the hands of those from whom they had already received the word of promise.”<sup>3</sup>

At the Conference of 1777 the question of the ordinances was brought forward. The Minutes take no

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<sup>1</sup> Minutes of 1773 to 1813, p. 5.

<sup>2</sup> History of the Methodists, p. 47.

<sup>3</sup> Life and Times of Jesse Lee, pp. 77, 78.

account of what was done, but Mr. Gatch was a member of the Conference and was present. The Rev. L. M. Lee had access to Mr. Gatch's manuscript journal. From it he makes the following extract of the proceedings of the Conference of 1777: "What shall be done with respect to the ordinances? Let the preachers and people pursue the old plan as from the beginning. What alteration may we make in our original plan? Our next Conference will, if God permit, show us more clearly."<sup>1</sup>

Mr. Watters, speaking of the Conference of 1778, says: "As the consideration of our administering the ordinances was at the last Conference laid over till this, it of course came on and found many advocates. It was with considerable difficulty that a large majority was prevailed on to lay it over again, till the next Conference."<sup>2</sup>

As to what was done at the Conference of 1778, the following testimony is added to the above: "May 19, 1778, the regular Conference was held in Leesburg, Va. Mr. Rankin and his British brethren, except Mr. Asbury, who was not present at this Conference, were gone home. Mr. William Watters, being the oldest American preacher, was called to the chair. The same question was proposed again: 'Shall we administer the ordinances?' 'I was present,' says Mr. Garrettson, 'and the answer was, *Lay it over until the next Conference,*' which was appointed to be held in Fluvanna county, Va., May 18, 1779, at what was called the 'Broken-backed Church.'"<sup>3</sup>

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<sup>1</sup> Life and Times of Jesse Lee, p. 78.

<sup>2</sup> Autobiography of William Watters, pp. 68, 69.

<sup>3</sup> Life of Garrettson, p. 111.



By recalling the facts of history it will be seen that the Conference of 1777 was the legally constituted Conference presided over by Mr. Rankin, Mr. Wesley's representative and regularly appointed agent, and that this Conference passed the question of the ordinances over to the Conference of 1778; and in the event of the departure of Mr. Rankin for England, a committee was appointed at the Conference of 1777 to act in his place at the next Conference and at all others in the absence of anyone appointed by Mr. Wesley. Mr. Watters was a member of the committee and presided at the Conference of 1778, at the time and place appointed for the meeting of said Conference. The Conference of 1778 was therefore as regular and legal as the Conference of 1777. So the Conference of 1778 was competent to dispose of the question of the ordinances, and they referred it to the Conference of 1779, which was to meet at the Broken-backed Church, in Fluvanna county, Va., May 18.

Before the time arrived for the meeting of the Fluvanna Conference, a Conference was held in Delaware. The reason for holding this Conference is given in the Minutes: "For the convenience of the preachers in the northern stations, that we all might have an opportunity of meeting in Conference—it being unadvisable for Brother Asbury and Brother Ruff, with some others, to attend in Virginia—it is considered also as preparatory to the Conference in Virginia. Our sentiments to be given in by Brother Watters."<sup>1</sup>

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<sup>1</sup> Minutes, p. 19. See also *History of the Methodists*, p. 67; *Life of Watters*, pp. 72, 73; *Asbury's Journal*, vol. i., pp. 237, 238; and *Life of Garrettson*, p. 111.

Jesse Lee calls the Delaware Conference a "preparatory Conference, so called." Mr. Watters and Mr. Garrettson say it was "a little Conference." Mr. Watters "had no notice sent" him that there would be a Conference in Delaware, but when he heard of it, though "in a very weak state of health," he "determined if possible to get there," and "get Mr. Asbury to attend the regularly appointed Conference"; "but all" Mr. Watters "could say or do," Mr. Asbury "could not be prevailed on" to go. All that Mr. Watters "could obtain was the opinion and determination of this little Conference on the matter in debate, and a few letters from Mr. Asbury to several of the oldest preachers."

It is supposed that Mr. Asbury called this Conference; but if he did, he had no legal right to call it. He was at that time neither Mr. Wesley's assistant nor general assistant, for he had been superseded by Mr. Rankin's appointment; and under Mr. Rankin's presidency the Conference of 1777 had appointed a committee to exercise the authority of the general assistant in the absence of Mr. Rankin, and Mr. Asbury was not so much as a member of the committee. This is not all: there is some doubt as to whether Mr. Asbury was at the time so much as a member of the Conference. His name does not appear in the minutes of that year, either as one of the assistants or as receiving an appointment. There is no positive evidence that Mr. Asbury did call the Conference. It is in the range of possibility that the members of the Conference who were present, and participated in its deliberations, called the meeting. If so, the case makes no better showing for legality; for

they were in the minority, and had no right to call it without special provision made by law, and there was no such provision. Another ugly feature about this matter is that if the minority called the Conference, they gave no notice to the majority. Not even Waters had been notified. He chanced to hear of it, and went. So far as the records show, no man who was in favor of administering the ordinances ever heard of the Conference until after it had adjourned. It was therefore, in some phases of it, a clandestine Conference, held for the purpose of defeating the wish of the majority, as the sequel will show. The minutes of this "little Conference" will reveal its purpose:

*Question 6.* Who of the preachers are willing to take the station this Conference shall place them in, and continue till next Conference?

*Answer.* Francis Asbury, Daniel Ruff, Freeborn Garrettson, Thomas McClure, John Cooper, Joseph Hartley, Philip Cox, Caleb B. Pedicord, Lewis Alfrey, Joshua Dudley, Joseph Cromwell, Micajah Debruler, William Watters, Thomas S. Chew, William Gill, Richard Garrettson.<sup>1</sup>

The above question is a peculiar one as to its form. Nothing like it appears in the minutes before or since. The regular Methodist form is, "Where are the preachers stationed?"

After they had taken this obligation, which in Methodism is extrajudicial, they then proceeded to station the preachers under the regular question.

Their next step (not historically, but logically) was: "Ought not Brother Asbury to act as general assistant in America? He ought."<sup>2</sup>

Having elected Mr. Asbury general assistant, the

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<sup>1</sup> Minutes, pp. 18, 19.

<sup>2</sup>*Ibid.*, p. 20.

Conference defined his powers as follows: "How far shall his power extend? On hearing every preacher for and against what is in debate, the right of determination shall rest with him, according to the minutes."<sup>1</sup>

All these matters having been settled, the "Conference so called" proceeded in logical order to dispose of the main question before them, namely: "Shall we guard against a separation from the Church, directly or indirectly? By all means."<sup>2</sup>

This disposed of the ordinances, for it was well understood if they adopted any plan by which the ordinances would be administered, that would be indirectly to separate from the Church. Charles Wesley so understood the matter.<sup>3</sup>

We will now pass from the wilderness of illegality to consider the measures of the legally appointed Conference. Dr. L. M. Lee gives the following account of the measures adopted by this Conference relative to the ordinances:

The proceedings of this Conference in relation to the ordinances, its plan of proceedings, and its opinion of the sacraments will be given in the words of Mr. Gatch, an actor in the scenes, and a participant of the sentiments here described.

*Question 14.* What are our reasons for taking up the administration of the ordinances among us?

*Answer.* Because the episcopal establishment is now dissolved, and therefore in almost all our circuits the members are without the ordinances. We believe it to be our duty.

*Ques. 15.* What preachers do approve of this step?

*Ans.* Isham Tatum, Charles Hopkins, Nelson Reed, Reuben Ellis, P. Gatch, Thomas Morris, James Foster, John Major, An-

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<sup>1</sup> Minutes, p. 20.

<sup>2</sup> *Ibid.*, p. 19.

<sup>3</sup> See Jackson's Life of Charles Wesley, p. 727.

drew Yeargin, Henry Willis, Francis Poythress, John Sigman, Leroy Cole, Carter Cole, James O'Kelly, William Moore, Samuel Roe.

*Ques. 16.* Is it proper to have a committee?

*Ans.* Yes, and by the vote of the preachers.

*Ques. 17.* Who are the committee?

*Ans.* P. Gatch, James Foster, L. Cole, and R. Ellis.

*Ques. 18.* What powers do the preachers vest in the committee?

*Ans.* They do agree to observe all the resolutions of the said committee, so far as the said committee shall adhere to the Scriptures.

*Ques. 19.* What form of ordination shall be observed to authorize any preacher to administer?

*Ans.* By that of a presbytery.

*Ques. 20.* How shall the presbytery be appointed?

*Ans.* By a majority of the preachers.

*Ques. 21.* Who are the presbytery?

*Ans.* P. Gatch, R. Ellis, James Foster, and, in case of necessity, Leroy Cole.

*Ques. 22.* What power is vested in the presbytery by this choice?

*Ans. 1.* To administer the ordinances themselves.

*Ans. 2.* To authorize any other preacher or preachers, approved of by them, by the form of laying on of hands.

*Ques. 23.* What is to be observed as touching the administration of the ordinances, and to whom shall they be administered?

*Ans.* To those who are under our care and discipline.<sup>1</sup>

Here it is a matter of record that questions were decided in Conference by a majority vote of the preachers. This act is in striking contrast with the Delaware Conference, which held that Mr. Asbury should decide questions according to the minutes.

The foregoing history goes to show that the Conference of 1779 met at the time and place appointed,

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<sup>1</sup>Life and Times of Rev. Jesse Lee, pp. 79, 80.

and that it was under the supervision of the committee of control appointed at the Conference of 1777, while Mr. Rankin was in the chair. This committee was to act in the absence of the general assistant. The ordinances had been passed over to the Conference of 1778 and then to 1779. It was therefore regularly and legally in possession of the question. On the legality of the Fluvanna Conference, Dr. Stevens says:

The Fluvanna Conference, being the regularly appointed session of this year, had the question therefore legitimately before it—referred directly to it by the preceding session.

Any student of Methodist history must dissent with diffidence from the judgment of so high an authority as Dr. Nathan Bangs. That historian says that “although the Kent Conference was considered as ‘a preparatory Conference,’ yet if we take into consideration that the one afterwards held in Virginia was held in the absence of the general assistant, we shall see good reason for allowing that this, which was held under the presidency of Mr. Asbury, was the *regular* Conference, and hence their acts and doings are to be considered valid.” The historical evidence is, however, decisively to the contrary. Wesley has superseded Asbury in the office of “general assistant” by the appointment of Rankin. Rankin, as has been shown, had held that office and presided in every Annual Conference down to the preceding session. At the latter Asbury was not present; he was in retirement at Judge White’s house; and as he received no appointment, his name is not even mentioned in any way whatever in the minutes for the year. Watters presided, and the Conference appointed its next session to be held at Fluvanna. The session at Fluvanna was therefore, as Watters calls it, the “regularly appointed Conference.” The original historian of the Church records it as the seventh Conference, merely alluding to that of Kent as “a preparatory Conference.” Instead of Asbury being the general assistant at this time, that office had been, as we have noticed, put in commission at the Conference of 1777, being vested in a committee of five—Gatch, Dromgoole, Glendenning, Ruff, and Watters—in view of

the probable return of Rankin to England. All these commissioners, except Ruff, were within the territory of the Fluvanna Conference; one of them, Gatch, presided at its session, and was the champion of its proposed reforms. Asbury was designated to the office of general assistant by the informal Conference in Kent; he had therefore no previous official authority to call that Conference, nor could his new appointment be considered legal till the majority of his brethren, who were within the Fluvanna Conference, should confirm it. Not till five years later did Asbury receive any such appointment from Wesley. If, then, the question of legality is at all relevant, the Fluvanna session was clearly the legal as well as the regularly appointed Conference of this year. The Kent Conference seemed indeed conscious of the necessity of acknowledging this fact, for in the usual method of proceeding, by question and answer, they say, "Why was the Delaware Conference held?" and answer: "For the convenience of the preachers in the northern stations, that we all might have an opportunity of meeting in Conference, it being advisable for Brother Asbury and Brother Ruff, with some others, to attend in Virginia. It is considered also as preparatory for the Conference in Virginia; our sentiments to be given in by Brother Watters."<sup>1</sup>

Aside from the fact that the Fluvanna Conference proceeded in a regular and orderly way, and that their course is abundantly justified on legal grounds, they can, in addition to all this, be defended on moral and religious grounds.<sup>2</sup>

The attitude of the two parties toward the ordinances after the adjournment of the Fluvanna Conference was anything but hopeful for the unity of Methodism. Grave fears were entertained by both sides that division would be the result, and all seemed to be equally solicitous to prevent such a calamity.

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<sup>1</sup> History of the M. E. Church, vol. ii., pp. 59, 62, 63. See also *Life and Times of Rev. Jesse Lee*, and Neeley's *Governing Conference*, pp. 133, 134.

<sup>2</sup> See *History of the M. E. Church*, by Stevens, vol. ii., p. 65. Also *Life and Times of Rev. Jesse Lee*, pp. 82, 83.

Accordingly, when the illegal Conference met in Baltimore, April 24, 1780, two of the preachers of the legal Conference attended in the interest of harmony and unity. Watters gives the following account of their visit:

Our Conference began in Baltimore for those preachers who rejected the administering the ordinances. Two of our brethren from below, Gatch and R. Ellis, who had adopted the administering the ordinances, attended to see if anything could be done to prevent a total disunion, for they did not wish that to be the case. They both thought their brethren were hard with them, and there was little appearance of anything but an entire separation. They complained that I was the only one who did not join them that treated them with affection and tenderness.<sup>1</sup>

The illegal Conference of 1780 adopted the following minute on the question:

*Question 20.* Does this whole Conference disapprove the step our brethren have taken in Virginia?

*Answer.* Yes.

*Ques. 21.* Do we look upon them no longer as Methodists in connection with Mr. Wesley and us till they come back?

*Ans.* Agreed.

*Ques. 22.* Shall Brothers Asbury, Garretson, and Watters attend the Virginia Conference, and inform them of our proceedings in this, and receive their answer?

*Ans.* Yes.

*Ques. 26.* What must be the conditions of our union with our Virginia brethren?

*Ans.* To suspend all their administrations for one year, and all meet together in Baltimore.<sup>2</sup>

By adopting this course the Conference that had no legal existence proceeded, on certain specified conditions, to expel from the Methodist connection a

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<sup>1</sup> Life of Watters, p. 79.

<sup>2</sup> Minutes, p. 26.



Conference of preachers that then made up the only legal body in America.

Mr. Watters says: "Before Conference rose it appointed Mr. Asbury, Garrettson, and myself to attend their Conference below, but as nothing less than their suspending the administering the ordinances could be the terms of our treaty with them, I awfully feared our visit would be of little consequence; yet I willingly went down, in the name of God, hoping against hope."<sup>1</sup>

The legal Conference met at Manakintown, May 8, 1780. To this Conference Messrs. Asbury, Garrettson, and Watters repaired, charged with their mission of union and peace. They went in fear and trembling as to the result. Watters says he "hoped against hope." Of their undertaking, Mr. Asbury says:

Prepared some papers for Virginia Conference.—I go with a heavy heart; and fear the violence of a party of positive men: Lord, give me wisdom.

On entering into Virginia I have prepared some papers for the Conference, and expect trouble, but grace is almighty.

We rode on to the Manakintown Ferry, much fatigued with the ride; went to friend Smith's, where all the preachers used to meet. I conducted myself with cheerful freedom, but found there was a separation in heart and practice. I spoke with my countryman John Dickins, and found him opposed to our continuance in union with the Episcopal Church. Brothers Watters and Garrettson tried their men and found them inflexible. The Conference was called; Brother Watters, Garrettson, and myself stood back, and being afterwards joined by Brother Dromgoole, we were desired to come in, and I was permitted to speak. I read Mr. Wesley's thoughts against a separation; showed my private letters of instructions from

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<sup>1</sup> Autobiography of William Watters, p. 79.

Mr. Wesley; set before them the sentiments of the Delaware and Baltimore Conferences; read our epistles, and read my letter to Brother Gatch, and Dickins's letter in answer. After some time spent this way, it was proposed to me if I would get the circuits supplied they would desist; but that I could not do. . . . In the afternoon we met; the preachers appeared to me to be farther off; there had been, I thought, some talking out of doors. When we—Asbury, Garrettson, Watters, and Dromgoole—could not come to a conclusion with them, we withdrew, and left them to deliberate on the condition I offered, which was to suspend the measures they had taken for one year. After an hour's conference we were called to receive their answer, which was, they could not submit to the terms of union. I then prepared to leave the house, to go to a near neighbor's to lodge, under the heaviest cloud I ever felt in America. Oh, what I felt! Nor I alone, but the agents on both sides: they wept like children, but kept their opinions. I returned to take leave of Conference, and to go off immediately to the north; but found they were brought to an agreement while I had been praying, as with a broken heart, in the house we went to lodge at; and Brothers Watters and Garrettson had been praying up stairs where the Conference sat. We heard what they had to say—surely the hand of God has been greatly seen in all this: there might have been twenty promising preachers and three thousand people seriously affected by this separation; but the Lord would not suffer this.<sup>1</sup>

Mr. Waters gives a very touching account of their efforts to restore harmony, and what followed. He says:

We found our brethren as loving and as full of zeal as ever, and as fully determined on persevering in their newly adopted mode. . . . We had a great deal of loving conversation, with many tears; but I saw no bitterness, no shyness, no judging each other. We wept and prayed and sobbed, but neither would agree to the other's terms. . . . After waiting two days, and all hopes failing of any accommodation taking place, we had fixed on starting back early in the morning, but late in

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<sup>1</sup> Journal, vol. i., pp. 282, 283.

the evening it was proposed by one of their own party in Conference (none of the others being present) that there should be a suspension of the ordinances for the present year, and that our circumstances should be laid before Mr. Wesley and his advice solicited in the business, also that Mr. Asbury should be requested to ride through the different circuits and superintend the work at large. The proposal in a few minutes took with all but a few. . . . Both sides heartily agreed to the above accommodation.<sup>1</sup>

They agreed to *suspend* the administration of the ordinances for one year, acquaint Mr. Wesley with the gravity of the situation, and meet in a union Conference at Baltimore. No doubt both parties gave Mr. Wesley a full account of the question in all its phases.

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<sup>1</sup> Autobiography of William Watters, pp. 80, 81. See also History of the Methodists, p. 73.

## CHAPTER IV.

### ADOPTION OF CONFERENCE GOVERNMENT IN AMERICAN METHODISM.

**T**HE adoption of Conference government in American Methodism, and the form of said government, are inseparably connected with the sacramental question. This was a live issue from 1777 to 1784. Dr. Stevens says that Mr. Wesley was importuned to make provision for his American adherents to have the sacraments, and that he was doing what he could to meet the demands.

He had written two letters to Lowth, bishop of London, imploring ordination for a single preacher, who might appease the urgency of the American brethren, by traveling among them as a presbyter, and by giving them the sacraments; but the request was denied, Lowth replying that there are three ministers in that country already.<sup>1</sup>

The letters referred to by Dr. Stevens show that Mr. Wesley tried for four years to secure ordination for the American Methodists, but as he had failed in these efforts it was an important question with him what to do. A majority of the American Methodist preachers believed they had a scriptural right to ordain each other and administer the sacraments. Many of Mr. Wesley's English preachers believed they were qualified to baptize the people and give them the Lord's Supper. Charles Wesley, writing to Mr. Nicholas Gilbert, says: "You have heard of

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<sup>1</sup> Stevens's History of Methodism, vol. ii., p. 213.

Paul Greenwood, John Murlin, and Thomas Mitchell's presuming to give the sacraments at Norwich.

. They did it without any ordination, either by bishops or elders; upon the sole authority of a six-penny license; nay, all had not that." <sup>1</sup> Charles Wesley also wrote to John Nelson: "This is the practice of several of our sons in the gospel." <sup>2</sup>

These liberal ideas concerning ministerial functions not only found a congenial home in the minds of English and American Methodist preachers, but Mr. Wesley, some time before this, had adopted liberal views on the same question. In 1746 he read Lord King's work on this point, and in 1756 Bishop Stillingfleet's "Irenicum" bearing on the same subject; and these works prepared the way for his common-sense view of his duties in the future development of his work. Of the former work Mr. Wesley said: "In spite of the vehement prejudices of my education, I was ready to believe that this was a fair and impartial draught; but if so, it would follow that bishops and presbyters are essentially of one order." In regard to the latter he said: "This opinion [that the "episcopal form of church government is prescribed in Scripture"] which I once zealously espoused I have been heartily ashamed of ever since I read Bishop Stillingfleet's "Irenicum." <sup>3</sup>

Inasmuch as the American Methodists were urging Mr. Wesley to send them ordained preachers; and since he could not induce the bishops of the Established Church to ordain men for the work; and in

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<sup>1</sup> Jackson's Life of Charles Wesley, p. 577.

<sup>2</sup> *Ibid.*

<sup>3</sup> Wesley's Works, vol. vii., p. 284.

view of the fact that he had so changed his views that he declared in 1785, "I firmly believe I am a scriptural *episcopos*, as much as any man in England or in Europe";<sup>1</sup> and now that "many of the provinces of North America are totally disjoined from their mother country," and "the English government has no authority over them either civil or ecclesiastical"<sup>2</sup>—there was but one thing for him to do, and that was to comply with the request of the American Methodists by sending them the desired relief.

The measures which Mr. Wesley adopted to meet the wishes of the Americans are briefly stated as follows:

After revolving all the possible forms of church government in his mind, he could find none so well adapted to the exigencies of their condition as that which is episcopal. On this, therefore, he firmly fixed his eye, and proceeded to take measures for executing his resolution.<sup>3</sup>

Mr. Wesley accordingly notified Dr. Coke of his intention to ordain him and send him to America, as a superintendent, to ordain others and administer the sacraments. This proposition startled Dr. Coke. The effect on him is stated as follows:

Dr. Coke was at first startled at a measure so unprecedented in modern days, and he expressed some doubts as to the validity of Mr. Wesley's authority to constitute so important an appointment. But the arguments of Lord King, which had proselyted Mr. Wesley, were recommended to his attention, and time was allowed him to deliberate on the result. Two months, however, had scarcely elapsed before he wrote to Mr. Wesley,

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<sup>1</sup> Wesley's Works, vol. vii., p. 312.

<sup>2</sup>*Ibid.*, p. 311.

<sup>3</sup>Drew's Life of Dr. Coke, ed. 1818, p. 63.

informing him that his objections were silenced, and that he was ready to coöperate with him in any way that was calculated to promote the glory of God and the good of souls.<sup>1</sup>

From the Leeds Conference Mr. Wesley went to Bristol, and Dr. Coke repaired to London to make arrangements to go to America. Soon after Dr. Coke reached London "he received a letter from Mr. Wesley, requesting him to repair immediately to Bristol to receive fuller powers, and to bring with him the Rev. Mr. Creighton, a regularly ordained minister."<sup>2</sup>

Mr. Wesley says: "On Wednesday, September 1st, being now clear in my own mind, I took a step which I had long weighed, and appointed three of our brethren to go and serve the desolate sheep in America, which I verily believe will be much to the glory of God."<sup>3</sup>

Mr. Wesley furnished Dr. Coke with "letters of ordination" as follows:

To all to whom these presents shall come, John Wesley, late Fellow of Lincoln College in Oxford, Presbyter of the Church of England, sendeth greeting.

Whereas many of the people in the southern provinces of North America, who desire to continue under my care, and still adhere to the doctrines and discipline of the Church of England, are greatly distressed for want of ministers to administer the sacraments of baptism and the Lord's Supper, according to the usage of the same Church; and whereas there does not appear to be any other way of supplying them with ministers—

Know all men, that I, *John Wesley*, think myself to be providentially called at this time to set apart some persons for the work of the ministry in America. And therefore, under the protection of Almighty God, and with a single eye to his glory, I have this day set apart as a superintendent, by the imposition

<sup>1</sup> Drew's Life of Dr. Coke, p. 64.

<sup>2</sup>*Ibid.*, p. 65.

<sup>3</sup>*Ibid.*

of my hands, and prayer (being assisted by other ordained ministers), Thomas Coke, Doctor of Civil Law, a Presbyter of the Church of England, and a man whom I judge to be well qualified for that great work. And I do hereby recommend him to all whom it may concern, as a fit person to preside over the flock of Christ. In testimony whereof, I have hereunto set my hand and seal, this second day of September, in the year of our Lord one thousand seven hundred and eighty-four.

JOHN WESLEY.<sup>1</sup>

We now turn from England and Mr. Wesley's ordinations to the form of church government he adopted and *recommended* to his societies in America to consider their reception by the American Methodists.

Dr. Coke, Mr. Whatcoat, and Mr. Vasey sailed from Bristol September 18, 1784, for America, and reached New York November 3. On his arrival in New York, Dr. Coke went out to the house of a Mr. Sands, where he met John Dickins, the station preacher. "To him Dr. Coke unfolded the plan which Mr. Wesley had adopted for the regulation and government of his societies in America. And it was no small consolation to him to learn that the plan met his entire approbation; and so confident was he of Mr. Asbury's concurrence that he advised him immediately to make it public throughout all the societies, being fully assured that the name of Mr. Wesley would impart a degree of sanction to the measure which would disarm resistance, even if any were to be apprehended. But that nothing might be done precipitately, Dr. Coke declined carrying the advice into execution until he had seen Mr. Asbury, to whom he had a particular message, although they were personally un-

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<sup>1</sup>Drew's Life of Dr. Coke, p. 66.



known to each other, that they might act in concert, and take no step that should not be the result of calm deliberation.”<sup>1</sup>

Dr. Coke met Mr. Asbury for the first time at Barratt's Chapel, in Delaware, Sunday, November 14. After they left the church they talked over Mr. Wesley's plan for the organization and government of American Methodism. Mr. Asbury had invited about fifteen of the preachers to meet him in the vicinity of Barratt's Chapel, so that “in case Dr. Coke should have anything of importance to communicate from England,” they might be consulted concerning it; and on Monday, November 15, they were called in, and acted in the capacity of an advisory council as to the best course to pursue in reference to Mr. Wesley's recommendations. On these points Mr. Asbury says:

Sunday, 15 [14], I came to Barratt's Chapel; here, to my great joy, I met these dear men of God, Dr. Coke and Richard Whatcoat. We were greatly comforted together. I was shocked when first informed of the intention of these my brethren in coming to this country; it may be of God. My answer to them was, If the preachers unanimously choose me, I shall not act in the capacity I have hitherto done by Mr. Wesley's appointment. The design of organizing the Methodists into an Independent Episcopal Church was opened to the preachers present, and it was agreed to call a general Conference, to meet at Baltimore the ensuing Christmas.<sup>2</sup>

The approaching Conference and the plan of church government recommended by Mr. Wesley was a question of growing interest. On November 23, Mr. Asbury says, “Brother Poythress and myself had much talk about the new plan,” and “Fri-

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<sup>1</sup> Drew's Life of Dr. Coke, pp. 90, 91.

<sup>2</sup> Journal, vol. i., p. 876.

day, 26, I observed . . . as a day of fasting and prayer, that I might know the will of God in the matter that is shortly to come before our Conference. The preachers and people seem to be much pleased with the projected plan; I myself am led to think it is of the Lord. I am not tickled with the honor to be gained; I see danger in the way. . . Part of my time is, and must necessarily be, taken up with preparing for the Conference." "Tuesday [Dec.], 14, I met Dr. Coke at Abingdon. . . We talked of our concerns in great love." "Saturday, 18, spent the day at Perry Hall, partly in preparing for Conference. . . Continued at Perry Hall until Friday, twenty-fourth. We then rode to Baltimore, where we met a few preachers." <sup>1</sup>

This was the time of the opening of the Christmas Conference. About sixty preachers were present. Viewed from any standpoint, it was a great occasion.

The Conference assigned the following reasons for what it did:

As it was unanimously agreed at this Conference that circumstances made it expedient for us to become a separate body, under the denomination of the *Methodist Episcopal Church*, it is necessary that we should here assign some reasons for so doing.

The following extract of a letter from the Rev. Mr. John Wesley will afford as good an explanation as can be given of this subject:

"BRISTOL, September 10th, 1784.

"To Dr. Coke, Mr. Asbury, and our Brethren in North America:

"1. By a very uncommon train of providences, many of the provinces of North America are totally disjoined from the British Empire, and erected into independent states. The English government has no authority over them, either civil or ecclesiastical, any more than over the states of Holland. A civil au-

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<sup>1</sup>Asbury's Journal, vol. i., p. 377.

thority is exercised over them, partly by the congress, partly by the state assemblies. But no one either exercises or claims any ecclesiastical authority at all. In this peculiar situation some thousands of the inhabitants of these states desire my advice; and in compliance with their desire, I have drawn up a little sketch.

“2. Lord King’s account of the primitive Church convinced me many years ago that bishops and presbyters are the same order, and consequently have the same right to ordain. For many years I have been importuned from time to time to exercise this right by ordaining part of our traveling preachers. But I have still refused, not only for peace’s sake, but because I was determined as little as possible to violate the established order of the national Church to which I belonged.

“3. But the case is widely different between England and North America. Here there are bishops who have a legal jurisdiction. In America there are none, and but few parish ministers. So that for some hundred miles together there is none either to baptize or to administer the Lord’s Supper. Here therefore my scruples are at an end; and I conceive myself at full liberty, as I violate no order and invade no man’s right, by appointing and sending laborers into the harvest.

“4. I have accordingly appointed Dr. Coke and Mr. Francis Asbury to be joint superintendents over our brethren in North America. As also Richard Whatcoat and Thomas Vasey, to act as elders among them, by baptizing and administering the Lord’s Supper.

“5. If anyone will point out a more rational and scriptural way of feeding and guiding those poor sheep in the wilderness, I will gladly embrace it. At present I cannot see any better method than that I have taken.

“6. It has indeed been proposed to desire the English bishops to ordain part of our preachers for America. But to this I object, (1) I desired the bishop of London to ordain one only, but could not prevail; (2) If they consented, we know the slowness of their proceedings, but the matter admits of no delay; (3) If they would ordain them *now*, they would likewise expect to govern them, and how grievously would this entangle us; (4) As our American brethren are now totally disentangled both from the State and from the English hierarchy, we dare not

entangle them again, either with the one or the other.—They are now at full liberty simply to follow the Scriptures and the primitive Church. And we judge it best that they should stand fast in that liberty wherewith God has so strangely made them free.

JOHN WESLEY.”

Therefore at this Conference we formed ourselves into an independent Church; and following the counsel of Mr. John Wesley, who recommended the episcopal mode of church government, we thought it best to become an episcopal Church, making the episcopal office elective, and the elected superintendent or bishop amenable to the body of ministers and preachers.<sup>1</sup>

Mr. Strickland gives a minute account of the order in which the business of the Conference was transacted. He says: “The first thing brought before the body was the letter of Mr. Wesley, which was subjected to a calm and thorough deliberation.”<sup>2</sup> “The letter of Mr. Wesley” here referred to is the one addressed “to Dr. Coke, Mr. Asbury, and our brethren in North America.”

The next business transacted, according to Mr. Strickland, was: “The question came up in regard to the title by which they should be designated. At this crisis John Dickins . . . rose and proposed *The Methodist Episcopal Church*, which was adopted without a dissenting voice.”<sup>3</sup>

Following Mr. Strickland, we learn that “the next act was to declare the office of bishop elective, after which a unanimous vote was cast in favor of Dr. Thomas Coke and Francis Asbury as bishops of this Church.”<sup>4</sup>

<sup>1</sup> Minutes, ed. 1813, pp. 49-51.

<sup>2</sup> Life and Times of Francis Asbury, p. 146.

<sup>3</sup> *Ibid.*, p. 149.

<sup>4</sup> *Ibid.*

Mr. Asbury gives the following account of the proceedings of the Conference:

It was agreed to form ourselves into an episcopal Church, and to have superintendents, elders, and deacons. When the Conference was seated, Dr. Coke and myself were unanimously elected to the superintendency of the Church, and my ordination followed, after being previously ordained deacon and elder.

Twelve elders were elected and solemnly set apart to serve our societies in the United States, one for Antigua, and two for Nova Scotia. We spent the whole week in Conference, debating freely, and determining all things by majority of votes.

We were in great haste, and did much business in a little time.<sup>1</sup>

The Rev. William Watters says:

We formed ourselves into a separate Church. This change was proposed to us by Mr. Wesley, after we had craved his advice on the subject, but could not take effect till adopted by us, which was done in a deliberate, formal manner at a Conference called for the purpose, in which there was not one dissenting voice.<sup>2</sup>

In addition to the foregoing historical facts, Jesse Lee gives the following points which help to make up the governing principles of Methodism, as adopted by the Christmas Conference:

*Question 2.* What can be done in order to the future union of the Methodists?

*Answer.* During the life of the Reverend Mr. Wesley we acknowledge ourselves his sons in the gospel, ready in matters belonging to church government to obey his commands. And we do engage after his death to do everything that we judge consistent with the cause of religion in America, and the political interest of these states, to preserve and promote our union with the Methodists in Europe.

*Ques. 27.* To whom is the superintendent amenable for his conduct?

<sup>1</sup>Journal, vol. i., pp. 377, 378.

<sup>2</sup>Autobiography, p. 104.

*Ans.* To the Conference, who have power to expel him for improper conduct if they see it necessary.

N. B.—No person shall be ordained a superintendent, elder, or deacon without the consent of a majority of the Conference, and the consent and imposition of hands of a superintendent, except in the following instance.

The Methodists were pretty generally pleased at our becoming a Church, and heartily united together in the plan which the Conference had adopted.<sup>1</sup>

This is the place to inquire into the legal rights and powers of the Christmas Conference held in 1784, and into the status of the Methodist Episcopal Church in America as it stands related to said Conference.

Dr. J. J. Tigert contends that Mr. Wesley did not provide for or intend that a Conference such as was held in Baltimore in 1784 should meet and determine the fate of his plans submitted to the American Methodists. On this point he says:

He [Wesley] did not intend the separation of the American and English Methodists into two communions, one under the government of bishops and the other under that of the Conference. .

Mr. Wesley did not include in his scheme the assembling of the American itinerants to pass judgment upon his proposals and plans, and to accept the one and elect the other of his appointees to the general superintendency. Wesley never intended to originate an American General Conference.<sup>2</sup>

The thirteenth section of the Deed of Declaration is as follows:

Thirteenth. And for the convenience of the chapels and premises already, or which may hereafter be given or conveyed upon the trusts aforesaid, situate in Ireland or other parts out of the kingdom of Great Britain, the Conference shall and may,

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<sup>1</sup> See History of the Methodists, pp. 95, 96, 98, 107.

<sup>2</sup> Constitutional History, pp. 187, 188, 191.

when and as often as it shall seem expedient, but not otherwise, appoint and delegate any member or members of the Conference with all or any of the powers, privileges, and advantages, hereinbefore contained or vested in the Conference; and all and every the acts, admissions, expulsions, and appointments whatsoever of such member or members of the Conference, so appointed and delegated as aforesaid, the same being put into writing and signed by such delegate or delegates, and entered into the Journals or Minutes of the Conference, and subscribed as after mentioned, shall be deemed, taken, and be the acts, admissions, expulsions, and appointments of the Conference to all intents, constructions, and purposes whatsoever, from the respective times when the same shall be done by such delegate or delegates, notwithstanding anything herein contained to the contrary.

Dr. Tigert, commenting on the above, gives the following reason why he thinks Mr. Wesley did not provide for Conference government in America:

It is intelligible why, in organizing American Methodism into an Episcopal Church, he [Wesley] did not provide for a Supreme General Conference, since he had deliberately adopted measures by which the authority of the British Conference might be extended to any part of the world. If the Central Conference extended in its oversight and government to America, so that the Americans were not really without Conference government, it is just as true that the English Methodists were not left without an ordained ministry, and that in three orders.<sup>1</sup>

Dr. Tigert explains as follows how the American Methodists secured Conference government:

It was the unexpected organization of the Christmas Conference—which grew out of the stand which Mr. Asbury took in the interview at Barratt's Chapel, and whose powers and authority he recognized as capable of being set over against those of Mr. Wesley alone—that gave the American Church autonomy; *i. e.*, independence of Mr. Wesley and the English Con-

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<sup>1</sup> Constitutional History, pp. 189, 190.

ference. . . . This Conference had not entered into Wesley's platform or Coke's. In Asbury's platform, however, it was the chief plank. . . . As the originator of the United Societies, he [Wesley] had been the fountain of authority, both legislative and executive, in England and, up to this time, in America. He therefore intended that Coke and Asbury should be the general superintendents of the American work as himself was of the English, making regulations and enforcing them, distributing the preachers according to their own judgment, and having entire and unquestioned oversight, *with this exception*: Coke and Asbury were to continue subject to Mr. Wesley's authority, he, not unnaturally, considering himself as the proper head of the whole Methodist connection in Europe and America.

If Asbury had accepted on these conditions, there would have been no independent American Conference.

The bishops would have been subject to Mr. Wesley during his life, but in America would have governed as he did in England.

All legislative and executive powers would have been resident in the bishops themselves, subject to Mr. Wesley during his life, and to the British Conference after his decease. This was Mr. Wesley's plan; and it is due to the sagacity and farsighted statesmanship of Asbury, in declining to accept office on such terms, that a General Conference—first general in fact, and afterwards delegated and limited—was subsequently incorporated in the fundamental organization of American Episcopal Methodism.<sup>1</sup>

The reason why Mr. Asbury took the stand he did in reference to calling a Conference is, according to Dr. Tigert, as follows:

He had hitherto acted in the capacity of sole captain general of the American itinerants and societies. He did not propose the instant surrender of this position to a stranger. . . . He intended that his new position should be based upon the consent of the preachers, and not alone upon the jurisdiction of Mr. Wesley, extended to America in the person of his envoy.

He could not easily surrender the advantages of this unique relation which he sustained to the preachers and the

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<sup>1</sup> Constitutional History, pp. 192-194.



work. Hence his proposal to call a Conference, which was neither suggested by Coke nor contemplated by Wesley. The situation of the Americans during the war had brought about his own designation to office by election of the preachers. He now followed up that precedent, and interposed the Conference as an effectual barrier against the supremacy of Mr. Wesley.<sup>1</sup>

Dr. Tigert completes his pen picture of Mr. Asbury when he represents him as seeking to retain his power over the American Conference after he has put it between himself and Mr. Wesley as an "effectual barrier against the supremacy of Mr. Wesley." Dr. Tigert's final stroke is as follows:

Of course he did not propose, as an ordained superintendent, to hand over to the Conference all those powers which he had freely exercised in the presidential chair and elsewhere when he was simply an elected general assistant.<sup>2</sup>

Dr. Tigert's portrait of Mr. Asbury is: Mr. Wesley did not contemplate, much less provide for, a governing Conference in America, and the reason he did not was that he intended the American Methodists should be subject to the British Conference after his death. Contrary to the wishes and plans of his chief, Mr. Asbury stepped in and called a Conference and provided for Conference government. The reason he did this was that he might put the American Conference as a sufficient authority between Mr. Wesley and himself. He did not propose to be subject to Mr. Wesley any longer. But while he took himself out of his hands and placed himself beyond his reach, "he did not propose . . . to hand over to the Conference all those powers which

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<sup>1</sup> Constitutional History, pp. 183-185.

<sup>2</sup>*Ibid.*, pp. 184, 185.

he had freely exercised" while acting in the capacity of general assistant; *i. e.*, while he did not intend to submit to Mr. Wesley in any degree, yet he did intend that the American Conference should be subject to him. According to this view, Mr. Asbury was impatient of the authority of another, but sought to keep others in subjection to himself.

Do the facts of history paint such a picture of Mr. Asbury, or is it the work of a fertile imagination, seeking to bolster up a theory concerning Mr. Wesley's plans for the government of a world-wide Methodism, and of the American General Conference? It certainly makes Mr. Asbury inconsistent with his well-known character, and, we believe, with a correct interpretation of the history of the organization of the Methodist Episcopal Church in America.

Did Mr. Asbury, contrary to the wishes of Mr. Wesley, and in violation of his plan, call a General Conference to organize the American Methodists into an independent Episcopal Church; and if so, did he do it to put the Conference between Mr. Wesley's authority and himself? In answering this question we raise another: Was not Mr. Wesley the father of the Methodist movement, and up to the Christmas Conference the only source of authority in Methodism both in Europe and America? Did he not make the laws for both countries? Did not Mr. Wesley appoint Mr. Asbury as general assistant in America, and was he not bound by Mr. Wesley's will in all matters pertaining to the Methodist societies so long as he remained a member of the same? Did not Mr. Asbury recognize this authority over himself and the American Methodists in the great controversy con-

cerning the ordinances from 1777 to 1780; and does not Dr. Tigert show that if the southern preachers had outgeneraled Mr. Asbury and the northern preachers in that controversy, while they would have been a true Church they would have been Presbyterians and not Wesleyan Methodists, because they had departed from the authority and wishes of Mr. Wesley and his representative, Mr. Asbury? In view of Mr. Wesley's relation to American Methodism, if Mr. Asbury interposed the Conference contrary to the instructions of Mr. Wesley, and made it the source of authority instead of him, is American Methodism regular and legitimate in its origin and relation to the great Methodist movement? Is it not rather a secession Church than a legitimate part of Methodism? The point is here made that if American Methodism adopted a measure so radical and all-pervasive as Conference government, which they did adopt without the sanction of Mr. Wesley, while the Church in its relation to the divine mission in the world is a true Church, in its relation to Mr. Wesley and his authority it is not legitimate, because on that side the law of its own continuity is broken. Whatever else it may be, it is not the Church that Mr. Wesley provided for and designed to organize.

In a further consideration of the question as to whether or not Mr. Wesley provided for a Conference plank in his platform, we must keep in mind that he was making provision to organize the Methodist societies of America into a Church—into an independent Episcopal Church—and that his provisions or plans were in the nature of a recommendation for the consideration of the Methodist preachers.

The charter under which the American Methodists organized themselves into a Church has a significant address: "To Dr. Coke, Mr. Asbury, and our brethren in North America." The letter that follows is exceedingly broad and general in its terms. In this letter Mr. Wesley says: "Some thousands of the inhabitants of these states desire my advice, and in compliance with their desire I have drawn up a little sketch." He concludes this "little sketch" with these significant words: "They [our American brethren] are now at full liberty simply to follow the Scriptures and the primitive Church. And we judge it best that they should stand fast in the liberty wherewith God has so strangely made them free." "Follow the Scriptures and the primitive Church" is all the latitude that could be given, all that could be asked. No chartered rights could be broader. Here is ample room for calling the Christmas Conference, and the principles it adopted. There is not a word in this charter that in any way limits or modifies the advice given "to follow the Scriptures and the primitive Church."

In harmony with this elastic charter Mr. Wesley determined nothing. He simply recommended a plan of church government to the American Methodist preachers, and left them to adopt it and fill it out in their own way. It is but natural that since the Conference was an existing institution it would be adopted as the organizing agency to put into operation Mr. Wesley's recommendations. "Following the counsel of Mr. John Wesley, who recommended the episcopal mode of church government,"<sup>1</sup> is the

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<sup>1</sup> Minutes, p. 51.

official record. On the same point Lee says Dr. Coke and Mr. Asbury "then consulted together about the plan which Mr. Wesley had adopted and recommended to us."<sup>1</sup> Mr. Watters says: "We formed ourselves into a separate Church. This change was proposed to us by Mr. Wesley, after we had craved his advice on the subject."<sup>2</sup> Mr. Ware says: "We did . . . receive and follow the advice of Mr. Wesley." Mr. Garrettson says: "I am fully of the opinion that the Christmas Conference was authorized by Mr. Wesley, to organize themselves under an episcopal form of church government," and "I doubt not but that we followed his wishes to a punctilio." Coke and Asbury, in their notes on the Discipline, say: "The late Rev. John Wesley recommended the episcopal form to his societies in America." Mr. Wesley said "to Dr. Coke, Mr. Asbury, and our brethren in North America": You are "at full liberty simply to follow the Scriptures and the primitive Church."

We learn from the foregoing that Mr. Wesley "recommended," "proposed," "counseled," and "advised," and the Christmas Conference "followed his wishes to a punctilio."

Did Mr. Wesley intimate at any time that there was to be no Conference? Did not Mr. Asbury and the American preachers understand that under their chartered rights, as sent to them from Mr. Wesley, they could call a Conference and organize the Church? If Mr. Wesley did not intend that the preachers should have a voice in the organization, why did he

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<sup>1</sup> History of the Methodists, p. 93.

<sup>2</sup> Life of Watters, p. 104.

address his letter to them in connection with Dr. Coke and Mr. Asbury? for it was the organization he was writing to them about, and they could have no voice only in a Conference or convention of some kind. While Mr. Wesley did not order or specifically recommend that a Conference be held, yet it is clear that he left ample room for such a proceeding in his charter, and he was so understood by those who acted under it. He knew full well that they had been in the habit of holding Conferences, and deciding some things by a majority vote.

Is it not reasonable to suppose that if Mr. Asbury and the American preachers were violating the trust committed to them in calling a Conference and empowering it with all governmental authority, Dr. Coke, Mr. Whatcoat, and Mr. Vasey would have known it, and in some way have made the fact known that they were acting contrary to the wishes of Mr. Wesley? They were not men who were afraid to express their sentiments when duty called. It is all the more reasonable to believe that they would have opposed such a radical step if they had known that Mr. Wesley had not made sufficient provision for it, since they were his chosen agents to put into operation his plans. Charged with such an important mission as they were, it is not fair to assume that they did not know Mr. Wesley's wishes in all the essential features of the plan. To have known these things, and then to have stood by and seen them violated in such a radical manner as the calling of the Christmas Conference, and the governing principles it adopted, without a word of objection or opposition on their part, would have shown them unworthy the

honor conferred on them and the confidence reposed in them by their father and chief. If either one of these brethren ever said a word that would lead anyone to infer that they did not sanction the idea of a Conference and the powers assigned to it, we have not found it. Dr. Coke and Mr. Asbury discussed Mr. Wesley's plans and talked of holding a Conference, when they met at Barratt's Chapel, and the next day called in fifteen preachers and formed a council, and in the presence of Dr. Coke and Mr. Whatcoat the proposed Conference was discussed, and unanimously recommended without a word of objection from either one of Mr. Wesley's agents. It was yet five weeks before the Conference would meet, and all this time we hear not so much as a whisper from any quarter that Mr. Wesley did not intend such a thing. They met, and resolved to put all power in the Conference, and Mr. Wesley's three English representatives were present and participated in all the business of the Conference without a word of objection on the ground that such a Conference was not a plank in Mr. Wesley's platform.

Mr. Emory, in his "Defense of Our Fathers," makes the following strong statement in reply to Mr. McCaine, which corroborates the foregoing statements:

It will be observed further that the design of organizing the Methodists in America into "an independent Episcopal Church" was first opened by Dr. Coke to Mr. Asbury and the preachers present, in the presence of Richard Whatcoat. Now there is every reason to believe that Mr. Whatcoat had a correct acquaintance with the intentions of Mr. Wesley; and when Dr. Coke stated the design of forming the Methodists in America into an "independent Episcopal Church," if Mr. Whatcoat knew that this was contrary to Mr. Wesley's intentions, it was his

duty to express it. The universally admitted character of Mr. Whatcoat is a sufficient guarantee that he would have done so. A man of greater simplicity, guilelessness, and honesty probably never lived. Mr. McCaine must therefore involve Mr. Whatcoat also in the guilt of this knavish conspiracy, or else set him down as an ignorant tool. Yet Mr. Wesley, who knew him well, thought him not unworthy, two years after, to be recommended for the office of general superintendent. Such are the consequences continually involved in Mr. McCaine's hypotheses.<sup>1</sup>

The question as to whether or not Mr. Wesley's wishes had been violated by the American preachers in calling the Conference and empowering it with all governmental control must have light thrown on it from Mr. Wesley's attitude on the subject after the Conference adjourned. Did Mr. Wesley know what had been done by the American Conference? If he did know, how did he receive it—with approval or disapproval? These questions are clearly answered in the following extract:

The Conference at which the Church was organized terminated January 1, 1785. The Minutes were published by Coke with the title, "General Minutes of the Conferences of the Methodist Episcopal Church in America." The Minutes, as has been stated, expressly say that the American societies were formed into an Episcopal Church, and this, too, at the "recommendation" of Wesley. By July, Coke was with Wesley at the British Conference. By the 26th of the preceding June, his own journal, containing this phrase, was inspected by Wesley. Coke also took to England the American Minutes, and they were printed on a press which Wesley used, and under his own eye. The Baltimore proceedings were therefore known to Wesley, but we hear of no remonstrance from him. They soon became known, by the Minutes, to the public; and when Coke was attacked in a newspaper for what he had done,

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<sup>1</sup> Defense of Our Fathers, by John Emory, D.D., pp. 124, 125.



he replied, as we have seen, through the press, that "he had done nothing but under the direction of Mr. Wesley." Wesley never denied it. How are all these facts explicable, on the supposition that Coke and Asbury had ambitiously broken over Wesley's restrictions?<sup>1</sup>

It is clear from the above that Mr. Wesley did know what was done, for he had the Minutes of the Conference before him. "They were printed on a press which Wesley used, and under his own eye." More than this: "When Coke was attacked in a newspaper for what he had done, he replied, through the press, that 'he had done nothing but under the direction of Mr. Wesley.' Wesley never denied it." Well may Dr. Stevens ask, "How are all these facts explicable, on the supposition that Coke and Asbury had ambitiously broken over Wesley's restrictions" by calling a Conference and putting the government of the Church in its hands?

On the question before us Dr. John Emory states the case as follows in his reply to Mr. McCaine:

If Dr. Coke and Mr. Asbury were conscious that they had been guilty of violating Mr. Wesley's instructions, in the organization of the *Methodist Episcopal Church*, is it probable that they would immediately after have printed and published these Minutes with this title, and with an explicit statement of what had been done, and thus have exposed their acts in the face of Mr. Wesley, and of the world? Is it probable that Dr. Coke, particularly, who had the Minutes printed, would have done this, knowing that he was so soon to return to England?<sup>2</sup>

If Mr. Wesley did not specifically put in his platform a Conference plank, yet the fact that he was never heard to object to what was done after the act

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<sup>1</sup> History of Methodism by Stevens, vol. ii., ed. 1859, p. 227; Defense of Our Fathers, pp. 73-75.

<sup>2</sup> Defense of Our Fathers, p. 70.

is sufficient evidence that he approved the calling of the Conference and what it did, and that the charter he bequeathed "to Dr. Coke, Mr. Asbury, and our brethren in North America" was sufficiently catholic in spirit and elastic in form to include all that his agents and the American preachers did. This part of our subject is clearly and forcibly stated as follows:

Had Mr. Asbury been actuated by the . . . motives . . . imputed to him, how easy had it been for him to have accomplished his purpose, and to have organized a Church in America, with himself at its head, independently of Mr. Wesley and of the whole European connection. And what plausible pretext or occasion did he want? Early in the revolutionary struggle every other English preacher had fled. He alone, through the contest, devoted himself to American Methodism, at the risk and hazard of everything dear. Mr. Wesley himself had openly and publicly espoused the royal cause against the colonies. This greatly embarrassed the American Methodists, and especially the preachers, who were watched and hunted and imprisoned and beaten, as his emissaries; and, through him, as the *disguised* emissaries of Great Britain. The societies, except in very few instances, were destitute of the sacraments. They could neither obtain baptism for their children nor the Lord's Supper for themselves. On this account, as early as 1778, Mr. Asbury was earnestly importuned to take measures that the Methodists might enjoy the same privileges as other Churches. He resisted the proposal. Yet so serious was the crisis that a large number of the preachers, to satisfy the urgent necessities of the societies, chose from among themselves three senior brethren, who ordained others by the imposition of their hands. Among these were some of the ablest and most influential men then in the connection. Surely no man ever had a fairer or a more plausible opportunity than Mr. Asbury then had to organize and to place himself at the head of the Methodist Church in America, independently of Mr. Wesley. Yet it was he who, with the late venerable Watters, Garrettson, and others, resolutely remained in connection with Mr. Wesley, and rested

not till by his indefatigable labors the whole of the seceding body were brought back, to await and to abide by Mr. Wesley's advice. And this is the same man who, after his death, is now charged with organizing a Church, separate from and independent of Mr. Wesley, with himself at its head in conjunction with another!<sup>1</sup>

We have given what seems to us to be the natural and legitimate interpretation of the history bearing on the question under discussion. It is not only natural and legitimate, but it harmonizes the discordant elements that have been supposed to inhere in the historical facts. This interpretation allows that Mr. Wesley drew up a charter for the guidance of the American Methodists in organizing themselves into an independent Church that was sufficiently elastic to legitimately allow all they did in 1784. This being true the Methodist Episcopal Church in America is regular and legitimate in its autonomy, and is in no sense schismatical. We think it can never be truthfully charged that the American Methodists seceded from Mr. Wesley, inasmuch as they did what he provided they should do. The foregoing interpretation also puts Mr. Asbury in harmony with his well-known character, and represents him as acting in accord with Mr. Wesley's provisions, and removes what would otherwise be a stain on his fair name. It also accords with the harmony and love that existed between Mr. Wesley and the American Methodists, between Mr. Wesley and Dr. Coke, and between Dr. Coke and Mr. Asbury on the one hand, and the American preachers on the other, in regard to everything that took place in connection with the work of the Christmas Conference.

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<sup>1</sup> Defense of Our Fathers, pp. 116, 117.

Mr. Wesley, at the request of his societies in America, drew up a form of church government, made provision for its execution, and recommended it to the societies in this country. In harmony with the recommendation, a Conference was called and the plan adopted. The Conference took the government of the Church out of the hands of what had been the general assistant, but henceforth the bishop, and put it in its own hands. It was a change from personal to Conference government, and was done with the knowledge and consent of Mr. Wesley's agents, whom he had sent over to America to assist in organizing the Church. When Mr. Wesley saw the Minutes, he approved what his special agents and the American preachers did. Everything was regular and legitimate, and the Conference had all the power to act that any has since had. So far as the fact and the principle involved are concerned, not only independence of the Established Church, but also of Mr. Wesley while he lived, and of the English Conference after his death, was secured. Nothing done subsequent to this could or did give any more independence of Mr. Wesley and the English Conference. No Conference since 1784 has possessed and exercised any more power than it did and, in the very nature of the case, could. Nothing in the way of right, power, or principle was added either in 1787 or 1792. The Conference in 1787 simply interpreted the act of 1784 in the adjudication of the case before it, and repealed the statute because it had been misunderstood, but did not add anything in the way of right or power. There was nothing that the Conference in 1792 did that increased its rights and pow-

ers, or in any way gave it any more independence of anybody or anything. It simply agreed to meet once in four years, a thing the Conference in 1784 could have done just as well. We maintain that Mr. Wesley simply made a recommendation to the American societies, and left them free to act, "to follow the Scriptures and the primitive Church," and that they organized themselves into an independent Episcopal Church, independent in fact as well as in form, and declared in no unmistakable terms that all governing power should henceforth be in the Conference.

Dr. Tigert thinks he has discovered in Mr. Wesley's intentions a purpose to put the American Methodists under the control of the English Conference after his death, and thereby secure to the American Methodists Conference government. He is led to this conclusion because he has assumed that Mr. Wesley provided Conference government for the English, and for the Americans an ordained ministry, but provided for them no governing Conference. He concludes from these assumptions that it was Mr. Wesley's intention to put the two in supplemental relation to each other, and have a world-wide ecclesiasticism. The basis of this position Dr. Tigert thinks he finds in the thirteenth section of the Deed of Declaration, which we have already quoted.

We think this position has already been refuted in the arguments made in defense of Bishop Asbury, but we object to this position further, in the first place, that if Mr. Wesley had intended to adopt the policy, he would have placed the American Methodists under the control of the English Conference as

definitely as he did the Irish; he would have said so in no unmistakable terms, and would not have left a matter so stupendous and important to the inference of his American followers, to be discovered one hundred years after the act. It must not be forgotten that Mr. Wesley had his American plans under consideration while he was making provision for the future government of English Methodism, and if it had been his intention to put the American Methodists under the authority of the English Conference, he would have left some specific statement to that effect. On the contrary, when Mr. Wesley wrote his letter "to Dr. Coke, Mr. Asbury, and our brethren in North America," he said, "I have accordingly appointed Dr. Coke and Mr. Francis Asbury to be *joint superintendents over our brethren in North America,*" thereby limiting their authority and work as such to North America; and as a matter of fact, Dr. Coke never exercised the peculiar functions of his office as a superintendent or bishop anywhere outside of this country. In addition to this, we find the following in Dr. Coke's ordination parchments, signed by Mr. Wesley: "Whereas many of the people in the southern provinces of North America . . . are greatly distressed for want of ministers to administer the sacraments, . . . know all men that I, John Wesley, think myself to be providentially called at this time to set apart some persons for the work of the ministry in America." That Dr. Coke was to confine his work as a superintendent or bishop to America, or to "the southern provinces of North America," there is no doubt from his parchments.

Another objection to the theory of a world-wide Methodist ecclesiasticism lies in the fact that each form of government was superinduced by questions peculiar to each country that had to be met, and what would meet the demands of one would not of the other. In England it was the chapel question, and the necessity for a legal definition of "the Conference of the people called Methodists" in its relation to the chapels, that finally determined the *form* of government there. In this country it was the administration of the ordinances that determined the *form* of government finally adopted by the American Methodists. Mr. Drew says: "Mr. Wesley was perfectly satisfied that the form of government which he had provided for England was by no means adapted for America."<sup>1</sup> Mr. Wesley on this very point says: "The case is widely different between England and North America."<sup>2</sup>

We interpose as another objection to the theory, that Conferences had been held in America from 1773 to 1784, and had determined some questions by a majority vote of the preachers. The Conference was a recognized institution in American Methodism; so when Mr. Wesley delegated Dr. Coke to go to America and assist in organizing the societies into an independent Church, he left them free, as we have seen, to adopt their own method of organization, and to correlate its different departments; and they called a General Conference, and put all authority in its hands.

Finally, Mr. Wesley said: "Our American breth-

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<sup>1</sup> Life of Coke, p. 62.

<sup>2</sup>*Ibid.*, p. 67.

ren . . . are now at full liberty simply to follow the Scriptures and the primitive Church. And we judge it best that they should stand fast in that liberty wherewith God has so strangely made them free." In the language of a friend, we ask: "What liberty did they have if the English Conference was to govern here? He would have said, 'You are politically free, but my plan is that you shall be ecclesiastically bound by the Conference in England.'"<sup>1</sup>

If Mr. Wesley had intended the English Conference to govern the American Methodists, would not the leading men in that Conference have known it, and would they not have let the fact be known, and after his death would not that Conference have undertaken to carry out the provision in regard to America as they did in Ireland? But as far as we have been able to learn, they have never made any attempt to enthrone the English Conference over American Methodism.

That Mr. Wesley desired some sort of union among the ecclesiastical Methodist families of the world after his death, is not denied; but that he expected or desired that it should be a union of ecclesiastical government is not a fact, as the contrary is asserted in the forms of government he adopted for England and America. It is also clear that Mr. Wesley desired and expected to be recognized during his life as the father and head of the Methodist movement, and continue to hold some kind of advisory relation to the American Methodists. He at least expected to continue to nominate the super-

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<sup>1</sup> From a private letter.



intendents, subject to the confirmation of the Conference.

Another question of growing interest in regard to the Conference of 1784 is the relation of the episcopacy to the Church as fixed by said Conference. There is an effort in some quarters to make the episcopacy antedate the Church, and in an important sense make it appear that it originated or made the Church, thereby making the Church dependent on the episcopacy for its existence. This grows out of the fact that Mr. Wesley ordained Dr. Coke a superintendent for America, said ordination antedating the organization of the Church. It must be remembered that what Mr. Wesley did was done in obedience to the urgent demands of the American Methodists; and what he did was not sent over to them as final, but was in the nature of a recommendation, and, clearly within the purview of the charter of organization, was left to them to accept or reject, as they might think best. As the work to be done was the organization of a Church—an independent Church—it could not have been otherwise. This idea is in accord with Mr. Wesley's recommendation, and explains the language of Mr. Watters when he says Mr. Wesley's recommendations "could not take effect till adopted by us, which was done in a deliberate, formal manner, at a Conference called for that purpose."

The facts are that when the Conference convened Mr. Wesley's letter was read and analyzed, and the Conference declared themselves to be the Methodist Episcopal Church, "making the episcopal office elective, and the elected superintendent or bishop

amenable to the body of ministers and preachers.”<sup>1</sup> After this was done, Mr. Asbury says: “Dr. Coke and myself were unanimously elected to the superintendency of the Church, and my ordination followed, after being previously ordained deacon and elder.”<sup>2</sup> It was this election of Dr. Coke that made him a superintendent or bishop in the Methodist Episcopal Church, and not the ordination previously received at the hands of Mr. Wesley. In view of all the facts involved, Dr. Coke could never have been a bishop in the Methodist Episcopal Church without this election; and let it be remembered that he was *elected*, and not *received*, as distinguished from Mr. Asbury’s election. It is true that in ordination we run back to Mr. Wesley, and we are proud that it is so; but the Conference of 1784 could have formed a presbytery, and after election could have ordained Mr. Asbury to the office of bishop in the Methodist Episcopal Church, and it would have been just as scriptural; but Mr. Wesley, after he decided to provide for the organization of a Church, could not impose Dr. Coke, Mr. Asbury, or any other man on that Church, in any capacity, without the consent of the governing power of the Church. Election, and not ordination, is the *sine qua non* of a bishop in American Episcopal Methodism. The Conference also made the bishop amenable to the body of ministers; and when Mr. Asbury put himself at the disposal of the elective franchise of the Conference, he at the same time “handed over to the Conference all those powers which he had freely exercised” while in the capacity

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<sup>1</sup> Minutes, p. 51.

<sup>2</sup> Journal, vol. i., p. 378.

of general assistant or in any other official relation to said Conference. He was henceforth to exercise powers only as they were "handed over to" him by the Conference. Not only the right to regulate the office, but the office itself, is subject to the will of all the members of all the Annual Conferences; and they cannot only regulate and control the officer, but they can modify or destroy the office. The Conference is supreme in American Episcopal Methodism.

## CHAPTER V.

### THE GOVERNING BODY IN AMERICAN EPISCOPAL METHODISM FROM 1784 TO 1808.

**T**HE question as to what constituted the governing body in the Church from 1784 to 1808 is one of more than historical or speculative interest. It involves the nature and status of the Christmas Conference, the General Conference of 1792 and its successors, including the General Conference of 1808, the delegated General Conference of 1812 and its successors, and the legality of the legislation and government of the Church from 1784 to the present time.

It is contended that the Christmas Conference was called without Mr. Wesley's authority, and contrary to his wishes. We have seen that if this be true, whatever else the Church may be, it is lacking from an ecclesiastical standpoint in its legal and regular autonomy, in that its continuity was broken in its organization. It is also claimed that the Christmas Conference met in obedience to Mr. Wesley's call, as set forth in his letter "to Dr. Coke, Mr. Asbury, and our brethren in North America," for the purpose of organizing a Church, and that this letter was written in response to a call from the preachers and laity of America, who made up the constituency of the Church. According to the above claims, it completed the work for which it was convened, and adjourned without providing for a successor or governing body

in American Episcopal Methodism. Therefore, according to the last contention above made, a body of like powers could meet again only in obedience to a call from the same authority, in harmony with the wishes of the same constituency, and that no body except one of like nature could undo what it did. In consequence of the assumption that no successor was provided for by the Christmas Conference, it is claimed that there was a "term of eight years, from 1784 to 1792," that the Church was without "permanent and orderly government."<sup>1</sup> In view of the peculiar reason for which the Christmas Conference was convened, the work it did, the composition of its membership, and the claim that it made no provision for a successor, it is denied the right to be recognized as a General Conference. As the Christmas Conference was not a General Conference, but an organizing convention, called for the one purpose of organizing the Church; and inasmuch as it provided for no successor, but left the Church without "permanent and orderly government," and as the authority that convened it has never called another, and since another could not meet legally without a call from the constituency and by appointment from the same authority, it must follow that the organization and legislative acts adopted by it as essential to the perfection of the organization are beyond the reach of any other power.

The Hon. Rufus Choate, the leading counsel for the Methodist Episcopal Church in the Methodist Church property case, is careful to define the status of the Christmas Conference. He says:

The Methodist Episcopal Church itself was created in 1784

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<sup>1</sup> Dr. J. J. Tigert, in *The Methodist Review*, January, 1895, p. 420.

by an extraordinary and special Conference, convened for that precise purpose, under a letter from Wesley, and in accordance with the universal wish of Methodism, lay and clerical, in the United States. When that Conference had done its work of creating the Church, it retired, disappeared, and has never again been assembled in the history of Methodism. By virtue of that act of creation, the Methodist Church has existed ever since, and will exist until another Conference called for the purpose, representing and embodying the will of the real sovereign—that is, universal Methodism as a whole—shall decree its dissolution.<sup>1</sup>

A serious defect in Mr. Choate's reasoning is that he represents the laity of the Church as participating in its government. At this time they waived their rights in the premises, and simply acquiesced in what was done. They did not take any active part in the organization and government of the Church. This point is clearly stated by the Hon. Reverdy Johnson, one of the counsel for the Methodist Episcopal Church, South, as follows:

Where did the predecessors of the northern preachers, from whom all authority is derived, look for the power to call the Conference of 1784, for the purpose for which it was called? To John Wesley, as the person in whom, at that time, was vested *the entire and exclusive sovereign power of the Church*. . . . In 1784 they claimed, and claimed alone, the power they exerted in the Conference of that year, under the authority of Wesley, *as the author, sovereign, and founder of the Church*. Who constituted the Conference of 1784? It was a general assembly of the preachers connected with the Methodist denomination of Christians, convoked only as preachers, without reference to any lay authority express or implied. . . . They admit no constituency. The time is perhaps coming when, in all probability, they will be obliged to admit one for the good of the Church. They resolve for themselves, and for themselves alone, as the possessors of all the ecclesiastical power known to the Meth-

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<sup>1</sup>The Methodist Church Property Case, pp. 266, 267.

odist Church, to carry out the particular organization authorized by John Wesley, without reference to any other authority than his, and their own conviction that the good of the Church demanded such a special and particular organization.<sup>1</sup>

Inasmuch as the laity waived their rights to a voice in the organization and government of the Church, and in view of the fact that the organizing charter given to the American Methodists by Mr. Wesley left the preachers free to act in the premises, Mr. Choate's position that no governing body with like powers to the Christmas Conference could meet and act independent of all others unless authorized by the laity, and with the sanction and call of Mr. Wesley, falls to the ground, unless such stipulations had been entered into by the Christmas Conference. No such powers were reserved.

Mr. Choate contends that the Christmas Conference was not a General Conference, but was distinct from and inferior to any General Conference that ever assembled. He says:

The creator of the Methodist Episcopal Church in 1784 was not a General Conference meeting in the ordinary course, but it was a power totally distinct from, and other than, any General Conference that was ever convened.<sup>2</sup>

Mr. Choate asserts in the above that the Christmas Conference "was a power totally distinct from, and other than, any General Conference that ever convened." Is this a true statement? This question will be answered later on. Mr. Choate also says the Christmas Conference was not a General Conference. Dr. J. J. Tigert takes the same position.<sup>3</sup> This as-

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<sup>1</sup>The Methodist Church Property Case, p. 328.

<sup>2</sup>*Ibid.*, p. 267.

<sup>3</sup>See his *Constitutional History of American Episcopal Methodism*, and *The Methodist Review* for July-August, 1895.

sumption is not tenable. The reasons the two learned gentlemen give, in the light of history, are far from satisfactory. They insist that it was simply an organizing convention. It did other work than organize the Church; it legislated, and elected and ordained deacons, elders, and bishops. The frequent use of the words "regular" and "quadrennial" to distinguish the General Conference from the Christmas Conference puts a distinction where it is of no value in the discussion of the principles involved. The question as to fact must be determined from the membership of the respective bodies, from the power lodged in this membership, and the work done. The history of both in all the essential elements identifies them as one and the same body and gives to them the same powers, and in both name and fact makes the Christmas Conference a General Conference in everything except its place in the line of the regular quadrennial General Conferences, which is of no importance.<sup>1</sup>

Mr. Choate not only denies that the Christmas Conference is a General Conference, but he also contends that it made no provision for a General Conference. If we accept his position in reference to his "convention extraordinary"—its origin and powers, and the perpetuity of its work—it is difficult to see how a General Conference could ever meet legally; yet he gives the following account of its origin in 1792, with some of its powers and relationships as he understood these questions:

In 1792 a General Conference developed itself. The proper

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<sup>1</sup> See Professor Collins Denny's discussion of this question in *The Methodist Review* for July-August, 1895; and the *Christian Advocate*, January 28, 1896.



mode of expressing it, perhaps, would be to say that the General Conference was the last and most perfect in the series of mere administrative agencies. It merely developed itself and took the place of the bishop and his advisers, and had exactly the same power to dissolve the Church which the bishop had, and not one solitary particle more. Sitting in its ordinary capacity, and under its ordinary call, it never represented the sovereign power which created the Church. At the time the General Conference came into existence, it was just exactly what the bishop's council had been, what the bishop had been, what the Annual and Quarterly Conferences had been—administrative functionaries, but neither creators, nor destroyers, nor participators in a particle of that transcendent power.<sup>1</sup>

Mr. Choate asserts that “the General Conference . . . never represented the sovereign power which created the Church.” Having told us what the General Conference is not and cannot do, the distinguished lawyer proceeds to tell us definitely what powers it did have prior to 1808: “It was just exactly what the bishop's Council had been, what the bishops had been, what the Annual and Quarterly Conferences had been—administrative functionaries.” Let us examine into the truth of these claims. The essential features of the Christmas Conference are the following:

1. It was called by a council of preachers composed of Dr. Coke, Mr. Asbury, Mr. Whatcoat, and fifteen others, in harmony with the plans and recommendations of Mr. Wesley, for the purpose of organizing the Methodist societies in America into an independent Church. This organization involved much more than the election and ordination of deacons, elders, and bishops. The governing principles had

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<sup>1</sup> The Methodist Church Property Case, pp. 267, 272, 273.

to be outlined and the government of the Church lodged somewhere. The Christmas Conference had a legal existence, and was authorized by Mr. Wesley to determine the form of government and regulate the power.

2. The traveling preachers were the only members of the Conference. The laity had no representatives in the organizing body of American Methodism. They waived their rights and acquiesced in what was done. On this point Mr. Lee says: "The Methodists were pretty generally pleased at our becoming a Church, and heartily united together in the plan which the Conference had adopted."<sup>1</sup> The laity did not take their place in the lawmaking body of the Church for more than eighty years after its organization.

3. The Conference, according to the letter "to Dr. Coke, Mr. Asbury, and our brethren in North America," was clothed with all the power of Mr. Wesley to do what they thought was for the glory of God. They were competent to act, and what they did was regularly and legally done.

4. This brings us to the question of chief importance, namely, What form of government did they adopt, and in whose hands did they put the ruling power of the Church? It must not be forgotten that up to 1784 the only recognized authority in the Methodist societies was Mr. Wesley. His assistants and general assistants had only a delegated authority. They were appointed, changed, and recalled by him at will. It was a period of personal government. When the Christmas Conference organized the Church in har-

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<sup>1</sup> History of the Methodists, p. 107.

mony with Mr. Wesley's recommendations, the right to govern was transferred from him to "the body of ministers and preachers." This phrase defined the governing body in American Methodism until 1866. The change was a radical one. It was a change from personal to Conference government. The latter became supreme. The traveling preachers did not simply put themselves in the place of Mr. Wesley's American general assistants, for these exercised only a delegated authority; but they put themselves in Mr. Wesley's place, and were thenceforth the recognized source of power, making the superintendent or bishop amenable to themselves. Wherever found, or assembled under whatever name, they, as the governing body in the Church, could do what they thought best with the doctrines and economy of the Church. They were absolute. This was true of them whether they all met together in one body or assembled in sections at different times and places.

At first the traveling preachers expressed their will through what was known at the time as District, but subsequently Annual, Conferences. The acts of these Conferences were taken as the acts of "the body of ministers and preachers," and in view of this fact they were held as the acts of what at that time was called the General Conference. On this point Lee says:

In 1785 we had three Conferences. This was the first time that we had more than one regular Conference in the same year. For a few years before this we had two Conferences in the same year, but they were considered only as one, first begun in one place and adjourned to another. Now there were three and no adjournment. This year and the two succeeding years the Minutes were called "Minutes of the Gen-

eral Conference of the Methodist Episcopal Church in America." The business of the three Conferences was all arranged in the Minutes as if it had all been done at one time and place.<sup>1</sup>

Referring to Lee's statement as above, Dr. Neeley says:

The title he gives suggests a fact of much value, namely, that the members of all the Annual Conferences constituted the General Conference, and though they might not come together in one place, yet that agreed upon by each and all of the Annual Conferences was equivalent to the action of the General Conference when assembled in one place.<sup>2</sup>

Such a plan of legislating for the Church was not desirable, and therefore could not be long continued. Its inconvenience was recognized by all concerned, and was very unsatisfactory. Mr. Asbury thought it would be inconvenient and expensive for all the preachers to meet together in a General Conference. The question was, How to meet the practical difficulties? Mr. Asbury conceived the idea of a "Council," and on account of his great influence carried it through, though there was decided opposition to it.

Mr. Lee gives a full account of the Council:

Whereas the holding of General Conferences on this extensive continent would be attended with a variety of difficulties, and many inconveniences to the work of God; and whereas we judge it expedient\* that a Council should be formed of chosen men out of the several districts as representatives of the whole connection, to meet at stated times, in what manner is this Council to be formed, what shall be its powers, and what further regulations shall be made concerning it?

*Answer 1.* Our bishops and presiding elders shall be the members of this Council; provided, that the members who form the Council be never fewer than nine. And if any unavoidable cir-

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<sup>1</sup> History of the Methodists, p. 118.

<sup>2</sup> Governing Conference, p. 268.

cumstance prevent the attendance of a presiding elder at the Council, he shall have authority to send another elder out of his own district to represent him; but the elder so sent by the absenting presiding elder shall have no seat in the Council without the approbation of the bishop or bishops and presiding elders present. And if, after the above mentioned provisions are complied with, any unavoidable circumstance or any contingencies reduce the number to less than nine, the bishop shall immediately summon such elders as do not preside, to complete the number.

*Ans. 2.* These shall have authority to mature everything they shall judge expedient. 1. To preserve the general union. 2. To render and preserve the external form of worship similar in all our societies. . 3. To preserve the essentials of the Methodist doctrines and discipline pure and uncorrupted. 4. To correct all abuses and disorders. And, lastly, they are authorized to mature everything they may see necessary for the good of the Church, and for the promoting and improving our colleges and plan of education.

*Ans. 3.* Provided, nevertheless, that nothing shall be received as the resolution of the Council unless it be assented to unanimously by the Council; and nothing so assented to by the Council shall be binding in any district till it has been agreed upon by a majority of the Conference which is held for that district.

*Ans. 4.* The bishop shall have authority to summon the Council to meet at such times and places as they shall judge expedient.

*Ans. 5.* The first Council shall be held at Cokesbury on the first day of next December.<sup>1</sup>

Among other things the first Council adopted the following:

No resolution shall be formed in such a Council without the consent of the bishop and two-thirds of the members present.

Every resolution of the first Council shall be put to vote in each Conference, and shall not be adopted unless it obtains a majority of the different Conferences. But every resolution

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<sup>1</sup> Lee's History of the Methodists, pp. 149, 150.

which is received by a majority of the several Conferences shall be received by every member of each Conference.<sup>1</sup>

The second Council defined its powers as follows:

What powers do this Council consider themselves invested with by their electors?

First, they *unanimously* consider themselves invested with *full* power to act *decisively* in all temporal matters; and, secondly, to *recommend* to the several Conferences any new canons or alterations to be made in any old ones.<sup>2</sup>

Reverting to the preceding history, we find the following points worthy of special attention:

1. On the membership of the Council Mr. Lee says: "The Council was to be composed of the bishops and the presiding elders; the presiding elders were appointed, changed, and put out of office by the bishop, and just when he pleased; of course the whole of the Council were to consist of the bishops and a few other men of their own choice or appointing."<sup>3</sup> This provision was a serious blunder.

2. But while the above point is true, we must remember that the Council was a delegated body, with its powers clearly defined in a constitution adopted by "the body of ministers and preachers." This point distinguishes it from the Christmas Conference on the one hand, and from the regular quadrennial General Conferences of 1792-1808, on the other. The Council was a subordinate body—subordinate to "the body of ministers and preachers." The constitution of the Council says: "Nothing . . . assented to by the Council . . . shall be binding in any district till

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<sup>1</sup> Lee's History of the Methodists, p. 153.

<sup>2</sup> *Ibid.*, p. 155.

<sup>3</sup> *Ibid.*, pp. 150, 151.

it has been agreed upon by a majority of the Conference which is held for that district." While this clause contains the reserved rights of the preachers, it was a weak and dangerous law. On this point Lee says: "If one district should agree to any important point, and another district should reject it, the union between the two districts would be broken; and in process of time our United Societies would be thrown into disorder and confusion."

3. The first Council adopted a resolution which if assented to by "the body of ministers and preachers" would have changed the above rule. It was in the nature of an amendment to the constitution, and is as follows: "Every resolution of the first Council . . . shall not be adopted unless it obtains a majority of the different Conferences. But every resolution which is received by a majority of the several Conferences shall be received by every member of each Conference." Commenting on this, Lee says: "When the Council was first proposed, the preachers in each district were to have the power to reject or retain the measures which had been adopted by the Council. But when the proceedings of the Council came out, they had changed the plan, and determined that if a majority of the preachers in the different districts should approve of the proceedings of the Council, it should then be binding on every preacher in each district."<sup>1</sup> This proposed change was an improvement in two respects: (1) It took the weak element out of the constitution, which would have arrayed one Conference against another and thrown the whole connection into confusion. (2) It put the

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<sup>1</sup> History of the Methodists, p. 155.

legislative power of the Church in the hands of a majority of the preachers.

4. When the Council met it proceeded to form its own constitution. In one particular it was in conflict with the constitution provided for the Council by the preachers. Their provision was: "Nothing shall be received as the resolution of the Council, unless it be assented to unanimously by the Council." The proposed amendment was: "No resolution shall be formed in such a Council without the consent of the bishop and two-thirds of the members present." This was a change from a *unanimous assent* in the first to a *two-thirds consent* in the latter. But this is not all: "Without the consent of the bishop," "no resolution" could be formed. This made the bishop superior to the whole Council, and gave him absolute control of all proposed legislation.

5. When all the parts of the law governing the Council are brought together, it is put in the attitude of a select committee, with power only to formulate and recommend legislation. But there was this fact: the right to originate legislation was *exclusively* in the hands of the Council.

6. The Council was a retrograde movement in the government of the Church. Its tendencies were decidedly toward centralization of power. If the constitution proposed by the Council was to control, it was a backward movement in the direction of personal government, as no legislation could be had without the consent of the bishop. It is not strange that the Council was generally unsatisfactory and proved a failure. Mr. Lee says: "Their proceedings gave such dissatisfaction to our connection in gen-



eral, and to some of the traveling preachers in particular, that they were forced to abandon the plan.”<sup>1</sup>

Mr. Lee was in favor of a General Conference instead of the Council. He says: “When the first Council met I wrote them a letter, in which I stated my objections to their plan, and pointed out the difficulties that it would produce, and contended for a General Conference; which plan was disapproved of by all the Council.”<sup>2</sup>

Mr. Lee submitted his plan to Bishop Asbury for a General Conference. The bishop refers to the matter as follows: “Brother Jesse Lee put a paper into my hand proposing the election of not less than two nor more than four preachers from each Conference, to form a General Conference in Baltimore in December, 1792, to be continued annually.”<sup>3</sup>

The Annual Conferences of 1791–92 decided to hold a General Conference. The only record of the fact is the following minute:

*Question 15.* When and where shall the next Conference be held?

*Answer.* General Conference, November 1, 1792.”<sup>4</sup>

Mr. Lee gives an account of the General Conference of 1792 as follows:

On the first day of November, 1792, the first regular General Conference began in Baltimore. Our preachers who had been received into full connection came together from all parts of the United States where we had any circuits formed, with an expectation that something of great importance would take place in the connection in consequence of that Conference.

<sup>1</sup> History of the Methodists, p. 158.

<sup>2</sup> *Ibid.*, pp. 158, 159.

<sup>3</sup> Journal, vol. ii., p. 110.

<sup>4</sup> Minutes, 1792, p. 119.

The preachers generally thought that in all probability there would never be another Conference of that kind, at which all the preachers in the connection might attend. The work was spreading through all the United States and the different territories, and was likely to increase more and more, so that it was generally thought that this Conference would adopt some permanent regulations, which would prevent the preachers in future from coming together in a General Conference. This persuasion brought out more of the preachers than otherwise would have attended.

The Conference proceeded in the first place to form some rules and regulations for conducting the business which lay before them. One of the rules for the regulation of the Conference was this: "It shall take two-thirds of all the members of the Conference to make a new rule or abolish an old one; but a majority may alter or amend any rule."<sup>1</sup>

The preceding history gives the following facts and principles in regard to the General Conference of 1792:

1. The Annual Conferences, whose membership was composed of "the body of ministers and preachers," decided that a General Conference should meet in Baltimore, November 1, 1792.

2. This same "body of ministers and preachers," who constituted the membership of the Annual Conferences, were members of the General Conference. In a governmental sense, the membership of the General Conference was identical with the membership of the Christmas Conference.

3. This being true, and the Christmas Conference having put the source of authority in the hands of the traveling preachers, the General Conference of 1792 was in no sense a delegated body, since the laity neither claimed nor exercised their rights in the or-

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<sup>1</sup> History of the Methodists, pp. 176-178.

ganization of the Church. According to the decision of the Christmas Conference the membership of the General Conference of 1792 had not only executive but sovereign power, and held the destiny of the Church in their hands. These traveling preachers were a law unto themselves, for there was no check on their power at any point. The membership and powers of the Christmas Conference and the General Conference of 1792 were identical in point of authority.

4. These two facts remained the same down to and including the General Conference of 1808, when the sovereign power in the Church made provision for a delegated General Conference. This delegated body inherited all the powers of "the body of ministers and preachers," except certain specified restrictions. Outside of these the delegated body can do all its constituency can. This point is vital, but not well understood. The Supreme Court of the United States has decided it: "At the time of this change, and as a part of it, certain limitations were imposed upon the powers of the General Conference, called the six Restrictive Articles. . . Subject to these restrictions, the delegated Conference possessed the same powers as when composed of the entire body of preachers. . . In all other respects, and in everything else that concerns the welfare of the Church, the General Conference represents the sovereign power the same as before."<sup>1</sup>

5. The assumption of Mr. Choate that the General Conference of 1792 had no more power than the bishop or the council is wide of the mark. Mr. Wes-

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<sup>1</sup> Howard 16: 307, 308.

ley's assistants and general assistants never possessed any such power as was held by said Conference. They had only a delegated authority, for they were subject to the will of Mr. Wesley. The bishop in American Methodism never possessed any power save what is conferred upon him by the supreme authority of the Church. His has been from the beginning, and is now, a delegated authority. Except the office itself, the bishop is absolutely in the hands of the delegated General Conference, subject only to his constitutional right to trial by a committee. The Council never possessed the powers of the General Conferences of 1792-1808. It was a delegated body, and its acts were subject to "the body of ministers and preachers," the sovereign power in the Church.

6. These facts and principles identify the Christmas Conference and the General Conferences of 1792-1808 as one and the same body, and with equal clearness distinguish them from the bishop and the Council. These same facts and principles also show that the Church was not without regular and orderly government from 1784 to 1792, but then, and ever since, the Church has had regular and orderly government. From 1784 to the present time the Church's autonomy has been regular and legal, and the continuity unbroken.

The subject of this chapter may be concluded with an examination into some of the practical workings of the governing principles adopted in 1784. It would be a matter of great surprise if in such a radical change in the form of our church government there was not introduced some conflicting and, on the surface at least, contradicting legislation, to say

nothing of inevitable misunderstanding and disagreement in the execution of the rules adopted. In 1784 the General Conference made "the episcopal office elective, and the elected superintendent amenable to the body of ministers and preachers."<sup>1</sup> The preachers decided to elect the superintendent and control him when elected, instead of his being appointed and controlled by Mr. Wesley as he had done up to that time. The same Conference also adopted the following: "During the life of the Reverend Mr. Wesley, we acknowledge ourselves his sons in the gospel, ready in matters belonging to church government to obey his commands."<sup>2</sup> This rule was the occasion of serious trouble. The phrase "ready in matters belonging to church government," etc., on the surface is in conflict with the rule declaring "the episcopal office elective," provided Mr. Wesley wished to give any commands in that particular. On this point Mr. Wesley wrote to Dr. Coke as follows:

LONDON, September 6, 1786.

*Dear Sir:* I desire that you would appoint a General Conference of all our preachers in the United States to meet at Baltimore on May 1, 1787, and that Mr. Richard Whatcoat may be appointed superintendent with Mr. Francis Asbury. I am, dear sir, your affectionate friend and brother, JOHN WESLEY.<sup>3</sup>

To the Rev. Dr. Coke.

This letter raised some important questions in the execution of the rules as quoted above. Are the letter and the rule declaring submission to Mr. Wesley in conflict with the rule declaring the "episcopal office

<sup>1</sup> Lee's History of the Methodists, p. 94.

<sup>2</sup> *Ibid.*, p. 95.

<sup>3</sup> Governing Conference, p. 273.

elective" ? That they were so understood by some at the time, and have been so viewed by others since, and admit of such construction, is not denied. But do they necessarily conflict? How was the rule agreeing in "matters belonging to church government" to obey Mr. Wesley's commands understood when adopted in 1784? Did Mr. Wesley make it obligatory on the American Conference to incorporate said rule in their Minutes as a link to bind American Methodism to himself? Dr. Tigert so understands the matter. He says:

Asbury then cites the resolution of submission to Mr. Wesley in matters pertaining to church government, adopted in 1784, which he says "we were called upon to give," and "which could not be dispensed with—it must be." It would thus appear that this minute was exacted by Mr. Wesley by the mouth of his envoy, Dr. Coke. The resolution of submission

was Wesley's measure, submitted according to his instructions by his representative, Dr. Coke, for destroying the centrifugal movement in America, and bringing all into subordination to himself.<sup>1</sup>

The quotation Dr. Tigert makes from Bishop Asbury, and from which he draws his conclusion that Mr. Wesley through Dr. Coke demanded the adoption of the rule by the American Conference, is vague—too much so to draw such a conclusion from, in the face of the fact that no evidence is found in the record that such a demand was made; and in the face of the further fact that there is clear historical evidence to the contrary. "They had made the engagement of their own accord, and among themselves, and they believed they had a right to depart therefrom when they pleased, seeing it was not a

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<sup>1</sup> Constitutional History, pp. 229, 232.

contract made with Mr. Wesley or any other person, but an agreement among themselves.”<sup>1</sup>

In addition to Mr. Lee's statement as above, Mr. Ware, as quoted by Dr. T. B. Neeley, says:

As we had volunteered and pledged ourselves to obey, he [Wesley] instructed the Doctor, conformably to his own usage, to put as few questions to vote as possible. After all, we had none to blame as much as ourselves. In the first effusion of our zeal we had adopted a rule binding ourselves to obey Mr. Wesley; and this rule must be rescinded.<sup>2</sup>

Mr. Ware's statement corroborates Mr. Lee's testimony. According to the former, the American preachers “volunteered and pledged” themselves “to obey,” and they did this “in the first effusion of” their “zeal” by adopting the rule. The latter says it was “an agreement among themselves.” The two witnesses do not read very much like “this minute was exacted by Mr. Wesley by the mouth of his envoy, Dr. Coke.” The minute was voluntarily adopted by the American Conference without any demands from any quarter. It is evident that Mr. Asbury's language, quoted by Dr. Tigert, refers to the “first effusion of zeal” on the part of the American preachers.<sup>3</sup> Dr. John Emory adds his testimony to the above:

With regard to that minute, the Conference of 1787 did not consider it in the light of a *contract* with Mr. Wesley. It had no such character. It was a mere voluntary declaration on the

<sup>1</sup> Lee's History of the Methodists, p. 127.

<sup>2</sup> Governing Conference, p. 282.

<sup>3</sup> If, as Dr. Tigert insists, Mr. Wesley did not provide for the Christmas Conference, and did not desire or expect such a meeting, how is it that he instructed Dr. Coke to have the Conference adopt the “binding minute”?

part of the Conference of 1784, and one which had neither been required of them nor was unalterably binding on their successors, who were as free to judge and act for themselves as their predecessors had been.<sup>1</sup>

In answering the question further, as to whether or not there is a necessary conflict between Mr. Wesley's letter and the rule of submission, on the one hand, and the rule making "the episcopal office elective," on the other, and as to whether or not Mr. Wesley intended to deny the American Conference the right of electing their superintendents, attention is called to the fact that he did not appoint Mr. Whatcoat superintendent, but instructed Dr. Coke to "appoint a General Conference, . . . that Mr. Richard Whatcoat *may* be appointed superintendent." If Mr. Wesley intended to appoint Mr. Whatcoat superintendent, why did he desire a General Conference appointed for that purpose? It seems that he only intended to nominate, subject to election by the Conference. On this point Dr. Emory says: "The subsequent part of Mr. Wesley's note does not seem to us at present, however it may have been intended, as an absolute appointment of Mr. Whatcoat."<sup>2</sup>

Dr. Emory offers the following argument in proof that Mr. Wesley intended from the beginning that the American Conference should elect the superintendents:

In the form for "the ordination of superintendents," prepared for us by Mr. Wesley himself, and "recommended" to us in the prayer book of 1784, are these words: "After the gospel and the sermon are ended, the *elected* person shall be presented

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<sup>1</sup> Defense of Our Fathers, p. 123.

<sup>2</sup> *Ibid.*, p. 126.



by two elders unto the superintendent, saying," etc. Again in the same form: "Then the superintendent and elders present shall lay their hands upon the head of the *elected* person kneeling before them," etc. These passages indisputably prove that Mr. Wesley himself at the time contemplated the future election of our superintendents, and not that they were to be appointed by him.<sup>1</sup>

It appears from the preceding history that Mr. Wesley did not intend to deny the American Conference the right to elect their superintendents, but that he very naturally felt, in view of his relation to them as the father of Methodism, as well as the voluntary agreement entered into on their part, to obey him in matters of church government, that he would be allowed to *nominate* the superintendents, and that the Conference would *elect* whom he might nominate. While he lived Mr. Wesley expected to take the general oversight of the American Methodists. In reference to this Mr. Asbury represents Mr. Wesley as saying: "'Not till after the death of Mr. Wesley' our constitution could have its full operation."<sup>2</sup>

Therefore the letter to Dr. Coke raised the question of Mr. Wesley's true relation to, and power over, the American Conference. According to Mr. Lee, "Dr. Coke contended that we were obliged to receive Mr. Whatcoat, because we had said in the Minutes, taken at the Christmas Conference,"<sup>3</sup> that we would obey Mr. Wesley in matters of church government. No doubt Mr. Wesley, with Dr. Coke, did not expect anything else but that the Conference would concur

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<sup>1</sup> Defense of Our Fathers, pp. 123, 124.

<sup>2</sup> Paine's Life of McKendree, vol. ii., p. 296.

<sup>3</sup> History of the Methodists, p. 126.

in the nomination of Mr. Whatcoat. Some grave questions were raised at that point. Could Mr. Wesley call a General Conference and have anyone he might suggest elected and ordained superintendent? If so, would he not claim the right to control him? Would not this in all probability lead to Mr. Asbury's being recalled to England, and would not this concede the right of Mr. Wesley to remove from office any American bishop at will? All these questions were involved in the constitution adopted in 1784, and the respective rights and powers of Mr. Wesley and the American Conference under the same. Mr. Asbury says Mr. Wesley "rigidly contended for a special and independent right of governing the chief minister or ministers of our order, which, in our judgment, went not only to put him out of office, but to remove him from the continent to elsewhere that our father saw fit; and that notwithstanding our constitution and the right of electing every Church officer, and more especially our superintendent, yet we were told 'not till after the death of Mr. Wesley' our constitution could have its full operation."<sup>1</sup> From this it appears that he "contended for a special and independent right of governing the chief minister"; and this contention, says Mr. Asbury, "in our judgment" carried with it the right to remove him from office and order him to go elsewhere that he might see fit. This contention and this inference drawn from such contention by Mr. Asbury, coupled with the fact that Mr. Wesley had ordered Dr. Coke to call a General Conference, and that Mr. Whatcoat be elected superintendent, led the American preachers to remove

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<sup>1</sup> Paine's Life of McKendree, vol. ii., p. 296.

from their Minutes a rule susceptible of such construction, bringing it, as this did, in direct conflict with the fundamental part of their constitution. They repealed the rule, and this act struck Mr. Wesley's name off the American Minutes, and denied to him the rights and powers he claimed, or those inferred from his contention.

The adjudication and settlement of the case by leaving Mr. Wesley's name off the American Minutes in no way changed the government of the Church. The source of power as fixed in 1784 was not changed or increased. It was exactly the same in all respects. All they did was to repeal a rule that had been misunderstood, and was therefore made to antagonize one of their fundamental principles. The discussion of the question and its adjustment secured the good end of more clearly defining the governing principles adopted in 1784, and Mr. Wesley's relation to the same.

The controversy over Mr. Wesley's letter to Dr. Coke, and his acts in relation thereto, raised the question of the rights and powers of American Methodist bishops. The issues growing out of Dr. Coke's conduct were: Shall a bishop of the Methodist Episcopal Church in America exercise the functions of his office while absent from the country in whose bounds the Church exists? Did Dr. Coke have the right to change the time and place of the meetings of the Conferences? These questions were both answered in the negative, and Dr. Coke gave a written statement that he would not in the future interfere in such matters.

The American Conference showed itself to be su-

preme in the contests that came up at the Baltimore Conference in 1787, and this supremacy had been guaranteed to them by the General Conference of 1784. All they did in no sense enlarged their powers, but they used in a legitimate way what they had derived from Mr. Wesley in 1784. The fathers of American Methodism believed that the price of liberty was eternal vigilance, and they promptly checked any invasion of their constitutional rights.

## CHAPTER VI.

### CONSTITUTION AND POWERS OF THE DELEGATED GENERAL CONFERENCE.

THE New York, Western, and South Carolina Conferences memorialized the General Conference of 1808 to provide for a delegated General Conference. Dr. Emory says that in response to this memorial "it was then resolved to have in the future a delegated General Conference, and"<sup>1</sup> they proceeded to adopt a constitution limiting the delegated body in its legislative powers.

The chapter on the General Conference in the Discipline of 1808-12 has been and is now spoken of as the constitution of the delegated General Conference. While this is true, we raise the following questions: 1. What is the constitution of the General Conference? 2. What are the powers conferred and limitations imposed, and what rights have been reserved to "the body of ministers and preachers"? 3. Who is clothed with power to give an authoritative answer to these questions? Without investigation, it would seem to be an easy thing to answer them; but whoever undertakes it, not dogmatically, but in the light of the history of the question, will find his pathway beset with difficulties.

The question as to what the constitution is does not occupy a prominent place in the literature of the Church prior to 1844. Up to that time but little

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<sup>1</sup> Emory's History of the Discipline, p. 111.

had occurred to raise constitutional questions. There was much said in 1820 on the constitutionality of the resolutions adopted making the presiding elders elective, but nothing of such a definite character that tells what they believed the constitution to be.

Dr. Nathan Bangs seems to take the view that the Restrictive Rules make up the constitution. In 1838 he said:

Call these rules, therefore, *restrictive regulations*, or a *constitution of the Church*—for we contend not about names merely—they have ever since been considered as sacredly binding upon all succeeding General Conferences, limiting them in all their legislative acts, and prohibiting them from making inroads upon the doctrines, General Rules, and government of the Church.<sup>1</sup>

The constitutional question was extensively discussed in 1844. Just how far the case they had under consideration had to do with shaping the views of the debaters on the constitutional phases of the same would be hard to determine, but no doubt it had some influence on both sides.

The constitutional phase of the controversy twined itself about a rule on slavery adopted in 1816, which is as follows:

We declare that we are as much as ever convinced of the great evil of slavery; therefore no slaveholder shall be eligible to any official station in our Church hereafter, where the laws of the state in which he lives will admit of emancipation, and permit the liberated slave to enjoy freedom.<sup>2</sup>

In reference to this rule the southern delegates in their protest said:

It must be seen, from the manner in which the compromise was effected, in the shape of a law, agreed to by equal con-

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<sup>1</sup>History of the Methodist Episcopal Church, vol. ii., p. 233.

<sup>2</sup>Emory's History of the Discipline, p. 377.

tracting parties, "the several Annual Conferences," after long and formal negotiation, that it was not a mere legislative enactment, a simple decree of a General Conference, but partakes of the nature of a grave compact, and is invested with all the sacredness and sanctions of a solemn treaty, binding respectively the well-known parties to its terms and stipulations.<sup>1</sup>

The southern delegates do not in so many words call the rule on slavery a constitutional provision, but they do say "it was not a mere legislative enactment, a simple decree of a General Conference, but partakes of the nature of a grave compact, . . . a solemn treaty." In all their debates they gave the rule of 1816 the force of a constitutional provision, but it was never passed upon by the Annual Conferences.

The northern delegates, in their reply to the protest of the southern delegates in 1844 on the constitutionality of the rule on slavery, said:

We maintain that the section on slavery is "a mere legislative enactment, a simple decree of a General Conference," as much under its control as any other portion of the Discipline not covered by the Restrictive Rules.<sup>2</sup>

Mr. Hamline spoke almost entirely on the constitutional phase of the Andrew case. From the speech are gathered his views as to the constitution. He said:

Whence do you gather these life-preserving waters? From the constitution? That, sir, is a very brief instrument, and its provisions can be scanned in two minutes.

Our constitution says to this General Conference, Under such and such restrictions you are commissioned with "*full powers to make rules and regulations for*" cultivating the fields of Methodism. . .

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<sup>1</sup> Journal of the General Conference, vol. ii., p. 205.

<sup>2</sup> *Ibid.*, p. 232.

The power of this Conference is derived, not from its own enactment, but from the constitution. Is there anything in the Restrictive Articles which prohibits the removal or suspension of a bishop?<sup>1</sup>

Dr. William Capers gave his views of the constitution as follows:

As it respects the Church at large, the constitution is contained in the Articles of Religion and the General Rules; as it applies to the General Conference, the Restrictive Rules are technically the constitution.<sup>2</sup>

Dr. Capers distinguishes between what he calls the constitution of the Church and the constitution of the General Conference. He defines the first to be "the Articles of Religion and the General Rules," and the second "the Restrictive Rules." There is nothing vague in this view. Dr. Capers does not include the entire chapter on the General Conference in the constitution.

The Methodist Episcopal Church has been involved in a constitutional controversy for several years. It will throw light on this question to give the leading views held by that branch of Methodism:

The General Conference of 1888 adopted a report of a committee in which, among other things, it is declared "that they are convinced that the organic law of the Church, and especially the constitution of the General Conference, needs to be more accurately defined and determined." It also recommended the "appointment of a commission of seven ministers and seven laymen, one from each General Conference district, and three of the general superintendents, who may prepare paragraphs to take the place of paragraphs 63 to 72, inclusive, in the present edition of the Discipline, said paragraphs to define and determine the constitution of the General Conference, to state of whom it shall

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<sup>1</sup> Journal of the General Conference, vol. ii., pp. 130, 132

<sup>2</sup>*Ibid.*, p. 181.



be composed, and by what method it shall be organized; to declare what shall be the powers thereof, and in what manner they shall be exercised; and to provide the process by which the constitution, or any part thereof, shall be amended, and report to the General Conference of 1892.”<sup>1</sup>

The constitutional commission provided for by the General Conference of 1888 made a report to the General Conference of 1892. In said report they define the constitution of the General Conference as follows:

The present constitution of the delegated General Conference is the document drawn up and adopted by the General Conference of 1808, but modified since that time in accordance with the specifications and restrictions of the original document, and is now included in paragraphs 55 to 64, inclusive, in the Discipline of the Methodist Episcopal Church for 1888, excepting the statement as to the definite number of delegates provided for in paragraph 55, which is an act solely within the power of the General Conference under the permission of the second Restrictive Rule.<sup>2</sup>

As distinguished from the constitution of the General Conference the commission define the organic law of the Methodist Episcopal Church to be “the Articles of Religion, the General Rules of the United Societies, and that which we have already defined as the constitution of the General Conference, while the rules and regulations enacted by the General Conference are statutory and form no part of the organic law of our Church.”<sup>3</sup>

The General Conference of 1892, did not adopt the report of the commission, including the definition of

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<sup>1</sup>The Organic Law of the Methodist Episcopal Church, by Hiram L. Sibley, pp. 71, 72.

<sup>2</sup>*Ibid.*, p. 85.

<sup>3</sup>*Ibid.*

the constitution, but adopted instead the following substitute:

The section on the General Conference, in the Discipline of 1808, as adopted by the General Conference of 1808, has the nature and force of a constitution. That section, together with such modifications as have been adopted since that time in accordance with the provisions for amendment in that section, is the present constitution, and is now included in paragraphs 55 to 64, inclusive, in the Discipline of the Methodist Episcopal Church of 1888, excepting:

1. The change of the proviso for calling an extra session of the General Conference from a unanimous to a two-thirds vote of the Annual Conferences; and
2. That which is known as the plan of lay delegation as recommended by the General Conference of 1868 and passed by the General Conference of 1872.<sup>1</sup>

Judge Sibley contends that the action of the General Conference on the foregoing substitute did not settle the question. He says:

As regards commission and Conference the definitions were, in legal effect, the mere expressions of opinion of those voting for them. . . .

It is only when a case arises which necessarily draws in question the organic character of a provision that the General Conference has jurisdiction judicially to pass upon it.<sup>2</sup>

Dr. Warren objects to the above definition of the constitution on two grounds: (1) Because it leaves out of the constitution that part which fixes definitely the number of delegates; and (2) because the definition includes that part of the section on the General Conference not included in the Restrictive Rule.

As gathered from the foregoing extracts it seems that a majority in the Methodist Episcopal Church

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<sup>1</sup>Journal of the General Conference, 1892, pp. 206, 228.

<sup>2</sup>The Organic Law of the Methodist Episcopal Church, pp. 76, 77.

hold that the constitution of the General Conference is the chapter or section on said Conference, with two exceptions. In contrast with this view there is a party in the Church, how numerous is not known, who contend that there is no such thing as a constitution of the General Conference, but there is a constitution of the Methodist Episcopal Church. This conception of the question is stated in "Views of a Layman," in a pamphlet known as the "Constitution of the Methodist Episcopal Church." The author says: "The Restrictive Rules alone, and, for that matter, the whole of the chapter on the General Conference, lack every essential element of a constitution. . . . There is no such a thing as a constitution of the General Conference."<sup>1</sup>

Dr. Bristol and Judge Lawrence are quoted as agreeing with the "Views of a Layman."<sup>2</sup>

Attention is now called to the views of those who have assumed to speak for the Methodist Episcopal Church, South, on the constitutional question.

In his fraternal address delivered to the General Conference of the Methodist Episcopal Church, Dr. J. J. Tigert spoke as follows:

In one of your most influential journals . . . the question has been raised, "Have we a Church constitution?" You will pardon me, I am sure, if I respectfully hint that in our branch of Episcopal Methodism such a question would provoke a smile in a circle of our ministerial undergraduates.

The boys of to-day who will be the fathers of to-morrow can answer the question, "Has the Methodist Episcopal Church, South, a constitution? . . . There is practical unanimity as to the nature and extent of the constitution."<sup>3</sup>

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<sup>1</sup> Constitution of the Methodist Episcopal Church, pp. 18, 32.

<sup>2</sup> *Ibid.*, pp. 38, 39.

<sup>3</sup> A Voice from the South, pp. 46, 49, 57.

After the above statements we have a right to expect a clear presentation of "the nature and extent" of the constitution. The only thing in the address that approximates such a statement is the following:

When the General Conference of 1808 adjourned, it left bishops, Annual Conferences, and a plan for a delegated General Conference in existence. These three things the first delegated General Conference of 1812 found in existence.<sup>1</sup>

Can we learn from the foregoing statement in what the constitution of the Methodist Episcopal Church, South, consists? The following deliverance from Dr. Tigert will prove more helpful in reaching a conclusion on this question, but it will not enable us to solve the problem, not to the entire satisfaction even of Dr. Tigert. He says:

That the Articles of Religion, the General Rules (which embrace the only terms of membership and communion in Methodism), and the constitution of the General Conference make up the organic law of American Episcopal Methodism, there is no question. There is also universal agreement that the whole of the fifth answer to Question 2, as established by the General Conference of 1808, and cited above, including the enacting clause, "The General Conference shall have full powers to make rules and regulations for our Church," and the six Restrictive Rules, with the proviso for their amendment, generally known as the "constitutional" or "Restrictive Rule" process, together with such alterations as have been introduced by this process—*i. e.*, by the concurrent action of General and Annual Conferences by the constitutional majorities—is included in the constitution of the General Conference. Whether the four preceding answers to Question 2, enacted likewise by the last General Conference of unlimited authority, by which (1) the composition, (2) the quadrennial and extra sessions, (3) the quorum, and (4) the presidency of the delegated General Conference are defined,

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<sup>1</sup>A Voice from the South, p. 58.

are likewise a part of the constitution, is a question about which there is difference of opinion.<sup>1</sup>

The above points about which there is disagreement, according to Dr. Tigert, as to whether or not they are a part of the constitution will leave us in doubt and perplexity when we come to answer the question as to its "extent."

Dr. Mahon is dogmatic where Dr. Tigert is in doubt. The former says:

These rules [Restrictive] are indeed a *part* of the constitution, but they do not *constitute* the General Conference. They simply define the powers of the General Conference, prescribing what the General Conference may do, and what it may not do. Whatever enters into the composition of the General Conference is a part of its constitution. For example, the article which defines its constituency, its presidency, and its powers, are all part of its constitution, and cannot be changed or amended except by the prescribed method.<sup>2</sup>

In addition to the above, Dr. Mahon states his views more fully, and gives an indefinite scope to the constitution, as follows:

I am aware that it has been argued that nothing is included in the constitution of the Church except the paragraphs defining the constituency of the General Conference and the six Restrictive Rules. But such is far from being correct. Our constitution is not determined by chapters and paragraphs, but by the spirit and genius of our government. The Annual Conference is as much an organic feature of our economy as the General Conference. . . . The paragraphs in the Discipline which define the constituency and powers of the Annual Conference are as much a part of the constitution as any other, and the General Conference has no power to legislate so as to destroy or impair these.<sup>3</sup>

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<sup>1</sup> Constitutional History, p. 315.

<sup>2</sup> *Tennessee Methodist*, July 5, 1894.

<sup>3</sup> *The Methodist Review*, January-February, 1895, p. 307.

According to Dr. Mahon "our constitution is not determined by chapters and paragraphs, but by the spirit and genius of our government." A constitution so determined, with each one to decide for himself, as Dr. Mahon does, what is meant by "spirit and genius," is an elastic something to be expanded and contracted to suit the whims of everybody. Not many persons in this country would like to have their liberties secured by such a vague thing. Constitutions are not of that character in America. They are made up of "chapters and paragraphs," and because of this fact they can be known and all alike held to their demands. If it be true that "the paragraphs in the Discipline which define the constituency and powers of the Annual Conferences are as much a part of the constitution as any other," can the General Conference by a simple majority vote make any change in these? Not if the General Conference is forbidden to change the constitution by such a vote. It is very confusing to have matters thrown pellmell into the constitution and then be told that it can be changed only by the concurrent constitutional vote of the General and Annual Conferences, and then in the face of all this allow the General Conference every four years to do what it is prohibited from doing.

The College of Bishops, at the General Conference held in 1894, in their veto message interposed to paragraph 260, held that the plan of lay representation in all its parts is a constitutional provision. They said:

It will be seen that this right, guarded and reserved by the ministry as to their ministerial character and relations, was in

the body of the plan of lay representation, which was submitted and adopted upon the concurrent recommendation of three-fourths of all the members of the several Annual Conferences present and voting, and of a majority of two-thirds of the General Conference, and became thereby a constitutional provision, which cannot be invaded or changed by any mere rule or resolution, or statutory action of the General Conference.<sup>1</sup>

Dr. Paul Whitehead, speaking to the constitutional question raised by the above veto message, says:

In the second place, the veto is based upon a complete confusion of ideas as to what is constitutional in our Church.

Grave as the above errors are, this is deeper and more dangerous. "Unconstitutional" was a word used by Dr. Smith in the draft of his measure in 1854, and unfortunately retained in that of 1870-74. Unfortunately, I say, for *eo nomine* there is no "constitution" in our Church. The "Restrictive Rules" are, however, in the nature of such a fundamental charter, because they forbid the General Conference at the will of a mere majority to enact laws upon the subjects named in those restrictions.<sup>2</sup>

If anyone will carefully compare the foregoing views, as expressed by Drs. Whitehead, Mahon, and Tigert, and the College of Bishops, it will be hard to say what is the constitution.

We are told that the constitution can be changed only in a constitutional way; *i. e.*, by the concurrent constitutional vote of the General and Annual Conferences. Inasmuch as it is claimed that the entire chapter on the General Conference is the constitution of the same, the history of the changes that have been made in the chapter, other than the Restrictive Rules, will throw light on the perplexing question from what has been done.

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<sup>1</sup>Journal of the General Conference, 1894, p. 236.

<sup>2</sup>*Richmond Christian Advocate*, May 31, 1894.

In 1836 D. Ostrander and W. Winans offered the following resolution:

Whereas it is believed that it is perfectly within the province of this Conference to vary the time of its meeting, therefore,

*Resolved*, That the next General Conference will commence its session on the first day of June instead of the first day of May.

Laid on the table.<sup>1</sup>

Dr. T. B. Neeley gives it as his opinion that the reason why this resolution was laid on the table is that the General Conference did not believe it had any right to make any change in the chapter on the same,<sup>2</sup> but there is no evidence that such was the case. It is conjecture. May it not have been laid on the table because the Conference did not wish to make the change? The resolution is valuable in that it gives it as the opinion of the two distinguished members, one from the North and the other from the South, that the General Conference had the right to make the proposed change.

The Convention that organized the Methodist Episcopal Church, South, in 1845, worked under the constitution of Episcopal Methodism adopted in 1808, with such amendments as had been made from time to time. The Convention made the following change in the chapter on the General Conference:

The General Conference shall meet on the first day of May, in the year of our Lord 1846, in the town of Petersburg, Va., and thenceforward in the month of April or May once in four years successively; and in such place, and on such day, as shall be fixed on by the preceding General Conference.<sup>3</sup>

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<sup>1</sup>Journal of the General Conference, vol. i., p. 413.

<sup>2</sup>Governing Conference, pp. 411, 412.

<sup>3</sup>History of the Organization of the Methodist Episcopal Church, South, p. 188.



The General Conference of 1846 made some changes in the above and inserted the following in the Discipline:

The General Conference shall meet . . . in the month of April or May, once in four years perpetually, in such place or places as shall be fixed on by the General Conference from time to time.<sup>1</sup>

The Convention decided that the General Conference, after 1846, should meet "in the month of April or May" instead of "on the first day of May" as was determined by the General Conference of 1808. The General Conference of 1846 adopted the change of time made by the Convention, and changed the word "successively," by the Convention, to "perpetually"; and changed the phrase, "and in such place, and on such day, as shall be fixed on by the preceding General Conference," of the Convention, to "in such place or places as shall be fixed on by the General Conference from time to time."<sup>2</sup>

The General Conference of 1866 omitted from the Discipline the following, which was adopted in 1808:

The general superintendents, with or by the advice of all the Annual Conferences, or if there be no general superintendent, all the Annual Conferences respectively, shall have power to call a General Conference, if they judge it necessary at any time.<sup>3</sup>

Instead of the above, the General Conference of 1866 adopted the following:

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<sup>1</sup> Discipline of 1846, p. 28, Ans. 2.

<sup>2</sup> Rev. P. A. Peterson, in his History of the Revision of the Discipline, page 37, Ans. 4, says: "Inserted 1870: In the month of April or May." The phrase was adopted in 1845 by the Convention that organized the Church, and was agreed to by the General Conference of 1846, and was inserted in the Discipline for that year, and has remained ever since.

<sup>3</sup> Emory's History of the Discipline, p. 112.

The bishops or a majority of all the Annual Conferences shall have authority to call a General Conference, if they judge it necessary, at any time.<sup>1</sup>

These changes are important. The law of 1808 says: "The general superintendents, with or by the advice of all the Annual Conferences, . . . shall have power to call a General Conference," and "if there be no general superintendent, all the Annual Conferences . . . shall have power to call a General Conference."

The law of 1866 says *either* "the bishops or a majority of all the Annual Conferences" can call a General Conference. The law of 1808 required that the bishops must have "the advice of all the Annual Conferences" before they could call a General Conference, but the law of 1866 provides that they can call it without this advice if they think it necessary. The law of 1808 says the Annual Conferences could not call a General Conference if there were any general superintendents, but the law of 1866 gives a majority of all the Annual Conferences power to call it independent of the bishops. The law of 1866 makes the bishops and Annual Conferences independent of each other in the matter of calling a General Conference.

The following was added to the chapter on the General Conference in 1866:

When a General Conference is called, it shall be constituted of the delegates elected to the preceding General Conference, except when an Annual Conference shall prefer to have a new election.<sup>2</sup>

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<sup>1</sup>Journal of the General Conference, 1866, p. 116; Peterson's History of the Revision of the Discipline, p. 37, Ans. 5.

<sup>2</sup>Peterson's History of the Revision of the Discipline, p. 37, Ans. 6.

Another addition made to the chapter on the General Conference in 1866 is as follows:

The bishops shall have authority, when they judge it necessary, to change the place appointed for the meeting of the General Conference.<sup>1</sup>

Another change in reference to a called session of the General Conference was made in 1870, which is as follows:

The place of holding a called session of the General Conference shall be that fixed on by the preceding General Conference.<sup>2</sup>

We are unable to find in the Journal of the General Conference of 1870 any record of the above change. The only explanation of this omission that we can give is that the General Conference of 1866 appointed a committee to rearrange the Discipline. This committee did its work, reported to the General Conference of 1870, and the report was referred to the Committee on Revisals. On May 10 this committee presented a report approving the work of the committee of 1866, "subject to such minor changes as may be judged advisable."<sup>3</sup> On May 11 the Conference adopted the report.<sup>4</sup> In Report No. 7 of the Committee on Revisals of 1870, a proposed change in the law was declined on the ground that it had been "provided for in the new arrangement."<sup>5</sup> It is clear, therefore, that the committee of 1866 did more than rearrange the Discipline; it legislated, for Peterson, in his Revision of the Discipline, notes

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<sup>1</sup> Peterson's History of the Revision of the Discipline, p. 37, Ans. 7.

<sup>2</sup> *Ibid.*, Ans. 6.

<sup>3</sup> Journal of the General Conference of 1870, p. 182.

<sup>4</sup> *Ibid.*, p. 205.

<sup>5</sup> *Ibid.*, p. 262.

other changes that were made in 1870 that cannot be found in the Journal. The evident explanation is that the committee on the rearrangement of the Discipline in 1866 made changes in the law, and the General Conference of 1870 adopted the same; but as the report of 1866 was not published in the Journal, the matter cannot be definitely determined. This much, however, is clear: that these changes were not submitted to the Annual Conferences for confirmation.

It is evident from the foregoing historical facts that it has not been held by the Methodist Episcopal Church, South, that the entire chapter on the General Conference is of such a constitutional nature that it cannot be changed by a majority vote of the General Conference.

The attempt to fix the scope of a constitution, and the rights and powers of the different parties working under its provisions, by abstract reasoning independent of the powers granted and limitations imposed by the terms of the instrument itself, is prejudging the case, and the assumption of the right to determine what it ought to be independent of its own existence. This Dr. T. B. Neeley attempts to do.<sup>1</sup> He says the General Conference has "no more power over the body of the constitution than it has over the Restrictive Rules, unless the instrument clearly gives it such power; and that it does not confer such power is plain." This statement would hold good provided the constitution gave to the General Conference enumerated powers, but it does not do this. It does just the reverse. It gives "full powers" to the Gen-

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<sup>1</sup> Governing Conference, pp. 386, 387.

eral Conference under six enumerated "limitations and restrictions," with these put under the protection of a special proviso. The body of the instrument does not come under any one of these restrictions. The fact that the General Conference of 1808 specifically put the six restrictions under the protection of a proviso against the invasion of the General Conference, but did not mention the body of the instrument itself, is conclusive evidence that it was left in the hands of the General Conference. This is a sufficient answer to Dr. Neeley's statement that "the whole constitution of 1808 was as thoroughly protected against change by the General Conference alone as were the Restrictive Rules." The difference is, "the whole constitution" is protected by Dr. Neeley's abstract reasoning, and only by that, while the Restrictive Rules are protected by a special proviso. Abstract reasoning cannot settle a question like this. It must be done by the terms of the constitution.<sup>1</sup>

Dr. Neeley's argument is defective in another particular. When he concludes that because the General Conference can make one change in the body of the instrument "it might decide to meet once in four hundred years, . . . and so practically destroy

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<sup>1</sup>Judge Sibley, in the *Organic Law of the Methodist Episcopal Church*, pp. 42, 43, in a note makes a distinction between the *Church* and *Conference*. He contends that the Conference is limited in its powers to make rules and regulations *for the Church*; and as the Conference is not the Church, it has no power conferred upon it to change any part of the instrument which gave to it its existence. In its legislative capacity it can do nothing but make rules and regulations *for the Church*. This is a nice distinction, but it is one without a difference. The Conference is the Church in this instance, in the capacity of a lawmaking body, with full powers to make rules and regulations for the Church, subject to the restrictions named, and of course must include itself in the regulations, subject only to the same restrictions.

itself," he is reasoning against a revolution. This is not legitimate. Constitutions and laws must not be denied their expressed or clearly implied elasticity because it may possibly lead to revolution. Such reasoning, if put in practice, would largely defeat the end of constitutions and laws.

There is no objection to considering that part of the chapter on the General Conference not included in the Restrictive Rules a part of the constitution, provided the right of the General Conference to make such changes in it from time to time as the interest of the Church demands is not denied; but if this right is denied, then it would be contrary to the powers conferred on the General Conference, and therefore a violation of the rights of said Conference.

Some contend that whatever has been introduced into the Discipline by the concurrent constitutional vote of the General and Annual Conferences is a part of the constitution, whether it be in the chapter on the General Conference or not. The position is also taken that these matters can only be changed by the same process that adopted them. This view is held by Dr. Tigert. He says:

Such alterations as have been introduced by this process—*i. e.*, by the concurrent action of General and Annual Conferences, by the constitutional majorities—are included in the constitution of the General Conference.<sup>1</sup>

The College of Bishops, in their veto message to the General Conference in 1894, after reciting the fact that in the plan of lay representation, adopted in 1866 by the General Conference and subsequently by the Annual Conferences, prohibiting laymen from having

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<sup>1</sup> Constitutional History of American Episcopal Methodism, p. 315.

anything to do with "ministerial character and relations," say that it "became thereby a constitutional provision, which cannot be invaded or changed by any mere rule or resolution or statutory action of the General Conference." <sup>1</sup>

Bishop Keener, in a speech on the question, said: "It [the whole plan of lay representation] therefore became a constitutional provision. That which was introduced into our system constitutionally can only be changed constitutionally. . . . It can only be changed in the way in which it was adopted, and this veto implies it." <sup>2</sup>

If it be true that all changes introduced into the Discipline constitutionally are so many parts of or amendments to the constitution, and can only be changed constitutionally, the Church ought to know it. If this be not the case, it ought to be known.

Going back to 1870, the first General Conference after laymen were given a place in the General and Annual Conferences, we find that the following change was made in the chapter on the General Conference anent lay representation. The Conference omitted these words which were in the plan adopted by the concurrent vote of the General and Annual Conferences, "No Conference shall be denied the privilege of two lay delegates," <sup>3</sup> and inserted the following:

*Answer 2.* An Annual Conference, entitled under the second Restrictive Rule to two ministerial delegates, shall not be denied the privilege of two lay delegates.<sup>4</sup>

In the report admitting laymen as members of the

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<sup>1</sup> *Daily Advocate*, May 22, 1894, p. 1.

<sup>2</sup> *Ibid.*, p. 2.

<sup>3</sup> Peterson's History of the Revision of the Discipline, p. 36.

<sup>4</sup> *Ibid.*

Annual Conferences it was provided that there shall be "four lay representatives . . . from each presiding elder's district, to be chosen annually by the district stewards, or in such other manner as the Annual Conference may direct."<sup>1</sup>

In 1870 the General Conference changed the above as follows:

The District Conference shall elect annually, by ballot, from the district, four delegates to the ensuing Annual Conference: *provided*, no member of the Annual Conference shall vote in said election.<sup>2</sup>

On the last day of the Conference the following resolution was adopted:

*Resolved*, That the law requiring lay representatives to be elected by the district stewards, etc., be conformed to the action of this Conference on the subject of District Conferences.<sup>3</sup>

The above was an important change. The report recommending it was read and laid on the table under the rules. It was subsequently taken up, amendments were offered in regard to the foregoing item, debated and voted down, and item six was adopted; and then the resolution conforming the old law to the one on District Conferences, but not a word to the effect that it was a constitutional provision, and must be constitutionally changed. It will not do to say it was an oversight.

In 1870 the General Conference made another change in the original plan of lay representation.

The General Conference in 1866, in a report admitting laymen to membership in the Annual Con-

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<sup>1</sup> Journal of the General Conference, 1866, p. 108.

<sup>2</sup> *Ibid.*, 1870, pp. 193, 210.

<sup>3</sup> *Ibid.*, p. 346.



ferences, gave them the right to "participate in all the business of the Conference, except such as involves ministerial character and relations."<sup>1</sup>

Report No. 3 of the Committee on Revisals of 1870 recommended to strike out the words "and relations." This part of the report was adopted.<sup>2</sup>

The change gave the laymen the right to say, as far as their votes go, who are suitable persons to be admitted on trial into the traveling connection, who are admitted into full connection, who shall be ordained deacons and elders, and who shall be granted supernumerary and superannuated relations. None of these things were they allowed to do under the original grant. It is strange that the question of lay representation, being a constitutional question in all of its parts, has been raised at such a late hour, when the plan has been changed in several important respects by a majority vote of the General Conference, without anyone raising a constitutional question.

Bishop Keener, in his speech before the General Conference on the veto of paragraph 260, sheds light on this question. He said: "When the proposition for lay representation was first introduced it was introduced to the General Conference, and its passage very uncertain, because there was left out of it this provision" ["The right of being responsible only to ministers only of the body"]. So it seems that the members who proposed the plan as first presented to the General Conference did not subscribe to the doctrine that ministers must be tried only by min-

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<sup>1</sup> Journal of the General Conference, 1866, p. 108.

<sup>2</sup> *Ibid.*, 1870, pp. 207, 840.

isters, or that it was a right guaranteed to them in the constitution.

The committee appointed to prepare a plan and submit it to the Conference was made up of a large number of the leading men in the Church. So far as the record shows, it adopted the plan without a dissenting vote. At least no minority report was offered.

The Journal says:

H. N. McTyeire, chairman of the Special Committee on Lay Representation, submitted the report of that committee, which was read.

J. C. Keener and N. H. D. Wilson submitted substitutes for the report, which were read.

The report and substitutes were laid on the table under the rule.<sup>1</sup>

Neither Dr. J. C. Keener nor Dr. N. H. D. Wilson was a member of the committee to prepare the plan.

We quote from the Journal once more:

The report of the Special Committee on Lay Representation was taken up, and acted on, item by item, the substitutes being laid on the table.

The first item of the report was amended and adopted—the remaining items were adopted.<sup>2</sup>

The record is that “the substitutes” were “laid on the table” and “the first item of the report was amended and adopted.” The amendment was that laymen were not to have anything to do with “ministerial character and relations.”

Dr. Whitehead speaks as follows on the constitutional phase of the question:

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<sup>1</sup> Journal of the General Conference, 1866, p. 69.

<sup>2</sup> *Ibid.*, p. 108.

A matter adopted by proceeding under the Restrictive Rules (two-thirds majority in the General Conference and three-fourths of the members of Annual Conferences), sent around to the Conferences because it was questioned whether *it* might not be, somehow, violative of the Restrictive Rules; and so, by this process made law—statute law—despite of supposed or imagined conflict with the Restrictive Rules, is assumed to become, by this process, like the Restrictive Rules themselves—a part of the constitution of the Church! Truly a great metamorphosis! When first broached, doubtful, tainted with the fear that it might be itself “unconstitutional”; but when relieved from that antagonism by the process of sending around, not merely *good law*, but lo! exalted to a *place in the constitution itself!*<sup>1</sup>

It seems from the entire record of the introduction of lay representation that it was not introduced as an amendment to the constitution and sent around to the Conferences as such, but was proposed simply as statute law and adopted as such by the constitutional concurrent vote of the General and Annual Conferences to bring it in harmony with the constitution if it should at any point be antagonistic to the same.

The conception of a constitution that confounds it with legislative enactments that have been admitted according to the provisions of the constitution, and makes them so many amendments to the same because they have been so admitted, and thereby renders them as unalterable as the Restrictive Rules, is a dangerous and novel way of making constitutional amendments. Applying constitutional prohibitions to questions lying in regions where they are excluded by the provisions made to govern the same, is a latitude assumed for such application unknown to legislation and jurisprudence. These methods are as dangerous as latitudinous. Under the influence of such

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<sup>1</sup> *Richmond Christian Advocate*, May 31, 1894.

views that which is intended to guard the rights of men can be so used as to shackle them. Besides all this, such a conception is confusing and will be a fertile source of dispute.

It will help to clear up the question, bring about a better understanding, and secure greater harmony, if we will distinguish between the constitution and matters protected by it. Strictly speaking, it is not correct to say that that is a part of the constitution which is only specifically under its protection. It will contribute further to the solution of the problem if we will distinguish between amendments to the constitution, offered and adopted as such, and statutory laws sent around to the Annual Conferences, not to see if they will adopt them as so many amendments to the constitution, but to pass upon them and declare whether or not they are repugnant to the constitution. If decided that they are not, they become not amendments to the constitution, but good statutory constitutional law. Where the question of the constitutionality of a law is raised and the supreme court passes upon and declares it to be constitutional, it does not by virtue of that decision become an amendment to the constitution, but is simply good statutory law in harmony with the constitution.

The history of opinion as to what is the constitution of the General Conference, or of the Methodist Episcopal Church, South, as any may prefer to name it, as expressed by individual members, by the decision of the College of Bishops set forth in their veto in 1894, and in the acts of the General Conference from time time, presents a state of darkness that makes one wish that a voice could be heard saying, "Let there be

light." But that voice must be the voice of authority, so that it will command the assent of the Church, and not the *ipse dixit* of any man or class of men, however true they may be.

There seems but one way to settle the question, if it is to be settled so as to produce harmony, and that is for the General and Annual Conferences to call a constitutional convention, and let it frame a constitution in harmony with the demands of the Church of to-day, distinguishing between and providing for judicial, legislative, and executive departments, putting each department in the hands of different parties, and defining the powers of each. This will conform our church government to American ideas, the wisdom and safety of which have been proved. As we are now conducting our constitutional government, we are in danger of being dashed to pieces on the rocks both seen and unseen.

In conclusion, we call attention to the powers of the General Conference. Its powers, like those of the United States government, are delegated; but the two are very dissimilar.

Judge Cooley states the case for the United States as follows:

The government of the United States is one of *enumerated* powers; the national constitution being the instrument which specifies them, and in which authority should be found for the exercise of any power which the national government assumes to possess.<sup>1</sup>

Chief Justice Marshall, as quoted by Judge Cooley, says:

The government of the United States can claim no powers

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<sup>1</sup> Constitutional Limitations, 4th ed., pp. 10, 11.

which are not granted to it by the constitution; and the powers actually granted must be such as are expressly given, or given by necessary implication. This instrument contains an enumeration of the powers expressly granted by the people to their government.<sup>1</sup>

The above authorities show that the United States government is one with "enumerated powers," and does what is prescribed in the constitution, and nothing more.

In the Methodist Episcopal Church, South, it is just the reverse of the United States. Under the Church constitution the General Conference has power to do whatever is not specifically prohibited therein. The United States government is limited by its prescribed duties; the General Conference, only by the reserved rights. It can do whatever does not come in conflict with these reserved rights. The language of the constitution is: "The General Conference shall have full powers to make rules and regulations for our Church, under the following limitations and restrictions." Then follow six restrictions, with a proviso for altering "any of the above restrictions," and a proviso conferring the veto power on the bishops as a check on unconstitutional legislation. Beyond these there is no check or limitation on the powers of the General Conference, and to try to impose any others is an invasion of Conference rights.<sup>2</sup>

No controversy has arisen in our Church over the first, second, fourth, and sixth restrictions, but some things have occurred that involve the powers of the

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<sup>1</sup>Constitutional Limitations, p. 11, note 1.

<sup>2</sup>For an able discussion of this question see the *Constitutional Powers of the General Conference*, by Dr. William L. Harris, pp. 20-24, and the decision of the Supreme Court, as quoted in another part of this work.

General Conference under the third and fifth restrictions. The following shows the drift of opinion in opposite directions in regard to the third restriction:

In the Methodist Episcopal Church, South, the episcopal office might be held by a quadrennial tenure, but such changes could not be effected by a majority vote of the General Conference.<sup>1</sup>

To the same effect is the following:

Dr. Campbell adds once more: "By a simple majority vote of the General Conference, the episcopal office can be shortened to any number of years." Whew! And this in a Southern Methodist paper! What then about Bishop Andrew's case? The General Conference of 1844 not merely had the right to depose him, but also had the right to sweep down "by a mere majority vote" the whole bench of his colleagues. We are sorry for our sturdy friend in Texas. He is not wont to flounder in this way, and will, no doubt, speedily recover himself.<sup>2</sup>

The only inference that can be drawn from the above is that the General Conference is forbidden to change the incumbency of the episcopal office from a life tenure to a term of years, and of course if it is so prohibited it is in the third Restrictive Rule. It is a strange discovery that has found in it the life tenure in the episcopal office.

Dr. Campbell's reply to Dr. Hoss is as follows:

This Restrictive Rule deals with an office and its functions or administration, and not with officers or the persons who fill the office. The office is a perpetual thing and remains, though the officers pass in and out in continual succession. Neither the episcopal office nor the "plan of our itinerant general superintendency" dies with the man. The death of an officer does not even modify, much less *destroy*, either the office or its plan. Whether the officer expires by death or by law,

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<sup>1</sup>Constitutional History, by Dr. Tlgert, p. 379.

<sup>2</sup>Dr. E. E. Hoss, in the *Christian Advocate*, August 18, 1894.

the effect on the office and its plan is the same. If the law should say that no man shall be elected to the episcopal office for a term of more than eight years, that would no more "do away with episcopacy or destroy the plan," etc., than a regulation which would allow no man under sixty years of age to be elected. And as the Restrictive Rule says nothing about the term of office, nor about the age, nor about the qualifications of the officer, we hold that it is within the "full power," of the Conference to regulate any of these.<sup>1</sup>

Dr. Campbell's reply to Dr. Hoss is a correct interpretation of the third Restrictive Rule, and to undertake to read more into it is an encroachment on the constitutional powers of the General Conference.

Under the fifth Restrictive Rule questions have been raised by the veto message of the College of Bishops involving the powers of the General Conference. The bishops took the position that the right of ministers to be tried by ministers only is a constitutional right, and the law adopted by the General Conference declaring that the members of trial committees shall be selected by lot from among the members of the Conference was unconstitutional, because the word clerical was left out. This message is based on the fact that the plan of lay representation was submitted to the Annual Conferences that they might pass upon its constitutionality.

The chapters in the Discipline on the trial and appeal of members are no part of the constitution. It is the *right* of trial by committee, and of an appeal, and not the complexion of the committee, that the constitution protects. The fifth Restrictive Rule is silent on the membership of the committee. As to the number of members to compose the committee,

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<sup>1</sup> *Texas Christian Advocate*, September 6, 1894.



whether they are to be all preachers or part preachers and part laymen, or whether they are to be men or women, the fifth Restrictive Rule does not specify. These are purely legislative questions, to be settled by majority vote of the General Conference. There is a law that determines all these things, but there is nothing in the law itself or in the Restrictive Rule that forbids the General Conference changing any of the provisions. The only thing the General Conference is restricted from doing is to “not do away the privilege of our ministers or preachers of trial by a committee, and of an appeal; neither shall they do away the privilege of our members of trial before the Church, or by a committee, and of an appeal.”

## CHAPTER VII.

### THE PLAN OF SEPARATION ADOPTED IN 1844 CONSTITUTIONAL.

WE are now prepared, in the light of the preceding investigations, to consider the division of the Church in 1844-46 as to the legal status of the Methodist Episcopal Church, South. The question is, Did the General Conference of 1844 have the right to adopt the Plan of Separation, or did it transcend its constitutional limitations by said act? The answer to this question will be found in a right collocation and correct interpretation of the history of the Plan of Separation in its inception, adoption, application, and results.

A long controversy over the question of slavery culminated in 1844 in the case of Bishop Andrew. On this question, in its relation to him, after a protracted debate, the General Conference adopted the following resolution by a vote of 111 for, to 69 against:

Whereas the Discipline of our Church forbids the doing anything calculated to destroy our itinerant general superintendency; and whereas Bishop Andrew has become connected with slavery by marriage and otherwise, and this act having drawn after it circumstances which, in the estimation of the General Conference, will greatly embarrass the exercise of his office as an itinerant general superintendent, if not in some places entirely prevent it; therefore,

*Resolved*, That it is the sense of this General Conference that he desist from the exercise of his office so long as this impediment remains.<sup>1</sup>

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<sup>1</sup>Journal of the General Conference of 1844, vol. ii., pp. 83, 84.

On the adoption of the foregoing resolution the southern delegates made the following declaration:

The delegates of the Conferences in the slaveholding states take leave to *declare* to the General Conference of the Methodist Episcopal Church, that the continued agitation on the subject of slavery and abolition in a portion of the Church, the frequent action on that subject in the General Conference, and especially the extra-judicial proceedings against Bishop Andrew, which resulted, on Saturday last, in the virtual suspension of him from his office as superintendent, must produce a state of things in the South which renders a continuance of the jurisdiction of this General Conference over these Conferences inconsistent with the success of the ministry in the slaveholding states.<sup>1</sup>

The declaration of the southern delegates was referred to a committee known as the "Committee of Nine." The General Conference instructed the Committee of Nine as follows:

*Resolved*, That the committee appointed to take into consideration the communication of the delegates from the southern Conferences be instructed, provided they cannot in their judgment devise a plan for an amicable adjustment of the difficulties now existing in the Church, on the subject of slavery, to devise, if possible, a constitutional plan for a mutual and friendly division of the Church.

J. B. McFERRIN,  
TOBIAS SPICER.<sup>2</sup>

The committee made its report to the General Conference, and, after the adoption of some amendments, it was adopted. The following section of the report states the main point of division:

1. Should the Annual Conferences in the slaveholding states find it necessary to unite in a distinct ecclesiastical connection, the following rule shall be observed with regard to the north-

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<sup>1</sup>Journal of the General Conference, 1844, vol. ii., p. 109.

<sup>2</sup>*Ibid.*, p. 111.

ern boundary of such connection: All the societies, stations, and Conferences adhering to the Church in the South, by vote of a majority of the members of said societies, stations, and Conferences, shall remain under the unmolested pastoral care of the Southern Church; and the ministers of the Methodist Episcopal Church shall in no wise attempt to organize churches or societies within the limits of the Church, South, nor shall they attempt to exercise any pastoral oversight therein; it being understood that the ministry of the South reciprocally observe the same rule in relation to stations, societies, and Conferences adhering, by a vote of majority, to the Methodist Episcopal Church; provided, also, that this rule shall apply only to societies, stations, and Conferences bordering on the line of division, and not to interior charges, which shall in all cases be left to the care of that Church within whose territory they are situated.

2. That ministers, local and traveling, of any grade and office in the Methodist Episcopal Church, may, as they prefer, remain in that Church, or, without blame, attach themselves to the Church, South.<sup>1</sup>

Acting under the Plan of Separation, the southern Conferences called a Convention to organize the Church. It met in Louisville, Ky., May 1, 1845, and adopted the following:

The General Conference of 1844, in the plan of jurisdictional separation adopted by that body, gave full and express authority to "the Annual Conferences in the slaveholding states" to judge of the propriety, and decide upon the necessity, of organizing a "separate ecclesiastical connection in the South." And not only did the General Conference invest this right in "the Annual Conferences in the slaveholding states," without limitation or reserve, as to the *extent* of the investment, and *exclusively* with regard to every other division of the Church, and all other branches or powers of the government, but left the method of official determination and the mode of action, in the exercise or assertion of the right, to the free and untrammelled discretion of the Conferences interested. All the right and

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<sup>1</sup>Journal of the General Conference, 1844, vol. ii., pp. 135-137.

power, therefore, of the General Conference, in any way connected with the important decision in question, were duly and formally transferred to "the Annual Conferences in the slaveholding states," and exclusively invested in them.

It follows hence that, for all the purposes specified and understood in this preliminary view of the subject, the Convention possesses all the right and power both of the General Conference and the sixteen "Annual Conferences in the slaveholding states," jointly and severally considered. The ecclesiastical and conventional right, therefore, of this body, to act in the premises, and act conclusively, irrespective of the whole Church, and all its powers of government besides, is clear and undoubted.

"The Annual Conferences in the slaveholding states," embracing the entire Church, South, have found themselves placed in circumstances, by the action of the General Conference in May last, which, according to the declaration of the southern delegates, at the time, rendered it impracticable to accomplish the objects of the Christian ministry and Church organization under the present system of General Conference control, and showing by the most clear and conclusive evidence that there exists the most urgent necessity for the "separate ecclesiastical connection," constitutionally provided for by the General Conference upon the basis of the declaration, just adverted to.

The division relates only to the power of general jurisdiction, which it is not proposed to destroy or even reduce, but simply to invest it in two great organs of Church action and control, instead of one as at present. Such a change in the present system of general control cannot disturb the moral unity of the Church; for it is strictly an *agreed modification* of General Conference jurisdiction, and such agreement and consent of parties must preclude the idea of disunion.

"The several Annual Conferences in General Conference assembled," that is to say, the Church through only its constitutional organ of action, on all subjects involving the power of legislation, not only agreed to the separate organization South, but made full constitutional provision for carrying it into effect. It is a separation by consent of parties, under the highest authority of the Church.

*Be it resolved, by the delegates of the several Annual Conferences of the Methodist Episcopal Church, in the slaveholding states, in General*

*Convention assembled*, That it is right, expedient, and necessary to erect the Annual Conferences, represented in this Convention, into a distinct ecclesiastical connection, separate from the jurisdiction of the General Conference of the Methodist Episcopal Church as at present constituted; and, accordingly, we, the delegates of said Annual Conferences, acting under the provisional Plan of Separation adopted by the General Conference of 1844, do solemnly *declare* the jurisdiction hitherto exercised over said Annual Conferences, by the General Conference of the Methodist Episcopal Church, *entirely dissolved*; and that said Annual Conferences shall be, and they hereby *are constituted*, a separate ecclesiastical connection, under the provisional Plan of Separation aforesaid, and based upon the Discipline of the Methodist Episcopal Church, comprehending the doctrines and entire moral, ecclesiastical, and economical rules and regulations of said Discipline, except only in so far as verbal alterations may be necessary to a distinct organization, and to be known by the style and title of the *Methodist Episcopal Church, South*.<sup>1</sup>

The General Conference of the Methodist Episcopal Church, South, which met in 1846, in accordance with the provisions of the organizing Convention, said:

In accordance with the action of the Convention of delegates of the several Annual Conferences of the Methodist Episcopal Church, in the slaveholding states, which met in Louisville, Ky., in May, 1845, the first General Conference of the Methodist Episcopal Church, South, assembled in Petersburg, Va., in the Union Street Church, on the first day of May, 1846.<sup>2</sup>

The General Conference made the following declaration:

The Church in the South and Southwest, in her primary assemblies, her Quarterly and Annual Conferences, with a unanimity unparalleled in ecclesiastical history, approved the course of their delegates, and declared her conviction that a separate jurisdiction was necessary to her existence and prosperity.<sup>3</sup>

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<sup>1</sup> The Methodist Church Property Case, pp. 123, 124, 130-133, 136, 187.

<sup>2</sup> Journal of the General Conference, 1846, p. 5.

<sup>3</sup> *Ibid.*, pp. 70, 71.

On the question of the power of the General Conference of 1844 to adopt the Plan of Separation the General Conference of the Methodist Episcopal Church said in 1848: "There exists no power in the General Conference of the Methodist Episcopal Church to pass any act which either directly or indirectly effectuates, authorizes, or sanctions a division of said Church."<sup>1</sup> In regard to the Plan of Separation they said: "Having found the practical workings of said plan incompatible with certain great constitutional principles elsewhere asserted, we have found and declared *the whole and every part of said provisional plan to be null and void.*"<sup>2</sup>

In addition to the assumption that the General Conference of 1844 had no right to pass such a measure as the Plan of Separation, the Methodist Episcopal Church declared it null and void on the ground that the proposed alteration in the sixth Restrictive Rule did not receive the requisite vote in the Annual Conferences. On this point they said:

It has been asserted in the answer and Minutes and Journals of 1848, and in the report on the state of the Church, that all this document was conditional upon being acted upon by three-fourths of the Conferences.<sup>3</sup>

The foregoing prepares the way for the next step: "We claim that the Methodist Episcopal Church, South, is a distinct and separate communion, solely by the act and deed of the individual ministers and members constituting said Church."<sup>4</sup>

To the same effect is the following:

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<sup>1</sup>Journal of the General Conference, 1848, p. 73.

<sup>2</sup>*Ibid.*, p. 164.

<sup>3</sup>The Methodist Church Property Case, p. 186.

<sup>4</sup>Journal of the General Conference, 1848, p. 154.

Wherefore, these defendants insist and submit, that the "Methodist Episcopal Church, South," exists as a separate ecclesiastical communion, solely by the result and in virtue of the acts and doings of the individual bishops, ministers, and members attached to such Church, South, proceeding in the premises upon their own responsibility; and that such bishops, ministers, and members have voluntarily withdrawn themselves from the Methodist Episcopal Church, and have renounced all their rights and privileges in her communion and under her government.<sup>1</sup>

The conclusion of the whole matter is found in this statement:

The plaintiffs' act in leaving the Church was a simple, bold, and unauthorized act of secession, unauthorized by any ecclesiastical authority whatever; and, therefore, according to the universal law, as we apprehend it, the right of property terminated by the act of secession.

We say then, in the first place, that the proceedings of the plaintiffs were a simple, unauthorized secession, and that they leave the identity of the old Church entirely unaffected.<sup>2</sup>

"The Great Secession" is the name given to the Methodist Episcopal Church, South, in its separation and organization by the Methodist Episcopal Church.

We are now prepared to enter upon an examination of the charge that the Methodist Episcopal Church, South, is a secession Church, and therefore without constitutional standing. We call attention to the following facts and principles as a sufficient refutation of the charge. In addition to this, these facts and principles also establish the claim of said Church, that it is regular and constitutional in its autonomy.

1. The first argument is based on precedent.

(1) Up to 1784 Methodism in Europe and America

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<sup>1</sup> The Methodist Church Property Case, p. 188.

<sup>2</sup> *Ibid.*, pp. 259, 260.



was one. Both alike were subject to the same authority—the supreme authority of Mr. Wesley. But in the evolution of events it became necessary to separate the one Methodism of these two countries into two distinct organizations or jurisdictions, providing for each not only separate governments, but governments very dissimilar. These organizations were the outcome of local conditions, and the wise thing to do was to adjust Methodism to them. The peculiar conditions of the two countries were seen and felt by the preachers of both, and these questions were pressed upon Mr. Wesley, from the standpoint of necessity, and the wise leader that he was saw the conditions to be met; and whatever may have been his cherished desires as to one Methodism throughout the world under one form of government, he laid his plans so as to meet the demands in each case, and organized the Methodism of England and America under separate jurisdictions and with different forms of government. The separation of 1784 was twofold—separation from the Established Church, and separation of American Methodism from European Methodism and from the authority of Mr. Wesley. That he complained that his authority was thrown off before his death does not affect the validity and constitutionality of the separation; for the organization was perfected and the source of authority fixed within the chartered rights sent by him to America, and he entered no protest against the principles adopted and made no complaint against their practical workings for nearly three years after the organization of the American Church. An American Methodist either North or South who understands the question in all of its

bearings will be slow to take any position that calls in question the validity and regularity of American Methodism as it stands related to its own organization and endowment in 1784.

(2) On the fifth day of May, 1828, the Canada Conference presented a petition to the General Conference asking for a separation of the Canada Conference on the ground of necessity. It is in part as follows:

1. Our political relations and the political feelings of a great part of the community are such that we labor under many very serious embarrassments on account of our union with the United States; from which embarrassments we would, in all probability, be relieved by a separation.

2. The local circumstances of our societies in this province; the rapid increase and extension of the work, both among the white inhabitants and the Indians; the prospects of division among ourselves, if our present relation be continued, render it necessary for us to be under ecclesiastical regulations somewhat of a peculiar character, so as to suit our local circumstances.

5. It is the general wish of our people in this province to become separate; nor will they, according to present appearances, be satisfied without such separation.

4. That the General Conference will, together with an independent establishment, be pleased to grant your petitioners a portion of the Book Concern, of the Chartered Fund, and a portion of the fund of the Missionary Society.

JAMES RICHARDSON.

*Secretary Canada Conference.*<sup>1</sup>

September 7, 1827.

So far as the Canada Conference was concerned, their petition goes to show that they believed the General Conference had a constitutional right to separate them from its own jurisdiction and give them "a portion of the Book Concern, of the Chartered

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<sup>1</sup>The Methodist Church Property Case, p. 35.

Fund, and a portion of the fund of the Missionary Society.”

The petition was referred to a committee of six, with Dr. N. Bangs as chairman. This committee made their report on the petition May 12. It is as follows:

The committee are unanimously of the opinion that, however peculiar may be the situation of our brethren in Canada, and however much we may sympathize with them in their present state of perplexity, this General Conference cannot consistently grant them a separate Church establishment, according to the prayer of the petitioners. The committee, therefore, recommend to the General Conference the adoption of the following resolution:

1. That, inasmuch as the several Annual Conferences have not recommended it to the General Conference, it is unconstitutional, and also, under the circumstances, inexpedient, to grant the prayer of the petitioners for a separate Church establishment in Upper Canada.<sup>1</sup>

The above report says “the committee are unanimously of the opinion that, . . . inasmuch as the several Annual Conferences have not recommended it to the General Conference, it is unconstitutional.” William Capers moved to amend “the report by striking out the words, ‘it is unconstitutional to grant.’” Pending the consideration of this amendment, William Ryerson offered the following resolutions:

*Resolved*, by the delegates of the Annual Conferences in General Conference assembled, 1. That the compact existing between the Canada Annual Conference and the Methodist Episcopal Church in the United States be, and hereby is, dissolved by mutual consent, and that they are at liberty to form themselves into a separate Church establishment.

*Resolved*, etc., 5. That the claims of the Canada Conference on our Book Concern and Chartered Fund, and any other claims

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<sup>1</sup>The Methodist Church Property Case, p. 36.

they may suppose they justly have, shall be left open for future negotiation and adjustment between the two connections.<sup>1</sup>

Mr. Ryerson's first resolution was adopted by a vote of 104 for, to 43 against.<sup>2</sup> This vote of more than two-thirds of the General Conference of 1828 shows that that body held they had a right to divide the Church. The vote by which the resolution was adopted was on May 23 reconsidered and the resolution rescinded.<sup>3</sup> This was done in view of the fact that the following was adopted in its stead May 21, by a vote of 108 for, to 22 against:

*Resolved*, by the delegates of the Annual Conferences in General Conference assembled, That whereas the jurisdiction of the Methodist Episcopal Church in the United States of America has heretofore been extended over the ministers and members in connection with said Church in the province of Upper Canada, by mutual agreement, and by the consent and desire of our brethren in that province; and whereas this General Conference is satisfactorily assured that our brethren in the said province, under peculiar and pressing circumstances, do now desire to organize themselves into a distinct Methodist Episcopal Church, in friendly relations with the Methodist Episcopal Church in the United States, therefore be it resolved, and it is hereby resolved, by the delegates of the Annual Conferences in General Conference assembled:

1. If the Annual Conference in Upper Canada, at its ensuing session, or any succeeding session previously to the next General Conference, shall definitely determine on this course, and elect a general superintendent of the Methodist Episcopal Church in that province, this General Conference does hereby authorize any one or more of the general superintendents of the Methodist Episcopal Church in the United States, with the assistance of any two or more elders, to ordain such general superintendent for the said Church in Upper Canada.

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<sup>1</sup>Journal of the General Conference, vol. i., p. 338.

<sup>2</sup>*Ibid.*

<sup>3</sup>*Ibid.*, p. 354.

3. That our brethren and friends, ministers or others, in Upper Canada, shall at all times, at their request, be furnished with any of our books and periodical publications on the same terms with those by which our agents are regulated in furnishing them in the United States; and until there shall be an adjustment of any claims which the Canada Church may have on this connection, the book agents shall divide to the said Canada Church an equal proportion of any annual dividend which may be made from the Book Concern to the several Annual Conferences respectively; provided, however, that the aforesaid dividend shall be apportioned to the Canada Church only as long as they may continue to support and patronize our Book Concern, as in time past.<sup>1</sup>

There were certain local conditions in Canada which in the estimation of the Canada Conference made it necessary for them to ask at the hands of the General Conference a separate ecclesiastical jurisdiction for themselves, in order that they might the more successfully prosecute their work as a Church. These conditions were immovable so far as the Canada Methodists were concerned. They were serious impediments in the way of their success, and were liable at any time to become more so. Their plea for division was based exclusively on the necessities of the case. The General Conference said in response to the petitioners that inasmuch as its jurisdiction was exercised over the Canada Conference "by mutual agreement, and by the consent and desire of our brethren in that province," and inasmuch as they, "under peculiar and pressing circumstances, do now desire to organize themselves into a distinct Methodist Episcopal Church," "therefore be it resolved" that "if the Annual Conference in Upper Canada, at its ensuing session, or any succeeding session previously

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<sup>1</sup>The Methodist Church Property Case, pp. 36, 37.

to the next General Conference, shall definitely determine on this course, and elect a general superintendent, . . . this General Conference does hereby authorize any one or more of the general superintendents, with the assistance of any two or more elders, to ordain such general superintendent for the said Church in Upper Canada." It is clear from the foregoing that the General Conference of 1828 adopted a provisional Plan of Separation for the Canada Methodists based on certain specified necessities, and left the Canada Conference to be the sole judge as to whether or not it would put the plan into execution.

2. Attention is called to the facts and principles involved in the adoption and application of the Plan of Separation.

(1) Like the separation of the American Methodists from the Established Church and from the European Methodists and authority of Mr. Wesley in 1784, and like the separation of the Canada Conference from the Methodist Episcopal Church in the United States in 1828, there was an urgent necessity underlying the adoption of the Plan of Separation in 1844. The North and South held opposite and extreme views on the powers of the General Conference and the rights of the episcopacy in relation thereto. The North said that a bishop is only an officer of the General Conference, and can be put out of office by a majority vote of said body, in the adoption of a simple resolution. In opposition to this view the South said "the episcopacy is a coördinate branch" of "the Methodist Episcopal Church" as organized in 1784, and "its bishops belong to the Church as such, and not to the General Conference";

and as the bishops have the constitutional "right to fix the time of holding the Annual Conferences," "in a sense by no means unimportant the General Conference is . . . the creature of the episcopacy." The North said, in the case of Mr. Harding and Bishop Andrew, that Methodist preachers cannot continue in the ministry and own slaves, it mattered not how they came in possession of them, or whether they could or not, under the laws of their respective states, manumit them. The South said that the institution of slavery was so imbedded in their laws that the Methodist Church could not eradicate it, and the continual agitation of the question by extreme abolitionists would be fatal to Methodism in that part of the country. The North and the South on the practical aspects of slavery were as far apart as the "east is from the west."

Dr. Olin described the situation, and showed the necessity for division to be not only urgent, but absolute. He said:

It appears to me that we stand committed on this question by our principles and views of policy, and neither of us dare move a step from our position. . . . I will take it on me to say freely that I do not see how northern men can yield their ground, or southern men give up theirs. I do indeed believe that if our affairs remain in their present position, and this General Conference do not speak out clearly and distinctly on the subject, however unpalatable it may be, we cannot go home under this distracting question without a certainty of breaking up our Conferences. I have been to eight or ten of the northern Conferences, and spoken freely with men of every class, and firmly believe that, with the fewest exceptions, they are influenced by the most ardent and the strongest desire to maintain the discipline of our Church. . . . With regard to our southern brethren—and I hold that on this question, at

least, I may speak with some confidence--if they concede what the northern brethren wish, if they concede that holding slaves is incompatible with holding their ministry, they may as well go to the Rocky Mountains as to their own sunny plains. The people would not bear it. They feel shut up to their principles on this point.<sup>1</sup>

It was evident to all that there was no remedy in sight against division. In view of the resolutions adopted in the case of Bishop Andrew, it was peaceful separation or revolution and disruption. The North had saved that part of the Church by the adoption of the resolutions asking for the resignation of Bishop Andrew. The South could only save their part of the Church by division. Neither side could recede from its position.

As the American Methodists determined the necessities of their situation in 1784, and the Canadian Methodists were left to decide the necessities governing their condition in 1828, so the Methodists in the South were to be the sole judges as to whether or not their peculiar condition demanded separation. In proof of this statement is the following, taken from the Plan of Separation:

1. That should the Annual Conferences in the slaveholding states find it necessary to unite in a distinct ecclesiastical connection, the following rule shall be observed with regard to the northern boundary of such connection.<sup>2</sup>

No one was to have any voice, as to whether or not a division was necessary, but the southern Conferences.

The adoption or non-adoption of the proposed amendment to the sixth Restrictive Rule was in no

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<sup>1</sup> Journal of the General Conference, 1844--debates, p. 55.

<sup>2</sup> The Methodist Church Property Case, p. 38.



way intended to determine the question of the necessity of division. In proof of this statement Mr. Hamline said:

The article which was referred to the Annual Conferences had not necessarily any connection with division. It was thought, as complaints were abroad respecting the present mode of appropriating the proceeds of the Book Concern, it would be for the general good that the power to appropriate such proceeds should be put in the power of a two-thirds vote, instead of in the power of a mere majority, thus making it more difficult to make a wrong appropriation. And the occasion of this report was taken hold of by the committee to make it more difficult to misappropriate the funds, in which they believed they should serve both the particular object of the report and the general good of the Methodist Episcopal Church.<sup>1</sup>

The inexorable necessities involved in the relation of the two great sections of American Methodism to each other had a practical and important bearing on the constitutionality of the movement; for such necessities have in them the fundamental principles of constitutional rights, and these cannot be ignored in the Christian adjustment of such vast and important issues.

(2) The Church to be organized in the South was to be an integral part of the Methodist Episcopal Church as it was organized in 1784, and existed prior to 1844. It was to be the Methodist Episcopal Church—just as much so as the northern part of it—having the same doctrines and polity, and appropriating the same Discipline of 1844. It was to be the same Church under separate General Conference jurisdiction. On this point Dr. Bangs said: “The laws, discipline, doctrines, government, all would be the same,

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<sup>1</sup>Journal of the General Conference, 1844--debates, p. 226.

and they should be as warm in their affection toward each other as they were now.”<sup>1</sup> The Plan of Separation says they were to “unite in a distinct ecclesiastical connection.”

That the Methodist Episcopal Church, South, was to be a part of said Church prior to 1844, under separate General Conference jurisdiction, was the opinion of the Louisville Convention. It said:

The committee are compelled to believe that the mere division of jurisdiction, as authorized by the General Conference, cannot affect either the moral or legal unity of the great American family of Christians, known as the Methodist Episcopal Church, and this opinion is concurred in by the ablest jurists of the country. When the Conferences in the slaveholding states are separately organized as a distinct ecclesiastical connection, they will only be what the General Conference authorized them to be. Can this be irregular or subversive of Church unity? Acting under the provisional Plan of Separation, they must, although a separate organization, remain in essential union with, and be a part and parcel of, the Methodist Episcopal Church, in every scriptural and moral view of the subject; for what they do is with the full consent, and has the official sanction, of the Church as represented in the General Conference.<sup>2</sup>

It is clear from the history of the question that the separation provided for, and the one set in operation, was a jurisdictional separation, and nothing more. This is an important point, for while the General Conference could not constitutionally provide for a division of the Church when the part separating was to be a Church different in doctrine and polity, yet it could provide for separate General Conference jurisdiction without invading the constitution.

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<sup>1</sup> Journal of the General Conference, 1844—debates, p. 222.

<sup>2</sup> The Methodist Church Property Case, pp. 132, 133.

(3) The Plan of Separation was adhered to by the South in every step taken from the time it was adopted to the completion of the organization of the Church in 1846. This fact is established, beyond the shadow of a doubt, by the history recited in the first part of this chapter. In addition to the history already given, the following is to the same purpose:

I consider your body, as now organized, as the consummation of the organization of the Methodist Episcopal Church, South, in conformity to the "Plan of Separation," adopted by the General Conference of the Methodist Episcopal Church, in 1844. It is therefore in strict agreement with the provisions of that body that you are vested with full power to transact all business appropriate to a Methodist General Conference.

I view this organization as having been commenced in the "Declaration" of the delegates of the Conferences in the slaveholding states, made at New York, in 1844; and as having advanced in its several stages in the "Protest," "the Plan of Separation," the appointment of delegates to the Louisville Convention, in the action of that body, in the subsequent action of the Annual Conferences approving the acts of their delegates at the Convention, and in the appointment of delegates to this General Conference.<sup>1</sup>

3. As to the right of the General Conference of 1844 to pass such a measure as the Plan of Separation, the following facts, in addition to those already given, will help to determine:

(1) The Methodist Episcopal Church in America organized in 1784, in accordance with the provisions, recommendations, and sanction of Mr. Wesley, by the American preachers, made the "ministers and preachers" the governing body of the Church. Under different forms and names this governing body expressed its will directly until 1808, when they

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<sup>1</sup> Bishop Soule to the General Conference of 1846—Journal, pp. 8, 9.

changed the form of government from a mass convention of all the traveling preachers in full connection to a delegated body known as the delegated General Conference.

(2) The delegated General Conference had bequeathed to it by "the body of ministers and preachers" all rights and powers inherent in themselves, with "full powers to make rules and regulations for our Church." These "full powers" were given subject only to certain restrictions. The General Conference of 1844 was in possession of these "full powers" limited only by the restrictions.

(3) The question now to consider is, Did these restrictions in any way forbid the adoption of the Plan of Separation? The question is not, Did they make a positive provision for it? but, under the peculiar structure of the constitution, Was the General Conference forbidden to do it? Let anyone read the restrictions and tell us which one forbade the General Conference of 1844 adopting the Plan of Separation. Mr. Lord, one of the council for the Methodist Episcopal Church, South, puts this question thus:

We are now upon the question of consenting to a separation of the Church into parts. Is there any restriction which prevents that? Is there any provision which says that this Church shall not divide itself into parts? . . . What Restrictive Article is conceived to be violated by a Plan of Separation which adopts every Restrictive Article, and all the terms of the constitution? Which is the article that is violated?<sup>1</sup>

Mr. Johnson, another one of the council for the Methodist Episcopal Church, South, gives his assent to the argument of Mr. Lord as follows:

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<sup>1</sup>The Methodist Church Property Case, pp. 179, 180.

My associate and brother, from the existence of particular limitations in this constitution, to be found in the six Restrictive Articles, has proved, as I think, to demonstration, that unless some one of these articles prohibits the Conference from adopting the particular plan of 1844, it had the power.<sup>1</sup>

Not only was the General Conference not forbidden to adopt the Plan of Separation, but we maintain that it was compelled to adopt it as the only rule or regulation that would preserve and perpetuate Methodism in the South. This fact is summed up in the following clear statement:

In 1844 . . . division . . . was demanded for the safety of the Church. In the Canada case, whatever else may be said of it, . . . division was to be made, when division was necessary to save the Church; that is, to save the Church there—there in the particular locality—not to save it elsewhere where the exigency does not exist. When a state of things exists which endangers the usefulness of the Church, the doctrine of the Church is, divide, in order to save. Now, in the first place, the declaration of the southern delegates, in 1844, . . . states the necessity of a division to save the Church. In the second place, the universal opinion of the southern delegates was that a division was necessary to save the Church. Third, the conduct of the Conference in Harding's and in Andrew's cases proved the necessity of a division in order to save the Church. Fourth, the doctrines avowed by the northern members of the Church in the Conference of 1844, in the answer to the protest of southern members against the judgment in the case of Andrew, proved, beyond all doubt, the necessity of a division to save the Church—it being always understood that I mean to save the Church in the South. Fifth, the opinion of each one of the Annual Conferences of the South was that a division was required in order to save the Church. Sixth, the certain consequences, not relying on opinions as the only evidence, of the tendency of the acts of the members of the General Conference from the North must have been, in the judgment of all

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<sup>1</sup>The Methodist Church Property Case, p. 884.

sane men, the production of a state of things in the South that would render a division of the Church absolutely imperative, in order to save the Church in the South. This was the opinion of the bishops of this Church as to the consequence of this slavery agitation, to be found in their address, and in their answer to the British Conference, and the opinion of the individual bishops, given in their collective capacity, in advance of the judgment on the case of Andrew, in their address to the Conference, by whom, almost immediately afterwards, that judgment was pronounced, as well as in the debate before the judgment.

Finally: The opinion of the General Conference of 1844, as set forth in their preamble to the Plan of Separation, established the existence of the necessity to divide this Church, in order to save it in the South.<sup>1</sup>

4. The property phase of the separation of the Church was thrown into the civil courts for adjudication. The decisions in these cases turned on the constitutionality of the Plan of Separation. Whatever may have been the opinions of individual members of the Church or the decisions of the General and Annual Conferences on the question, the decisions of the courts of final appeal speak the last word and render an irreversible verdict as to whether or not the separation in 1844-46 is constitutional, and said decisions forever settle the question as to whether or not the Methodist Episcopal Church, South, is a secession Church.

Mr. Johnson gives the following introduction to what is known as the Maysville case:

A gentleman named Armstrong, claiming to have been a large contributor to a meetinghouse in Maysville, Ky., with some followers, contested the right of the southern Church to that meetinghouse, upon the very ground of the absolute nullity of the Plan of Separation, and the absolute nullity

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<sup>1</sup>The Methodist Church Property Case, pp. 349, 350.

consequently of the title to the meetinghouse which was dependent upon that plan.

The case was first taken before a single judge vested with chancery jurisdiction, and he came to the conclusion that, under the circumstances of the particular case, and by force of the provisions of a Kentucky statute of general operation, applying, as he considered, to the case, the equitable mode of disposing of the property would be to give the use of the house one week, or one Sunday, to one branch, and the next week, or the next Sunday, to the other branch. The case was carried up to the Court of Appeals of Kentucky. I commend your Honors to that decision as delivered by Mr. Chief Justice Marshall, in which throughout he deems it to be too clear for doubt (speaking not only for himself, but for the court) that the Conference of 1844 had the constitutional right to adopt the plan of division of that year, and that by force of that division the entire title to this property was vested in the southerly organized Church.<sup>1</sup>

A part of the decision referred to above by Mr. Johnson is as follows:

The southern Church stands not as a seceding or schismatic body, breaking off violently or illegally from the original Church, and carrying with it such members and such rights only as it may succeed in abstracting from the other, but as a lawful ecclesiastical body, erected by the authority of the entire Church, with plenary jurisdiction over a designated portion of the original association, recognized by that Church as its proper successor and representative within its limits, commended as such to the confidence and obedience of all the members within those limits, and declared to be worthy of occupying toward them the place of the original Methodist Episcopal Church, and of taking its name.

The result is that the original Methodist Episcopal Church has been authoritatively divided into two Methodist Episcopal Churches, the one north and the other south of a common boundary line, which, according to the Plan of Separation, limits the extent and jurisdiction of each; that each, within its own limits, is the lawful successor and representative of the

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<sup>1</sup> The Methodist Church Property Case, pp. 347, 348.

original Church, possessing all its jurisdiction, and entitled to its name; that neither has any more right to exceed those limits than the other; that the southern Church, retaining the same faith, doctrine, and discipline, and assuming the same organization and name as the original Church, is not only a Methodist Episcopal Church, but is in fact, to the South, the Methodist Episcopal Church as truly as the other Church is so to the North, and is not the less so by the addition of the word South, to designate its locality. The other Church being, by the plan of division, as certainly confined to the north as this Church is to the south of the dividing line, is as truly the Church, North, as the southern Church is the Church, South. The difference in name makes no difference in character or authority.<sup>1</sup>

The case involving the Book Concern and the Chartered Fund was carried to the Supreme Court of the United States. There is no tribunal beyond this, either ecclesiastical or civil, that can determine the question or in any way invalidate its decision. Not only did this highest tribunal deal with and decide the question in dispute, but it did so on the highest possible ground—the ground that the property involved was not a local church house, but the Book Concern and Chartered Fund, the common property of the whole Church, and this in its relation to the constitutionality of the Plan of Separation. The following extracts are taken from the decision in said case:

It is insisted . . . that the General Conference of 1844 possessed no power to divide the Methodist Episcopal Church as then organized, or to consent to such division; and hence that the organization of the Church, South, was without authority, and the traveling preachers within it separated from an ecclesiastical connection which is essential to enable them to participate as beneficiaries. Even if this were admitted, we do not perceive that it would change the relative position and rights of the traveling preachers within the divisions North and

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<sup>1</sup> Decision of the Kentucky Court of Appeals, 1847, vol. vii., pp. 524, 525.



South from that which we have just endeavored to explain. If the division under the direction of the General Conference has been made without the proper authority, and for that reason the traveling preachers within the southern division are wrongfully separated from their connection with the Church, and thereby have lost the character of beneficiaries, those within the northern division are equally wrongfully separated from that connection, as both divisions have been brought into existence by the same authority. The same consequence would follow in respect to them that is imputable to the traveling preachers in the other division, and hence each would be obliged to fall back upon their rights as original proprietors of the fund.

But we do not agree that this division was made without the proper authority. On the contrary, we entertain no doubt that the General Conference of 1844 was competent to make it; and that each division of the Church, under the separate organization, is just as legitimate, and can claim as high 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.

In 1784, when this Church was first established, and down till 1808, the General Conference was composed of all the traveling preachers in that connection. This body of preachers founded it by organizing its government, ecclesiastical and temporal, established its doctrines and discipline, appointed its superintendents or bishops, its ministers and preachers, and other subordinate authorities, to administer its polity and promulgate its doctrines and teachings throughout the land.

It cannot therefore be denied—indeed, it has scarcely been denied—that this body, while composed of all the traveling preachers, possessed the power to divide it and authorize the organization and establishment of the two separate independent Churches. The power must necessarily be regarded as inherent in the General Conference. As they might have constructed two ecclesiastical organizations over the territory of the United States originally, if deemed expedient, in the place of one, so they might at any subsequent period, the power remaining unchanged.

But it is insisted that this power has been taken away or given up, by the action of the General Conference of 1808. In that year the constitution of this body was changed so as to be composed thereafter by traveling preachers, to be elected by the Annual Conferences, in the ratio of one for every five members. This has been altered from time to time, so that in 1844 the representation was one for every twenty-one members. At the time of this change, and as part of it, certain limitations were imposed upon the powers of the General Conference, called the six Restrictive Articles. Subject to these restrictions, the delegated Conference possessed the same powers as when composed of the entire body of preachers. In all other respects, and in everything else that concerns the welfare of the Church, the General Conference represents the sovereign power the same as before.

It has also been urged on the part of the defendants that the division of the Church, according to the Plan of Separation, was made to depend not only upon the determination of the southern Annual Conferences, but also upon the consent of the Annual Conferences North, as well as South, to a change of the sixth Restrictive Article, and as this was refused, the division which took place was unauthorized. But this is a misapprehension. The change of this article was not made a condition of the division. That depended alone upon the decision of the southern Conferences.

The division of the Methodist Episcopal Church having thus taken place in pursuance of the proper authority, it carried with it, as matter of law, a division of the common property belonging to the ecclesiastical organization, and especially of the property in this Book Concern, which belonged to the traveling preachers. It would be strange if it could be otherwise, as it respects the Book Concern, inasmuch as the division of the association was effected under the authority of a body of preachers who were themselves the proprietors and founders of the fund.<sup>1</sup>

Whoever makes the charge of secession, in the light of the foregoing history, is blind to both fact and legal principles.

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<sup>1</sup> United States Supreme Court Reports—Howard 16: 306-308.

## CHAPTER VIII.

### VETO POWER OF THE BISHOPS.

THE question as to whether or not the presiding elders ought to be elected by the Annual Conferences was a live one prior to 1820. That year the matter aroused much feeling on both sides. The General Conference took the following action:

Moved, that three of the members who desire an election of the presiding elders, and an equal number of those who are opposed to any change of our present plan, be appointed a committee to confer with the bishops and the bishop elect upon that subject, and that they report to us whether any, and if any, what, alteration might be made to conciliate the wishes of the brethren upon this subject, and that they report to-morrow.<sup>1</sup>

The General Conference adopted the following report which was offered in response to the above resolution:

The committee appointed to confer with the bishops on a plan to conciliate the wishes of the brethren on the subject of choosing presiding elders, recommend to the Conference the adoption of the following resolutions, to be inserted in their proper place in our Discipline:

*Resolved*, etc., 1. That whenever, in any Annual Conference, there shall be a vacancy or vacancies in the office of presiding elder, in consequence of his period of service of four years having expired, or the bishop wishing to remove any presiding elder, or by death, resignation, or otherwise, the bishop or president of the Conference, having ascertained the number wanted from any of these causes, shall nominate three times the number, out of which the Conference shall elect by ballot, without

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<sup>1</sup>Journal of the General Conference, vol i., p. 218.

debate, the number wanted: *provided*, when there is more than one wanted not more than three at a time shall be nominated, nor more than one at a time elected: *provided*, also, that in case of any vacancy or vacancies in the office of presiding elder in the interval of any Annual Conference, the bishop shall have authority to fill the said vacancy or vacancies until the ensuing Annual Conference.

*Resolved*, etc., 2. That the presiding elders be, and hereby are, made the advisory counsel of the bishop or president of the Conference in stationing the preachers.<sup>1</sup>

The first resolution was adopted by a vote of 61 to 25. Notwithstanding it was a peace measure, in the nature of a compromise, trouble arose over it, and some felt that they were not bound by it. The resolutions met with opposition from two quarters that proved to be of a serious nature. The first was from bishop elect Joshua Soule, who had just been elected bishop. He took the ground that the resolutions were unconstitutional, and he could not therefore undertake to administer the law. The other was Bishop McKendree, who agreed with Joshua Soule. In the form of a protest he pronounced the resolutions unconstitutional. On this point he said:

I extremely regret that you have, by this measure, reduced me to the painful necessity of pronouncing the resolution *unconstitutional, and therefore destitute of the proper authority of the Church.*<sup>2</sup>

Feeling ran high on both sides. The minority made a determined fight, but the majority carried their point. From some cause, perhaps in the interest of peace, the General Conference suspended the resolutions for four years. Bishop Paine says this

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<sup>1</sup> *Journal of the General Conference*, vol i., p. 221.

<sup>2</sup> *Life and Times of Bishop McKendree*, vol. i., pp. 418, 419.

opened up the way for Bishop McKendree to submit the suspended resolutions to the Annual Conferences, with two things in view: First, as to their constitutionality; and, second, if they declared them to be unconstitutional to recommend that the next General Conference adopt them. This he did in the interest of peace and constitutional government. The course pursued by Bishop McKendree, though called by him and others a protest, was to all intents and purposes the exercise of the veto power, and that without provision having been made for it, or even so much as precedent to follow. Neither was any such right inherent in the office.

In view of the adoption of the resolutions and Bishop McKendree's protest, it was evident that something ought to be done to guard against future trouble of a like character. To meet the demands the General Conference adopted the following:

*Resolved, etc.,* That we will advise, and hereby do advise, the several Annual Conferences to pass such resolutions as will enable the next General Conference so to alter the constitution that whenever a resolution or motion which goes to alter any part of our Discipline is passed by the General Conference it shall be examined by the superintendent or superintendents; and if they, or a majority of them, shall judge it unconstitutional, they shall, within three days after its passage, return it to the Conference with their objections to it in writing. And whenever a resolution is so returned, the Conference shall reconsider it, and if it pass by a majority of two-thirds it shall be constitutional and pass into a law, notwithstanding the objections of the superintendents; and if it be not returned within three days, it shall be considered as not objected to and become a law.<sup>1</sup>

For some cause the Annual Conferences did not

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<sup>1</sup> Journal of the General Conference, vol. i., p. 238.

concur in the above recommendation. The General Conference of 1824 made a recommendation similar to the one adopted in 1820, with the following clause added:

In case a less majority shall differ from the opinion of the bishops, and they continue to sustain their objections, the rule or rules objected to shall be laid before the Annual Conferences, in which case the decision of a majority of all the members of the Annual Conference present when the vote shall be taken shall be final.<sup>1</sup>

The Annual Conferences also declined to adopt the recommendations of the General Conference of 1824. Therefore the Annual Conferences declined twice to grant a veto power to the bishops.

The General Conference of 1820 proposed to confer on the bishops a veto power equal only to a less majority than two-thirds of the General Conference, and the act of 1824 to a majority of all the members of the Annual Conferences when two-thirds of the General Conference could not be had in behalf of proposed legislation. In both provisions two-thirds of the General Conference was recognized as a proper tribunal to judge of the constitutionality of its own acts, and the Annual Conferences were to be applied to when a two-thirds vote of the General Conference could not be had to overcome the continued objections of the bishops.

From 1824 to 1854 the question of veto was allowed to rest. During that time nothing seems to have occurred to occasion its revival, unless it was the general question, raised in 1844, of the status of the bishops. As is suggested by his speeches and of one or

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<sup>1</sup>Journal of the General Conference, vol. 1., p. 267.

two others on the occasion, it is more than likely that the following resolution offered by Dr. W. A. Smith, of Virginia, grew out of the debate on the Andrew case in 1844:

When any rule or regulation is adopted by the General Conference which, in the opinion of the bishops, is *unconstitutional*, the said bishops may present to the General Conference their objections to such rule or regulation, with the reasons thereof; and if, after hearing the objections and reasons of the bishops, two-thirds of the members of the Conference present shall still vote in favor of the rule or regulation so objected to, it shall have the force of law—otherwise it shall be null and void.<sup>1</sup>

This resolution, which was put in the Discipline in 1854 by a majority vote of the General Conference, and remained there for twelve years without any question as to its validity, makes two-thirds of the General Conference the judge of the constitutionality of its own acts when such a vote had been secured in the face of the veto of the bishops, and does not recognize the right of the Annual Conferences to judge of such matters.

In 1866 Dr. W. A. Smith, the author of the resolution quoted above, offered the following to the General Conference for adoption:

Whereas the General Conference in 1854 passed a law, which now stands on page 47 of the last edition of the Discipline, specifying, if not limiting, the veto power of the bishops; and whereas, from an oversight on the part of some one, no order was made by the General Conference directing this law to be submitted to the several Annual Conferences for their constitutional concurrence; and whereas without such concurrence it is not, in its present form at least, a part of the organic law of the Church, although it has kept the place of such a law in the Discipline for the last twelve years; therefore,

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<sup>1</sup>Journal of the General Conference, 1854, p. 356.

*Resolved*, That our bishops be, and are hereby, requested to take the earliest opportunity to lay this law before each Annual Conference and request them to vote on it, and after each Conference shall have voted, to announce the result to the Church.<sup>1</sup>

Rev. J. A. Cobb offered the following substitute for the resolution of Dr. W. A. Smith:

Whereas the proviso in section second, granting the veto power to our College of Bishops, is contrary to the nature and character of our general superintendency; therefore,

*Resolved*, That said proviso be, and it is hereby, struck out of the Discipline of the Methodist Episcopal Church, South.<sup>2</sup>

There is a marked difference in the two papers above, indicating two extreme views. These views were more fully developed in the debate on the question. In the first preamble of the original resolution are these words: "Specifying, if not limiting, the veto power of the bishops." In contrast with this statement is the following, taken from the substitute: "Granting the veto power to our College of Bishops is contrary to the nature and character of our general superintendency."

As to whether it was law or not, Bishop Pierce, in the chair, said that this was rather an anomalous case coming up before the Conference. It is singular that it should be permitted to remain in the Discipline for twelve years, and the question never raised before. The question of whether it is law or not must be settled before any resolution can be entertained. He was free to say that in his own opinion the proviso is a law as it now stands in the Discipline. This is a question for the bishops to decide, and he asked an opportunity for consultation before rendering a decision.<sup>3</sup>

The reader will note that Bishop Pierce took the

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<sup>1</sup> *Daily Advocate*, 1866, p. 35.

<sup>2</sup> *Ibid.*

<sup>3</sup> *Ibid.*



position that "the question of whether it is a law or not must be settled before any resolution can be entertained," and that "this is a question for the bishops to decide."

So far as the record shows, the College of Bishops rendered no decision on the question, and the resolution was entertained and debated without any conclusion being reached.

That the reader may get a clear view of the veto power as held by the leading minds of the Church at that time, large extracts are here inserted from the debate on the resolution of Dr. W. A. Smith offered to the General Conference in 1866. Dr. Smith said:

Either our bishops had a veto power before this law, or they did not. The ground taken by the minority of the General Conference of 1844 in the protest in opposition to the ground taken by the majority in that Conference was, that our episcopacy as a unit is a coördinate branch of the government, and that they had equal powers with the Conference. The question is not that raised by the brethren here, whether the bishops have any veto power at all. It is whether they have not an absolute veto power, whether or not you have a single law as a law of the Church until they put their signatures to your Journal; whether you have any law. I think it is an unsafe precedent, a very unsafe precedent, for you to pass any law modifying, changing, or altering, in any shape or form, an organic law of the Church without respecting the constitutional grounds thrown around it in the constitution of the Church.<sup>1</sup>

Dr. A. L. P. Green, of the Tennessee Conference, took the same view of the question as Dr. William A. Smith. Dr. Green said:

In the General Conference of 1844 the majority of the Conference determined that the General Conference of the Metho-

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<sup>1</sup>*Daily Advocate*, 1866, pp. 35, 36.

dist Episcopal Church was supreme. Do not forget that fact, for they contended for and decided it to be a fact. The delegates from the southern division of the Church took grounds that there was a power coördinate with the General Conference, and that it required the coöperation of those two powers to make it supreme.

We brought in a protest in which we took the ground that the power you talk of was absolute, and was embraced in the genius and, by implication, in the platform, of the Church; that this power was absolutely existing, and that they had by this course of conduct ignored a power which was a natural and legitimate element of the Church; that the power of the bishop to judge law, and to entertain or reject questions that might be proposed, was as old as the Church; that that power had never been seriously questioned; that we had always practiced it in the Church, and that, as such, it ought to be regarded as a law of the Church, and that it was a natural and elementary principle. With this decision on the part of the members of the Church, South, we protested against the course of the General Conference, came home to our people, and the ground taken by us was laid before the Church in its elementary character; brought before the quarterly meetings and Conferences, and everybody, and was everywhere approved. Under this view of the case a Convention was called, and the Methodist Episcopal Church, South, was organized. We went to work under that precise state of things, so that everything contended for by Dr. Smith is, to all intents and purposes, an elementary principle in our Church, as thoroughly defined and established as it is possible for the people and a Convention or Conference to do it. . The great point that he [Dr. Smith] particularly called attention to is, the recognition of the veto power of the bishops. That is an elementary principle of the Church, as we organized it, from bottom to top, all round it, all through it, and all over it.<sup>1</sup>

Drs. Smith and Green both argued for the adoption of the original resolutions. If they had succeeded in sending them to the Annual Conferences, and had secured their adoption there, they would not only

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<sup>1</sup>*Daily Advocate*, 1866, p. 68.

have put the law in the constitution, but they would have done far more than that; they would have committed the Church to their theory of the veto power and the relation of the bishops to the General Conference. The doctrine of these speeches will be reverted to later on.

The resolutions were approved on the ground that the law adopted in 1854 did not conflict with the Restrictive Rules, and was a law as it then stood. This was the view held by Bishop Pierce, heretofore quoted. This view of the question was held by such men as Drs. Thomas O. Summers, John E. Edwards, Levi Pearce, and P. A. Peterson.

Dr. J. C. Keener took the position that it was not law, and that the time had passed to make it law. He said:

The book called our Discipline is a book of law, and until an act becomes a law it has no business in that book. That act is not a law, because the very essential part of the process to make it one is wanting. To supply that deficiency now would be much like an act passed in the time of President Lincoln, but which did not receive his signature, and now receiving the signature of President Johnson, thereby becoming a law. It seemed to him simply absurd.<sup>1</sup>

Dr. H. N. McTyeire agreed with Dr. J. C. Keener, but expressed himself more fully. Special attention is called to what he said:

I confess to astonishment at hearing an opinion, from those whose opinions I greatly respect, that this proviso, conferring a veto power on the bishops, is a law. To my mind it is clearly not a law, and I doubt whether by any action of ours it can be made one. True, as Brother Edwards has said, it violates none of the Restrictive Rules by which the powers of a General Con-

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<sup>1</sup>*Daily Advocate*, 1866, p. 35.

ference are limited; but it does more than that—it assumes to impose a restrictive rule new and unknown to the constitution. Let us try the validity of this proviso by supposing a case: Suppose a rule or decision of this body made by a majority, in which any man has an interest. It confers rights upon him. Will he consent to be deprived of them because subsequently the episcopal bench returns a veto to that act, and it fails, though having a majority vote, to pass over the veto by a two-thirds vote? He will contest his vested right, and rightfully. Why, it will be asked, is a majority vote of the General Conference restrained from having its usual legal force? He claims the benefit of it; and if the question involves property, and passes, as it may, out of this body before a judicial tribunal, he will get it. The like has happened, and may happen again. Will it be answered that there is a proviso in the Discipline requiring in this case a two-thirds vote? How came it there? The Convention organizing this delegated General Conference did not put it there. That Convention did not so restrict it. The General Conference of 1854 was, like this, a creature of the Convention of 1808, and had no right, by a majority or a two-thirds or even a unanimous vote, to lay restrictions and checks upon subsequent General Conferences. Checks may be needed, but this is not the way to put them on. What care we for the directions of General Conferences eight, twelve, or twenty years ago? Those that make them may be bound by them, but we are not. This proviso is not merely a rule and regulation for the administration of the affairs and interests of the Church, but it seeks to make a rule and regulation for the lawmaking power of the Church. It is profoundly organic, and before it has any claims to be considered law it must pass carefully through all the processes and safeguards prescribed. It distinctly confers on the episcopacy a veto power, and we have cause to know that that means something. Nobody will say that it has been submitted to the Annual Conferences for their concurrence; and without this no fundamental or organic changes can be introduced. It is therefore a dead letter, though it may have found its way into the Discipline and remained unquestioned till now. Neither can it become a law if, according to the motion of Dr. Smith, it be sent around to the Annual Conferences hereafter and receive their concur-

rence. It is too late. By the analogy of legislation, the time to perfect it as a fundamental article has expired by limitation. It originated in the General Conference of 1854, and ought to have been perfected before the General Conference following in 1858. As has been justly illustrated, to confirm it, at this date, would be like signing a bill under one administration that had been passed by the legislature of a previous administration. Not one administration, but three have gone over 1858, 1862, and 1866. The trouble and confusion of the war might have been pleaded for the lapse; but between 1854 and 1858 there was peace. Clearly, therefore, we must pass it again, and send it down to the Annual Conferences for constitutional concurrence. Or, if it goes to them in its present shape, and they give it a three-fourths vote, it must, before becoming a law, be perfected by the concurrence of the next General Conference.<sup>1</sup>

In opposition to the view that the veto power is inherent in the episcopacy, Dr. J. C. Granbery said:

I cannot agree with Dr. Smith in the opinion that the effect of the proviso will be only to specify or limit the veto power which already belongs to the episcopacy. I cannot find in the Discipline, either expressly or by inference, any such power. I find that bishops preside at our Annual Conferences, and decide questions of law which are there raised. Bishops also preside over our General Conferences, but have no such power to decide questions raised here. Dr. Smith argues that they have to sign the Journals to make them authentic, and that if they withheld their signatures the acts passed by the General Conference would not be valid. I think the signing of the Journals a mere matter of form, and that the bishops have no such powers as indicated. The language of this proviso does not state any violation of the Restrictive Rules, but gives the veto power to what is unconstitutional. If you adopt this proviso, you protect whatever the bishops shall decide to be the constitution of the Church.<sup>2</sup>

Dr. Granbery contended that the veto power ought to be conferred on the bishops, but he wanted it done

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<sup>1</sup>*Daily Advocate*, 1866, pp. 36, 37.

<sup>2</sup>*Ibid.*, p. 67.

with an amendment to Dr. Smith's resolution so that the Conference might not commit itself to his theory of the episcopacy.

Rev. P. A. Peterson spoke as follows against the theory that the veto power is inherent in the episcopacy:

The Church constitution defines the powers and prerogatives of the episcopacy. Now the question arises, Where, in all that constitution, is the provision investing the episcopacy with the veto power? There are two extremes on this subject, as it appears to me. The Methodist Episcopal Church reached one in 1844. Dr. Smith has reached the other extreme by assuming that the absolute veto power is inherent in the episcopacy.<sup>1</sup>

Rev. William P. Radcliffe offered this resolution:

*Resolved*, That the Book Editor be instructed to erase said proviso from the Discipline.<sup>2</sup>

In speaking to this resolution Mr. Radcliffe put the question in a different light to what the other speakers had done. He said:

I ask, sir, what right has any delegated body on earth to transfer any part of their power to another people? We are here in our absolute character as lawmakers; we are here as delegates—as the lawmaking power of the Methodist Episcopal Church, South. We have no right to transfer any part of our power to these venerable bishops, to the members of the Louisiana Conference, or anyone else. We stand alone responsible, and we cannot make a transfer of this delegated power. But what is the fact, sir, with regard to the power in this case?

. Look at the great power that has been transferred to the bishops with this proviso. Suppose we are one hundred and forty, here to make laws. The bishops have no vote; all of them cannot cast one vote in making a law. But here a rule or regulation is brought up, and seventy-one—a majority

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<sup>1</sup>*Daily Advocate*, 1866, p. 42.

<sup>2</sup>*Ibid.*, p. 44.

—pass it, and sixty-nine are against it. It passes to the bishops—they reject it, thinking it unconstitutional, and send it back with their objections. The seventy-one cannot gain another vote; but what does it require? It requires a two-thirds vote, which will take twenty-three more members to pass that law or regulation. Before the bishops had no vote at all; now they make themselves equal to twenty-three votes in making a law. And it is worse than that, sir. Suppose these five bishops get together and three of them decide that it is unconstitutional, and the other two decide that it is not, the majority of the bishops can bring in their veto, and then, sir, you will find that one bishop is equal to twenty-three delegates in the lawmaking power. . . . It [the law of 1854] is in the Discipline wrongly, and it ought to be taken out, and the resolution I have offered ought to pass.<sup>1</sup>

The question of the veto power was not settled in 1866. The General Conference in 1870 referred the question to the Committee on Episcopacy, which was composed of such men as L. M. Lee, E. H. Myers, O. R. Blue, J. C. Keener, C. K. Marshall, F. E. Pitts, E. E. Wiley, Andrew Hunter, R. Smithson, and others. Liberal extracts from the report are here inserted:

The right or the power of veto, as a prerogative of the episcopal office, has neither been held as a principle nor exercised as a power in our Church. Its need has sometimes been felt, and its utility, under well-defined limitations and restrictions, will be readily acknowledged; but the Church has never conferred it, and the bishops have never used it. The veto power does not inhere in the episcopal office, and does not belong to it by any legitimate act or authorization of the Church.

The right or power of veto is not recognized or conceded, either by expression or implication, in the composition or constitution of the delegated General Conference, or in the rights and powers by which it was authorized to assemble and make rules and regulations for the government of the Church.<sup>2</sup>

The committee based the need of additional legis-

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<sup>1</sup>*Daily Advocate*, 1866, pp. 44, 45.

<sup>2</sup>Journal of the General Conference, 1870, pp. 282, 288.

lation in the following statement of the principles involved in the veto power:

The need of it has been often felt, and the absence of the provision and its powers, for their conservative influence, and as a check upon hasty and improper legislation, as often deplored. There can be scarcely a doubt as to the necessity of such a definition of the rights of the episcopacy, and the powers of the General Conference, as it was believed would be secured and settled by the resolution adopted in 1854. Right is not always secure or strong. Power is cumulative, aggressive, self-willed. Right and power are often antagonistic. Undefined right is uncertain and insecure. Uncontrolled power is grasping and ambitious; the one needs a shield, the other a bridle. Both, in their relations to each other and to the Church, will be better with legislative definitions and constitutional guards.<sup>1</sup>

The conclusion of the whole question found its solution in the rule which was adopted in 1870, and is found in all the Disciplines since that time.

We have endeavored to give a faithful account of the history of the veto power. It commenced in 1820 and ended in 1870, covering a period of fifty years. The right to veto laws supposed to be unconstitutional has never been exercised but twice. The first time was in 1820 when it was employed, in the form of a protest, in the absence of authority. The other time was in 1894, twenty-four years after the power had been conferred. The General Conference in 1894 passed the following law:

Every case to be tried shall be referred to a committee of not less than nine, nor more than thirteen, who shall be selected by lot from the members of the Conference.<sup>2</sup>

This law was adopted on Saturday, May 19. On

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<sup>1</sup>Journal of the General Conference, 1870, pp. 286, 287.

<sup>2</sup>*Ibid.*, 1894, p. 238.



Monday, May 21, the College of Bishops vetoed it. They presented their objections in writing as follows:

The College of Bishops in session have duly considered the action of the General Conference, on Saturday, the 19th of May, in adopting the revised form of Chapter VII., entitled "Administration of Discipline," as reported by the Special Committee of Seven, and would respectfully interpose their veto to the said action, in paragraph 260, as violative of the constitutional provisions of the plan of lay representation, adopted in 1866.<sup>1</sup>

The above veto message created quite an interest in the question. Dr. Paul Whitehead has brought forward two legal maxims, fortified by legal authority, to show why paragraph 260 should not have been vetoed. He says:

This veto is, in the first place, contrary to two of the fundamental canons of interpretation of the constitutionality of statutes by a legal tribunal. . . .

One of the canons referred to is that a tribunal must not construe a legislative act to be unconstitutional when such construction *can be reasonably avoided*. The court must *labor to reconcile* the act with the fundamental constitutional provisions. When it *can* do so, it must *effectuate* the act of the legislative body. No mere possible interpretation which the act in question may bear will justify setting it aside. It must be *unmistakably repugnant* to the constitution. If, by viewing it in connection with what already exists, it can be seen how the provisions of the act can be carried out, it *must stand*.

The other canon is that the court shall not *assume* that repeal of a law already existing was intended. Repeal *by implication* is not favored. Courts will say that the legislative body enacting a law did not intend to interfere with any other already subsisting unless it *expressly says so*. They will not force two statutes into repugnance not clearly intended. They will hold that *both are good*, and decree their harmonious execution.<sup>2</sup>

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<sup>1</sup>Journal of the General Conference, 1894, pp. 235-237. See Chapter VI. for a discussion of the constitutionality of the plan of lay representation.

<sup>2</sup>*Richmond Advocate*, May 31, 1894.

Dr. Whitehead applies his canons of interpretation to the veto as follows:

When these legal doctrines are applied to the veto it disappears like the blue color of alkaline fluid, which a drop of acid turns to red.

What *necessity* existed for construing the language "chosen by lot from among the members of the Conference" to mean *all* members, lay and clerical? Has not the provision of paragraph 46 been accepted and unquestioned law for twenty-eight years? It was not in the Chapters VII. and VIII. which the Committee of Seven revised. They recommended no alteration of it. They said nothing that denied or questioned its meaning. What need for the College of Bishops to shut their eyes to this fact, and assume that the committee (and the General Conference as well in adopting the report) were ignorant of its existence or regardless of its provision that *laymen* should not "participate" in the business of the Conference relating to "ministerial character"? Were they not "seeking occasion" to set the proposed paragraph aside? Construed with paragraph 46 the meaning of the words, "members of the Conference," is necessarily, "such members as are qualified agreeably to paragraph 46 to sit on the trial of a preacher." A tribunal *honestly seeking to effectuate* the act of the legislative body of the Church would necessarily be shut up to this interpretation. The first canon of interpretation would *compel* such a course. . . . So, also, when the other canon is turned upon this veto.

The meaning given to "members of the Conference" rests for support upon the *assumption* that the committee which framed paragraph 260, and the General Conference which adopted it, *intended to repeal* paragraph 46. They did not say so expressly, and did not have paragraph 46 referred to them at all. If repealed, it would have been "by implication" and by a blunder! The rulings and authorities cited say this *shall not be assumed*. The legislative body will be held to have done nothing of the sort, unless it states its meaning to that effect expressly, or there is no way of reconciling the provisions so that *both may stand*. In this case, as already shown, nothing was easier than their reconciliation. It was simply amazing

that anybody should suppose that there was a necessary conflict.<sup>1</sup>

The foregoing history of the veto power suggests the following questions worthy the serious consideration of the Church:

1. Drs. W. A. Smith and A. L. P. Green contended at the General Conference in 1866 that the veto power is inherent in the episcopacy, that the bishops are equal in power to the General Conference, and that the Methodist Episcopal Church, South, separated from the Methodist Episcopal Church and organized on that theory. On these points Dr. Smith said: "The ground taken by the minority of the General Conference in 1844, in the protest in opposition to the ground taken by the majority in that Conference, was that our episcopacy as a unit is a coördinate branch of the government, and that they had equal powers with the Conference. The question is not that raised by the brethren here, whether the bishops have any veto power at all. It is whether they have not an absolute veto power."

After calling attention to the conflict in 1844, and to the history of the organization of the Methodist Episcopal Church, South, growing out of the conflict, Dr. Green summed up the question as follows: "The great point that he [Dr. Smith] particularly called attention to is the recognition of the veto power of the bishops. That is an elementary principle of the Church, as we organized it, from bottom to top, all round it, all through it, all over it."

Here is what the southern delegates said, referred to by Drs. Smith and Green, and upon which they

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<sup>1</sup>*Richmond Advocate*, May 31, 1894.

made their plea for a recognition of the veto power claimed by them to be inherent in the episcopacy:

As the Methodist Episcopal Church is now organized, and according to its organization since 1784, the episcopacy is a coordinate branch, the executive department proper, of the government. A bishop of the Methodist Episcopal Church is not a mere creature, is in no prominent sense an officer, of the General Conference. The General Conference, as such, cannot constitute a bishop. Constitutionally the bishops alone have the right to fix the time of holding the Annual Conferences; and should they refuse or neglect to do so, no Annual Conference could meet according to law, and, by consequence, no delegates could be chosen, and no General Conference could be chosen, or even exist.<sup>1</sup>

That a revolutionary proceeding—which would be the case if the bishops were to “refuse” to appoint the time of holding the Annual Conferences that no delegates might be elected, and consequently no General Conference could meet—should be given as evidence that the bishops are equal, if not superior, to the General Conference, is evidence that desperation is resorted to, to bolster up a theory untrue to the facts of history. Not much better is that circuitous reasoning which reaches the conclusion that the General Conference “cannot constitute a bishop,” in the face of the fact that it elects the bishops, and, in case of necessity, can ordain them.

How far has the Methodist Episcopal Church, South, accepted or rejected the position of the southern delegates in the foregoing extract taken from their protest, and interpreted and elaborated by Drs. Smith and Green? The answer to this question is made up of the following facts:

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<sup>1</sup>Journal of the General Conference, 1844, vol. ii., p. 209.

(1) It is claimed that the episcopacy is a coördinate branch of the government. What do the advocates of this theory mean? Worcester defines the word: "Equal; not subordinate." The protest says: "In a sense by no means unimportant the General Conference is as much the creature of the episcopacy as the bishops are the creatures of the General Conference." Dr. Smith defines the episcopacy as a coördinate branch of the General Conference to be "equal in power." Dr. Green subscribed to this view. This coördination, according to these noted preachers, finds its proper expression in the veto power. That they correctly interpreted the protest, no one will, perhaps, dispute.

(2) The opinion as expressed by a majority (in fact, all but Drs. Smith and Green) of those who spoke on the veto question in 1866 was against the theory of the episcopacy as set forth in the protest, and as interpreted and elaborated by Drs. Smith and Green. For their views the reader is referred to the extracts taken from the debate in another part of this chapter.

At the General Conference in 1870 the Committee on Episcopacy declared that "the right or the power of veto, as a prerogative of the episcopal office, has neither been held as a principle nor exercised as a power in our Church. . . . The veto power does not inhere in the episcopal office. The right or power of veto is not recognized or conceded, either by expression or implication, in the composition or constitution of the delegated General Conference."

(3) So far from the claim being admitted that the episcopacy is a coördinate branch of the government and equal in power to the General Conference, and

that the veto power is inherent in the office, the legislation of the Church declares with one voice that all the powers are conferred and the bishops are amenable to the General Conference for their moral and official conduct. Coördination is equality, and equality of power in the General Conference and the episcopacy will give logical results that few, perhaps, would be willing to accept.

2. In discussing the veto power in 1866, Dr. J. C. Granbery stated one of its dangers in the hands of the bishops as follows: "If you adopt this provision, you protect whatever the bishops shall decide to be the constitution of the Church." By referring to the exercise of the right of the veto in 1894, it will be seen that the bishops did undertake to say what is the constitution. The veto shows that the bishops not only decided what is the constitution now, but they went further and said what it shall be in the future. According to the veto, the constitution of the future shall be made up of whatever is adopted by the concurrent constitutional vote of the General and Annual Conferences, and when once adopted in that way it must go through the same process before it can be changed. This method is unique. The General Conference passes a law, and the bishops veto it because they think it unconstitutional. It starts in and goes around as statutory law, but comes out as an amendment to the constitution. Those voting on the question saw it in its birth and development as law, but never thought of it as a constitutional amendment until notified that their hands are tied. The question assumes this attitude: A law is passed by the General Conference and the bishops veto it. The General

Conference passes it over the veto, and it goes to the Annual Conferences. The members like it as a law and think it is needed, but they do not want it as an amendment to the constitution. If they adopt it as law, it becomes a constitutional amendment; but if they are not willing to have it as an amendment, they shall not have it as law, however much it may be needed. This method of making and amending the constitution is confusing and un-American. It is more than this: it is dangerous. The rights of the members of the Church are involved. It is a double accumulative process that will rapidly tie the hands of the Church, and it will not know it until its hands are tied.

3. Not only do the bishops through the veto power succeed in protecting as the constitution whatever they decide it to be, but through the same channel they have large legislative powers. They are not members of the General Conference and have no vote, but our nine bishops are equal by means of the veto power to two-thirds of the General Conference less one. Their legislative power transcends that. They are equal to three-fourths of all the members, less one, of the several Annual Conferences.<sup>1</sup>

4. We need to recognize the fact that a process that can send a law on its perilous journey around to all the Annual Conferences to be passed upon as to its constitutionality by several thousand men, a large majority of whom have never given any thought to such matters, is a hazardous and unheard-of method of determining the constitutionality of law. Another

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<sup>1</sup> For the legislative powers of the bishops by means of the veto, see the speech of the Rev. William P. Radcliffe quoted in this chapter.

novel feature of the system of Southern Methodism is that it seeks to determine the constitutionality of law in the abstract—in the absence of any case. In civil government such a question is settled in its relation to a case, and it is passed upon not by the executive or legislative departments of government, neither by popular vote of the people, but by the judiciary. The people are called upon to ratify constitutions and amendments to constitutions, but never to determine the constitutionality of law. Our method of settling such a question, and of converting law into constitutional amendments, is an anomaly in government. The question of whether or not a law is constitutional ought never to be determined only in connection with a case, and then by a tribunal independent of the legislative and executive departments. The Methodist Episcopal Church, South, needs a commission or supreme court, elected by the General Conference, to consider such questions.



## CHAPTER IX.

### EPISCOPAL DECISIONS.

**D**URING the quadrennium of 1836-40, a controversy arose between the bishops and some of the Annual Conferences, as to who had the right to decide questions of law arising in the business of the Quarterly and Annual Conferences—the president, or the Conference. The bishops and the Conferences both claimed the right. The matter was brought before the General Conference in 1840 *by the bishops in their address* as follows:

When any business comes up for action in our Annual or Quarterly Conferences, involving a difficulty on a question of law, so as to produce the inquiry, *What is the law in the case?* does the constitutional power to decide the question belong to the president, or the Conference?<sup>1</sup>

The matter in controversy was presented by the bishops as a constitutional question. They asked: “Does the constitutional power to decide the question belong to the president, or the Conference?” If this be the nature of the question, it needed to be settled judicially, and not by an act of the legislature. But the General Conference did not render a judicial decision, but instead adopted the following law on the subject, conferring on the bishops the right

To decide all questions of law in an Annual Conference, subject to an appeal to the General Conference; but in all cases the application of law shall be with the Conference.<sup>2</sup>

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<sup>1</sup>Journal of the General Conference, 1840, vol. ii., pp. 137, 133.

<sup>2</sup>*Ibid.*, p. 120.

The act of the General Conference does not recognize the right in question as constitutional, and as such belonging to either the bishops or Conferences. This increased power was conferred on the bishops with two important checks left in the hands of the Conference. These were the right of "appeal to the General Conference" and "the application of law." One of these checks was to protect the Conference at the time from harm by the decision, and the other was to have the decision passed upon by the court of appeals, that all errors might be corrected.

In 1854 the General Conference changed the law on episcopal decisions as follows:

They shall decide all questions of law coming before them in the regular business of an Annual Conference, and may require such questions to be presented in writing, and, on the order of the Conference, such questions, and the decisions of the bishop, shall be recorded on the Journal of the Conference. When the bishop shall have decided a question of law, the Conference shall have the right to determine how far the law, thus decided or interpreted, is applicable to the case then pending. An Annual Conference shall have a right to appeal from such decision to the College of Bishops, whose decision, in such cases, shall be final. And no episcopal decision shall be authoritative, except in the case pending; nor shall any such be published until it shall have been approved by the College of Bishops. And each bishop shall report, in writing, to the episcopal college, at an annual meeting, to be held by them, such decisions as he has made, subsequently to the last preceding meeting; and all such decisions, when approved by the College of Bishops, shall be either recorded in a permanent form, or published in such manner as the bishops shall agree to adopt; and when so approved, and recorded or published, they shall be authoritative interpretations or constructions of the law.<sup>1</sup>

The above law says the bishop "may require such

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<sup>1</sup>Journal of the General Conference, 1854, p. 347.

questions to be presented in writing, and, *on the order of the Conference*, such questions, and the decisions of the bishop, shall be recorded on the Journal of the Conference.” On the application of the law decided by the bishop the provision of 1854 is fuller than that of 1840. The latter says “the Conference shall have the right to determine how far the law, thus decided or interpreted, is applicable to the case then pending”; and the former, “the application of the law shall be with the Conference.” The right of appeal in the law of 1840 was to the General Conference, but in 1854 it was made to the College of Bishops. The latter law has also the following clause: “No episcopal decision shall be authoritative, except in the case pending.” Another addition made to the law in 1854 was that when the College of Bishops approve and publish their decisions “they shall be authoritative interpretations or constructions of the law.”

The General Conference of 1858 made some important changes in the law on episcopal decisions as adopted in 1854. Instead of the bishop “may require such questions to be made in writing,” the law of 1858 has: “Provided such questions be presented in writing.”<sup>1</sup> This change made it so that a bishop cannot decide a question of law until it is submitted in writing. According to the law of 1854, the questions of law and decisions of the bishop were not recorded on the Journal unless ordered by the Conference, but the law of 1858 makes it the duty of the Conference to record both the question and decision.<sup>2</sup>

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<sup>1</sup> Journal of the General Conference, 1858, p. 542.

<sup>2</sup>*Ibid.*

A vital question to the Church now is: What is the significance of the change in the appeal being taken to the College of Bishops instead of to the General Conference, and what is the scope of "authoritative interpretations or constructions of the law"? Whom do these interpretations bind, and to what extent? Are they subject to reversal by any tribunal in the Church? What is the remedy if deliverance from them is desired?

Dr. J. J. Tigert has given the following answer to the foregoing questions:

Their interpretation of the law is authoritative, and governs the administration until the General Conference changes the statute.<sup>1</sup>

Bishop R. K. Hargrove has given his view of the force of episcopal decisions as follows:

I might complain that nearly all of said complaints claimed here are judicial errors, over which surely he [B. F. Haynes] is not so ignorant as to suppose this committee had jurisdiction.

Referring to the answer given to the question herein propounded, all I have to say is that the College of Bishops confirm my decision, and you have no further business with it. It is the law of the Church.<sup>2</sup>

So far as we are aware the entire College of Bishops hold to the same view with Bishop Hargrove and Dr. Tigert. Whither will this lead us? What are its tendencies and possibilities? What power does it place in the hands of the episcopacy?

It confers on the College of Bishops large legislative powers, which extend over a period of nearly four years. Legislation begins in July or August

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<sup>1</sup> Constitutional History, pp. 377, 378. For additional statement of the same point see *The Methodist Review*, September-October, 1894, p. 94.

<sup>2</sup> Stenographic Report of the Committee on Episcopacy, 1894.

with the convening of the Annual Conferences, when bills are introduced and by individual members of the legislature passed on their first reading, and in process of development extends to the meeting of the next General Conference. It seems to be even worse than that. The Committee on Episcopacy was notified by Bishop Hargrove, in 1894, "that the College of Bishops confirmed my decision, and you have no further business with it. . . It is the law of the Church." It would seem from this view that the General Conference of 1894 was compelled to work under and obey a law passed by the College of Bishops at Wilmington in May, 1891, in the investigation of the official administration of Bishop R. K. Hargrove. It seems that the Committee on Appeals at the same Conference, while considering the case of D. C. Kelley, was in danger of being hampered by similar laws. Under these laws, and in view of the theory held concerning episcopal decisions, the two committees, if they saw that they could not do their work as it ought to be done under the laws enacted by the College of Bishops, would have to suspend their investigations and go before the General Conference and ask that body to pass a statute repealing the laws enacted by the College of Bishops at Wilmington and then return and complete their work with untied hands. When viewed in all its bearings, could the Church enact a greater farce?

The legislative power of the bishops appears further in the fact that they make decisions where there is no law. This statement can be verified by referring to the decisions of the College of Bishops published in the Discipline of 1894. There are quite a number

of such decisions in said publication, and each one of them is the enactment of a new statute, covering ground not included in the enactments of the General Conference. This matter is all the more serious since the General Conference of 1894 ordered the publication of such episcopal decisions as had been approved by the College of Bishops, and those rendered from 1890 to 1894 are included in the publication, and that without any knowledge of their nature and extent, on the part of the General Conference, save what the Committee on Itinerancy may have gathered from the Journals of the Annual Conferences, by the inspections of the decisions made by the individual bishops. And all of this was done in the face of the fact that the General Conference forbade itself adopting any law originating with its own members, and passed upon by one of its own committees, until it was in possession of the body, read and carefully considered. When we take into account the importance of episcopal decisions, their force and nature in the government of the Church, was it not a very unwise step on the part of the General Conference to publish the episcopal decisions made from 1890 to 1894 without previous inspection, however good and wise the men may be that rendered them? That the act of the General Conference was not wise may be seen from the fact that the episcopal decision in paragraph 600 of the Discipline of 1894 repealed nine paragraphs of the Discipline.

This suggests another phase of the legislative power conferred on the bishops, namely, their power to repeal laws. They can annul any statute in the Discipline they may be asked to pass upon, and accord-

ing to the theory of episcopal decisions the only way to put it in force again is for the General Conference to reënact it. Not only is it possible for the bishops to repeal law, but they have done it. Plain statutes in the Discipline have been repealed, and that where the rights of preachers and Conferences are clearly involved. The following decision is an illustration of the above statements:

¶ 600. APPOINTMENT OF BOARDS AND COMMITTEES IN ANNUAL CONFERENCES.

In an Annual Conference this was offered by a member:

“*Resolved*, That the standing rule of the Conference requiring nominations for boards and committees to be made by the presiding elders be changed by requiring said nominations to be made by a Committee on Nominations, said nominating committee to be composed of one member from each district, who shall be nominated annually by the presiding elder of that district.”

The bishop was required to decide on the legality of the proposed action. He answered: “The resolution cannot apply to the Committees of Examination and to the Board of Missions, but is valid in reference to committees appointed annually, operating the effect of a repeal of the resolutions of the Conference which provided a different mode of appointing committees, and the Conference may take the requisite action accordingly.”

The College say: “Approved, with the understanding that the resolution cannot apply to *any* Conference Board.” (1893).<sup>1</sup>

In the above the bishop presiding decided that the Conference cannot appoint a committee to nominate “Committees of Examination and the Board of Missions.” The College of Bishops “approved, with the understanding that the resolution cannot apply to *any* Conference Board.” This decision denies to

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<sup>1</sup> Discipline of 1894: Appendix, p. 317, ¶ 600.

the Conference the right to say how the Committees of Examination and Conference Boards shall be nominated, and therefore the appointment of said committees and boards by the Conference. In the denial of this right the decision repeals the following paragraphs of the Discipline:

(¶ 59.) *Ans. 1.* Let every Annual Conference organize a Conference Board of Education.

(¶ 62.) *Ans. 4.* Let every Annual Conference appoint Committees of Examination upon the Course of Study prescribed by the bishops for candidates for the ministry.

(¶ 141.) *Ans. 2.* No one shall be admitted on trial unless he first procure a recommendation from the District Conference of his circuit, station, or mission; nor shall a vote be taken upon the admission of any candidate who has not passed an approved examination upon the Course of Study prescribed by the bishops, before a committee appointed by the Conference for that purpose.

(¶ 65.) *Ans. 7.* Let every Annual Conference organize a Conference Board of Colportage.

(¶ 399.) *Ans. 1.* Let each Annual Conference organize a Conference Board of Colportage.

(¶ 242.) *Ans. 5.* Each Annual Conference shall establish a Sunday-school Board.

(¶ 330.) Each Annual Conference shall have a Joint Board of Finance, appointed by the president of the Conference (unless otherwise ordered), at the close of its annual session, to hold their office until the close of the next ensuing Annual Conference session.

(¶ 351.) Each Annual Conference shall organize a Board of Missions.

(¶ 387.) Each Annual Conference shall organize a Conference Board of Church Extension.<sup>1</sup>

Three times in the above paragraphs it is said, "Let every Annual Conference organize a Conference board";

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<sup>1</sup> Discipline, 1894, pp. 39, 40, 67, 105, 141, 142, 149, 161, 167.



one time, "Let every Annual Conference appoint Committees of Examination"; one time, "Before a committee appointed by the Conference"; one time, "Each Annual Conference shall establish a Sunday-school Board"; twice, "Each Annual Conference shall organize a board"; and one time, "Appointed by the president of the Conference, *unless otherwise ordered.*" Can anything be plainer than that the Annual Conferences have guaranteed to them in the above nine paragraphs the right to appoint the Committees of Examination, and the Conference boards? and is anything plainer than the fact that it is made their duty, as well as their right? There is only one exception, and that is not an exception if the Conference wishes to *order otherwise*. It is equally plain that the College of Bishops, by their decision recorded in paragraph 600 of the Discipline of 1894, have repealed the foregoing nine paragraphs, and according to the theory of episcopal decisions they cannot become law again unless formally reënacted by the General Conference. This is repeal and the invasion of Conference rights, through episcopal decisions, by wholesale.

In this connection the reader is asked to consider carefully the following words:

That the College of Bishops will always be safer judges of law than such a court [Committee on Appeals] hardly admits of a question. It is their daily business to administer law. They are presumably well informed on the history and jurisprudence of the Church. They are accustomed to consultation and concerted action. The danger of usurpation and tyranny on the part of such a court we are constrained to believe is wholly imaginary. . . . The bishops are men of the highest probity and ability. They have not shown a disposition to

tyrannize over Zion, or to rob preachers or people of their rights.<sup>1</sup>

In the light of the foregoing decision, have the bishops shown themselves to be safe "judges of law"? We do not charge them with "tyranny" or "robbery," neither do we sit in judgment on their "disposition" or motives, nor will we bring against them the accusation of "usurpation," but that they have invaded the rights of Annual Conferences in the foregoing decision is not "wholly imaginary."

The danger of blending the executive and judicial departments of the Church in the College of Bishops is emphasized as follows:

As we are now situated the bishops are not only the administrators of the law, but they are also the interpreters of the law that they administer. In other words, they are executive and judiciary combined. Without implying the slightest personal reflection on the present College of Bishops, this appears to me to be a dangerous principle of government. It may virtually deny the right of appeal on points of law. The bishop presiding over an Annual Conference may make any ruling he desires, interpret the law any way he sees fit, and if, when he submits his rulings to the College of Bishops, they approve them, they become authoritative interpretations of the law. If the preacher, in whose trial the rulings are made, takes an appeal on points of law to the General Conference, and in the interim the College of Bishops meets and approves the rulings from which appeal has been taken, when the case comes up in the Committee on Appeals the law has already been settled by the bishops without hearing him at all, and thus the right of appeal is virtually taken away. It may be said that the General Conference can repeal or amend the law so as to destroy the interpretation of the bishops. So it can, but that will do no good to the poor fellow that has already suffered from the malaadmin-

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<sup>1</sup> Dr. J. J. Tigert, in *The Methodist Review*, September-October, 1894, p. 95.

istration and misinterpretation of the bishops. His right of appeal has virtually been denied him. His case has already been tried in a court where he had no representative, namely, the College of Bishops. The bishop from whose decisions he appealed was present, and stated the grounds of his rulings to the rest of the bishops, but all the pleading was *ex parte*; the preacher appealing was not present to be heard. Something must be done to remedy this injustice. If the Committee on Appeals is nothing but a jury [it is the supreme court], and has no original jurisdiction over the law in the case, then on points of law the preacher has no appeal.<sup>1</sup>

Commenting on the above, the Rev. R. N. Price says:

As it is, when an appellant goes before the General Conference Committee on Appeals to complain of the rulings of a bishop, he is confronted with a confirmation of said rulings by the College of Bishops; so that he cannot argue the case here; and he was not permitted to argue it there; therefore not permitted to argue it at all.<sup>2</sup>

The foregoing statements raise the question as to the legality of episcopal decisions in so far as they relate to parties appealing to the General Conference in case of judicial proceedings. It is a universal rule of law that all parties to a suit shall be present in person or by representative; and if either party is debarred, it nullifies the proceedings in so far as the debarred party is concerned. A decision of the College of Bishops is purely *ex parte* in that the case is represented only by the judge who made decisions in the lower court and from whose decisions appeal is taken. When the case comes before the court of final resort, the court and the defendant are notified that they have nothing to do with law questions, as they have been

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<sup>1</sup> Rev. James Cannon, Jr., in the *Methodist Recorder*, May, 1894.

<sup>2</sup> *The Tennessee Methodist*, June 21, 1894.

decided in another court, and that where the defendant has not been permitted to appear either in person or by attorney to show why appeal has been taken from such decisions of law. Such proceedings in civil courts would have no force. There are serious defects just at this point that ought to be remedied.

Is the interpretation correct, that when the College of Bishops decide a question of law it is binding upon the whole Church in all its departments until repealed by the enactment of a new statute by the General Conference? The answer to this question must be found in the entire history of the subject, and not in any theory or strained interpretation.

The law adopted in 1840, giving the bishops the right to decide questions of law in the Annual Conferences, gave to said Conferences the right of appeal from said decisions to the General Conference, recognizing thereby the responsibility of the bishops to the General Conference and the right of that body to pass in review their decisions of law.

The law was changed in 1854 so as to make the appeal lie to the College of Bishops instead of to the General Conference. This change, in addition to the words, "shall be authoritative interpretations or constructions of the law," has been construed to mean that the General Conference no longer has supervision of episcopal decisions confirmed by the College of Bishops in the sense of simple reversal. If these had been the only changes made in the law, the interpretation would be more natural so far as legislation is concerned, but the same Conference that made these changes also made the following: "They [the bishops] . . . may require such questions to be pre-

sented in writing, and on the order of the Conference, such questions, and the decisions of the bishop, shall be recorded on the Journal of the Conference." The next General Conference (1858) perfected the legislation of 1854 as follows: "Provided such questions be presented in writing, and with his decisions be recorded on the Journal of the Conference." This change confines the bishop in his decisions of law to written questions, and requires the questions and decisions to be recorded on the Journal of the Conference. Why these requirements? There is but one answer in the light of all the facts, and that is that the General Conference in the examination of the Journals of the several Annual Conferences may pass in review the decisions of the bishops and correct what errors have been made. Episcopal decisions are carried up to the General Conference in the Journals of the Annual Conferences for examination, instead of an appeal from the president of the Annual Conference to the General Conference. Such an appeal is no longer needed (only by way of emphasis) with the new plan of carrying episcopal decisions to the General Conference. This new arrangement carries all decisions up for review, and not those only about which there is contention; and in this respect the new law is an improvement on the old one.

It must not be lost sight of in this connection that the General Conference does not deal with the College of Bishops directly as a body of men empowered to decide questions of law, but with each individual bishop. Their decisions are reviewed, and if found to be contrary to the law, reversed; and said reversal reverses the decision of the College of Bishops if it

has confirmed the decision of the individual bishop. In this indirect way the General Conference passes upon the decisions of the College of Bishops.

That episcopal decisions are to be brought under the inspection of the General Conference and by it revised was the view taken of the matter, in 1858, by Dr. H. N. McTyeire. This was the year the law on the question was perfected. Dr. McTyeire said:

Such decisions shall be authoritative until the next meeting of the General Conference, or until the Conference shall otherwise decide. For, of course, it is not meant to take out of the hands of this body the final determination of the laws which they make. All opinions and constructions are amenable to revision here. The bishops' decision does not make up the law in its highest sense until the body that makes the law has given its construction.<sup>1</sup>

Dr. W. J. Parks expressed himself in harmony with the views of Dr. McTyeire as follows:

We are compelled to conform to the bishops' decision until the next sitting of this body, although it may chance that I could find a decision on an appeal of the Georgia Conference which might be excepted to by the episcopal committee here, and the law be construed otherwise, and I think I could now fix my eye on such a point. It seems to me this doctrine is correct, that all decisions should pass in revision here. Even if no exception is taken, it is not law and cannot be, without the indorsement of this body, because otherwise the bishops might send out a book which a committee here might report was not the law. After the General Conference has approved of your decision, sir, then let it go out as the law of the Church.<sup>2</sup>

The following taken from the Manual of the Discipline, which was published in 1870, is confirmatory

<sup>1</sup>*The Daily Advocate*, 1858, Monday, May 10, is quoted by D. C. Kelley, in *The Tennessee Methodist*, Jan. 18, 1866.

<sup>2</sup>*Ibid.*

of the view that episcopal decisions are subject to supervision by the General Conference:

The bishops are amenable to the General Conference, not only for their moral conduct and for the doctrines they teach, but also for the faithful administration of the government of the Church according to the provisions of the Discipline, *and for all decisions which they make on questions of ecclesiastical law.* [Italics mine.] In all these cases the General Conference has original jurisdiction, and may prosecute to final issue in expulsion, from which decision there is no appeal. (Soule.)

The General Conference appoints a Committee on Episcopacy, to examine the conduct of the bishops, both private and official, for the four years next preceding the session, and to present to the Conference anything they find exceptionable. To this committee any preacher or member of the Church may have access. (Hedding.)

The scope of this committee was first defined in 1824. J. Soule presented the following resolution of the Committee on Episcopacy:

*“Resolved,* That this committee request our chairman to inquire of the Conference whether this committee is authorized to examine into all matters connected with the episcopacy, which to them appear proper to be inquired into.”

The reply of the General Conference was as follows:

*“Resolved,* That the Committee on Episcopacy be instructed to *inquire into all matters* [italics mine] that they may believe necessarily connected with the episcopal office and duties, and whether the number of bishops shall be increased. Signed, N. Bangs, W. Capers. Carried.” (Journal General Conference, p. 253.)<sup>1</sup>

Dr. J. B. McFerrin was a man held in high esteem for his correct and safe views on Church history and Church law. He adds his testimony to the foregoing authorities, that the bishops are amenable to the General Conference for their law decisions. He said in 1886:

I have been in every General Conference since 1836. .

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<sup>1</sup> Manual of the Discipline, ed. 1884, pp. 88, 89.

The administration of the law [by the bishops] is ratified every four years by the General Conference. The question comes up in every Conference: Have the bishops administered the law according to the Discipline? Is there any violation of law? Has any bishop departed from the law in the administration of the Church rules? Hereby, by the action of every General Conference, the *episcopal decisions* [italics mine] and administration of the bishops are indorsed. We have the power every four years to correct any abuses arising from a disobeyal of the laws of the Church.<sup>1</sup>

The history herein given shows that the leading men of the Church held to the view that all episcopal decisions are subject to revision and, if need be, reversal by the General Conference, as a court of final resort. If these facts do not put to rest the theory we have been contemplating, then it would seem to be in vain to offer proof. This is especially true when the view held is only a theory, based upon a construction of law, disconnected from the history of the law itself, and from the facts of history bearing on the relation of the bishops to the General Conference, from the organization of the Church in 1784 down to and including the acts of the General Conference of 1894.

The General Conference of 1894 put itself on record in no unmistakable terms in opposition to the theory that the decisions of the College of Bishops govern the General Conference. It completes the facts of history on the question, and clinches the argument we have made in this chapter. The General Conference said that the Committee on Appeals "shall be the sole judges of the law and the facts, and their decision shall be final."

Dr. Tigert has, from his point of view, discovered

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<sup>1</sup> *The Daily Advocate*, 1886, May 10, p. 3.



a difficulty in making the Committee on Appeals the sole judges of the law. He says:

We have now two sets of supreme judges whose decisions are irreversible—the College of Bishops, and the Committee on Appeals. Whether these decisions will actually clash in the administration of the government of the Church remains to be seen. But a bishop may render a decision in a case pending in an Annual Conference; he may report his decision to his colleagues; his decision may be confirmed; whereupon it becomes the authoritative interpretation of the law, controlling the administration until the General Conference alters the statute. But the case in which this decision was rendered is appealed; the Committee on Appeals is the sole and final judge of the law as well as the facts; its findings on the law differ from those of the College of Bishops. What then?<sup>1</sup>

The answer to the above is: We do not “now have two sets of supreme judges whose decisions are irreversible.” That is true only on the special theory of the question, but the General Conference in 1894 declared the theory to be incorrect; that the decisions of the College of Bishops do not “control the administration until the General Conference alters the statute,” but the Committee on Appeals, which represents said body, “shall be the sole judges of the law and the facts” in appeal cases, and may reverse the decision of the College of Bishops, and in so doing violate no law, for the act of 1894 is unmistakable, and is set over against a strained interpretation of law that has, in consequence of the interpretation, been forced to apply where the history of the Church and the legislation and practice of the General Conference all forbid its application, and all this without any warrant from the terms of the law itself. The Committee on Appeals is the supreme court in all

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<sup>1</sup> *The Methodist Review*, September-October, 1894, p. 94.

questions of law involved in appeal cases, and the General Conference on all other questions, as is abundantly proved by the history of the question as herein recited. We are not "inextricably and inexplicably inconsistent" in our legislation and practice. In these respects the General Conference is perfectly consistent with itself and with the history of the Church. It is only this particular theory that is "inextricably and inexplicably inconsistent" with the position of the Church on the question of episcopal decisions. It is a theory of recent origin—a plant of exotic growth, which is being ingrafted on the stock of Methodism, but it is so foreign to the genius of our Church that it does not receive sufficient nutriment to support it, and, with no kindred affinities, is left to droop and die.

The foregoing study makes prominent the following peculiar features of our church government:

1. The bishops are the executive officers of the Church.

2. They have judicial powers; and if the effect claimed for their decisions be true, they have supreme judicial powers.

3. Their judicial powers begin in a lower court, of which they are the judges, and end in a higher court where they pass in review the decisions they have rendered in a lower court. This is a peculiar feature that does not exist elsewhere, and is a dangerous blending of judicial power.

4. The peculiar judicial powers with which they are endowed, and in view of the scope claimed for their decisions, gives to them large legislative powers.

When these facts are brought together, and re-

viewed in all their relationships and possibilities, they suggest the propriety, if not the necessity, of a rearrangement and readjustment of our ecclesiastical machinery. As has already been suggested, we need a Court of Appeals, or judicial department of government, and all judicial matters taken out of the hands of the General Conference, and leave it exclusively the legislative body of the Church, with the right to examine the Journals of the Annual Conferences as now, and refer whatever it finds in the way of error in law to the Court of Appeals. Let the bishops be the executive department of the government, with limited judicial powers in the Annual Conferences, but take from them all appellate powers, and let their decisions go to the Court of Appeals for final adjudication. Also take from the bishops and Annual Conferences the right to pass upon the constitutionality of law, and let questions of this kind be settled by the Court of Appeals as they arise in relation to cases. If amendments to the constitution are desired, let them originate as now, but let them be submitted and passed upon as amendments by the membership of the Church who possess the prescribed qualifications for the exercise of the right of suffrage. These changes will simplify our church government, define the different departments more clearly, put us more in harmony with the civil government, secure greater safety, be a better guarantee of rights to all concerned, remove temptations that serve as inducements to overstep due bounds, and thereby do away with both causes and occasions for suspicion and contention, and give a more consistent, satisfactory, and harmonious government.

## CHAPTER X.

### MANUAL OF THE DISCIPLINE.

#### *I. ITS ORIGIN AND STATUS.*

**A**T the General Conference in 1886 Dr. A. R. Winfield offered a resolution "to refer the Manual of Discipline to the Committee on Revisals to examine and report on its authority and status in the Church as a book of law."<sup>1</sup>

In explanation of the origin and status of the Manual of the Discipline, Bishop McTyeire said:

A resolution introduced here calls upon the committee to which it was referred to report what authority the Manual has. In 1868 and 1869 the bishops assembled were consulting about the number of appeals that come up from the Quarterly Conferences to the Annual Conferences, and from the Annual Conferences to the General Conference. They agreed that the cause of it was the lack of a publication showing the rules of administration, and giving the historical precedents in cases adjudicated. They therefore formally laid it upon myself, who was their secretary, to prepare a Manual embracing the rules used in our Church courts. It claims, therefore, Mr. Chairman, to have no more authority than any other book in the world official; it is of importance to the presiding elder in his proceedings in the Quarterly Conference, or to a committee of trial, to know what precedents have been established, and to know how the presiding bishops have ruled and will rule in a given case. That is all it means. It disclaims any official authority whatever. It never pretended any; it stands open to reason; it stands upon the statement of adjudicated cases. It extends to that and no more.<sup>2</sup>

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<sup>1</sup> Journal of the General Conference, 1886, p. 66.

<sup>2</sup> *Ibid.*, pp. 70, 71.

Dr. A. R. Winfield spoke to his resolution as follows:

I hope, as the author of the resolution to which Bishop McTyeire makes reference, I shall be allowed a word of explanation. My sole object in introducing that resolution was to elicit the very information the bishop has given us. It is a notorious fact that this book has had, and still has, a strange existence amongst us, and no one has been enabled to define its meaning or status. It is not a book of law, but, as we are now informed, only an interpretation of law, and is to be regarded as a digest of laws, and a consensus of the bishops to indicate what their rulings will be in certain cases, and what are their general views as expressed by their decisions, and to furnish our preachers with some sort of an arrangement for proceedings in Church courts, and with a condensed account of the action of various Conferences, and the views heretofore entertained by our College of Bishops. Some chance to know that in many parts of our Zion this book is regarded as real organic law, and our preachers are using it as such. It is certainly important that the status of this book should [be fixed], and that was the sole object of this resolution, for it is certain that there are marked discrepancies between this book and our book of Discipline. Our object is fully accomplished by the official utterance just made by Bishop McTyeire.<sup>1</sup>

Dr. Winfield withdrew his resolution.

On May 11 the subject was introduced again:

P. A. Peterson and G. D. Shands offered the following:

*Resolved*, That the book known as the 'Manual of the Discipline,' prepared by Bishop McTyeire, with the advice and approval of the College of Bishops, is recommended as a judicious commentary on the law of our Church, and a useful help in the administration of discipline."

W. W. Walker moved to amend the resolution by inserting the words, "and is in no sense an authoritative exposition of law."<sup>2</sup>

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<sup>1</sup> *Daily Advocate*, May 10, 1886, p. 2.

<sup>2</sup> *Journal of the General Conference*, 1886, p. 86.

Dr. Walker spoke to his amendment as follows:

Mr. President, I am glad this discussion has taken place. It is important, in my judgment, very important, to fix the relation of this book to the law of the Church. That it is full of valuable suggestions and useful facts, I have no doubt; but to what extent, if any, it is binding as authority deserves to be carefully considered and definitely fixed. I have no distrust of our bishops now. That they are men of high integrity and sincere devotion to the Church has not been questioned, and is not likely to be, but their very great excellence as men and as officers makes it all the more dangerous, if unintentionally—intentionally, it is safe to say, they would not do it—they lend their names or their influence to sanction error.

The power to interpret law is hardly, if at all, inferior in importance to the power to make law. It is often and truly said of many legislative enactments that no one can determine with any certainty what they mean until the courts have passed upon and construed them. We do not, therefore, find the law of any civilized state in the volume which contains its statutes, but in the reports which inform us what the courts have declared to be the meaning of those statutes. It would be, for example, a grave mistake to suppose that you had acquainted yourself with the law of Virginia when you had so carefully read its code as to be able to remember its various positions. We find the law of the state, the canons of property, and the definitions and limitations of personal rights in the seventy-nine volumes of reports which record the decisions of the highest court. The bishops of our Church are possessed with very limited judicial authority, and what they determine in any particular case is subject to the approval of this body. There is no provision made for reporting the facts of the cases they settle, and consequently their decisions of law settle nothing but those special cases, and with respect to any other case are not more than opinions; valuable only as they commend themselves to sound judgment, and are just deductions from established principles; worthy to be made known and respected as opinions, but of no authority except in the particular cases out of which they grew. This Manual, we have been told, is the result of careful consideration, by the bishops, of existing law and the changes and

amendments made by each General Conference. It has been prescribed as a part of the Course of Study which candidates for the ministry are required to pursue. This I do not object to if you distinctly teach that it is not the law of the Church, but no more than the opinion of wise and good men as to what is the law of the Church; valuable for suggestion and enlightenment, but of no authority except in the particular cases which, in the exercise of their limited judicial power, they have determined. To give them more weight than this, is to make the bishops judicial instead of executive officers; or, worse and more dangerous still, to unite the executive and judicial power in the same men—to give them power to say first what the law is, and then to execute the laws which they themselves have in effect made. It is to unite distinct functions which the experience of the civilized world has found to be exceedingly dangerous if united, and which it is universally agreed ought to be kept apart by being intrusted to different officers, who are independent of each other. To unite these powers in the bishops would be not only to invite peril, but to insure future calamity to the Church. It is along this path that error and innovation are likely to creep in; and it is therefore, in my judgment, wise—and more, it is necessary—to define the relation of this book, useful in itself, to the law of the Church. Precedent, in time, is likely to become itself law; the past is appealed to to settle the present and control the future, and progress is trammelled or prevented by having fastened upon it the manacles of a dead past. The grandest government of the world, administered now by the greatest of living men, is built on precedents. The few general principles set out in *Magna Charta* make the only written constitution of England, if it can even be called a constitution. The definitions of, and limitations upon, sovereign, parliamentary, and individual rights are found in established precedents. But these precedents have been created under conditions which do not and cannot exist under our system of church government. The best trained men and the most learned in principles which must underlie every good government, by patient inquiry and laborious research, applying those principles to known and widely published facts, have determined what ought to be the law, and their decisions commending themselves to the conscience of the people, and recognized as insuring the welfare

of all, have grown into law. Unless you guard this point, before the Church is aware of it the bishops will come to exercise an authority which will make them in effect a coördinate branch of the legislative department of the Church. There is no danger now, but history and our knowledge of what human nature is warn us that we should now and here set up a landmark which will guard the future by fixing the boundary, by saying in plain words that this book is not the law of the Church, and never can be; that this body is the fountain and source of all our law, and recognizes no right anywhere to share its power or control its enactments.<sup>1</sup>

In a second speech on the question, Dr. Winfield said:

In many places it [the Manual] is in direct conflict with the statutory law of the Church, particularly so in reference to Church trials. One of the most remarkable trials of this age in our Church has been conducted by this book.<sup>2</sup>

The amendment of Dr. Walker was laid on the table, under the rule, and was not taken up again.

While the General Conference did not take formal action on the question, the consensus of opinion, as expressed in Bishop McTyeire's explanation and the speeches of the different members of the General Conference who spoke on the subject, was that the Manual of the Discipline is in no sense the law of the Church, but is a commentary on the law, showing how the bishops have ruled and how they will rule in the future, said rulings being based on adjudicated cases. While this was the state of the case as reached in 1886, it must not be forgotten that said rulings and adjudicated cases are destined to play an important part in the administration of discipline, and may be

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<sup>1</sup> *Daily Advocate*, May 12, 1886, pp. 2, 3.

<sup>2</sup> *Ibid.*, p. 2.



made to take the place of express law, or practically be enacted into law.

*II. DISCREPANCIES BETWEEN THE MANUAL AND THE DISCIPLINE.*

In 1870, the year the Manual was first published, the Committee on Revisals reported as follows:

The attention of the committee has been called to an apparent discrepancy between the Discipline, Chapter III., Section 16, Question 2, Answer 2, page 19, new arrangement, and the Manual of the Discipline, page 49, Section 3, Item 2, in regard to the chairmanship of Boards of Trustees. If such discrepancy exists, it is the judgment of the committee that the Discipline is right.<sup>1</sup>

The above report was laid on the table, under the rule, and was not again taken up. It calls attention "to an apparent discrepancy between the Discipline . . . and the Manual of the Discipline . . . in regard to the chairmanship of Boards of Trustees." On the point of discrepancies Dr. Winfield said, in 1886: "There are marked discrepancies between this book and our book of Discipline. In many places it is in direct conflict with the statutory law of the Church, particularly so in reference to Church trials."

It is well, in the light of the foregoing statements, to institute a comparison between the Discipline and the Manual of the Discipline, to ascertain whether or not there be discrepancies in them, and if so to determine their nature and extent, and see wherein the Manual has been made to supersede the Discipline, and whether or not it lays down rules or claims rights and powers not granted by law; for if any of these things be true, the claim that the Manual is in no

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<sup>1</sup>Journal of the General Conference, 1870, p. 297.

sense law does not amount to much, when, in practice, it is given the force of law over the Discipline.

Attention is called to the fact that the Manual claims rights and powers for the episcopacy not granted by the Discipline.

1. The Manual claims for the bishop the following powers over the Annual Conferences:

He presides not merely to preserve order and decorum, but with an official oversight, to guard against innovations, and to bring forward the business as prescribed by the Discipline, and see that it is done according to the law of the Church. (Episcopal Address, 1844, Journal of the General Conference, page 155.)<sup>1</sup>

The above extract assumes that it is the right of the bishop "to bring forward the business as prescribed by the Discipline." This claim was put forth by the College of Bishops in 1844, and indorsed by the College of Bishops in 1870, and has, in the main, been the practice of the bishops ever since. This right has never been recognized or granted by any statute in the Discipline, neither has the General Conference expressed an opinion on the subject, or adjudicated any case bearing on the right claimed.

In defining the duties of the president of Annual and Quarterly Conferences, the Manual says:

When no order of proceeding has been prescribed, the president may present or entertain any business that in his judgment should come before the body. In an Annual or Quarterly Conference the regular questions are brought forward by disciplinary authority, and at his discretion as to time and circumstances.<sup>2</sup>

Here is a clear statement, that if there be "no order of proceeding" "the president may present or

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<sup>1</sup> Manual, ed. 1881, p. 20.

<sup>2</sup> *Ibid.*, pp. 186, 187.

entertain any business that in his judgment should come before the body," and when the business is "brought forward by disciplinary authority," the president does it "*at his discretion as to time and circumstances.*"

In harmony with the foregoing is the following:

If any agent wishes to gain the attention of a Conference, or any visitor or fraternal delegate is to be introduced, the president should first be notified and consenting to the arrangement. When a stranger is brought forward to the chair for the purpose of being introduced, or "invited to a seat within the bar," the president not having been previously consulted, it sometimes occasions unpleasant delays or interruptions; and the embarrassment is increased if he be not a proper person to be introduced to that body.<sup>1</sup>

If anyone is to be introduced to the Conference, the president ought to know of it in advance, that it may be done without embarrassment to any of the parties concerned. This is demanded both by propriety and courtesy. It is eminently proper. But more than this seems to be claimed. The impression made by the language used is that the president must "consent to the arrangement," and determine whether he be "a proper person to be introduced to that body." If this be a correct conclusion, the president determines (1) whether there shall be any introduction at all, (2) whether he be a proper person to be introduced, and (3) by implication when it shall be done. If this is a correct interpretation of the language, the Conference has no voice on either point. By every consideration of right, as well as courtesy and propriety, the party to whom an introduction is sought

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<sup>1</sup> Manual, ed. 1884, p. 188.

should first know of it, and "consent to the arrangement," that no embarrassment may arise on account of the introduction of improper persons.

That the foregoing language has not been incorrectly interpreted is evident from the fact that some of our bishops have refused to introduce persons presented by members of the Conference. A local preacher, representing a Conference organ, was denied an introduction by the bishop presiding on the ground that he was not a member of an Annual Conference. On another occasion a member of a Conference called in question the right of a bishop of his own motion to introduce persons to the Conference, and the bishop notified him that that was the prerogative of the chair.

Our bishops go farther, and often invite those they introduce to address the Conference, and, if they desire to do so, take collections, whether the matters have any official connection with the Conference or not. These things leave the Conference at the mercy of the chair and the speaker. The right claimed to introduce persons seems to carry with it the right to permit them to discuss any question they may desire.

Connectional officers have business to transact with the Conferences, and by virtue of their office there is an implied right to address the Conference on the business in hand. The bishops give them the floor at will, without any reference to the wishes and interests of the members of the Conference as to time and circumstances. Some of these brethren take large liberties with the rights of the Conferences in their addresses, and have been allowed to discuss *ad libitum*, if not *usque ad nauseam*, questions not germane

to the interests they represent, or the business of the Conference; but they have no such right unless they be members of the Conference, and then only when such matters are properly before the body. The subjects discussed by some of the brethren have nothing to do with the business they represent, or the business transacted by the Conferences.

These questions may be summed up as follows: The Discipline is silent as to who shall bring forward the business of an Annual Conference, or who shall be the judge of proper persons to be introduced to the body, and when such introductions shall take place. It has always been silent on these matters. In the absence of any law at this point, the bishops have claimed and exercised the right to say what order the Conferences shall follow, and who shall be introduced, and when. These rights, as far as we can learn, are given the full force of law, as much so as any rule in the Discipline.

In adopting rules of order for the government of Methodist bodies, the College of Bishops say:

Without a *motion* no business can be set in operation; and by motions everything is made to progress to the end.<sup>1</sup>

This clearly gives to the members of the Conference, and to no one else, the right to "set in operation" all business of the Conference, and is the right view of the question; but it is in direct conflict with other parts of the Manual, and is contrary to our usage to a very great extent.

2. A kindred question to the foregoing, and one of no minor importance, is, Who must decide what busi-

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<sup>1</sup> Manual, ed. 1884, p. 196.

ness the Annual Conferences shall transact, and who must determine when they shall adjourn?

During the quadrennium of 1836-40 a controversy arose between the bishops and some of the Annual Conferences as to whose right it was to determine what business an Annual Conference should transact, and when the Conference should adjourn. The bishops claimed the right to determine these questions, and the Conferences contended for the right.

The bishops in their address presented the questions in controversy to the General Conference of 1840, as follows:

Have the Annual Conferences a constitutional right to do any other business than what is specifically or by fair-construction provided for in the Discipline?

Has the president of an Annual Conference, by virtue of his office, a right to decline putting a motion or resolution to vote, on business other than that prescribed or provided for.<sup>1</sup>

The General Conference answered the questions by the adoption of the following resolutions:

The president of an Annual or a Quarterly Meeting Conference has the right to decline putting the question on a motion, resolution, or report, when, in his judgment, such motion, resolution, or report does not relate to the proper business of a Conference; provided, that in all such cases the president, on being required by the Conference to do so, shall have inserted in the Journals of the Conference his refusal to put the question on such motion, resolution, or report, with his reason for so refusing; and provided, that when an Annual Conference shall differ from the president on a question of law, they shall have a right to record their dissent on the Journals, provided there shall be no discussion on the subject.

That the president of an Annual or a Quarterly Meeting Conference has the right to adjourn the Conference over which

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<sup>1</sup>Journal of the General Conference, 1840, vol. ii., p. 138.

he presides when, in his judgment, all the business prescribed by the Discipline to such Conference shall have been transacted; provided, that if an exception be taken by the Conference to his so adjourning it, the exception shall be entered upon the Journals of such Conference.<sup>1</sup>

The above resolutions, the substance of which is found in the Manual, were *not adopted by the General Conference in the capacity of a legislative body* as law for insertion in the Discipline, neither have they ever appeared in it.

What is the nature of the answers given in the resolutions? Do they simply express the opinion of the members of the General Conference of 1840 present and voting, or were they intended to be a judicial decision of the questions at issue? In either case, what is their force? and to what extent do they govern the Church? What is the relative importance of a law passed by the General Conference, the expression of an opinion on a question in dispute, and the judicial decision of a matter?

Did the General Conference of 1840 hold that the bishops had no right to decide questions of law, only as it was conferred on them by statutory provision, but that the right to say what business is to be transacted by the Annual Conferences, and, when such business has been transacted, the right to adjourn the Conferences, is inherent in the episcopacy and only needed recognition?

On the supposition that the General Conference decided the questions, based on the view that they were different, as to their nature, what about the legality of its acts in the premises? In answering this

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<sup>1</sup>Journal of the General Conference, 1840, vol. ii., p. 121.

point, it must be remembered that the Church had no law on either one of the questions. When the General Conference, by the enactment of a statute which was put in the Discipline, conferred on the bishops the right to decide questions of law, it did so in its legislative capacity, and in so doing it was regular and within the well-understood rights of a legislature. But when it answered the other two questions, "Who shall decide what business an Annual Conference shall transact? and, When shall the Conference adjourn?" the General Conference did not act in its legislative capacity. In what capacity, then, did it act? Let us suppose, in its judicial capacity. If it did so act, on what did it base its decision?

Before a court can act, there are three things necessary:

1. There must be a case.
2. The court must have jurisdiction.
- 3 It must decide the case under some law.

The General Conference had a case before it, and it had jurisdiction, provided there was any law under which to decide the case.

There are only three kinds of law--constitutional, statutory, and common.

There was no statutory law to be construed in reference to the questions in dispute, and there is nothing in the constitution, not so much as a remote allusion, that can be construed into a determination of the rights involved, allowing for the constitution the largest latitude claimed for it by anyone.

The questions not being provided for in the constitution or by the statutory law, we must look to the common law as a guide for the General Conference.



The question presents itself: What is the common law of Methodism? A question back of this: Has Methodism a common law? It will help in the solution of this problem to ascertain the origin and nature of the common law of the country. On this point Judge Cooley says:

The common law of England consisted of those maxims of freedom, order, enterprise, and thrift which had prevailed in the conduct of public affairs, the management of private business, the regulation of the domestic institutions, and the acquisition, control, and transfer of property from time immemorial. It was the outgrowth of the habits of thought and action of the people, and was modified gradually and insensibly from time to time as those habits became modified, and as civilization advanced, and new inventions introduced new wants and conveniences, and new modes of business. Springing from the very nature of the people themselves, and developed in their own experience, it was obviously the body of laws best adapted to their needs, and as they took with them their nature, so also they would take with them these laws whenever they should transfer their domicile from one country to another. It was the peculiar excellence of the common law of England that it recognized the worth, and sought especially to protect the rights and privileges, of the individual man. Its maxims were those of a sturdy and independent race, accustomed in an unusual degree to freedom of thought and action, and to a share in the administration of public affairs; and arbitrary power and uncontrolled authority were not recognized in its principles. Awe surrounded and majesty clothed the king, but the humblest subject might shut the door of his cottage against him, and defend from intrusion that privacy which was as sacred as the kingly prerogative. The system was the opposite of servile; its features implied boldness, and independent self-reliance on the part of the people; and if the criminal code was harsh, it at least escaped the inquisitorial features which were apparent in criminal procedure of other civilized countries, and which have ever been fruitful of injustice, oppression, and terror. . . . From the first the colonists in America claimed the benefit and

protection of the common law. In some particulars, however, the common law as then existing in England was not suited to their condition and circumstances in the new country, and those particulars they omitted as it was put in practice by them.

And when the difficulties with the home government sprang up, it was a source of immense moral power to the colonists that they were able to show that the rights they claimed were conferred by the common law, and that the king and parliament were seeking to deprive them of the common birthright of Englishmen.

The evidence of the common law consisted in part of the declaratory statutes we have mentioned, in part of the commentaries of such men learned in the law as had been accepted as authority, but mainly in the decisions of the courts applying the law to actual controversies. While colonization continued—that is to say, until the war of the Revolution actually commenced—these decisions were authority in the colonies, and the changes made in the common law up to the same period were operative in America also, if suited to the condition of things here. The opening of the war of the Revolution is the point of time at which the continuous stream of the common law became divided, and that portion which had been adopted in America flowed on by itself, no longer subject to changes from across the ocean, but liable still to be gradually modified through changes in the modes of thought and of business among the people, as well as through statutory enactments.<sup>1</sup>

In the light of the foregoing principles, has Methodism any such law? It has not; and if it had, it would not confer arbitrary power on the few, but secure the rights of the individual. If Methodism had had a common law, it would have compelled an answer in favor of the rights of the Conferences as against the claims of the episcopacy.

If the questions in dispute were not provided for in the constitution or by statutory law, and there was no common law under which to consider them, the

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<sup>1</sup>Cooley's Constitutional Limitations, 4th ed., pp. 28-33.

General Conference in its judicial capacity had no jurisdiction.

If the questions were new, and had not been previously provided for by law of any kind, the General Conference could not act on them in its judicial capacity. It is clear, therefore, that the only course open to it was to act in its legislative capacity. As a legislature, it could enact a law in answer to any question within its constitutional powers; but as a court, it could make no judicial decision only in the construction of law—statutory, constitutional, or common—bearing on a case over which it has jurisdiction. The General Conference did not legislate on the matters, and as there was no law to construe, it could not pass upon them judicially. An important question then is, What is the purport of the resolutions? Evidently they mean nothing more than the opinion of the individual members present and voting on the same, and they have no more force than such an opinion. In the nature of the case, such resolutions can have no legal force at all beyond the convening of the ensuing General Conference. As they bind no one, save those present and voting, they must expire by virtue of limitation inherent in their very nature. This point needs to be carefully considered, and the relations of such resolutions well understood as to their nature and scope as well as the time when they expire; otherwise, we are in great danger of introducing a backdoor system of legislation.

It is more than probable that the resolutions had for their basis that theory of the episcopacy which holds that the General Conference can administer its laws successfully on the Annual Conferences only

through the bishops. The theory is stated as follows:

A general superintendency is essentially necessary to perpetuate itinerancy; therefore no judicious friend to the traveling plan will transfer the power of choosing presiding elders and stationing the preachers from the bishops to the Annual Conferences, because in this the power of oversight principally consists. Take this prerogative from the superintendents, and there will remain with them no power by which they can oversee the work, or officially manage the administration; and, therefore, the Conference must in justice release them from their responsibilities as bishops. This being done, the office of general superintendent must cease, and the Methodist Episcopal Church would be no longer under the government of bishops.

But such a change in the government would deprive the General Conference of an important, perhaps an essential, part of their authority, and put it out of their power to enforce and carry our system of rules into effect. This will appear from the peculiar relation between the bishop and Conference, or the connection between making our rules and enforcing them. The superintendents are chosen by the General Conference, are the repositories of executive power, and are held responsible as overseers of the whole charge. By calling upon them, the administration in every part of the work may be brought under the inspection and control of the General Conference.

But if the power of superintending the work were taken from the bishops, they must be released from the responsibility; and if *they* should be released, there would be no person or persons accountable to the General Conference for the administration; consequently the connection between making rules and enforcing them would be dissolved. The legislative body would then have no control over the executive—no power to enforce their rules or laws.

The several Annual Conferences are under the control of general rules, enforced by responsible superintendents; so that if a preacher should depart from the discipline or doctrine of the Church, it is the bishop's duty to correct, remove from office, or bring him to trial, according to discipline.

Should an Annual Conference dissent from the doctrine or discipline of the Church, the bishop should enter his protest, and bring the case before the ensuing General Conference. Should the superintendent join with a Conference in such a departure, the next General Conference will call him to account for it; and by this medium the General Conference takes cognizance of the acts of the Annual Conferences: so that while the superintendents serve as a center of union and harmony among the Annual Conferences, they—*i. e.*, the Annual Conferences—become responsible to, and are brought under the inspection and control of, the General Conference.

But if the executive power were transferred from the bishops to the Annual Conferences, as it would be if they were authorized to elect presiding elders, etc., and the bishops were consequently released from their responsibility to the General Conference, the Annual Conferences would thereby become independent of each other, of the bishops (except for ordination), and of the General Conference. Being invested with executive authority, and amenable to no superior, consequently under no jurisdiction, they might neglect or reject the rules formed by the General Conference with impunity; and for the Conferences in such a situation to dissolve the bonds of fellowship and union, by introducing different administrations, is among possible events.<sup>1</sup>

The above theory of the episcopacy gives to the bishops an important relation to the Church that calls for careful consideration. It makes the following claims:

1. The General Conference can enforce its rules on the Annual Conferences only through the episcopacy.
2. If the rules were not enforced the Annual Conferences would become independent of each other, of the bishops, and of the General Conference.
3. It would then follow that “neither the General Conference nor the itinerant plan could exist long.”
4. These powers are inferred from the words “su-

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<sup>1</sup>Life of McKendree, by Paine, vol. ii., pp. 856-858.

perintendent" and "overseer," as they stand related to a connectional system.

5. In view of the interest involved and the responsibilities of the episcopacy to the General Conference, the bishops must exercise the foregoing powers, or be released from all responsibilities.

6. The rules are enforced and the responsibilities met when, if an Annual Conference departs from doctrine or discipline, the bishop enters his protest on the Journal of the Conference and thereby calls the attention of the General Conference to the matter.

It is very natural and logical that if the episcopacy sustains the above important and necessary relation to the Church, the bishops must have the right to say what business the Conference must transact, how and when it shall be brought forward, and when the Conference shall adjourn.

It is very clear that the theory of the episcopacy advocated by Bishop McKendree was adopted by the College of Bishops in 1836-40, and led them to claim the right to decide what business the Annual Conferences should transact, when and how it should be brought forward, and when the Conference should adjourn. But does the episcopacy in fact sustain any such indispensably necessary relation to the Church?

In answering this question it must not be forgotten that all the powers claimed in the foregoing theory are merged into the one claim that the General Conference can enforce its rules on the Annual Conferences *only* through the episcopacy. Is this true?

The question is not whether it may not be done through them, and as for that matter well done, but

whether it can be done, and as successfully done, some other way; whether or not it cannot be done and maintain the unity of the Annual Conferences, the existence of the General Conference, and the plan of itinerancy. In other words: Is the episcopacy as inherently necessary to the Methodist Church, its connectional government, and itinerancy as the theory under consideration claims for it? If it is, practically the Annual Conferences have no rights, for the power to interpret law in addition to the powers claimed under the theory takes the last vestige of right from the Conferences.

Cannot the General Conference reach the Annual Conferences and enforce its rules upon them through their Journals, in which is a record of all the business transacted by them? The General Conference, through its Committee on Itinerancy, inspects the Journals of the Annual Conferences every four years, and makes provision for errors and defects in law and administration, and condemns wrong wherever found. On this point the Manual of the Discipline makes the following clear deliverance:

All the actions and decisions of Annual Conferences come before the General Conference as a court of general review. Their Journals must be submitted to the General Conference, which has a standing committee to examine them, and has power to correct errors and irregularities, maintain uniformity, and censure any omissions or delinquencies in these subordinate tribunals.<sup>1</sup>

It will be seen from an inspection of the Journals of the General Conference that in the past that body has, through the Journals of the Annual Conferences,

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<sup>1</sup> Manual of the Discipline, ed. 1884, p. 163.

approved, censured, and corrected errors of administration in the Annual Conferences. In addition to this method, the attention of the General Conference has been called from time to time to errors in the Annual Conferences by individual members of the respective Conferences, and said errors have been corrected. Such cases are rather numerous. They have been brought to the attention of the General Conference without the intervention of the bishops. In fact, there are very few instances where the bishops have arraigned the Annual Conferences before the General Conference. In the light of all these facts, it would seem that the General Conference has been enforcing its rules on the Annual Conferences all along without the intervention of the episcopacy.

To make it doubly sure that the attention of the General Conference be called to all errors in administration, let the presiding bishop, in addition to his right to decide questions of law arising out of the business of an Annual Conference, have the right to enter his protest on the Journal of the Annual Conference, when in his judgment said Conference is acting in violation of law. This is the means proposed by Bishop McKendree.

It is admitted that the General Conference cannot at the time of the execution of the laws guard against errors in administration in the Annual Conferences, any more than it can in the bishops. Neither can it at the time prevent a willful disregard of law or revolution on the part of an Annual Conference, any more than it can prevent the bishop from like conduct. But in the event of the most radical departure from law, the General Conference can correct the



administration of the Annual Conferences without the intervention of the episcopacy. If an Annual Conference should become incorrigibly disobedient or revolutionary, the General Conference can protect its interests by going into the civil courts and enjoining the revolutionists from the use of the property of the Church. This would in effect exclude from the communion of the Methodist Episcopal Church, South, an Annual Conference whose members had become so disobedient to its rules. This principle would hold good if a part of the members of an Annual Conference were to become refractory and the other members were to refuse to deal with them according to the rules of the Church, for in that case they would be equally guilty.

On the point which we have just been considering, Bishop Hedding, in harmony with the theory under consideration, proposes the following remedy:

The unity and prosperity of the body will depend, under God, in a great degree on the watchful oversight the General Conference shall exercise over the Annual Conferences. But should an Annual Conference do wrong, what power has the General Conference to punish? Administer censure, reproof, and exhortation, as the case may be. But should the majority of an Annual Conference become heretical, or countenance immorality, what can the General Conference do? Other remedies may answer some cases, yet I know of only *one* that can be constitutionally administered in all cases; that is, let the General Conference command the bishops to remove the corrupted majority of an Annual Conference to other parts of the work, and scatter them among other Annual Conferences, where they can be governed, and supply their places with better men from other Conferences. But such men would not go at the appointment of the bishop. Perhaps they would not, personally, but their names and their membership would go where they could be dealt with as their sins should deserve. It is

true the bishops have authority to do this, and in some cases it might be their duty to do it, without the command of the General Conference; yet in ordinary cases they would be likely to hesitate until the General Conference should command them.<sup>1</sup>

In answering his question, Bishop Hedding says: "I know of only *one* [remedy] that can be constitutionally administered in all cases," and "that is to let the General Conference command the bishops to remove the corrupted majority . . . to other parts of the work, . . . where they could be dealt with as their sins deserve." He further says: "The bishops have authority to do this, and in some cases it might be their duty to do it, without the command of the General Conference."

Attention is called to Bishop Hedding's doctrine. There are some serious objections to it. They are as follows:

(1) The first objection is, that it is not true that to transfer "the corrupted majority" to other Conferences is the only constitutional remedy. When the purpose of the transfer is taken into account, it is an unconstitutional remedy. It is customary in civil jurisprudence to get a change of venue, when it is shown that the defendant cannot receive justice in the county where the crime was committed; but who ever heard of a change of venue for the declared purpose of conviction of the defendant? That would be a decided infraction of personal rights as guaranteed by law. But this is the thing for which Bishop Hedding contends, and is sanctioned by the College of Bishops, since they have put it in the Manual.

(2) The case is prejudged and determined without a

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<sup>1</sup> Manual of the Discipline, ed. 1884, pp. 27, 28.

trial, and in the absence of a command from the General Conference—which Bishop Hedding says is not necessary in all cases—by the bishop. This gives him the right practically to pronounce men guilty without investigation.

(3) The case is prejudiced against the transferred member when the Annual Conference to which he is transferred receives him as an outlaw, and with the understanding that he is to be dealt with as such. With such prejudice to begin with, as the inevitable result of such a transfer, and the case far removed from the place where the offense was committed, with all the difficulties in securing evidence in Church courts, there would be but little hope of a thorough and impartial investigation.

(4) It has always been understood that the bishops can transfer men to any part of the Church where their services may be needed in the work, but when the power is claimed and exercised with the avowed purpose that men are to be degraded, it is not only a dangerous use of the transfer power, but is an abuse of it, and when taken in all its bearings is a reckless disregard of the rights of men and a violation of the spirit and purpose of the constitution—one that the better instincts of humanity will not sanction.

3. The doctrine of the Manual on the right of appeal from a lower to a higher court is stated as follows:

The court appealed to, and not the court appealed from, judges whether the party has a right to appeal.<sup>1</sup>

The opinion of the bishops, as expressed in the

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<sup>1</sup> Manual of the Discipline, ed. 1884, pp. 151, 152, 154.

Manual, that the court appealed to is to be the judge whether or not it will entertain an appeal, has precedents for its authority.

The General Conference in 1836 adopted the following resolution:

*Resolved*, That a committee of five, to be called the Judiciary Committee, be appointed, to whom may be referred all appeals or complaints of any character against the acts and doings of an Annual Conference; and that it shall be the duty of this committee to examine all documents committed to them, and to report whether, in their opinion, the complainants are legally entitled to be heard before this Conference, and if not, what disposition should be made of their case or cases.<sup>1</sup>

This committee was to have referred to it, together with other matters, "all appeals"; and it, was to examine into the merits of the same, and report whether or not they were "legally entitled to be heard" by the Conference. This resolution clearly implies the right on the part of the General Conference to say whether or not it will entertain an appeal.

In referring the case of Jonas Westerland to the Judiciary Committee, the following record is made:

*Resolved*, That the appeal of Jonas Westerland be taken up and referred to the Judiciary Committee.

In the debate it was inquired if the president suggested that such a reference would legalize the right of appeal in such a case; and the president decided that a reference of an appeal of a preacher located by an Annual Conference, to the Judiciary Committee, did not legalize his right to appeal. On taking the vote, the appeal was referred.<sup>2</sup>

Here the question is raised, Will the reference "legalize the right of appeal in such a case"?

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<sup>1</sup>Journal of the General Conference, 1836, vol. 1., p. 433.

<sup>2</sup>*Ibid.*

The above case was finally disposed of as follows:

On the recommendation of the Committee on the Judiciary, the appeal was admitted; and the charges being read, the subject was discussed by S. G. Roszel in favor of the appellant, and by B. M. Drake in behalf of the Mississippi Conference. Several motions were made, and after having been debated were withdrawn. A motion to affirm the decision was lost, and a motion to reconsider carried, when a motion was made by E. Robinson, that the decision of the Mississippi Conference, in the case of Jonas Westerland, by which he was expelled from the Church, be affirmed. Carried.<sup>1</sup>

There is a discrepancy in the two records. In referring the case to the Judiciary Committee, one would infer that Jonas Westerland had been located; but the General Conference, in the final disposition of the case, declared "that the decision of the Mississippi Conference, in the case of Jonas Westerland, *by which he was expelled* from the Church, be affirmed."

This case shows that the General Conference held that it had the right to say whether or not it would admit the appeal of a preacher, even when he had been expelled from the Church.

The following report of the Judiciary Committee was adopted by the General Conference in 1836:

The Judiciary Committee, to whom were referred the communications of W. Heath, S. Helms, and S. Julien (the first of the Missouri Annual Conference, the second of the Kentucky, and the last of the Indiana Conference), complaining of injustice done them by their several Conferences, in locating them without their consent, report, that they have examined these communications in connection with the Discipline of the Church, and have come to the following conclusions, viz.:

1. That the Discipline does not prohibit an Annual Conference from locating one of its members without his consent.

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<sup>1</sup>Journal of the General Conference, 1836, vol. i., p. 472.

2. That there is no provision in the Discipline authorizing a person so located to appeal to the General Conference, nor for any process by which to conduct an appeal in such a case; and that the brethren concerned have, therefore, no legal ground to claim a privilege for which the Discipline under whose regulations they entered the itinerant field has made no provision.<sup>1</sup>

The above denies the right of appeal in the case of location.

In 1844, just eight years after the General Conference decided that a preacher located without his consent had no legal right to an appeal, it entertained just such appeals. There were three such appeals entertained that year. In opposition to the statement of the Manual and some of the acts of the General Conference, the constitution of the delegated General Conference, as adopted in 1808, says:

They shall not do away the privileges of our ministers or preachers of trial by a committee, and of an appeal; neither shall they do away the privileges of our members of trial before the society, or by a committee, and of an appeal.<sup>2</sup>

The General Conference of 1792 adopted the following statutory law on the right of appeal:

Provided, nevertheless, that in all the above-mentioned cases of trial and conviction, an appeal to the ensuing General Conference shall be allowed.<sup>3</sup>

The substance of the above provision has been in the Discipline ever since.

The constitution says that our preachers and members shall not be denied the privilege of an appeal. There is no exception to this constitutional provision. When a member or preacher has been tried and con-

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<sup>1</sup>Journal of the General Conference, 1836, vol. i., pp. 492, 493.

<sup>2</sup>*Ibid.*, 1808, vol. i., p. 83.

<sup>3</sup>Emory's History of the Discipline, p. 188.

victed, the right of appeal is secured and the General Conference cannot do away with it. The statute on the right of appeal is significant both as regards the law and its position in its relation to the trial of preachers and members. It says: "In all the above-mentioned cases of trial and conviction, an appeal shall be allowed."<sup>1</sup>

What are "the above-mentioned cases?" In the case of preachers, they are immorality, improper tempers, words, or actions, heresy in doctrine, unacceptable, inefficient, or secular, and refusing to attend the work assigned them. It is the same with local preachers as in the case of traveling preachers, except refusing to attend the work assigned them. In the case of members, refusing to attend the work, being unacceptable, etc., are left out, and the "case of disputes between members of the Church" added. The law is that "in all the above-mentioned cases of trial and conviction, an appeal shall be allowed." It is clear that if a preacher or member be tried and convicted for anything, the constitution will compel an appeal to be heard by the court appealed to. The court can have no option in the matter. If the General Conference, for instance, were to refuse to consider an appeal of a traveling preacher who had been tried and convicted, it matters not what the offense may have been, under the provision of the fifth Restrictive Rule said preacher could go into the civil courts and compel the Church to consider his appeal.

That is strange and un-Methodistic doctrine taught in the Manual where it says: "The court appealed to . . . judges whether the party has a right to ap-

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<sup>1</sup> Discipline, 1894, ¶ 279.

peal." In civil matters the right of appeal in all cases where judgment has been rendered is recognized, and the court appealed to must consider the case. Can the Church afford to do less?

The Manual states another phase of the question of appeal as follows:

Appeals may be from legal decisions of presiding officers, or from sentences of Church courts; they may be taken on questions of law or of fact.

Appeals of the first kind are from the preacher in charge to the presiding elder, from the presiding elder to the bishop, from the bishop to the College of Bishops; of the second kind, from the select committee or society to the Quarterly Conference, from the Quarterly Conference to the Annual Conference, from the Annual Conference to the General Conference.<sup>1</sup>

It is held in the above that on points of law the appeal is taken "from the preacher in charge to the presiding elder, from the presiding elder to the bishop, from the bishop to the College of Bishops," and on questions of fact from the lower to the higher court. The Discipline makes no such distinction.

In case of a traveling preacher, "an appeal to the ensuing General Conference shall be allowed";<sup>2</sup> in case of a local preacher, "an appeal to the ensuing Annual Conference shall be allowed";<sup>3</sup> and in case of a member of the Church, he "shall have the right of appeal to the ensuing Quarterly Conference."<sup>4</sup>

There is nothing in any of these paragraphs or any other part of the Discipline that divides an appeal case and takes the law questions to the presid-

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<sup>1</sup> Manual of the Discipline, ed. 1884, p. 155.

<sup>2</sup> Discipline, 1894, ¶ 279.

<sup>3</sup> *Ibid.*

<sup>4</sup> *Ibid.*, ¶ 301.



ing officer and the questions of fact to the court of appeals.<sup>1</sup> Such a distinction is theory, and is in the face of the law on the question. It is the same theory which claims for the bishops supreme appellate powers. The General Conference of 1894 settled the question that the Committee on Appeals "shall be the sole judges of the law and the facts."<sup>2</sup>

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<sup>1</sup>Appellate courts are not divided into two parts, the one to decide questions of law and the other questions of fact. Such a court is a unit, and acts as a whole on both the law and the facts. If these facts were kept in mind, they would save us from confusion, not to say absurdities.

<sup>2</sup>Discipline, 1894, ¶ 302.

## CHAPTER XI.

### THE KELLEY-HARGROVE CASE.

THE Kelley-Hargrove case has engendered much feeling on both sides of the controversy, and, as a natural result, unpleasant personalities have been indulged in, in the treatment of the questions involved. The writer would gladly pass over the whole subject in silence, but for the fact that principles have been announced and doctrines taught in connection with the controversy that demand consideration. Such of these as bear on and illustrate the purpose in hand will be considered dispassionately and impersonally. The following statement is here introduced, and receives our hearty indorsement: "It is to be hoped that the heat of the conflict may die away soon, but the true issue and the lessons to be learned are to be kept in mind."<sup>2</sup>

The contention in this case commenced over the rights of the accused and the right of the Annual Conference in its relation to the accused as set forth in paragraph 55 of the Discipline, which is as follows:

If there be a complaint, and the preacher has been advised of it, let it be stated to the Conference, and let the accused have

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<sup>1</sup>The questions discussed in this and the next chapter were in their incipency local, and in some of their phases, perhaps, partisan; but such elements have been eliminated, and the principles have gone into history and belong to the whole Church, and are to be treated as such. If the case were otherwise, these subjects would not find a place in this work.

<sup>2</sup>Dr. E. M. Bounds in "Bishop or Conference," p. 88.

the privilege of replying. He shall then retire, and the Conference shall determine by vote whether or not his character shall pass.<sup>1</sup>

The question now to be considered is not so much what was done with the case in its relation to the above paragraph, but with the construction of the paragraph itself.

The first question raised was that D. C. Kelley had not been "advised" by G. W. Winn of his intention to complain against him. The law says: "If there be a complaint, and the preacher has been advised of it, let it be stated to the Conference." It is clear that this law requires *previous* notice of an intention to make complaint, at an Annual Conference, against a member. At the time the complaint was made, it was objected that legal notice had not been given the accused. D. C. Kelley said:

I protest, first, on the ground that G. W. Winn had not previously advised me of his purpose to make such complaint.<sup>2</sup>

Eighty-seven members of the Conference, in their protest, said:

They protest that said action was irregular and not according to law, *because there was no previous notice to the accused of the charge made by G. W. Winn.*<sup>3</sup>

Bishop Hargrove makes the following statement on the same point:

The question was raised that Brother Winn had not, as he admits, gone to Dr. Kelley and notified him that it was his purpose to arrest his character. I want to put a fact in my posses-

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<sup>1</sup> Discipline, 1894, p. 36, ¶ 55.

<sup>2</sup> Written Journal of the Tennessee Conference, Session of 1890, p. 24.

<sup>3</sup> Printed Journal of the Tennessee Conference, Session of 1890, p. 31; Written Journal, p. 48.

sion: I want to show that I have communications from Dr. Kelley which show that he was not taken unadvisedly.<sup>1</sup>

Bishop R. K. Hargrove, in his reply to the protest of D. C. Kelley, explains why he proceeded in the case as he did. He says:

To the first ground of protest stated by D. C. Kelley, I reply that the intent of the law is to avoid an unsuspected issue and a surprise that allows no means of defense. I had in a written communication signed by D. C. Kelley, and now in my hands, and also by a personal interview with him, knowledge of the fact that he was anticipating an arrest of his character, and was seeking to change my judgment as to the case by denying the fact charged, the correctness of my judgment of the meaning of the proviso in paragraph 263 of the Discipline, and of his desire to escape notoriety at the time. I also had been informed that B. F. Haynes, his presiding elder, had assured G. W. Winn that it was his purpose, on the call of D. C. Kelley's name, under Question 20, to state the facts to the Conference touching his case; and so had put G. W. Winn off his guard and caused him to fail to comply with the letter of the law, to which reference is had. The chair regarded the points trivial and evasive, and that the spirit of the law had not been violated in the case, and judged that a mere technicality in a case so grave and notorious should not estop an investigation. R. K. HARGROVE.<sup>2</sup>

Following is the letter referred to in the above:

PULASKI, TENN., October 10, 1890.

*Bishop Hargrove:* Since reaching here, I learn that you construe my temporary absence from Gallatin into an infraction of the law against a preacher's "refusing to do the work assigned him." Please mark, it is not mere absence, but "refusal" that constitutes the infraction of the Discipline. I have not refused to do any work required of me by either the bishop or presiding elder; I have, on the other hand, carefully respected the authority of both. I am at this juncture especially desirous to escape all notoriety for the sake of the peace of the Church. If,

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<sup>1</sup>"Bishop or Conference," p. 22.

<sup>2</sup>Printed Journal of the Tennessee Conference, Session of 1890, p. 26.

therefore, this note is not satisfactory to you, I am ready to have a personal interview for the purpose of avoiding all conflict in the Conference. I know the history of the law as it now stands, and cannot be mistaken as to its intent.

I expect to live and die a Methodist preacher. God, in his providence, has demanded of me a great sacrifice for a few weeks. I could not, with my sense of duty, have done less.

Yours truly,

D. C. KELLEY.<sup>1</sup>

The following letter will throw light on the interview referred to in Bishop Hargrove's reply to the protest of D. C. Kelley:

NASHVILLE, TENN., November 8, 1890.

There was in the interview between Dr. Kelley and Bishop Hargrove, which occurred in my presence, October 10, at Pulaski, no intimation on the part of Dr. Kelley that he was expecting any member of the Conference to arrest his character, but only a kindly effort on Dr. Kelley's part to prevent a difference between himself and the bishop on the facts and law before the Conference. The bishop in this interview gave Dr. Kelley to understand that if he would locate there would be no trouble in passing his character; and I took it, or understood from this interview, that the bishop rather desired that Dr. Kelley locate.

(Signed)

D. C. SCALES.<sup>2</sup>

It will be seen from the foregoing letter of D. C. Kelley that it was not written until after he had reached the seat of the Conference, and that he learned after reaching Pulaski that the bishop was seeking to have complaint made against him; and from the letter of D. C. Scales that there was "no intimation on the part of Dr. Kelley that he was expecting any member of the Conference to arrest his character."

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<sup>1</sup> "Bishop or Conference," p. 46.

<sup>2</sup> *Ibid.*

Bishop Hargrove explained to the Committee on Episcopacy why he proceeded without previous notice being served:

But they say notice, under our law, is required in cases like this. Let me draw the attention of the committee to this thing: In all cases of complaints—mark you, complaints—such as habitual failure in administration, or when a brother is complained of as unacceptable, inefficient, or secular, in all which cases the proceedings are in the open Conference, notice is required by our law. You will find that so. But where accusations are brought—mark you, accusations—to be investigated before committees, the grand jury, the committee of three, decide, first of all, whether or not a trial is necessary; and if they decide a trial to be necessary, their report is notice to the accused, and the only notice the law demands, and I might go on and give you reasons for it. Let me read you the Manual of the Discipline: “The right is conceded to the Annual Conference, and has become usage, when an accusation is preferred against a member, and he cannot be tried during the session for want of testimony or other cause *on either side* [italics mine], to refer the matter to the presiding elder, who may have charge of him the ensuing year.” I need not read further in that law. There is ample protection there both to the Church and the accused. If a man is surprised, and can’t get his witnesses, you have never known an Annual Conference to refuse to give him time; or if the Annual Conference is incapable of securing the evidence, you have never known it to fail to take the time that was necessary.<sup>1</sup>

The bishop, in his reply to the protest of D. C. Kelley, admits that the law requires previous notice, for in said reply he says: “B. F. Haynes . . . put G. W. Winn off his guard, and caused him to fail to comply with the letter of the law.” In explanation of his course on this point, the bishop said to the Committee on Episcopacy: “If the grand jury, the

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<sup>1</sup> Stenographer’s Report of the Proceedings of the Committee on Episcopacy in the case of Bishop R. K. Hargrove, at the General Conference of 1894.

committee of three, . . . decide a trial to be necessary, their report is notice to the accused, and the only notice the law demands." It will be seen from this statement that the bishop denies that the law required any such notice as contended for by the Conference.

The bishop's explanation to the Committee on Episcopacy is based on a distinction between "complaints" and "accusations." He makes "complaints" refer to "such as habitual failure in administration, or when a brother is complained of as unacceptable, inefficient, or secular." He further says that all such cases being investigated in open Conference, "notice [is] required by our law." On the other point the bishop says: "Accusations [are] to be investigated before committees—the grand jury, the committee of three—[who] decide, first of all, whether or not a trial is necessary; and if they decide a trial to be necessary, their report is notice to the accused, and the only notice the law demands."

It will be seen that the bishop makes the above distinction apply to the nature of the case, when it is first mentioned on the floor of the Conference, before the Conference has taken any action in the matter. In other words, this construction of the law gives to the one making the complaint the right to name the offense, and if it be habitual failure, etc., it is "complaint," but if immorality it is an "accusation." This distinction is not made when the case is first mentioned in open Conference. Under the law all are alike "complaints," as the following will show:

*Question 7.* What method is recommended in the examination of the life and official administration of the preachers? <sup>1</sup>

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<sup>1</sup> Discipline, 1894, p. 87.

At this stage of the proceedings the law makes no such distinction between "complaints" and "accusations" as Bishop Hargrove makes, for it is now an "examination of the life and official administration of the preachers"; mark you, the "life," which has reference to morality. It is only in Chapter VII., Section 2, headed "Trial of a Traveling Preacher," that the word "accusation" is used. In the Discipline of 1784 it is said: "In the absence of a superintendent, a traveling preacher or three leaders shall have power to lodge a complaint against any preacher."<sup>1</sup> In 1789 this question was asked: "What shall be done when an elder, deacon, or preacher is under the report of being guilty of some capital crime," etc.?<sup>2</sup> The form of words "under report" remained in the Discipline until 1870. It was then asked: "What shall be done when a traveling preacher is accused of immorality?"<sup>3</sup> In 1792 "persons" was changed to "accused and accuser,"<sup>4</sup> and these words have remained in the Discipline ever since in this connection: "Bring the accused and accuser face to face." In 1866 the following was added to the Discipline: "When the accusation is preferred during the session of the Annual Conference, it shall first be referred to a committee of three traveling elders."<sup>5</sup> From 1784 to the present time there have appeared in the Discipline, in reference to the trial of a preacher, the following phrases: "Lodge a complaint," "under report of being guilty," "accused and accuser," "ac-

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<sup>1</sup> Emory's History of the Discipline, p. 182.

<sup>2</sup> *Ibid.*, p. 183.

<sup>3</sup> History of the Revision of the Discipline, by Peterson, p. 85.

<sup>4</sup> Emory's History of the Discipline, p. 183.

<sup>5</sup> Peterson, p. 87.



cusation preferred," and "accused of immorality." They are all used at different times to describe cases in their incipency. The bishops, in the Manual of the Discipline, use interchangeably the words "complaint" and "charge" in speaking of the initiatory steps in the investigation of a preacher's character. They say:

The proper time to present a complaint or charge against him is when his name is called in the annual examination of character, and the question is asked, "Is he blameless in life and official administration?"<sup>1</sup>

Worcester defines accusation to be an "act of accusing or charging with an offense"; and complaint to be "information against; accusation; charge." It will be seen from these definitions that "complaint," "accusation," and "charge" are used interchangeably, and they are all employed in Methodist usage to describe the initiatory steps of judicial proceedings. It is evident, therefore, that Bishop Hargrove is not warranted in the distinction he makes in the use of the terms, either from the meaning of the words or their historical usage in Methodism.

The legislation of 1866, which provides for a committee of investigation, does not, by express statement or implication, repeal the law of 1858, which says: "If there be a complaint, and the preacher has been advised of it, let it be stated to the Conference," etc. It must follow that Bishop Hargrove's conclusion that if the committee of investigation "decide a trial to be necessary, their report is notice to the accused, and the only notice the law demands," is contrary to the law, and if followed is a serious in-

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<sup>1</sup> Manual, p. 123.

fraction of the rights of the accused. Removed, as the case nearly always is, from the place where it is alleged that the offense was committed, the accused has neither time nor opportunity to prepare for his defense, as he must go into trial immediately, when the report of the investigating committee is the first notice he has received.

In confirmation of his position that the report of the committee of three "is all the notice the law demands," Bishop Hargrove read from the Manual of the Discipline as follows: "The right is conceded to the Annual Conference, and it has become usage, when an accusation is preferred against a member, and he cannot be tried during the session, for want of testimony or other cause *on either side* [italics mine], to refer the matter to the presiding elder, who may have charge of him the ensuing year."<sup>1</sup>

Following is the full text from which the above extract is taken:

The right is conceded to an Annual Conference, and it has become usage, when an accusation is preferred against a member, and he cannot be tried during the session, for want of testimony or other cause, to refer the matter to the presiding elder, who may have charge of him the ensuing year. The presiding elder and the committee called proceed as in any other case of immorality, in the interval of the Conference. If they find a verdict against the accused, he can only be suspended. This investigation having been ordered by the Conference, it is not discretionary with the presiding elder, and he should enter upon it without unnecessary delay. If a specific charge has been referred, the committee must investigate that; if the preacher's character, then any charges may be investigated that are preferred.<sup>2</sup>

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<sup>1</sup> Stenographic Report.

<sup>2</sup> Manual, pp. 132, 133.

After the phrase in the above, "for want of testimony or other cause," Bishop Hargrove added these words: "on either side." This phrase is added without any indication that it is not a part of the original. It changes the meaning of the authority he quoted. Without the addition of the words the authority cited would be foreign to the purpose of the bishop, for it is clear from the entire paragraph that it is a usage for the protection of the Conference, and not for the accused. The language is: "The right is conceded to an Annual Conference." Nothing is said about the right being conceded to the accused. His right is sufficiently guarded in the fact that he must have previous notice of a purpose to arrest his character.

Another point in this conceded right is that it is not a trial, but only an investigation, and takes the same place under the law that an investigation does in the interval of an Annual Conference. In such a case as this the accused had all the year to get ready for trial at the ensuing Conference. Another difficulty in the way of the authority cited is that it is not law, but only a "right conceded," and no such right can be used as authority in the face of a plain statute. The right under consideration does not in any way bear on the question at issue. It stands as one of the rights of a preacher that he cannot be put on trial legally until he has had previous notice of an intention to enter a complaint against him. The very nature of the case demands just such a law.

The following is offered in confirmation of the foregoing view of the law:

**It matters not how widely known the essence of the accusa-**

tion may be, the law requires previous notice thereof to the accused, doubtless to give him opportunity to prepare to meet the charge. The law makes no exception; its administrator can make none: he must execute the law. The accused could waive this provision in his favor. This he did not do, but on the contrary claimed it, and it was denied him, not by the Conference, the real court constituted by law, but by the bishop.<sup>1</sup>

Also the following from Dr. E. M. Bounds:

The Methodist Discipline provides that before a preacher's character can be arrested on the floor of the Conference he must have due notice of that fact. Dr. Kelley seems to have had no notice of the purpose. He did talk with the presiding elder and bishop about the construction of the law the day before his case came up. This fact the bishop construed into a notice. No constructive notice will meet the demands of the law. The accused can claim every inch of the law. The judge must see by the strictest construction that he has the benefit of its every item. Whether the case is to be bettered by it, is not relevant. "It is so nominated in the bond" may be merciless when exacted of the prisoner, but it becomes serious injustice if not awarded to him. The Conference charge that the bishop by prerogative and construction invaded this right.<sup>2</sup>

The next point to be considered in paragraph 55 is the right of the accused to reply in open Conference to any complaint made against him, and, when this right has been exercised or waived, the right of the Conference to say by vote whether or not his character shall pass. The law is: "Let the accused have the privilege of replying. He shall then retire, and the Conference shall determine by vote whether or not his character shall pass."

That these rights were denied both the accused and the Conference, is established by the following evidence:

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<sup>1</sup>Judge B. J. Tarver, in "Bishop or Conference," p. 80.

<sup>2</sup>*Ibid.*, p. 90.

I except to and protest against the act of the presiding bishop, in that he refused me the right of reply guaranteed by the Discipline, ¶ 55, Ans. 3, which states, "If there be a complaint, and the preacher has been advised of it, let it be stated to the Conference, and let the accused have the privilege of replying."<sup>1</sup>

Eighty-seven members of the Conference protested as follows:

They protest that said action was irregular and not according to law, because the accused was denied the right to reply to the same [the complaints] by the presiding officer.<sup>2</sup>

While before the Committee on Episcopacy answering to the "Bill of Complaints" preferred against him, Bishop Hargrove gave his construction of paragraph 55 as follows:

The object of the appointment of committees of investigation and trial is largely to avoid public discussion, as the *Daily Advocate* of the General Conference of 1866 will no doubt show, discussion in the Conference, in the very nature of the case, disclosing all the facts before the Conference could pass or refuse to pass the character of the accused brother. If that be done, where the necessity for the committee? If Conference has decided that the man is to be tried, where the necessity of the committee of investigation? They refer certain cases, under the law, to committees in order to avoid this public discussion, and they organized a committee of three to investigate and decide whether a trial is necessary in a case, before it could ever go to a committee. Hence a case that would go to a committee under the law, [by] virtue of its nature, is not discussed in Conference, and ought not to be discussed in Conference.<sup>3</sup>

The bishop assumes in the above that the General Conference of 1866, when it provided for "committees of investigation and trial," repealed paragraph 55, by "referring certain cases, under the law, to com-

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<sup>1</sup> Written Journal, p. 24.

<sup>2</sup> *Ibid.*, p. 48.

<sup>3</sup> Stenographic Report.

mittees in order to avoid this public discussion," such cases not being "discussed in Conference, and ought not to be discussed in Conference." In proof that his assumption is correct, the bishop refers to the *Daily Advocate* of 1866. By reference to said paper it is found that it does not discuss the question under consideration. It gives a brief discussion of the new law, but not that phase of it alluded to by Bishop Hargrove. There is no intimation in the *Daily Advocate* of 1866, or in the Journal of the General Conference for the same year, of an intention to repeal paragraph 55. If it had been the intention of the General Conference to repeal said paragraph, it would have said so in plain terms.

In further proof of his position, the bishop says: "Discussion in the Conference, in the very nature of the case, [must] disclose all the facts before the Conference could pass or refuse to pass the character of the accused brother. If that be done, where the necessity for the committee? If Conference has decided that the man is to be tried, where the necessity of the committee of investigation?"

This reasoning is defective in the following particulars:

1. It assumes that the discussion must disclose all the facts, before the cases can be passed upon. This is not necessary. What is more, it is not the intention. It is simply to give the accused an opportunity to explain the matter to the Conference. If he can do this to its satisfaction, the Conference will pass his character; if not, the case will be referred to a committee to look more critically into the complaint.

2. The statement of the accused and the vote of the Conference are not to see if a trial is necessary, as the bishop assumes, but are preliminary to such a step. If the Conference by vote declines to pass the character of the accused, it says by said vote that the complaint is serious enough to be looked into in a more formal and critical manner, and refers it to a committee for that purpose.

The act of 1866, providing for committees of investigation and trial, had the effect simply to do away with *trial* in open Conference, where all the facts would have to be disclosed, with the additional feature of the committee of investigation, leaving paragraph 55, which was adopted in 1858, in full force.

The following is offered in confirmation of the foregoing views. Hon. Jordan Stokes says:

There seems to be an error in some minds to the effect that Chapter VII. suspends the directions given in paragraph 55. For this there is no ground whatever. Paragraph 56 plainly declares that it supplements it and in no way suspends any of its provisions. It chronologically and logically follows paragraph 55, providing methods to be pursued after paragraph 55 has been exhausted. You must exhaust Answer 3 before Answer 4 applies.<sup>1</sup>

On the same point Dr. Rumsey Smithson says:

In the first place, we maintain that to any complaint made against a preacher in open Conference the accused has the privilege of replying before the body; and that the Conference has the right to determine by vote whether or not his character shall pass, before any process of trial can be entered upon.<sup>2</sup>

Bishop Hargrove invaded the rights of the Conference when he decided that there was no appeal from his decision to the Conference on a point of or-

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<sup>1</sup> "Bishop or Conference," pp. 64, 65.

<sup>2</sup> *Ibid.*, p. 85.

der. The bishop, as we understand him, denies that he ever made any such decision, as the following will show:

They complain that I ruled that there was no appeal from a decision of the chair on a question of order. There [are] only two ways in which this could occur: first, on a written question of law, formally presenting the question and answered in writing; second, by the chair declining to put the vote, on a formal motion to appeal. In either case, the Minutes of the Conference would certainly show the fact, but they show neither the one action nor the other. Thus their silence is more than the voice of a hundred witnesses, contradicting the effect of *ex parte* statements upon which they would have me convicted. Nothing better demonstrates the desperateness of their case, and the spirit that animates it, than the parade they have made of this pretended issue. I have never in my life known an appeal or an attempt to appeal from a mere parliamentary proceeding in an Annual Conference.<sup>1</sup>

That Bishop Hargrove did make such a ruling is evident from the following testimony:

In the matter of my recollection as to what occurred in the late Annual Conference at Pulaski, when Dr. Kelley sought to appeal to the house from the ruling of the presiding bishop, I have to say that, as I remember it, the bishop stated, in response to the declaration of appeal, that there could be no appeal from the ruling of the chair on a point of law or order, adding, probably, "in a case like this." I prepared a statement of the matter as a news item for the *American*, as the Pulaski correspondent (which for some reason was not published), and this statement I submitted to both Dr. Kelley and Bishop Hargrove, and it was approved by both. My recollection is that I had omitted the words "or order," and by the bishop's direction I added them, he saying as much to me.

FLOURNOY RIVERS.

I was present in attendance upon the Conference, and the bishop (as I recollect) did rule that there could be no appeal to

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<sup>1</sup> Stenographic Report.



the Conference from his decision or ruling, either upon points of law or order.

JAMES WHITWORTH.

The bishop did rule that there was no appeal from the chair on a point of order.

T. A. KERLEY.

I recollect distinctly that Bishop Hargrove ruled (in the case above cited) that there was no appeal from his decision on a point of law or of order.

B. A. CHERRY.

The above is substantially correct, according to my recollection.

L. R. AMIS.

This is according to my recollection.

F. E. ALFORD.

J. M. WRIGHT.

My recollection is that Bishop Hargrove decided that there was no appeal from his decision upon either a question of order or of law. Dr. Kelley insisted that there was a right of appeal on a question of order. The bishop decided against him.

W. H. WILKES.<sup>1</sup>

Culleoka, Tenn., April 18, 1894.

Bishop Hargrove in his defense before the Committee on Episcopacy, said: "There [are] only two ways in which this [the bishop's decision that there was no appeal to the Conference from his ruling on a point of order] could occur: first, on a written question of law, formally presenting the question and answered in writing; second, by the chair declining to put the vote, on a formal motion to appeal." This is a strange statement. A question of order is not required by the law of the Church to be presented to the presiding bishop in writing. It is only a question of law that must be so presented. So one of the "only two ways" of presenting a question of order is not a way at all. The only other way in which the bishop says such a ruling could have been made was for the chair to decline to put to vote a formal motion to appeal. As a matter of fact, the ruling was not made in either of the above ways. It

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<sup>1</sup> Bill of Complaints, pp. 4, 5.

occurred as follows: D. C. Kelley presented a question of law involving a point of order. When the bishop made his decision on the same, D. C. Kelley stated that he did not like to do it, but he could reverse the bishop's decision by an appeal to the Conference. The bishop replied that there was no appeal from his decision to the Conference. Whereupon D. C. Kelley asked the bishop if he understood him to say that there was no appeal from his decision on a point of order. The bishop replied that there was no appeal from his decision to the Conference either on a question of law or of order.

The bishop states in the next place that he never knew of "an appeal or an attempt to appeal from a mere parliamentary proceeding in an Annual Conference." This may be so, but of what value? In his experience there may never have been any need of it before, but it does not follow from this that there was no need of it at the Tennessee Conference in 1890, or that the ruling as above stated was not made. Bishop Hargrove disposes of this question by declaring that there is no record of said ruling in the Journal of the Conference, and the absence of all record on the question "is more than the voice of a hundred witnesses contradicting the effect of *ex parte* statements."

The following entry in the printed Journal of the Tennessee Conference of 1890 will perhaps throw some light on the absence of all record on the ruling under consideration:

Before the bishop appointed this second committee of investigation there were numerous points of order raised, questions of law propounded, and protests made, some of which appear in their proper place below.<sup>1</sup>

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<sup>1</sup> Printed Journal, p. 28.

If at this stage in the investigation of the case of D. C. Kelley "there were numerous points of order raised, questions of law propounded, and protests made," only "some of which appear in their proper place," is it not probable that other points of order may have been omitted in their proper place, and that the decision of the bishop that there was no appeal from his ruling on a point of order to the Conference may have been one of said omissions? As a matter of fact some things were said and done in the case that were never recorded in the Journal.

That is a strange assumption of Bishop Hargrove's when he says the "silence" of "the Minutes of the Conference" "is worth more than the voice of a hundred witnesses." The silence of the Minutes on this question is worth nothing when a number of reputable witnesses, who were present and know of the fact, testify that the bishop did decide that there was no appeal to the Conference from his ruling on a point of order. There is nothing more clearly established than the fact that Bishop Hargrove did rule that there was no appeal from his decision to the Conference on a point of order, and there is nothing more patent than the further fact that such ruling is a serious infraction of the rights of an Annual Conference, for there are many ways in which such a ruling can tie the hands of the Conference.

The question in which is involved the rights of Annual Conferences, and the one over which there was the warmest contest in the Kelley case, is: Whose right is it to appoint committees of investigation and trial, the Conference or the bishop? It has been asserted that the Tennessee Conference never claimed

the right to appoint the committees in the case of D. C. Kelley. On this point Bishop Hargrove says:

In the case of D. C. Kelley, no claim was ever confirmed by the Conference as such, as the Minutes will show, of the right to appoint the committee. There was never a motion made to appoint the committee. The fact was this, that in a very bungling way two or three of the members were trying to get that point before me, but did not know how, and I was not their counsel, especially as they were making war on the law of the Church, and I did not tell them exactly how, and they never did find out how until the whole matter was over. That is the simple truth about it. I am not responsible for their ignorance. They might have gotten the question before me, but they did not.<sup>1</sup>

The above is an adroit statement of the question. The bishop says "there was never a motion made to appoint the committee." As a matter of fact that is true. Why was such a motion not made? For two reasons: (1) Because the Conference had never decided to have a committee. It had been denied the right to say whether or not it would have a committee, and since the Conference had been denied this right by the bishop, in violation of a plain law, and since the Conference had ordered no committee to be appointed, and since in the face of these facts a committee could not be appointed legally, the Conference could not and would not legalize an illegal act by a motion to appoint such a committee. (2) The Conference would have shown its ignorance and raised a doubt as to its right to appoint committees by making a motion to do that which it claimed the right to do and had the right to do, provided it had decided to have a committee. Then of course, in the sense in which the

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<sup>1</sup>Stenographic Report.

bishop spoke, "no claim was ever confirmed by the Conference as such, as the Minutes will show, of the right to appoint the committee." That is a bit of special pleading in this case unworthy the gravity of the situation. But when in view of the fact that the Conference saw that a committee had been thrust upon it by the presiding bishop, in violation of law, the only course left open to it, and the one perfectly consistent with its position and action in the whole matter, was to protest against the act of the bishop, deny his right to appoint the committee, and since the Conference had been denied its legal rights in the first step as to whether or not it would have a committee, to demand its right in the second step, and claim a voice in the method of its appointment.

That the Conference was consistent with itself in the light of all the facts, and claimed the right to appoint the committee since it was thrust upon it, the following history will show:

In written Journal, . . . page 24 (near middle of page), D. C. Kelley, in his protest reciting the steps preliminary to the appointment of the first committee of investigation, recites the following facts which transpired *before* the appointment of said first committee:

"The bishop announcing his purpose of appointing a committee of three, which he called a 'committee of inquiry,' I proposed the following question: Can the presiding officer, of his own motion, without a formal complaint, and without the previous notice required by ¶ 55, Ans. 3, and without an order from the Conference, as contemplated in ¶ 55, Ans. 3, raise a committee in a special case?"

Also in same Journal, page 25, D. C. Kelley, in his protest, recites further transactions which preceded the appointment of said first committee, as follows:

"The bishop having announced his purpose to appoint the

committee without allowing the Conference any action in the premises, I raised the following point of order, involving a point of law: 'Is it not an infringement of the rights of the Conference for the presiding bishop to deprive that body of the right of choosing their own method of appointing a committee of their own body?' The bishop replied: 'The law makes it my duty, and I shall administer the law.'

D. C. Kelley then asked that he might have the privilege of arguing the law of the case for the better consideration of the bishop. The bishop replied: "My mind is made up; I shall appoint the committee."

Before the appointment of the committee of trial, D. C. Kelley presented the following question of law (same Journal, page 38):

"QUESTION OF LAW BY D. C. KELLEY.

"The law in the case of a committee of trial, ¶ 258, provides that the chairman is to be appointed by the bishop. Does not the mention of the chairman, as especially the subject of episcopal appointment, exclude the other members of the committee from appointment by him, unless he is so requested by the Conference?"

D. C. KELLEY."

"*Answer.* It does not.

R. K. HARGROVE."

The Conference further sought to exercise its right to appoint its own committees, as appears by the following question of law presented by B. F. Haynes before the appointment of the trial committee (see same Journal, pages 39-41):

"QUESTION OF LAW BY B. F. HAYNES.

"Does not ¶ 250, in answer to Question 1, under Section II., page 146, of the Discipline, and ¶ 1 of Section III., page 128, of McTyeire's Manual, wherein the doctrine is enunciated of the amenability of a traveling preacher to the Annual Conference of which he is a member, necessarily involve and imply the right of the Conference to appoint the committee to whom the Conference proposes to delegate its right to 'try, acquit, or expel him'?"

B. F. HAYNES."

"*Answer.* The authorities referred to do not necessarily imply that the Conference, and not the chair, shall appoint the committee of investigation and of trial—a view confirmed by long custom.

R. K. HARGROVE."

The Conference still further sought the exercise of its right to appoint the committee by the following resolution on the applicability of the above episcopal ruling (same Journal, page 39):

*“Resolved, That under ¶ 102, Answer 6, page 74, of the Discipline, we, as a Conference, hereby decide that the episcopal ruling on ¶ 250, page 146, of the Discipline, submitted to the chair by B. F. Haynes, does not apply to the case of D. C. Kelley, now pending, and that we claim the right, as a Conference, to a voice in the method of appointment of the committee of trial in the case.*

“B. F. HAYNES,

“J. G. BOLTON.”

The bishop ruled that this resolution was out of order.

Still further in pursuance of the same effort to secure the Conference the exercise of its right to appoint its committees, B. F. Haynes and T. H. Hinson offered the following appeal from the episcopal ruling rendered on B. F. Haynes's question of law, which was adopted by the Conference before the bishop appointed the trial committee (same Journal, page 40):

“APPEAL TO THE COLLEGE OF BISHOPS.

*“Resolved, That we, as a Conference, hereby respectfully appeal from the decision of the chair on ¶ 250, page 146, of the Discipline, to the College of Bishops; believing that the law which declares the amenability of a traveling preacher for his conduct to the Annual Conference of which he is a member, and guarantees to the Conference the power to try, acquit, or expel him, guarantees to the Conference also the right to a voice in the method of appointment of the committee of trial in the case. We maintain that it is not an exercise by the Conference of the powers to ‘try, acquit, or expel,’ when the Conference is denied by the chair a voice in the method of raising the committee of trial*

B. F. HAYNES,

“T. H. HINSON.”

The Conference protested against the bishop's infringement of its rights in the appointment of committees, in the same protest, signed by eighty-seven members of the Conference, already referred to, as follows:

“We, the undersigned members of the Tennessee Annual Conference of the Methodist Episcopal Church, South, make

the following protest and exceptions to the action taken and the rulings made by Bishop R. K. Hargrove in the matter pertaining to the trial of D. C. Kelley, at the session of said Conference held at Pulaski, in October, 1890:

"1. The bishop ruled that it was both his duty and prerogative, on the informal statement of G. W. Winn in the Conference, to raise a committee of investigation on his own motion to inquire whether there should be a trial of D. C. Kelley or not, without any action of the Conference indicating a desire on its part to have said committee. They will insist that said ruling was incorrect and contrary to law, as contained in ¶ 55, pages 48, 49, of the Discipline.

"4. They protest that the bishop erred in appointing, of his own motion and against the judgment of the Conference, a second committee of three to report whether there shall be a trial of D. C. Kelley or not, the Conference having voted on a motion to nonconcur in the report of the first committee of three by 116 votes for nonconcurrence to 25 against. They will insist that the second committee of three could not have been raised without the concurrence of the Conference, except by a restriction of the rights and privileges of the Conference.

"5. The bishop, of his own motion, without the concurrence of the Conference, appointed a second committee, and placed on it a majority who had formed and expressed an opinion adverse to the accused in the matter to be reported on. This was error.

"6. The bishop erred in holding that he, by virtue of his office, alone had the power to appoint the committee to try the accused, and that he had the right to do so without the consent or concurrence of the Conference of which the accused was a member.

"7. The action of the presiding bishop in the appointment of said committee, in manner, etc., as stated in the foregoing exceptions and protests, clearly deprives this Conference of its power over D. C. Kelley, one of its members, as conferred on it by ¶ 250, page 146, and ¶ 263, page 154, of the Discipline. In no sense has the trial been by this Conference."

The above protest of W. H. Wilkes and eighty-six other members of the Conference was presented before the appointment of the trial committee.



*"To Whom it May Concern:* This certifies that at the session of the Tennessee Conference held at Pulaski, Tenn., October, 1890, Bishop Hargrove presiding, and W. M. Leftwich secretary, in the investigation of the case of D. C. Kelley, the protest signed by W. H. Wilkes and eighty-six other members of the Conference was presented in the morning of the sixth day of the Conference (October 14), and before the trial committee had been announced by the bishop.

W. H. WILKES,  
"H. B. REAMS."<sup>1</sup>

The foregoing facts of history prove beyond all question that the Conference claimed the right to appoint the committees, and set up this claim in the only way it could be done consistent with its position in relation to the attitude, in which the question had been placed by the arbitrary methods of the presiding bishop. It is equally clear that the bishop denied the right in question to the Conference which the College of Bishops said should not be denied, if claimed.

In response to the "Bill of Complaints" while before the Committee on Episcopacy, bearing on the point that the right to appoint the committees had been denied the Conference, Bishop Hargrove said:

But complaint is made that I appointed committees without an order from the Conference. It is well for us to inquire here, What is the settled policy and usage of the Church to which we belong? Who appoints special committees in the Methodist Episcopal Church, South? and a committee of investigation and trial is a special committee. Run through the list of your General Conference committees that do their vast work in the Church, and who appoints them? And though my accuser sought a few days ago to have that rule stricken out, the General Conference showed him very plainly that it wasn't their mind; and this rule, which is established in the General Confer-

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<sup>1</sup> Bill of Complaints, pp. 6-9.

ence, runs through the whole line of our Conferences. The chairman of the congregation, or the preacher in charge, when a committee of investigation and trial is necessary, appoints the committee by specific statute; and if there be a demand for a committee of investigation or trial, or a committee of investigation in the interval of Annual Conferences in the case of a traveling preacher, the bishop, or, in his absence, the presiding elder, appoints this committee of investigation; and if they find a trial necessary, they suspend a man, and are required to formulate a bill of charges, and that committee appointed by the bishop, without the intervention of another committee, appears in the Annual Conference to prosecute the case. Now I grant you that there is no specific statute for a case originating in an annual session of the Conference, and we are driven to another line in order to ascertain the intent of the Church. In 1866 the General Conference, by resolution, requested the College of Bishops to prepare a commentary on the Discipline, and publish their decisions, and this book [the Manual of the Discipline] is the result of that request, and in it we have a code of parliamentary rules which prevail in the Church. I beg your attention to this fact: the bishops who prepared this book were members of the General Conference of 1866, which inaugurated this law of trial by committee. Several of them were on the floor of that Conference, and were the chief figures in it, and discussed this law, and the rest of this body were there as bishops of the Church, and these men agreed on this principle in regard to the duties of the president: "To appoint committees when directed in a particular case, or when a regulation requires it." Now I undertake to say that those same bishops, who understood this rule, set out for themselves, and were governed by it—I undertake to say that they have appointed committees of investigation and trial ever since. Then they must have appointed them under one or two conditions: they must have been directed to do so by the Annual Conference, or they must have understood it to be the regulation of the Church.

They have not been requested to do it by Annual Conferences; and all these years these Annual Conferences have stood in their places, and have, by their silence, consented to the fact

that it was a regulation of the Church. And you have the consensus of the bishops and of the Annual Conferences to the fact. This consensus of opinion on the part of the bishops and of the preachers, this usage, makes a law, makes the common law. That is what is meant by common law; so that, under the common law, the president of an Annual Conference is to appoint the special committees, unless otherwise directed by the body, of his own motion. Now, I undertake to say that the absence of any statute limiting this power to the Annual Conferences is itself a significant fact. One step farther,

to show that it was never in the mind of the General Conference that it was a dangerous power to be exercised by the bishop to appoint these committees. I direct your attention to this fact, that if a man has been tried in an Annual Conference and convicted, and before the next session of the General Conference wishes his case tried before an appellate court to review the proceedings of the lower court, your statute specifically provides that the bishop shall organize that court of appeals, higher than the court in the Annual Conference, from bottom to top. He appoints every member of that committee. He appoints the chairman of it, or presides himself. He appoints the secretary of it. He appoints the time of holding the court, and the place of holding the same.

I maintain that it was never intended that the Conference should appoint the committee, on this ground, that there is no mode prescribed by which to appoint such committee. If it had been the intention of the General Conference to have these committees appointed by the Annual Conference, they would have seen that there was a necessity to establish a mode. The state empanels its juries, but the state has a mode of doing it. You can hardly conceive of a greater danger to the Church than to put it in the power of the Annual Conference to appoint its committees of trial, and leave no mode, under the law, for doing the thing.

Suppose you nominate these committees in the Annual Conferences, and the man to be tried states that he objects. Well, state the grounds of your objection. It is something in the man's personal character maybe, and you introduce discussions on the floor of the body, on personal character, in an Annual

Conference. What follows? What conflicts you would produce! What ruin you would work to the Church! Brethren, it never was the intention of our law. But somebody will say, Haven't the bishops so ruled? Don't they, in that case? Well, I will grant you there is a consensus of opinion there. A majority of the College of Bishops agreed to that view, but the case was not before them. I had not decided that question. They affirmed my decision, but they said, if so and so was so, then so and so. They merely gave a consensus on an hypothetical case; but our law says that the decision of the College of Bishops is authoritative only when they affirm the decision of the bishop in the chair. If the College of Bishops can get up hypothetical cases and decide them, and those decisions have the force of law, then they can make all your laws, and dismiss your General Conference. There is no use of it. Your very sacred rights are involved there. My colleagues would not claim that their ruling was anything more than a consensus of opinion. Sometimes we do agree as to what we understand the law to be, when the case is not before us, but we do not claim that it has the force of law.<sup>1</sup>

An analysis of the foregoing argument will show it to be defective in several particulars:

1. The bishop bases his argument on the provisions made for the appointment of what he calls special committees. He calls attention to the fact that the bishops appoint special committees in the General Conference, and in the case of a traveling preacher whose character has to be investigated in the interval of an Annual Conference, they appoint the committee of investigation. Also in the event that an appeal case is to be heard in the interval of the General Conference, the bishop appoints the court of appeals, its officers, and the time and place of meeting. In addition to these cases, he cites the fact that the pastor appoints all committees in the

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<sup>1</sup> Stenographic Report.

investigation and trial of members. All this is true, but in each case the appointment is made by special authority conferred. From these facts the bishop draws two conclusions: (1) that committees of investigation and trial are special committees; and (2) that special committees, being appointed by the president under special statutes in every case, save committees of investigation and trial in the Annual Conferences, it follows that it is the intention of the Church that they shall be appointed by the president of the Conference. There are two difficulties in the way of accepting this general conclusion: (1) It is not a fact that committees of investigation and trial are special. In Methodism, only such committees as are not provided for by law are special. A special committee is one that originates in, and is appointed by, the body, to meet some demand for which no specific provision is made either by law or special rules governing the body. Committees of investigation and trial are provided for by law, and their duties and powers clearly defined; and because there is an irregular demand for them, does not make them special in the Methodist acceptance of the term. In the light of this fact, whatever weight is attached to the bishop's argument, on account of the claim that committees of investigation and trial are special, is lost. (2) The bishop's conclusion is not clear, that because bishops and pastors appoint certain committees, under special statutes, it is the right and duty of the president of an Annual Conference to appoint committees of investigation and trial. The facts suggest and warrant a different conclusion. The fact that all the cases named by the bishop are

provided for by law, but in the one case no such authority is given, would suggest the conclusion that it was not the intention of the lawmakers to give any such authority in the special case. It is reasonable to suppose that if provision is made in all other cases, if they had intended the president of the Annual Conference to make such appointments they would have provided for it by law.

2. The bishop builds an argument on the Manual of the Discipline. In the preparation of the Manual he says the bishops "agreed on this principle in regard to the duties of the president: 'To appoint committees when directed in a particular case, or when a regulation requires it.'" There are two facts in this statement taken from the Manual by Bishop Hargrove that are fatal to his argument: (1) The bishop was not "directed" to appoint the committees in the case of D. C. Kelley, but on the other hand, the Conference did all it could to prevent him from appointing them. (2) There was no "regulation" either in the Discipline or the Manual requiring him to appoint the committees. The bishop admits "that there is no specific statute for a case originating in an annual session of Conference." But he attempts to meet this difficulty with the fact that the bishops have appointed the committees since 1866, without their right being questioned, and this custom, acquiesced in by the Conferences, has made what the bishop calls the common law of Methodism. He says: "Under the common law the president of an Annual Conference is to appoint special committees, unless otherwise directed by the body." "Unless otherwise directed by the body": "there's the rub."

With that qualification Bishop Hargrove surrenders his whole argument, for the "body" did all it could to "otherwise direct," but was kept from doing so by his rulings.

3. Bishop Hargrove lays great stress on "the absence of any statute limiting this power [to appoint committees] to the Annual Conferences." He says it is "a significant fact." What does it signify? Does it signify that "the absence of any statute" forbids the right to appoint committees? If so, has it never occurred to the bishop that there is "the absence of any statute limiting this power [to appoint committees] to the" bishop? and will he be consistent and say that in the absence of any statute limiting this power" to himself, he had no right to appoint the committees in the case of D. C. Kelley? Logical consistency will demand it of him.

4. The bishop tries to show that it was never the intention of the Church that the Annual Conferences should appoint the committees of investigation and trial because no mode of appointing them is prescribed. He says that if it had been the intention of the Church to confer any such power, it would have prescribed the mode. That is simply the opinion of Bishop Hargrove as to what he thinks the Church would do in a special case, and his opinion is worth no more than the opinion of any other intelligent man.

5. The argument made by Bishop Hargrove against the right of an Annual Conference to appoint committees of investigation and trial was made in the face of the fact that the College of Bishops had decided "that if the Conference claimed the right

of appointment it cannot be denied." To meet this difficulty, Bishop Hargrove says the College of Bishops did "not decide that question"—"the case was not before them." "They merely gave a consensus on an hypothetical case." "My colleagues would not claim that their ruling was anything more than a consensus of opinion." Was it an hypothetical case that the College of Bishops passed upon in May, 1891, at Wilmington?

D. C. Kelley's character had been arrested at the session of the Tennessee Conference held in Pulaski, Tenn., in October, 1890. "Whereupon the bishop said that the law required him to appoint a committee," and "appointed an investigating committee of three."<sup>1</sup> Against this act D. C. Kelley entered his protest.

D. C. Kelley then raised the following question of law:

The law in the case of a committee of trial, paragraph 258, provides that the chairman is to be appointed by the bishop. Does not the mention of the chairman, as especially the subject of episcopal appointment, exclude the other members of the committee from appointment by him, unless he is so requested by the Conference?

D. C. KELLEY.<sup>2</sup>

Bishop Hargrove answered: "It does not."<sup>3</sup>

The above question of law, with Bishop Hargrove's answer, was passed upon by the College of Bishops as follows: "Approved, with the understanding that if the Conference claim the right of appointment, it cannot be denied."<sup>4</sup>

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<sup>1</sup> Printed Journal, 1890, p. 13.

<sup>2</sup> *Ibid.*, p. 28.

<sup>3</sup> *Ibid.*

<sup>4</sup> Discipline, 1894, ¶ 593, p. 315.



It is clear from the above that Bishop Hargrove had a real case before him, in which was involved the question, Whose right is it to appoint the committee?—the Conference claiming the right, and the bishop denying it the right, by deciding the question of law submitted to him, adversely to the Conference. This case, with the question of law growing out of it, together with Bishop Hargrove's decision on the same, was passed upon by the College of Bishops, and they reversed the decision of Bishop Hargrove on condition that if the Conference claimed the right to appoint the committee, it could not be denied.

Was that a consensus of opinion on an hypothetical case? If so, why did the College of Bishops publish said opinion in the Discipline as an authoritative interpretation of law? Will Bishop Hargrove's colleagues claim that their ruling was nothing more than a consensus of opinion on an hypothetical case? This whole question is left to the candid judgment of the reader.

The rights of the Conference were seriously invaded in another particular, as the following history will show:

*Resolved*, That under paragraph 102, Answer 6, page 74, of the Discipline, we, as a Conference, hereby decide that the episcopal ruling on paragraph 250, page 146, of the Discipline, submitted to the chair by B. F. Haynes, does not apply to the case of D. C. Kelley, now pending, and that we claim the right, as a Conference, to a voice in the method of appointment of the committee of trial in the case.

B. F. HAYNES,  
J. G. BOLTON.

The bishop ruled that this resolution was out of order.<sup>1</sup>

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<sup>1</sup> Printed Journal, 1890, pp. 28, 29.

The following protest was entered against the above ruling:

In the name and interest of the rights of our thousands of faithful, loyal itinerant preachers, in the name of fairness and justice and Methodist law, I hereby protest against the refusal of the chair to allow a vote by the Conference on the resolution offered on the applicability of the ruling of the chair on paragraph 250, page 146, of the Discipline, to the case of D. C. Kelley, now pending.

B. F. HAYNES.<sup>1</sup>

In speaking to the above, before the Committee on Episcopacy, Bishop Hargrove said:

I come to the resolution of Haynes and Bolton, on the application of the law. . . They say that Bishop Hargrove committed an outrage in ruling that out of order. B. F. Haynes knew very well that he had no right to ask me a question of law that did not relate to the case of D. C. Kelley. He knows very well that I did not have the right to answer it under the requirement of this Discipline, unless he had the right to propound the question. Now, B. F. Haynes said, by asking that question, "I do understand that the law has reference to a case like D. C. Kelley's." Well, it would have been, with some people, a hard thing to turn right around and say, "Resolved, that it had no such application"; but not with him. Now, whoever else might have been in order, he was not in order, and I pronounced him out of order, and you will justify my decision. He was out of order.<sup>2</sup>

In the foregoing comments, Bishop Hargrove says: "B. F. Haynes knew very well that he had no right to ask me a question of law that did not relate to the case of D. C. Kelley; but by asking that question, he said, 'I do understand that the law has reference to a case like D. C. Kelley's.'" Then the bishop concluded that "it would have been, with some people, a hard

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<sup>1</sup> Printed Journal, 1890, p. 29.

<sup>2</sup> Stenographic Report.

thing to turn right around and say, 'Resolved, that it had no such application'; but not with him."

It is evident from the above that the bishop's mind was a trifle tangled. B. F. Haynes asked if certain paragraphs in the Discipline and the Manual did not "necessarily involve and imply the *right* of the Conference to appoint the committee." In answer to this question Bishop Hargrove said: "The authorities referred to do not necessarily imply that the Conference, and not the chair, *shall appoint* the committees of investigation and trial." Whereupon B. F. Haynes and J. G. Bolton offered a resolution in which they said: "We, as a Conference, hereby decide that *the episcopal ruling* on paragraph 250, page 146, of the Discipline, . . . does not apply to the case of D. C. Kelley, now pending."

It is clear from the above that "B. F. Haynes knew very well that . . . [his] question of law . . . did . . . relate to the case of D. C. Kelley," and the resolution in question does not declare or intimate anything to the contrary, but it does declare "that *the episcopal ruling* . . . does not *apply* to the case of D. C. Kelley"—the very thing the Conference has a right to apply under the law of the Church. The bishop's mind was evidently confused over this question, for he failed to make a distinction between the law in question and his ruling on the law. This will appear from a history and an analysis of the law on the right of application.

At the request of the bishops, the General Conference of 1840 enacted a law giving to the bishops the right to decide questions of law in an Annual Conference. This grant conferred on them large powers,

which, if unrestricted, could be abused, to the detriment of the Conferences. The law of 1840 was amended in 1854; again in 1858. The law now is:

To decide all questions of law coming before him in the regular business of an Annual Conference: *provided*, that such questions be presented in writing, and, with his decisions, be recorded on the Journals of the Conference. When the bishop shall have decided a question of law, the Conference shall have the right to determine how far the law thus decided or interpreted is applicable to the case then pending.<sup>1</sup>

This law shows that the "decision" shall have no authority except "in the case pending," and that the Conference shall have the right to say how far the law, *as interpreted*, shall apply to the case in hand—whether or not the decision shall govern the case at all, and if so, how far. It is the *decision*, under such circumstances, that is the subject of application, for in the particular case the decision takes the place of the law—is the law; but it is only in the case pending a law, subject to the will of the Conference. This is the natural interpretation of the language.

The object of the law is obvious. The General Conference conferred on the bishops a new power, when the right was given to decide questions of law—a power equal to legislative powers, if unrestricted. The decision might be of such a character as to invade the rights of the Conference, or some member of it, and work great hardship. The General Conference said: "We will give the Annual Conference the right to say whether or not the law as interpreted shall govern the case pending, and thereby protect all against harm until the principles involved have been settled." If this be not the object and

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<sup>1</sup> Discipline, 1894, ¶ 103.

meaning of the law, then it would seem to have neither. The law makes the Conference a check on the bishop, in all such cases, until the proper tribunal can settle the question. Therefore, in denying the Conference the right of applying the law as decided by Bishop Hargrove in the case of D. C. Kelley, the rights of the Conference were set a side, by simply ruling the resolution out of order; and as the bishop had already decided that there was no appeal from him to the Conference, on a point of order, the last vestige of right was taken away by which one of its members could be protected from illegal proceedings.<sup>1</sup>

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<sup>1</sup>As the reader has observed, we have not discussed the guilt or innocence of D. C. Kelley, but simply the legal questions bearing on the case and the interpretations of the bishop and his use of the same.

## CHAPTER XII.

REPORT No. 5 OF THE COMMITTEE ON EPISCOPACY, ADOPTED IN  
1894, IN THE CASE OF BISHOP R. K. HARGROVE.

REPORT No. 5 of the Committee on Episcopacy, made in the case of Bishop R. K. Hargrove at the General Conference of 1894, is a remarkable document in several respects. It is adverse to the governing principles of Methodism in such cases, and in its effects endangers the rights of Conferences and individual members. The acts of the majority of the General Conference in reference to said report will not only be found hurtful now as to the manner of its adoption and the principles violated, but will be recognized by the future historian of the Church as subversive of our governing principles. The General Conference did itself no credit in the adoption of such a document. It is believed that the history and analysis of said report will confirm the above statements. The report is as follows:

### COMMITTEE ON EPISCOPACY, REPORT NO. 5.

The Committee on Episcopacy beg leave to report: . . .

In the case of Robert K. Hargrove, the committee adopted the following papers, to wit:

I. Whereas only three of the allegations made against Bishop Hargrove in the Bill of Complaints now before us are such as, if sustained, affect his moral character, to wit, under the head of the ninth error he is virtually accused of falsehood; and under the head of the fifteenth error, of procuring, consenting to, or instigating changes in the Tennessee Conference Journal; and

under the fourteenth error he is accused of being influenced by improper motives in stationing the preachers; therefore,

*Resolved*, That it is the sense of this committee that neither of these allegations has been supported by evidence; but that, on the contrary, they have been thoroughly and completely explained by Bishop Hargrove.

II. Whereas the remaining complaints against Bishop Hargrove are such as affect simply his official administration, and, if sustained, would furnish no ground for proceedings against him in the absence of corrupt or improper motive; and whereas the questions of law in the case, as they are set out in the official records, except those appealed to and decided by the College of Bishops, are now under review in a Church court of final resort; and whereas there is no evidence before this committee of corrupt or improper motive in the decisions and rulings complained of; therefore,

*Resolved*, That it is the sense of this committee that Bishop Hargrove has been guilty of no intentional wrong whatever in the matters complained of; and leaving the purely legal aspects of the case to be determined by the Committee on Appeals, before which they are now pending, not presuming to pass upon them, we respectfully recommend that his character pass.

All of which is respectfully submitted.

C. W. CARTER, *Chairman*.

W. D. KIRKLAND, *Secretary*.<sup>1</sup>

The history of this report is an interesting one, and will throw much light on the whole question.

After the Bill of Complaints had been presented to the committee, and had been discussed by B. F. Haynes and Bishop R. K. Hargrove, the accused in the case, Dr. Anson West offered the following:

[We applied to the late Dr. W. D. Kirkland, through the Rev. L. F. Beaty, for a copy of Dr. West's paper. Brother Beaty informed us that Dr. Kirkland had turned over all the papers in the case

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<sup>1</sup>Journal of the General Conference, 1894, pp. 199, 200.

to the Book Editor, Dr. J. J. Tigert. We wrote to Dr. Tigert for a copy of Dr. West's paper, and in reply he said: "I am unable to find any 'Exhibit C' attached to the stenographer's record. I have no recollection that Dr. Kirkland, the secretary of the Committee on Episcopacy, ever placed any records or papers of that committee in my hands, and a diligent search fails to reveal any in Conference trunk."]

On the motion and paper of Dr. West, a "member" of the committee said:

It seems to me that whether we believe there is anything in the complaints or not, that is hardly the proper way to go at it. In my judgment we should take it up seriatim from beginning to end. We owe it to these brethren to do that.<sup>1</sup>

Another "member" of the committee asked the following question:

I would like to ask the question, Was that paper written since the evidence is all in?<sup>2</sup>

In answer to the above question, Dr. West said:

It is here now upon its original presentation. I insist upon the adoption of the paper.<sup>3</sup>

Dr. West's motion and paper were disposed of as follows:

A motion to lay on the table was seconded and carried.<sup>4</sup>

The next record in the case is:

A motion to take up the items of the Bill of Complaints, seriatim, was then made, seconded, and carried.<sup>5</sup>

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<sup>1</sup> Stenographic Report of the Committee on Episcopacy in the Case of Bishop R. K. Hargrove.

<sup>2</sup> *Ibid.*

<sup>3</sup> *Ibid.*

<sup>4</sup> *Ibid.*

<sup>5</sup> *Ibid.*



The committee proceeded to examine the complaints under the above order. When the first item was read, Dr. J. J. Tigert raised the question of the relation of the Committee on Episcopacy to the Committee on Appeals, and argued against considering the complaints seriatim. He said:

This first error brings up a question at once. Does any member know whether that particular error was alleged as a ground of appeal in the appeal being heard before another committee?

There are rulings of the chair on questions of law which arise in a trial, and the remedy is in the appeal of the case to the Committee on Appeals. If this appeal be entertained, and the case be reversed on the ground of maladministration of the presiding officer, why then the case comes before us from another source, not the College of Bishops, but the Committee on Appeals. If there were grounds of appeal stated in the case the appellant presented in that court, and if that court reverses any ruling for which the presiding bishop was responsible, if he be responsible for all the rulings of the president of the trial committee, his maladministration is thereby shown by a reversal of the case by the Committee on Appeals or by its being remanded to the court for a new trial. We have precisely the same question here, namely, Was the maladministration, if any, found on these grounds alleged, an inevitable maladministration, which is sufficiently noticed, when we have corrected the maladministration; or have we had before us such a thing as to lead us to conclude that the administrator was at fault, and might have avoided the administration of wrong had he fairly endeavored to avoid error?

I submit that we are not in a position to intelligently and consistently pass upon all the items of this complaint until we are in possession of the conclusions reached by the Committee on Appeals on the trial of this case.

In this particular case, when the complaints are already before you, it becomes necessary that we should have before us the whole record of the Court of Appeals on this case; that we should know the original grounds of appeal, and know the decision of the court in that regard, as to those appeals, as to whether maladministration has been found or not. If

the Court of Appeals has not reached a conclusion, and we have no official record from them, there may be other questions here we can decide without that information; but that we can go through with this whole Bill of Complaints without knowing the result there, I don't believe that to be possible; and I therefore move that we get this information both from the Court of Appeals and from the College of Bishops on the case appealed to them, before going through with the items.<sup>1</sup>

In opposition to Dr. Tigert's position, Dr. Lamar said:

I do submit, in the name of the Annual Conferences of Southern Methodism, that there are competent men on this committee, and we are competent to proceed with the matter, with its legal questions and all, regardless of what another committee may do. They are responsible for their decisions, and we for ours.

We have no business with the Committee on Appeals whatever. I am opposed, unalterably opposed, to our waiting to be influenced in our decision by what any other committee of this Conference may decide.<sup>2</sup>

Dr. Hoss spoke to the same point as follows:

I am glad Brother Lamar made that speech. Personally, I am not here to register other men's opinions in regard to this case. I suppose if anyone here knows the case from beginning to end, I know it. I have not come to this point without investigating every feature of it. I know every statement of fact, and every argument of every fact that is made by either party to this cause. Nothing that the Committee on Appeals could by any possibility say would influence my judgment in regard to it. I am here to register my own opinion, and not the opinion of anybody else; and if we are to wait for the opinion of the Committee on Appeals, then it seems to me we might as well surrender all of our functions, and disband.<sup>3</sup>

The motion of Dr. Tigert, made at the close of his speech, as copied above, was not adopted.

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<sup>1</sup> Stenographic Report. [This is a brief extract from a speech of length, the whole of which would be necessary to the understanding of my complete position.—J. J. T.]

<sup>2</sup> *Ibid.*

<sup>3</sup> *Ibid.*

During the foregoing discussion Dr. Hoss made the following statement:

I think the first thing for us to do is to sift out of this case everything that we can, everything on which we are agreed, and leave only the points in regard to which we are disagreed, and have our doubts upon them. I am going to make a point which will have general bearing upon the whole case, in regard to this first error alleged.<sup>1</sup>

At the next meeting of the committee, Dr. Hoss spoke as follows:

I move to reconsider the motion to take up the items serialim, and wish to state the grounds of the motion. It will take me only a minute or two to explain that. There are several distinct elements in this case. Some of the elements are much more serious than others. Some of them affect the moral character of the bishop, and others only his official administration. I feel quite confident that it will be possible for us to sift out of the case certain elements that are in it. I believe that the judgment of the committee will be unanimous on that point. If we can do that in the outset, we shall narrow the case by that much; and having narrowed it so much, we shall be able to handle with greater success and skill the remainder. There is no captiousness in this motion. It is not necessary that I should say that in the presence of Methodist preachers. The object of this motion is to weed out of the case such elements, if there be any such elements, as we are agreed upon, so that we may have only the residue left. The residue is believed, in Methodist theology, to be the difficult part.<sup>2</sup>

In regard to the foregoing statement of Dr. Hoss, Dr. Tigert asked him this question:

How do you expect to sift out certain elements and leave other elements for our consideration, unless you consider these complaints one by one?<sup>3</sup>

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<sup>1</sup> Stenographic Report.

<sup>2</sup> *Ibid.*

<sup>3</sup> *Ibid.*

In answer to Dr. Tigert's question, Dr. Hoss said:

I propose to consider the elements one at a time, or, if not one at a time, consider them in this way: Instead of counting one, two, three, four, five, six, and going on through, to begin with those elements which, in the judgment of the committee, can be sifted out. Now the first element might be impossible to sift out, and we might spend a whole afternoon in debating that, or the second, third, or fourth. The fact is that these elements are not arranged in their chronological order, and the object is to see if we can't group together in one bunch the elements which may be sifted out, and leave only those which furnish ground for debate. If after the elements are read it be the judgment of the committee that they should not be sifted out, that throws the matter back where it was and leaves the committee back where it was before.<sup>1</sup>

The motion of Dr. Hoss to reconsider was adopted, and immediately upon its adoption Dr. Hunter said:

The complaints presented against Bishop Hargrove, in his rulings before the Tennessee Conference, have been before the College of Bishops and unanimously sustained by them, I acknowledge, excepting one. What we want to do, if anybody has been injured by the rulings, is to protect the preachers from violation in the future. . . I have a resolution which I offer for adoption:

Whereas only three of the allegations made against Bishop Hargrove, in the Bill of Complaints now before us, are such as, if sustained, affect his moral character—to wit, under the ninth error he is virtually accused of falsehood; and under the fifteenth error, of attempting the alteration, or to procure the alteration, of the Tennessee Conference Journal; and under the fourteenth error, of being influenced by improper motives in stationing the preachers; therefore,

*Resolved*, That it is the sense of this committee that neither of these allegations has been supported by evidence, but that, on the contrary, they have been thoroughly and completely refuted by Bishop Hargrove.<sup>2</sup>

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<sup>1</sup> Stenographic Report.

<sup>2</sup> *Ibid.*

It will be noticed that Dr. Hunter's resolution is almost identical with the sifting process of Dr. Hoss, as suggested by his speech and set forth in his motion, and follows immediately on the adoption of said motion.

B. F. Haynes said, in reference to Dr. Hunter's resolution:

I understood him to state that all the complaints in the Bill of Complaints had been under review before the College of Bishops, except one single item. I must beg leave to take issue with the doctor, with profound deference and regret. I don't know that any of these questions, scarcely, excepting perhaps one or two questions of law, were ever at all before the College of Bishops. I submit that that statement is not correct. I think the first error has never been touched by the College of Bishops. The second error was not touched at Wilmington. The third error was not touched at all at Wilmington. And so you may run through and find that very few were entertained by the College of Bishops at all; so that I don't understand just how the doctor means that those questions were ruled on.<sup>1</sup>

In reply to B. F. Haynes, Dr. Hoss said:

If Brother Haynes will consent, I will make a suggestion: Dr. Hunter made a speech in one direction, but his resolution did not touch that question. The only question touched by the resolution is this, and if we vote on the resolution we don't touch the question you make. I think myself that question is not up just now. I don't think the question, in that form, ever will be. Certainly it will not be brought up by me. I do not believe that all the questions in this case have been touched by the College of Bishops. The only statement made in this resolution, which I shall ask the secretary to read again, is that the three specific allegations which affect the moral character of the bishop are now before us; and the question is whether, after Bishop Hargrove's explanation, divested of all excitement, we deem it a misrepresentation, when he said he had the judg-

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<sup>1</sup> Stenographic Report.

ment of his colleagues. Secondly, whether he procured, or consented to, or instigated alterations of the record. Thirdly, whether he was guilty of improper motives in stationing preachers. That is what we are voting on now. The question is, upon the allegations affecting, purely, the moral character of Bishop Hargrove, without any reference whatever to his official administration.<sup>1</sup>

The speech of Dr. Hoss not only shows a want of agreement between the speech and resolution of Dr. Hunter, but also that Dr. Hunter was by no means familiar with his own resolution. The speech of Dr. Hoss reveals the further fact that he was perfectly familiar with the aforesaid resolution, and, as has already been noted, the resolution is the very essence of Dr. Hoss's sifting process.

Dr. Newton objected to Dr. Hunter's resolution as follows:

I would like to move the adoption of that resolution, provided the thing could be made not quite so strong. It is a little too strong; stronger than necessary. The words "thoroughly" and "completely," if you will notice the language—the very structure of the language is very strong. "Thoroughly and completely refuted by Bishop Hargrove" are the words. I think it is unnecessarily strong. I would like to vote for it if the word "thoroughly" could be eliminated.<sup>2</sup>

Dr. Carter offered the following, as an amendment to the resolution of Dr. Hunter:

*Resolved*, That we consider the charges against Bishop Hargrove sufficiently explained.<sup>3</sup>

On this amendment, Dr. Lamar said:

It seems to me that in justice to the Church, leaving Bishop

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<sup>1</sup> Stenographic Report.

<sup>2</sup> *Ibid.*

<sup>3</sup> *Ibid.*

Hargrove out of sight, and leaving the complainants out of sight, we should reach a decided, definite conclusion in this case. We ought to say, in terms unmistakable, that in our judgment Bishop Hargrove is blameless, or we ought, like men, to say to the General Conference, "We decline to pass his character."<sup>1</sup>

A "member" spoke on this point as follows:

There are some of us who have opinions in regard to this matter that we want to pass Bishop Hargrove's moral character, perhaps; but we are not willing to say that it has been triumphantly vindicated, and all that sort of thing.<sup>2</sup>

Another "member" spoke in opposition to Dr. Hunter's resolution. He said:

I think we will be better able to decide upon this question you are about to act upon—the moral character of Bishop Hargrove—after you have gone through these errors, to see whether in his administration, in that case, there was any motive or not. We will be better able to determine on his moral character at the close than at the beginning. I have not been placed in a position where I have examined the administration and the whole matter in connection with this case, and I say very candidly I shall be very glad to vote to clear Bishop Hargrove's moral character of any intention whatever; but I must confess the impression is on my mind that there was some motive in the whole business, when you come to consider the history of the case, and I am not prepared to vote now; and by the time you go through it, item by item, you may be able to convince me. I want to vote, if I can, to vindicate Bishop Hargrove, and if it is possible to do so, I will do so, but I am not prepared now to do it. There is where I stand now in regard to the matter. I think all of these motions are premature. Go thoroughly into this thing, item by item, until you bring it to a close.<sup>3</sup>

At the suggestion of Dr. Kirkland, and on agreement of Dr. Carter, the words "the foregoing com-

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<sup>1</sup> Stenographic Report.

<sup>2</sup> *Ibid.*

<sup>3</sup> *Ibid.*

plaints" were added to Dr. Carter's amendment to the resolution of Dr. Hunter.

The resolution of Dr. Hunter, as amended by Drs. Carter and Kirkland, is as follows:

Whereas only three of the allegations made against Bishop Hargrove, in the Bill of Complaints before us, are such as, if sustained, affect his moral character—to wit, under the ninth error, he is virtually accused of falsehood; and under the fifteenth error, of attempting the alteration, or to procure the alteration, of the Tennessee Conference Journal; and under the fourteenth error, of being influenced by improper motives in stationing preachers; therefore,

*Resolved*, That we consider the foregoing complaints against Bishop Hargrove sufficiently explained.<sup>1</sup>

Dr. Smithson spoke against the resolution. He said:

I am willing to vote for the passage of Bishop Hargrove's character as much so as anyone on this floor, but I will not do it before we investigate those complaints. That is just where I stand.<sup>2</sup>

Dr. Carter's amendment was not adopted, but the original resolution of Dr. Hunter was. Immediately upon its adoption, Dr. Hoss offered the following:

Whereas the remaining complaints against Bishop Hargrove are such as affect simply his official administration, and, if sustained, would furnish no ground for proceeding against him in the absence of proof of corrupt or improper motive; and whereas the questions of law in the case, as they are set out in the official record, except those appealed to or decided by the College of Bishops, are now under review in a Church court of final resort; and whereas there is no evidence before this committee of corrupt or improper motives in the decisions and rulings complained of; therefore,

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<sup>1</sup> Stenographic Report.

<sup>2</sup> *Ibid.*



*Resolved*, That it is the sense of this committee that Bishop Hargrove has been guilty of no intentional wrong whatever in the matters complained of, and, leaving the purely legal aspects of the case to be determined by the Committee on Appeals, before which they are now pending, we respectfully recommend that his character pass.<sup>1</sup>

In reference to the above, Dr. Nugent said:

I want to suggest this: The Committee on Appeals have never sustained the correctness of Bishop Hargrove's decisions at all, as your paper would imply.<sup>2</sup>

To which Dr. Hoss replied:

I did not mean that. I mean to say this: Nobody would ever dream of impeaching a judge of a lower court for making a mistake. If there is any evidence here that Bishop Hargrove had been guilty of any intentional wrong, proceeding from corrupt motives, we must stop right there. If there is not, then I maintain that the purely legal aspects of this case are now pending in a court of final resort; and I am now driving at the same point Dr. Tigert was driving at yesterday, driving at it by a different line. I therefore move that, as we have already resolved that the charges affecting Bishop Hargrove's moral character are without foundation, or satisfactorily explained, there is nothing for us to do now but to say that, without considering the purely legal aspects of the case, in the entire absence of all showing of corrupt motives, we leave the case for its further consideration by the Court of Appeals, and pass the character of Bishop Hargrove.<sup>3</sup>

On the reference of the matters to the Committee on Appeals, B. F. Haynes said:

It seems to me that we are allowing the two committees unnecessarily to affect our minds in the premises. It seems to me that we have nothing on earth to do with the Committee on Appeals. If so, what do they want us to review his character

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<sup>1</sup> Stenographic Report.

<sup>2</sup> *Ibid.*

<sup>3</sup> *Ibid.*

for? It seems to me the Committee on Appeals are trying a verdict, and you are trying character. How do you know, how can you determine, what conclusions you will come to from these complaints of administration until you have examined them in their sequences and connections? A proceeding of this sort, it seems to me, would be a very injurious course. How can you tell what conclusion you will come to? You have simply heard a statement from the bishop and myself. . . . It seems to me this is a very precipitant method, and a very indefinite method. I trust that you will not precipitate this thing with a rush, and a precipitant action that may be misconstrued. This hasty, this precipitant, this rushing, omnibussing method you propose would certainly have a very unapt effect throughout Methodism. I submit we are not proceeding right.<sup>1</sup>

A "member" said:

I am very sorry that Dr. Hoss presented that paper just then. I understood him, when he made the motion for reconsideration, that as soon as we voted on that other proposition, we would get back to the proposition of voting on these complaints seriatim.<sup>2</sup>

Dr. Andrews raised the following question:

The only point at which I find myself at fault is the aspect of the report that this committee will make to the General Conference.<sup>3</sup>

In response to Dr. Andrews, Dr. Hoss said:

It seems to me we have nothing to do but report to the Conference that the character of Bishop Hargrove is passed.<sup>4</sup>

Dr. Andrews said further:

I would like for these things to come up before the General Conference, in justification of ourselves as a Committee on Episcopacy.<sup>5</sup>

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<sup>1</sup> Stenographic Report.

<sup>2</sup> *Ibid.*

<sup>3</sup> *Ibid.*

<sup>4</sup> *Ibid.*

<sup>5</sup> *Ibid.*

In response to Dr. Andrews, Dr. Hoss said further:

Should the General Conference demand the ground upon which we have reached our conclusion, it is very easy for them to order it. I think it is more competent for them to determine that than for us.<sup>1</sup>

Dr. Andrews spoke further, as follows:

I don't think we ought to be ashamed to have our record go before the General Conference. I don't think we ought to feel any delicacy in it. I submit if this Committee on Episcopacy, after all our delay, and all we have had before us, just simply passes up to the General Conference that paper as to the character of our bishop, that will be placing ourselves in a false light before the world.<sup>2</sup>

Dr. Hunter made the following statement:

I want to inquire if this committee is competent to pass a paper of that kind. It seems to me that the very thing we were appointed to do we are waiving our right to do. We are refusing to do it, and calling it a waiver—the very thing we are here for; and we might just as well have quit thirteen days ago, or any time before this. If we, on account of our disposition to waive this obligation which rests upon us, fail to do our work, it is well to suspend operations.<sup>3</sup>

The resolution of Dr. Hoss was adopted, but many members of the committee voted against it on the ground that they understood no reasons were to be given to the General Conference for the conclusions reached. Inasmuch as the opposition on this ground was so outspoken, under a motion to reconsider the matter it was decided to report to the General Conference what the committee had done, and why it had reached such a conclusion.

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<sup>1</sup> Stenographic Report.

<sup>2</sup> *Ibid.*

<sup>3</sup> *Ibid.*

Having given the history of Report No. 5 in the case of Bishop R. K. Hargrove, we now propose to analyze said report, and thereby show the committee up in the light of its own work, as indicated in the history.

Preliminary to the analysis of the report, it will clear up the question to determine the relation of the committee to the case in hand. Its relation to Bishop Hargrove was what the investigating committee of three is in an Annual Conference to an accused preacher. In the investigation of complaints, these committees are analogous to the grand jury in civil courts. It is the work of the grand jury to inquire into complaints, and by the examination of witnesses to determine whether or not there is sufficient ground for a trial. The party against whom complaint is made does not appear before the grand jury to testify in his own behalf, much less to argue his own case. Neither does the grand jury hear argument in the case from any source. It simply receives help in the way of instructions from the judge and attorney general. In ecclesiastical jurisprudence a little more latitude is allowed before a committee of investigation than before a grand jury. It is well, perhaps, to hear a brief statement of the accused in the nature of explanation or evidence in his own behalf; but when this privilege is abused, and the accused is allowed to argue his case at length, and in much passion and with a spirit of revenge or retaliation calumniate and abuse all individuals and bodies that have in any way had to do with his trouble, the committee that allows it is guilty of such a judicial crime as would in civil courts utterly disqualify them for the discharge of the high duties intrusted to them, and would lead to

their dismissal from office. Judicial interests in the hands of a committee that would allow such abuses would be paralyzed, and the whole proceeding converted into a grade little above a street wrangle. Such proceeding is a travesty on justice, and will bring judicial proceedings into contempt in the estimation of all fair-minded men, and will ultimately sap the foundations of good government. The custom of the accused appearing before the grand jury in his own behalf can, with safety, be allowed only on the ground that it shall be carefully guarded by adhering rigidly to a brief statement in the nature of explanation and evidence.

In the light of the foregoing facts, the point is here made that the Committee on Episcopacy in the case of Bishop Hargrove sent for no witnesses and took no testimony, except what was embodied in the Bill of Complaints, and a correspondence in reference to the Minutes, and one other item read by the accused. The case was extensively argued by B. F. Haynes and Bishop Hargrove. Many members of the committee also argued the case pro and con, but made no thorough investigation as to the testimony in all its bearings. In fact, in reference to most members of the committee, they acted as though they were in the capacity of a court of trial and attorneys rather than in the capacity of a grand jury in search of evidence, and weighing each complaint in the light of proof. Indeed, one member of the committee announced that his mind was made up, and nothing that any other individual or committee might say or do would in any way change his mind. The committee gave evidence that it was acting in the capacity of a court of

trial by standing in awe of the Committee on Appeals in the case of D. C. Kelley, lest their finding might conflict with the decisions of said committee. If it had occurred to the Committee on Episcopacy that its work was not to be final in the event that some of the complaints were of such a character as to demand a further investigation, it might have been relieved of the fear of a conflict. It was the burden of many speeches that there might be a conflict between the two committees, and the Church thereby greatly damaged; whereas the work the Committee on Episcopacy was doing was not final in the case.

By referring to the first section of the report, as already quoted in this chapter, the reader will find that it says Bishop Hargrove, "under the head of the ninth error, is virtually accused of falsehood," and the allegation has not been supported by evidence.

The ninth error, in which the committee says that Bishop Hargrove is virtually accused of falsehood, is as follows:

(a) The bishop erred in stating to the Conference that his colleagues had agreed with him on the construction of the proviso added to paragraph 263, when, as a matter of fact, no case had been before the College of Bishops involving a decision on the interpretation of the law; (b) and also by declaring to the Conference, just before the vote on nonconcurrency, that if the motion to nonconcur carried, it would necessitate the appointment of another committee.<sup>1</sup>

There are two counts in the above. The first is that "the bishop erred in stating to the Conference that his colleagues had agreed with him on the con-

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<sup>1</sup> Bill of Complaints, pp. 13, 14.

struction of the proviso added to paragraph 263, when, as a matter of fact, no case had been before the College of Bishops involving a decision on the interpretation of the law." What is the language? That the bishop "erred," and not that he had told a "falsehood." But the Committee on Episcopacy inferred falsehood because it is said the bishop stated that his colleagues had agreed with him on the construction of the law, when there had been no case before the College of Bishops. Was it the intention of the Tennessee Conference delegation to accuse Bishop Hargrove of falsehood? Not at all. The delegation did not doubt that he had had an unofficial consultation with some of his colleagues on the question, and that they had agreed with him, but they simply wished to make the point that the bishop had used this unofficial agreement to unduly influence the Tennessee Conference in its acts in the case.

The stenographic report says that B. F. Haynes read the ninth error without comment. No word from him about an implied falsehood in the ninth error. It is clear from the few comments of Bishop Hargrove that he read letters from his colleagues, not to prove that he had had the consultation, but to show that they agreed with him in two particulars: (1) that the case must go to a committee under paragraph 263, and (2) that it was his right to appoint the committee. The bishop does not utter a word that would lead anyone to suppose that he thought he was accused of falsehood, even by implication.

While discussing the point now under consideration by the committee, B. F. Haynes said:

As to the ninth error, . . . I simply allege in the error that the bishop erred, and not that he committed a falsehood; that the consensus of episcopal interpretation was purely unofficial, and I submit that that error has not been disproved.<sup>1</sup>

B. F. Haynes distinctly says that "the announcement which he [Bishop Hargrove] made had the effect on the Conference of an official interpretation. Not that he designed it that way, but that it was unfortunate that he had referred to it; and I simply allege in the error that the bishop *erred*, and *not that he committed a falsehood.*" Here it is distinctly disclaimed by the man who presented the Bill of Complaints, and who had much to do with formulating them, that it was not the purpose to accuse Bishop Hargrove of falsehood, by implication or any other way. It is clear, from all the facts bearing on the point, that the thing charged is, that the bishop used an unofficial agreement of some of his colleagues with himself to influence the Conference, and not that in the statement he had said that his colleagues had agreed with him, when in fact they had not. Let us repeat, for the sake of emphasis, that B. F. Haynes distinctly stated to the committee that Bishop Hargrove was not charged with falsehood in the ninth error, not even by implication.

It is evident that the majority of the Committee on Episcopacy erected a man of straw out of the ninth error, that they might have the glory of knocking him down, and then proclaim to the world that the Tennessee Conference delegation had virtually accused Bishop Hargrove of falsehood, and that it has "been thoroughly and completely explained by Bish-

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<sup>1</sup> Stenographic Report.



op Hargrove." That was a great feat of ecclesiastical legerdemain. This was not only a remarkable, but an unheard-of, proceeding on the part of any committee of like character.

In the second part of the report the committee declined to pass upon "the purely legal aspects of the case," and give as the reason therefor that they would "be determined by the Committee on Appeals." By this they declined to examine into the merits of the legal questions and express an opinion on them in any way. They did this lest they might come in conflict with the finding of the Committee on Appeals. While considering the first item of the Bill of Complaints, under a resolution to take up the items seriatim, the question of the relation of the two committees was raised, and the point was made that they pass over the legal questions until the Committee on Appeals could reach a conclusion, and the Committee on Episcopacy would get all the documents before them bearing on the case. The following members of the committee, in the order named, expressed themselves in opposition to the question. A "member" said:

I can't see, to save my life, why this committee is to be influenced by the decision of another committee.<sup>1</sup>

Another "member" said:

We are competent to proceed with the matter, with its legal questions and all, regardless of what another committee may do. They are responsible for their decisions, and we for ours.

We have no business with the Committee on Appeals whatever.<sup>2</sup>

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<sup>1</sup> Stenographic Report.

<sup>2</sup> *Ibid.*

Dr. Hoss said:

Nothing that the Committee on Appeals could by any possibility say would influence my judgment in regard to it. I am here to register my own opinion, and not the opinion of anybody else.<sup>1</sup>

Dr. Andrews said:

This committee has original jurisdiction over this matter. We need not depend upon anybody else at all. We can make our decision according to our best judgment.<sup>2</sup>

Dr. Morton said:

Let us decide this question, and let them decide theirs, and let the Church decide which was right.<sup>3</sup>

A "member" said:

We are not considering what they have under consideration. I am of the opinion that we have as much right to differ with that committee as we have to differ with the opinions of one another on the case before us.<sup>4</sup>

In addition to the foregoing, Dr. Smithson, B. F. Haynes, and Dr. Hunter spoke to the same effect, as already quoted.

We wish to emphasize the point in this connection that B. F. Haynes called the attention of the Committee on Episcopacy to the fact that there were legal questions before it involving maladministration that were not before the Committee on Appeals, and as some of these had been omitted from the record, there was no way by which they could get before said com-

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<sup>1</sup>Stenographic Report

<sup>2</sup>*Ibid.*

<sup>3</sup>*Ibid.*

<sup>4</sup>*Ibid.*

mittee, since it was shut up to the record of the case of D. C. Kelley. This was one of the principal reasons why the matters were brought before the Committee on Episcopacy. When Report No. 5 was presented to the General Conference, and while under a motion by Judge Strother to recommit it, Dr. D. C. Kelley emphasized the above facts as a reason why the report should be recommitted, and offered to go before the Committee on Episcopacy and point out the matters in the Bill of Complaints, not before the Committee on Appeals. But these statements of fact had no weight either with the majority of the Committee on Episcopacy or the majority of the General Conference. Practically, the response was: "What we have written, we have written."

Twenty-three members of the General Conference protested against the act of the committee and the General Conference, as follows:

The undersigned respectfully ask leave to spread upon the Journal of this General Conference a protest against the summary rejection of the motion made by J. P. Strother, of the Pacific Conference, duly seconded, to recommit Report No. 5 to the Committee on Episcopacy, at the night session, May 18, of the General Conference, because:

1. Said Report No. 5 shows a refusal of said Committee on Episcopacy to decide the questions of law properly submitted to said committee, and is an effort to transfer to the Committee on Appeals said questions of law not proper, in their present shape, to be passed on by said last-named committee—a measure unheard of, so far as we are advised, in the proceedings of General Conferences, and not warranted by the Book of Discipline of the Methodist Episcopal Church, South.

2. The failure of the Committee on Episcopacy to pass upon the questions of incorrect rulings alleged to have been made by the bishop complained of, and the attempted reference of said questions to the Committee on Appeals, leaves the administra-

tion of said bishop liable to constructive condemnation and other unfavorable inferences.

T. L. MELLEN,	WILLIAM G. MILLER,
PAUL WHITEHAD,	JAMES T. LLOYD,
J. A. PARKER,	A. F. WATKINS,
A. S. HELMICK,	W. C. BLACK,
GEORGE J. WARREN,	J. H. PRITCHETT,
JOHN ANDERSON,	C. J. NUGENT,
PERRY S. RADER,	RUMSEY SMITHSON,
W. A. GUNNING,	D. C. SCALES,
T. H. B. ANDERSON,	S. E. H. DANCE,
E. K. MILLER,	S. N. BRICKHOUSE,
E. F. PERKINS,	B. D. BELL. <sup>1</sup>
H. WALTER FEATHERSTUN,	

The following pointed criticism is to the same effect:

At last the Committee on Episcopacy reported, recommending the passage of the bishop's *moral character*, but completely dodged the question of his official administration, giving no opinion upon it, but throwing the burden on the Committee on Appeals. This was a direct shirking of responsibility, and is an unheard-of and most mischievous precedent, and if sustained by the Conference is a virtual denial by the Conference through its committee of its duty to review and to *approve or condemn* the official administration of all the bishops, and really makes the matter of official administration of small moment. When this report was presented, instead of being adopted at once, as is customary, it was sent to the calendar, and remained there for three sessions; and, when it was called up, a motion was promptly made by Judge Strother, of California, a layman *with some backbone*, that it should be recommitted on the ground that the committee had failed to do its duty. This was clearly sustained by the law and practice of the Church, but the "High-church" party and the timid brethren summarily cut off all debate. In this they were ably assisted by the presiding bishop, Haygood, who railroaded the matter through with a haste that did the episcopal office no credit. If there is any occasion on

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<sup>1</sup>Journal of the General Conference, 1894, pp. 225, 226.

which a bishop should be very deliberate and allow wide latitude, it surely is when the moral character and official administration of the bishops are before the body. Delicacy of feeling and taste demands this, and is shocked if it is otherwise. But that unseemly haste showed either an impatience that common men should dare to inquire into the character of bishops, or a fear of allowing discussion lest the result should be damaging. It was a very unfortunate occurrence, to say the least of it, and added fresh fuel to an already hot flame. It is to the credit of the manhood of the Conference that a protest against this summary action was entered at once, and, when read, was signed by twenty-three names. Many others would have signed it, but thought the less said the better. For my part, I rejoice at the protest, and think that the way to prevent a repetition of such things is to protest, and to publish them abroad that they may be condemned by the Church.<sup>1</sup>

In this connection let us inquire what are the duties of the Committee on Episcopacy—what is it appointed to do? The answer to this question is found in the following:

J. Soule presented the following resolution of the Committee on the Episcopacy:

*Resolved*, That this committee request our chairman to inquire of the Conference whether this committee is authorized to examine into all matters connected with the episcopacy which to them appear proper to be inquired into."

N. Bangs offered the following resolution:

*Resolved*, That the Committee on the Episcopacy be instructed to inquire into all matters that they may believe necessarily connected with the episcopal office and duties, and whether the number of bishops shall be increased.

"(Signed)

N. BANGS,  
"W. CAPERS."

Carried.<sup>2</sup>

The above has been the doctrine of the Church

<sup>1</sup> Rev. James Cannon, Jr., in the *Methodist Recorder*, May, 1894.

<sup>2</sup> Journal of the General Conference, 1824, p. 253.

ever since, and the Committee on Episcopacy has inquired into and reported upon the life and official administration of the bishops, and that without reference to the work of any other committee. The only exception to this statement is the work of the Committee on Episcopacy in 1894 in the case of Bishop Hargrove. In that case the committee shirked its duties and responsibilities, and threw part of the work it was appointed to do on the Committee on Appeals. In this shirking of responsibilities a serious and dangerous precedent has been set that the Church ought to hasten to correct.

An important question in this connection is, What did the Committee on Appeals do with the questions thrown on it by the Committee on Episcopacy? Here is the report, all that is said on the case:

In the case of D. C. Kelley, who appeals from the action of the Tennessee Conference, the Committee on Appeals reverse the action of the Conference.

A. W. WILSON, *Chairman*.

COLLINS DENNY, *Secretary*.<sup>1</sup>

This report does not say whether the case of D. C. Kelley was reversed on the law or the facts. Not a word is said about the rulings of Bishop Hargrove, whether they were according to law or contrary to law, and, if the latter, whether they were prompted by improper motives. If the Committee on Appeals had in any way passed censure on Bishop Hargrove it would have had no force, for the committee was not appointed to look into his character, but to try the verdict of the Tennessee Conference in the case of D. C. Kelley.

There is nothing clearer than that the General

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<sup>1</sup>Journal of the General Conference, 1894, p. 210.

Conference did not pass Bishop Hargrove's official character. It stands to-day, and will ever stand, without official approval from 1890 to 1894. This act of the committee and of the General Conference has done great harm to the Church, and put Bishop Hargrove in an awkward light before the Church and the world. The bishop's words at the Tennessee Conference, in the case of D. C. Kelley, apply with great force in this connection:

If I was on trial and in that category, I would hate to be left in that attitude. I would want another committee to look into the facts and report that a trial is not necessary. I would want somebody who had had all the facts before him to say that I was innocent.<sup>1</sup>

The report under consideration is remarkable in another particular. The committee waived the right—declined—to look into the complaints except the three mentioned in the first part of the report; and yet they did pass upon the very points they waived, and pronounced Bishop Hargrove innocent of any corrupt motive or intentional wrong. How could the committee pass upon the intent of the accused without making a thorough examination of the acts in all their bearings as they stood related to the intent? The committee would no doubt claim—the act implied it—that it examined far enough into the question to pronounce him free of intentional wrong—the most difficult thing to do—but shut its eyes to the legal phases. The sum of the matter is, the committee passed upon the points it waived the right to pass upon.

This is a hairsplitting proceeding not creditable

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<sup>1</sup> "Bishop or Conference," pp. 31, 32.

to the committee that invented it, or to the General Conference that indorsed it. It is an act that civil courts would disdain to be guilty of.

There is still another phase of this question. The committee passed upon the intent of the bishop and pronounced him free from intentional wrong, but refused to consider the acts in which the intent was involved. In this the committee violated the following legal principle in such matters:

There must be a combination of act and intent to constitute in law a crime. . . . When we look more clearly into this doctrine, we see that the evil of the intent and the evil of the act, added together, constitute the evil punished as crime; the same rule prevailing here which prevails throughout the entire criminal law. . . . There must be a combination of act and intent in order to constitute a crime. No amount of intent alone is sufficient; neither is any amount of act alone: the two must combine.<sup>1</sup>

The doctrine taught in the above is that intent and act must be taken together. This is necessary to ascertain the real nature of both. The act will throw light on the intent, and the intent on the act. The committee refused to do this. It looked only at the intent. While the committee was compelled to look at the acts, it must also, if it would meet the requirements of the case, look at each act separately, then in their relation to each other, and finally in their relation to the laws governing all parties involved. Another factor that would throw light on the intent would be the bearing of the accused toward the other parties in the case. Did the committee meet the foregoing conditions? There is no evidence in the record

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<sup>1</sup> Bishop on Criminal Law, vol. i., book iv., chap. xvi., ¶ 365; chap. xxi., ¶ 414; book v., chap. xxxi., ¶ 518.



that they did. No evidence was taken on the question, passed over *en masse* except the Bill of Complaints, the argument of B. F. Haynes, and the response of Bishop Hargrove. The Bill of Complaints was properly considered the basis of action, rather than the evidence in the case. The argument of B. F. Haynes and the response of Bishop Hargrove were not in the nature of evidence, for one was the plaintiff and the other the defendant. Besides, the speeches of these two parties at this particular stage of the proceedings were premature and out of order. What they did would have been in order after the committee had taken proof, found a trial necessary, reported a bill of charges and specifications, and the proof taken on these.

There was not a word of proof taken on the bearing of the accused while the case was being considered by the Tennessee Conference. The bishop referred to a letter on the question which was a repetition of what another had said, and to what a member of the Conference said to him at the time, but none of these parties were brought before the committee to testify. It would have been an easy matter to have examined many witnesses on this phase of the question, for there were many on the ground; but not one was brought before the committee to testify. Neither did any member of the committee in a speech present the acts in relation to each other, to the law, and to the other parties involved, and then from such a presentation reach a conclusion as to the intent. If this had been done, it would have made a better showing for the committee, but would not have been sufficient.

The foregoing views are confirmed by the following:

On principle, the true view doubtless is, that the court must look at the circumstances of each case, and decide whether, under them all, the thing done and the intent producing it together make up such a wrong as should be noticed by the tribunals.<sup>1</sup>

In a case like the one under consideration, if the court desires to present the clearest possible view of the intent, it would inquire into the antecedents of the case. What were the relations of the parties toward each other? Were they friends, or not? Had they been aggressively hostile toward each other, and had they mistreated each other? Such inquiries would have thrown much light on the intent; but the committee made no effort to get light from the antecedents.

In the face of all these facts, the committee said that Bishop Hargrove had been guilty of no intentional wrong. This conclusion may be true as to fact, or it may not be; but the truth or falsity of it cannot be learned from the proceedings of the Committee on Episcopacy, for they did not examine into the case in such a way as to justify any conclusion. This statement is confirmed by the speeches of different members of the committee on this point, and particularly the following from Dr. Rumsey Smithson:

I am willing to vote for the passage of Bishop Hargrove's character, as much so as anyone on this floor, but I will not do it before we investigate those complaints. That is just where I stand.<sup>2</sup>

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<sup>1</sup>Bishop on Criminal Law, vol. i., book iv., chap. XXI., ¶ 410.

<sup>2</sup>Stenographic Report.

In the estimation of Dr. Smithson, as well as of other members, the Committee on Episcopacy practically refused to investigate the complaints against Bishop Hargrove. The finding of the Committee on Episcopacy is therefore a verdict reached without proper investigation.<sup>1</sup>

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<sup>1</sup>The question discussed in the foregoing chapter is not the guilt or innocence of Bishop Hargrove. We have assumed neither. It is not his fault, but his misfortune, that he is left in the attitude he is before the Church. It is the methods and work of the committee and General Conference that we have criticised, and this because it endangers the governing principles of our Church.

## CHAPTER XIII.

### RIGHTS AND POWERS OF THE MINISTRY IN ITS RELATION TO THE RESPECTIVE OFFICES AND CONFERENCES.

**B**ISHOP MCKENDREE defines the relation of the episcopacy to all subordinate officers in the ministry as follows: “*A bishop, or superintendent, having the general oversight of the spiritual and temporal concerns of the Church, is, of course, authorized to attend to any and all matters, small and great, in the execution of discipline.*”<sup>1</sup>

The one point in the above is that a bishop is “authorized to attend to any and all matters, small and great, in the execution of discipline.” If this language be accepted as a correct statement of the question, there is nothing that a subordinate officer in the ministry can do that a bishop is not authorized to do.

On account of the extension of the Church and the multiplication of its duties, it became necessary early in the history of Methodism in America for the bishop to have assistance in his work. On this point Bishop McKendree says: “The work extended so rapidly that in a few years it became impossible for the bishop to superintend in person; therefore presiding elders were introduced as assistant superintendents; and as the bishops were the only responsible persons for the administration, they were to choose the presiding elders, who are fully authorized to su-

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<sup>1</sup> Life of McKendree, by Paine, vol. ii., pp. 183, 184.

perintend the work in the absence of the bishops. Therefore the office of the presiding elder is not separate or distinct from that of a general superintendent, but is inseparably connected with a part of it and included in it. They are deputized by the bishops, who bear the whole responsibility of the administration, as their assistants in the superintendency.”<sup>1</sup>

Bishop McKendree speaks further of the presiding eldership as follows: “The bishop is authorized to choose the presiding elders. . . . A presiding elder so chosen is thereby clothed with power to oversee the temporal and spiritual business of his district.”<sup>2</sup>

The rights and powers of the presiding eldership are defined by Bishop McKendree in the following words: “A *presiding elder*, who is, in fact, the agent of the bishop, is, in virtue of his appointment, authorized to exercise episcopal authority within the limits of his district (ordination excepted), consequently it is his business, when present, fully to attend to every part of the execution of discipline.”<sup>3</sup>

The relation of these three officers—bishops, presiding elders, and preachers in charge—is given in the Manual as follows:

While the acts of a superior Church officer would be regular and valid in the place of one of another grade, the harmony and safety of juridical proceedings must not thereby be jeopardized; as for instance, where the same officer becomes liable to preside twice over the adjudication of a case—first in the court of original proceedings, and secondly in the appellate court. Generally, it is best that everyone attend to his own work.<sup>4</sup>

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<sup>1</sup> Life of McKendree, vol. ii., pp. 363, 364.

<sup>2</sup> *Ibid.*, p. 369.

<sup>3</sup> *Ibid.*, p. 184.

<sup>4</sup> Manual of the Discipline, p. 66.

It is claimed in the above that "the acts of a superior Church officer would be regular and valid in the place of one of another grade." The doctrine taught in this is, that a bishop may discharge any and all of the duties of a presiding elder or preacher in charge, and it will be regular and valid. Also a presiding elder can discharge all the duties of a preacher in charge, and his acts will be as regular and valid as if done by his subordinate. In other words, the superior officer ranks the inferior in all duties to be discharged, if he wishes to exercise the right.

The above extract taken from the Manual of the Discipline, attributed to Bishop McKendree, is part of a letter written by the Rev. T. B. Crouch, giving the views of the bishop as Mr. Crouch had learned them from his lips. But what Mr. Crouch wrote is very different from the above extract, and, when taken altogether, teaches a very different doctrine to what it is made to teach as used in the Manual. The following is that part of the letter bearing on the question under consideration, from which it will be seen that the extract taken from the Manual, as above, is badly garbled:

On the division of the powers of government and administration law, as comprised in the ecclesiastical polity of Methodism, Bishop McKendree held some views which did not accord with the politics of some of our expounders of Church law. He did not indorse the doctrine that a superior officer had a right to claim the place, or even take it, except for special reasons, and to perform the appropriate and law-prescribed duties of an inferior during the term for which the inferior officer is held responsible for those duties, and while he is recognized as the legal incumbent of the work and place assigned him. He did not hold that the presence of a bishop superseded the official relations and nullified the authority, for the

time being, of all inferior officers, from the presiding elder down; so that a bishop, because he is present, is *ex officio, de jure*, presiding elder, and everything else, even to the omega of the official list. He believed that such a policy might become the source of great confusion; that it would defeat the ends of government by overleaping the checks and balances of power which distinguish the several departments and proportions of Methodist polity.

The bishop was drawn out fully on this point of ecclesiastical discipline by an occurrence which brought the subject directly to view. The presiding elder was absent; his proxy was attending a series of quarterly meetings for him; but while it was competent for the proxy to take the place of his principal in the pulpit, in the altar, at the sacramental table, and yet, in the absence of the presiding elder, placed the preacher in charge of the circuit in the chair of the Quarterly Conference, and therefore the proxy could not preside over that body.

But there was a bishop present, and the preacher in charge as well as the proxy urged that he, being a superior officer, should preside in the Quarterly Conference. To this, however, the bishop objected, and, in stating his reasons, taught substantially this important lesson: A bishop has the right, under law, to displace or remove a presiding elder, and either to preside in the vacated place himself or to appoint another to do so; and a presiding elder has a right, in common with a bishop, to remove a preacher from his charge in the intervals of the Annual Conferences, and either in person to perform the duties of the vacant charge or to appoint another to the charge; but no bishop has a right, in the face of law, to usurp the position which, for a definite time, has been assigned to an underofficer until that definite time shall have expired, or the underofficer, for sufficient cause, shall have been displaced. He allowed, indeed, that a superior officer might accept, as a courtesy, the place of an underofficer; but that even this should not be done where the harmony and safety of judicial proceedings might thereby be jeopardized, as, for instance, where such an act might subject an officer to the necessity of presiding twice over the adjudication of the same case—first in the court of original proceedings, and secondly in the appellate court.<sup>1</sup>

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<sup>1</sup> Life of McKendree, vol. ii., pp. 59-61.

Commenting on Bishop McKendree's address to the preachers on the administration of discipline and kindred topics, in which he said, "A bishop or superintendent, having the general oversight of the spiritual and temporal concerns of the Church, is of course authorized to attend to any and all matters, small and great, in the execution of discipline," Bishop Paine said:

The careful reader will perceive a discrepancy between some things in the above document and Brother Crouch's remarks as to the bishop's sentiments about his authority to preside in a Quarterly Meeting Conference; if Brother Crouch did not mistake his *unwillingness* to do so, under ordinary circumstances, for an avowal of his want of *authority* to do it under *any* circumstances. I suppose our *fathers* generally agreed with the views set forth on this point in this document. Bishop Asbury, it is said, coincided with Bishop McKendree.<sup>1</sup>

The Rev. B. T. Crouch represented Bishop McKendree as holding to the view that "no bishop has a right, in the face of law, to usurp the position which, for a definite time, has been assigned to an underofficer until that definite time shall have expired, or the underofficer, for sufficient cause, shall have been displaced."

Bishop Paine says there is "a discrepancy" in the statement of Mr. Crouch and "some things" in the address of Bishop McKendree, referred to above, and further intimates that Mr. Crouch might have made a mistake in regard to the bishop's views, for, says Bishop Paine, "I suppose our *fathers* generally agreed with the views set forth on this point [the rights of the superior officer] in this document. [The address to the preachers on discipline, etc.] Bishop

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<sup>1</sup> Life of McKendree, vol. ii., pp. 187, 188.



Asbury, it is said, coincided with Bishop McKendree.”

Whatever may be said as to the discrepancy between Mr. Crouch's letter and the published statements of Bishop McKendree on the superior officer ranking the subordinate in “matters small and great,” it is certain that that theory of the ministry has been held by many in the Church, including, perhaps, most of our bishops. There are now some indications that some of our bishops and presiding elders are disposed to put the theory into practice. Presiding elders are claiming the right to say whom pastors shall or shall not invite to occupy their pulpits, or assist them in holding special services; and some have gone so far as to forbid Methodist preachers occupying Methodist pulpits in the bounds of their districts when they have gone in response to the invitations of pastors. These presiding elders have been indorsed by some of our bishops in their efforts to control the pulpits in their respective districts. These things have their origin in the theory that the superior officer ranks the inferior in all “matters, small and great”; but ostensibly this assertion of power is based on ¶ 120 of the Discipline of 1894, which is as follows:

¶ 120. *Ans.* 1. To preach the gospel and, in the absence of the presiding elder or bishop, to control the appointment of all services to be held in the churches in his charge.

The interpretation of the above paragraph is that the phrase “in the absence of the presiding elder or bishop” gives these officers the right to control the services in a pastoral charge when absent in person from such charge. Though in other parts of their

respective districts, they may by letter or otherwise prevent another preacher other than the pastor from occupying the pulpit in a given charge, though invited to do so by the pastor, when they do not wish or expect to fill the pulpit themselves at the time.

The argument for the interpretation of the phrase just referred to is based on what is called the analogy of the case. It is claimed that if the pastor is present in person in any part of his charge, he is officially present in every part of it; and therefore if a bishop or presiding elder is present in person in any part of their respective districts, they are officially present in every part of the same. From this reasoning it is concluded that because the pastor can discharge his official duties in another part of his charge from which he is absent in person, and that said acts would be legal, the same would hold good in the case of a bishop or presiding elder. This reasoning is defective from the fact that there is no subordinate to the preacher in charge on whom certain duties devolve in case he is absent in person. The analogy breaks down at this point. There is a relationship existing between the preacher in charge, on the one hand, and the presiding elder and bishop, on the other, in given matters, and these are fixed by law; but there is no such relation existing between the pastor and any other person subordinate to himself. There are some things that must be done by a pastor, if legally done, that no one else can do; and some of these he can, in the nature of the case, do while absent in person, while others require his personal presence on account of their nature.

There is another phase of this question, which, if

the theory under consideration be true, is destined to act no small part in determining the rights of our ministry in the relation of one officer to another. The phrase "our itinerant general superintendency" is so interpreted among us as to make it mean to-day what it meant when first used.<sup>1</sup> It is claimed that a bishop of the Methodist Episcopal Church, South, is bishop of the entire Church, and that when he is present in person anywhere in the bounds of the Church he is officially present in every other part of it. If this be true with our nine bishops, will there ever come a time when one or more of them will not be officially present in every part of the Church? It would therefore follow from this that any one bishop, under paragraph 120, as interpreted, could interdict any pastor in the Church from controlling his services. This is not all: with such a view, a pastor, before taking any important step toward any special service that would likely raise any question, must first secure the consent of some bishop. Not knowing what had been done, another bishop could step in and forbid the pastor carrying out his plans. This would cause a clash of authority between two bishops. But is any one of our nine bishops a bishop in fact of the whole Church, in the sense that he can legally discharge his official duties anywhere in the Church, regardless of the other bishops? In answering this question, we must not lose sight of the fact that it is purely a legal question.

That originally one bishop was bishop of the whole Church, is evident. When the office was created in 1784, it was then decided that the superintendent

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<sup>1</sup> See Digest of Methodist Law, by Merrill, pp. 65, 66.

should travel "at large among the people."<sup>1</sup> In 1787 it was made the duty of a bishop "to travel through as many circuits as he can, and to settle all the spiritual business of the societies."<sup>2</sup> In 1792 it was the duty of the bishop "to travel through the connection at large," and "oversee the spiritual and temporal business of the societies."<sup>3</sup> It is clear that the law from 1784 to 1792 was practically the same, and required a bishop, as far as possible, to travel through the entire Church and oversee the whole. He had jurisdiction over every part of it. There was no material change made in the law until 1866. It was then decided that the bishop should "travel during the year, as far as practicable, through the presiding elders' districts which may be included in his episcopal district, in order to preach and to oversee the spiritual and temporal affairs of the Church."<sup>4</sup> The important changes made in the law in 1866 are (1) the phrase "during the year," and (2) "the presiding elders' districts which may be included in his episcopal district," which were added. Before this the bishops traveled through the connection to oversee the entire Church, but since that time he is *required* to travel only through his episcopal district, and oversee the interests of the Church in its bounds. Does not this law provide (1) for episcopal districts, and (2) does it not limit the authority of the bishop to his own episcopal district for the time he is appointed to the same by his colleagues? Is it not also the measure of his duty?

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<sup>1</sup> Emory's History of the Discipline, p. 129.

<sup>2</sup> *Ibid.*, p. 130.

<sup>3</sup> *Ibid.*, p. 131.

<sup>4</sup> Peterson's History of the Revision of the Discipline, p. 53.

It seems clear that no bishop, as a matter of duty, can be required to travel outside of his episcopal district. Does it or does it not follow that the legality of his official acts is limited to his episcopal district, where he is required by law to travel? This question is raised to provoke thought and investigation. In the meantime it is a fact well understood among us that a presiding elder is required by law, as a matter of official duty, to travel only through his district; and his official acts and their legality are confined to the same territory. This position is sustained by the following law:

*Question 1.* What are the duties of a presiding elder?

¶ 109. *Ans. 1.* To travel through his appointed district, in order to preach and to oversee the spiritual and temporal affairs of the Church.

While considering this question, it must not be forgotten that the presiding elder is a preacher in the Methodist Episcopal Church, South, and while in the itinerancy may be sent to any part of the Church beyond the bounds of the Conference of which he is a member. A bishop does not belong to the whole Church any more than a traveling preacher, and it seems to have been the intention of the lawmakers to restrict their duties alike to some prescribed territory, and to limit the legality of their acts to the same.

Attention is now called to paragraph 107 of the Discipline of 1894. It is:

¶ 107. *Ans. 10.* To travel during the year, as far as practicable, through the presiding elders' districts which may be included in his episcopal district, in order to preach and to oversee the spiritual and temporal affairs of the Church.

Does not the language of the above paragraph, wherein the bishop's field of labor is limited, demand the same interpretation that is put upon paragraph 109, outlining the field of labor of the presiding elder?

It is clear, as to their respective fields of labor, that bishops, presiding elders, and preachers in charge are all fixed by law, and their duties confined to the same. It is equally clear that the legality of most of the official acts of presiding elders and preachers in charge is determined by whether or not they are performed within the bounds of their respective charges. Is there anything in the nature of the case or the law governing these matters that legalizes the acts of a bishop regardless of whether they are done in or out of his episcopal district?

In view of the interpretation put upon the phrase "in the absence of," and on account of its close relation to that theory of our ministry, that the superior officer ranks the inferior, attention is called to the historical use of said phrase in our Church. As a beginning in the investigation of this question, attention is called to the following provision made in 1777:

There appearing no probability of the contests ending shortly between this country and Great Britain, several of our European preachers thought if an opportunity should offer they would return to their relations and homes in the course of the year; and to provide against such an event, five of us, Gatch, Dromgoole, Ruff, Glendenning, and myself, were appointed as a committee to act in the place of the general assistant, in case they should all go before next Conference.<sup>1</sup>

The facts in the above are:

1. On account of the war between England and America, some of the English preachers, among

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<sup>1</sup> Life of Watters, pp. 56, 57.

them general assistant Rankin, decided to return to England.

2. In view of this fact, the Conference of 1777 appointed a committee of control "to act in the place of the general assistant in case" he should return to England before next Conference.

3. The phrases are not identical. In the above it is "in the place of the general assistant," in the Discipline it is "in the absence of the presiding elder or bishop"; but practically they mean the same thing.

4. The clear meaning of the above provision is, that in the event the general assistant returned to England the committee of control was to act in his place, but if he did not return the committee had no power to act. The authority of the committee was conditioned on the personal absence of the general assistant—the personal and official absence being the same. If Mr. Rankin was present in America in person, he was present officially, and *vice versâ*.

The first use we find made of the phrase "in the absence of" was in 1784. It was then asked, "What is the office of a deacon?" and a part of the answer is, "To baptize in the absence of an elder."<sup>1</sup>

In 1787 the following was added to the above: "And perform the office of matrimony in the absence of an elder."<sup>2</sup> There are two things in the foregoing that a deacon had to do "in the absence of an elder": "baptize, and perform the office of matrimony." Was there any way that the elder could have performed the two acts without being present in person at the time and place? In other words, if the elder was not

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<sup>1</sup> Emory's History of the Discipline, p. 143.

<sup>2</sup> *Ibid.*

present in person at the time and place to perform the acts named, was he not absent officially, and was not the deacon authorized by law to baptize and marry the people without any interference from the elder whatever? It is clear, from the nature of the case, that when the elder was absent in person he was absent officially, and the deacon, according to law, had absolute control over the things named.

The next use of the phrase is in reference to an elder, subsequently a presiding elder, in his relation to the superintendent or bishop. In 1786 the following law was adopted: "To exercise within his own district, during the absence of the superintendents, all the powers vested in them for the government of our Church; provided, that he never act contrary to an express order of the superintendents."<sup>1</sup> In 1787 Emory says: "The following section on the subject was substituted for the previous provisions: . . . . 'In the absence of a bishop to take charge of all the deacons, traveling and local preachers, and exhorters. To change, receive, or suspend preachers. To direct in the transaction of the spiritual business of his circuit. To take care that every part of our Discipline be enforced. To aid in the public collections. To attend his bishop, when present, and give him, when absent, all necessary information by letter of the state of his district.'"<sup>2</sup> This provision was substituted for the provision of 1786, quoted above.

In 1792 the power of the elder was increased as follows: "To change, receive, or suspend preachers in his district during the intervals of the Conferences,

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<sup>1</sup> Emory's History of the Discipline, p. 137.

<sup>2</sup>*Ibid.*



and in the absence of a bishop. In the absence of a bishop to preside in the Conference of his district.”<sup>1</sup>

According to the above, an elder was, “in the absence of a bishop,” “to exercise within his own district . . . all the powers invested in them for the government of the Church,” “to change, receive, or suspend preachers,” and “preside in the Conference of his district.” The phrase in the above extracts is used exactly in the same sense. Whatever is meant by it in one instance is meant by it in all of them. Take the last to fix the meaning. The presiding elder was, “in the absence of a bishop,” “to preside in the Conference of his district.” It is evident from this that the phrase means absent in person, for it is only when present in person that a bishop can “preside in the Conference of his district,” and it is equally evident that when he is absent in person, he is absent officially; for the presiding elder, by law, is “to preside in the Conference of his district” when the bishop is absent in person.

It may be that the plea will be made that the law of 1786 says: “Provided, that he [the elder] never act contrary to an express order of the superintendent.” There are two views to take of this. The first is, that if the superintendent was not present in person, or gave no “express orders,” the elder was to act on his own judgment. This was the only view to take of the law while it was in force. The second is, that in 1787 the Conference repealed the clause which gave the superintendent the right, in his absence, to have things done by “express order,” and it has never appeared in the Discipline since. This fact helps to

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<sup>1</sup> Emory's History of the Discipline, p. 138.

limit the phrase "in the absence of" to personal presence, and teaches the doctrine that when a bishop is present in person—is on the ground—he supercedes the presiding elder in certain things, but when not present in person he can give no "express orders," but the law makes it the right of the presiding elder to discharge those duties named in the law. This definite change of law ought to be a check on the modern theory that if a presiding elder or bishop is present at any one point in his district he is officially present at any other point in it at the same time.

Bishops Coke and Asbury, in their notes on the Discipline, explaining the office and duties of the presiding elder, confirm the foregoing interpretation of the phrase "in the absence of." They say:

All would be confusion if *there were no persons invested with the powers of ruling elders, by whatever name they might be called; as it would be impossible for the bishops to be present everywhere, and enter into the details of all the circuits.*<sup>1</sup>

The authors of the above, who were contemporary with the law and helped to make it, and had a right to know the scope of the phrase under consideration, say that "it would be impossible for the bishops to be present everywhere, and enter into the details of all the circuits," and for the reasons that the bishops are not omnipresent and cannot therefore enter into all the details, there is need of "persons invested with the powers of ruling elders" to act in the absence of the bishops, when their action is demanded by the law of the Church; and inasmuch as the presiding elder is not omnipresent, and therefore can-

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<sup>1</sup> Emory's History of the Discipline—Appendix, p. 396.

not enter into all the details, the preacher in charge is empowered to act in certain matters. It is evident that Bishops Coke and Asbury held to the view that when one is absent in person he is absent officially in all matters where the subordinate is empowered to act, by the law of the Church.

That the view that when one is absent in person he is absent officially is correct, is evident from the following: "The work extended so rapidly that in a few years it became impossible for the bishop to superintend in person; therefore presiding elders were introduced as assistant superintendents."<sup>1</sup> Bishop McKendree was a strict constructionist, and he is regarded as a great constitutional Church lawyer, and he says in the above quotation that "it became impossible for the bishops to superintend in person; therefore presiding elders were introduced." This statement of the bishop fixes the meaning of the phrase "in the absence of" to be when absent in person, absent officially.

If this be not the right view of the question, and it be true that the superior officer ranks the inferior in all things, "small and great," and is present officially when absent in person, then we are confronted with the absurdity that inferior officers are clothed with certain duties and responsibilities, when in fact they have neither. Such a law, if rightly interpreted, is a farce, for the theory of the episcopacy is that any one bishop is bishop of the whole Church, and his acts are legal wherever performed.

The following, from a high authority in the Methodist Episcopal Church, is to the point:

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<sup>1</sup> Life of McKendree, vol. II., p. 363.

The phrase "in the absence of a bishop" has come to be somewhat ambiguous. When it first came into use it simply meant the absence of the bishop from the district, for when such absence occurred the bishop, who was constantly traveling abroad, mostly by private conveyance, with little opportunity to communicate with his great field, was inaccessible for counsel or official action. But now the conditions are different. The bishop can be found at almost any time, and can communicate with the presiding elder from any part of the country within a very short time; yet the language stands as in earlier times, and there appears to be no grounds for giving to it a different construction from that which it bore from the beginning. If the bishop be not present in the district, the presiding elder is in full possession of the powers assigned him in the bishop's absence.<sup>1</sup>

Paragraph 120 of the Discipline of 1894 is explained by Dr. Brooks, the author of the phrase "in the absence of the presiding elder or bishop," in said paragraph, as follows:

Now, what is the history of paragraph 120, the law in dispute? It originated in the Committee on Itinerancy, and was written by Dr. D. C. Kelley, a member of that committee. Its design was the more clearly to prescribe "the duties of a preacher who has charge of the circuit," etc., and to enlarge or more specifically define his powers.

Its design was to give the pastor express authority, in a specific statute, to exclude from his pulpit any improper person, notwithstanding the latter might have the permission of the trustees. In Dr. Kelley's original paper not a word was said about the presiding elder or bishop, but it was suggested by another member of the committee (this writer, I think) that we ought to add, "in the absence of the presiding elder or bishop," so that the preacher in charge would not supersede them at a quarterly or district meeting, over which they might preside. It was suggested that without such modifying terms the pastor would have authority for excluding his presiding elder or bish-

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<sup>1</sup> Merrill's Digest of Methodist Law, ed. 1888, pp. 61, 62.

op from his pulpit during such meetings. But there was not in the writer's mind, nor, so far as he believes, in the mind of any other member of the committee, the slightest thought or purpose of enlarging the powers or extending the jurisdiction of the presiding elder or bishop, but rather those of the preacher in charge. Nor does he remember hearing a word on the Conference floor which indicated such desire or purpose on the part of that body. If he is not mistaken, the recommendation of the committee was adopted without discussion, certainly without its being construed as it is in New Orleans.<sup>1</sup>

This explanation harmonizes perfectly with the historical meaning of the phrase "in the absence of," as used by the Methodists for more than one hundred years.

Another phase of the theory under consideration is emphasized by the following incident: A lay delegation called on a bishop presiding in an Annual Conference in the interest of a presiding elder whom it was reported the bishop was going to take off of the district. The bishop's response to the laymen was: "He [the presiding elder] does not represent you [the Church], he represents us [the episcopacy], and this being true, it does not concern you as to who your presiding elder shall be." This case is a practical application, of a very significant character, of the theory of the relation of the presiding eldership to the episcopacy, as set forth in the foregoing history.

No one will deny that in certain specified particulars the presiding elder is the bishop's agent and represents him in his absence. That this is so, is a plain statement of law. But does it follow that the presiding elder represents no one else but the bish-

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<sup>1</sup>Dr. John R. Brooks in *Tennessee Methodist*, June 13, 1895.

op? Does he not represent the Church on the one hand and the ministry on the other, just as much as he represents the bishop? The Church by law created the office, and by law it regulates the duties of the officer. The bishop makes the appointment, but the officer is left, as a man of intelligence, to act under law, and he is responsible to his Conference for his acts, and the bishop is nowhere held responsible for what his appointee does. It is denied that "the bishops are the only responsible persons for the administration" and enforcement of the laws of the Church. *Presiding elders and preachers in charge, in their respective fields of labor, and under the laws governing in each case, are just as responsible as the bishops; and bishops, presiding elders, and preachers in charge are responsible under the law for the way each one administers the same, but each in his own position is accountable for his administration to the body that has jurisdiction in his case, and not to each other.*

The one thing that is getting us into nine-tenths of our trouble on the relationships of our ministry is, that we are trying to determine rights from theory, and not by the law of the Church. It ought to be remembered that we have in our Discipline three sections defining the duties of the traveling ministry—one on the duties of bishops, one on the duties of presiding elders, and one on the duties of preachers in charge. By these sections and a few other paragraphs we are to determine the duties and responsibilities of each. With all due deference to the wisdom of the fathers, as expressed in that theory of the ministry which we have been considering, we affirm that a bishop cannot go into a presiding elder's

district, and a presiding elder cannot go into the pastoral charge of a preacher, or the two former into the work of the latter, and claim the right to do things that are prescribed for one and not for the other. To illustrate: The law makes it the duty of the presiding elder to preside in a Quarterly Conference, and in his absence the preacher in charge; but it is nowhere laid down as one of the duties of a bishop to preside in a Quarterly Conference. Therefore he cannot come in and claim the right to preside in said official body. He cannot do this either in the presence or absence of the other two. The law designates only two men that can hold a Quarterly Conference—the presiding elder and the preacher in charge. If a bishop were to preside over such a body, and sign the minutes, it would not be legal.

Another illustration of the principle we are now considering is found in the fact that the law makes it the duty of the preacher in charge “to furnish everyone removing from his charge with a certificate in the following form,”<sup>1</sup> but it is nowhere made the duty of a bishop or presiding elder to furnish such a certificate, and it would be an illegal act and an invasion of the rights of the preacher in charge for either of them to do so. It cannot be argued, as it is sometimes done, that bishops and presiding elders are both pastors, and therefore can give certificates of membership. It is true they are pastors, but they are such as bishops and presiding elders, with their duties specifically defined, and one of the duties thus defined is not that they can give a certificate of membership. There is good reason for this. They

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<sup>1</sup> Discipline of 1894, ¶ 138.

are not in a position to know the facts on which such a document can be granted. If they were allowed to do this there would certainly be a clash of authority, and the enforcement of discipline on the membership of the Church, which is one of the duties of the pastor, would be defeated.

The principle we are now discussing is illustrated further in the following law:

All the members of the Church, and resident members of the Annual Conference, shall come together once a month, or on circuits at least every three months, at every appointment, to hold a Church Conference, over which the preacher in charge shall preside.<sup>1</sup>

This law is specific: "*the preacher in charge shall preside.*" There is no provision made for a superior officer to rank the subordinate in this particular. If the superior were to preside instead of the subordinate officer, he would invade the right of the latter, and the act would be illegal. The only time that a superior officer can supersede the subordinate is where the law of the Church makes specific provision for said act.

It is said in paragraph 110 and paragraph 111, of the Discipline of 1894, that the presiding elder shall do certain things in the absence of a bishop, and only in the absence of a bishop. When the bishop is present, the presiding elder has no legal jurisdiction in the matters specified. In paragraph 125 provision is made for the preacher in charge, in the absence of the presiding elder, to preside over a Quarterly Conference; but when the presiding elder is present, the preacher in charge cannot legally dis-

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<sup>1</sup> Discipline of 1894, ¶ 88.



charge that duty. It is only in the absence of the presiding elder that he has any jurisdiction. These special provisions define duties common to both, and limit the performance of the official duties to the officer named and the things specified. The phrase in paragraph 107 and paragraph 109, "to oversee the spiritual and temporal affairs of the Church," does not give the superior officer the right to set aside the subordinate and discharge the duties which are clearly limited to him by law. The phrase gives the right to see that the subordinates are meeting the demands upon them, and if not, to change them; and when they fail, neglect, or refuse to meet the duties defined by law, to report the same to the Annual Conference, where the matter may be investigated and the offender dealt with as his acts deserve. *Presiding elders and preachers in charge are not responsible to the bishops for what they do, or how they do it, neither are the preachers in charge responsible to the presiding elders, but both are alike responsible to the Annual Conference for life and official administration.* The superior officer, can change the inferior from one field of labor to another in the interval of the Annual Conference, and if there be complaint against any inferior officer, involving his life or official administration, the superior can summon a court and have the matter investigated according to law, and with these remedies his responsibilities have been met; but when this principle of oversight is interpreted so as to give the superior officer the power to change or displace the inferior, on the ground of a simple disagreement as to the construction of law and the exercise of duties under law, the day of ministerial manhood is

doomed, and the inferior officer takes the place of a parrot to impersonate his superior; and no principle will sooner lead to the pretensions, follies, extravagances, bigotry, and intolerance of the ecclesiasticism of the past.

There is one other question in this connection that demands consideration on account of the widespread interest in it, as well as the principles involved, namely: the rights of a traveling preacher in relation to an Annual Conference of which he is a member. The question in a more specific form is: Can an Annual Conference refuse to grant a member a location when he has complied with the laws of the Church, and his character has been passed? This question has been answered by the Los Angeles Conference in the case of the Rev. A. C. Bane. The record in this case is as follows:

The written request of A. C. Bane for a location was read by the secretary, and action deferred, pending a decision by the bishop on legal points. . . .

Bishop Wilson rendered the following decision on legal points raised in the session of the first day:

*Question.* When an itinerant preacher publishes to the world and the Church his purpose to locate and enter the evangelistic work, is (1) the proposed work of an evangelist compatible with the duties of a local preacher? (2) Is the Annual Conference to which he belongs compelled to grant him a location?

W. L. PIERCE.

Answer to first question: Not according to the terms of our Discipline. Answer to second question: No.<sup>1</sup>

In addition to the above, the Rev. Q. A. Oats, a member of the Los Angeles Conference, gives an account of the case as follows:

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<sup>1</sup> Printed Journal of the Los Angeles Conference, 1894-96, pp. 4, 5.

I see you state in your editorial, in last week's *Methodist*, that Rev. A. C. Bane was refused a location last Conference by Bishop A. W. Wilson, because he wanted a location to give his time to the evangelistic work. Believing in your desire to state the truth, and the whole truth, I write to deny the statement, and to give you the true facts. Bishop Wilson did not deny him a location, but the Conference did, by a *majority vote*. Bishop Wilson was asked substantially the question whether the Conference was bound to locate a man at his own request, and whether the declared purpose of a preacher to locate to evangelize was compatible with the work of a local preacher; both of which he answered in the negative. Action on the case was suspended at the bishop's request till he could have time to investigate the matter. He had it under advisement two or three days before the final decision. After the decision was made public to the Conference, he then put the question for Brother Bane's location at his own request in the usual form, and the question was sharply and somewhat elaborately debated.

From facts gained in private, I know that it was the purpose and expectation of the authors of the questions to get such a decision from the bishop as would shut the Conference off from a vote. In a private conversation, in which the subject was under discussion, I asked the bishop if he could so answer the question as to shut off a vote on it, and he replied that he could not. At the time of this conversation he had no reason to believe that I was not favorable to the opposition to Brother Bane, and I must say that he did not appear to be disposed to be unfair to Brother Bane personally, but opposed the idea of pastors locating to evangelize, and also opposed the modern system of evangelists.<sup>1</sup>

It seems that this case was not considered purely on its merits, but was discussed and determined in the light of a previous announcement that Mr. Bane desired a location, that he might do the work of an evangelist; and, whether true or not, the impression has been made that the announcement of Mr. Bane had more to do with the disposition of his case than anything

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<sup>1</sup> *The Methodist and Way of Life*, June 24, 1896, p. 7.

else. As to what he proposed to do after he located was no concern of the Los Angeles Conference. The announcement had nothing to do with the merits of the case, and, although this fact influenced the Conference to decide the matter as it did, serves the Conference no purpose in its own defense. The case must be considered only on its merits. The only question was, Did Mr. Bane have the right to dissolve his connection with the Los Angeles Conference by an honorable location, after his character had been passed?

The Church has never legislated on the question. In 1832 an attempt was made to give an Annual Conference just such power as the Los Angeles Conference exercised over the case of Mr. Bane, but the General Conference declined to grant it. The following is what was proposed for adoption:

*Question.* What shall be the duty and authority of the Annual Conferences in granting locations to their members?

*Answer.* They shall have authority to grant a location to a member by giving a certificate thereof, signed by the president of the Conference, when the Conferences are persuaded that the necessity for such a one to cease traveling under their direction is sufficiently clear to absolve him from his obligation to devote himself wholly to the work, given in his vows of ordination.<sup>1</sup>

While there has been no legislation on the subject, yet the point has been passed upon judicially. The General Conference of 1840 rendered the following judicial opinion on the right of an itinerant preacher to locate:

When a member of an Annual Conference, in good standing,

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<sup>1</sup>Journal of the General Conference, vol. i., p. 373.

shall demand a located relation, the Conference shall be obliged to grant it to him.<sup>1</sup>

In addition to the above judicial decision, let us examine the question in the light of its inherent principles.

The itinerancy had its origin almost simultaneously with the origin of Methodism. It was at first a compact between Mr. Wesley and his assistants. They were received on three conditions: (1) They were to be governed by him as to where, when, and how they should work. (2) They were to continue in this relation so long as they were satisfactory to him. (3) From their own point of view, they were at equal liberty with him to dissolve the compact when they saw fit to do so. This fact was announced by Mr. Wesley at the very beginning. He declared in substance that his lay helpers could withdraw from him whenever they desired, and he reserved the right to withdraw from them when, in his judgment, he thought he ought. The compact was a voluntary one that could be dissolved by either party when they so desired, and the motives they might have for such a dissolution had nothing to do with the question. This fundamental principle is the foundation of our itinerancy, and is the only foundation on which it could have been established, and the only one on which it can be perpetuated. The right to a location while an Annual Conference is in session, after the character has been passed, is inalienable.

When the fact is taken into consideration that an itinerant preacher is to go anywhere in the bounds

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<sup>1</sup>Journal of the General Conference, vol. ii., p. 107.

of the Church a bishop may wish to send him, and do any kind of work that belongs to his position, without regard to health, the support of himself and family, and the educational and social needs of his children, he must have the right to say when he will dissolve his connection with the itinerancy. If it is understood that he has no such right, and this fact is made known, it will be the end of our itinerant system, for men will no longer enter into a compact they cannot dissolve; or if men enter into the itinerancy with the understanding that they cannot locate, it will be done at the expense of those elements of manhood that are indispensable to an efficient ministry.

The conclusion, it seems to us, is inevitable that when Bishop Wilson decided that an Annual Conference is not compelled to grant one of its members a location, he ruled contrary to the inherent principles of the compact, and the judicial settlement of the question by the General Conference in 1840; and when the Los Angeles Conference refused the Rev. A. C. Bane a location, it went beyond its legitimate powers and invaded an inalienable right of one of its members.

If Mr. Bane had simply said to the Conference after it refused him a location, "I have complied with the laws of the General Conference in my case, and you have passed my character, and I have sought to dissolve my relation in a respectful and legal way, which under law I am entitled to, and in view of these facts I consider the compact dissolved, and I am therefore no longer subject to your authority or the appointing power of the bishop, and I do not propose to take work at his hands," it would have been

a legal dissolution of his connection with his Conference and the itinerancy. When, in view of such a statement and the course of conduct it announced, the Conference undertook to deal with Mr. Bane and degrade him by expulsion from the ministry and the Church, he could effectually protect himself against such proceedings in the civil courts.

The argument that has been made in defense of the Los Angeles Conference, that the right of the Conference to vote on the case carries with it the right to refuse a location, is of no value. In the first place, the General Conference has never provided for a vote on such a question. In the second place, an Annual Conference cannot deprive one of its members of an inalienable right by a simple vote. In the third place, the test vote in such a case is on the passage of character, and a vote taken on a request for location is nothing more than a formal and orderly way of disposing of the question. It is clear, therefore, that a vote gives the Conference no right to refuse a request for location.

The Rev. Q. A. Oats makes the following statement:

I openly criticised the bishop's decision, adversely, on the ground that it violated all precedent and every sense of natural right to deny a location when a preacher asked for it; his right to a location was inherent in natural right, and could not be violated. I hold these views still; and had Bishop Wilson's decision been sustained, a result I have earnestly prayed might not be, it would have been the destruction of every God-given and manly privilege, and the lowering of every itinerant preacher in the Church.<sup>1</sup>

The Church would do well to heed the true and

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<sup>1</sup> *The Methodist and Way of Life*, June 24, 1896, p. 7.

manly words of Mr. Oats; and if the General Conference would preserve and perpetuate the itinerancy in its integrity, it will at its next session, through its Committee on Itinerancy, make such a declaration as that no Annual Conference will in the future dare to follow in the footsteps of the Los Angeles Conference in the case of A. C. Bane.



## CHAPTER XIV.

### LOCAL PREACHERS—THEIR DUTIES AND RIGHTS.

THE local ministry is prominent, important, and influential. American Methodism owes its origin to this ministerial officer. Robert Strawbridge, Philip Embury, and Captain Webb, three local preachers, organized societies in Maryland, New York, and Philadelphia about the year 1766, and through their influence Mr. Wesley was induced to send missionaries to America to build on the foundation laid by them.

The local preacher occupies a peculiar position in the Church, and he is placed under laws adapted to his position. He is separate and distinct from all others in the ministry in his position and responsibilities. The laws adopted for the government of the local ministry, in view of the unique position occupied by this class of preachers, are on an entirely different basis from other laws, and involve principles peculiar to themselves.

At different times in the history of the Church the relationships and rights of the local preacher, like many other questions, have perplexed the Church. This is a very live question now in Southern Methodism, and a clash of opinion as to authority and rights in relation to him has culminated. The question is presented in a single prominent case. Dr. B. M. Messick, presiding elder of the St. Louis District,

sent the following notice to Dr. B. Carradine, a local preacher in First Church, St. Louis:

You will be complained of at the Quarterly Conference for neglecting the work of a local preacher while engaged in the unauthorized work of an evangelist.<sup>1</sup>

There are two counts in this notice: (1) "Neglecting the work of a local preacher; (2) while engaged in the unauthorized work of an evangelist." Let these two items be kept in mind.

At the Quarterly Conference referred to in the above notice, when Dr. Carradine's case was under consideration, the Rev. A. J. Jarrell, pastor of First Church, St. Louis, submitted the following question of law to the presiding elder, Dr. Messick:

Is it improper and illegal for a local preacher to adopt and devote himself to the work of a general evangelist?<sup>2</sup>

Dr. Messick answered the above question with fullness and emphasis. He said:

It surely is; involving both neglect of the Discipline prescribed duties of the local preacher and insubordination to the General Conference, which has so unequivocally refused to recognize the office and work of the evangelist in the Church.<sup>3</sup>

Dr. E. E. Hoss, editor of the *Christian Advocate*, in an editorial on the local preacher says:

It was never intended, however, that his freedom of movement should mean his freedom from law. In the very outset, he was, *like his itinerant brethren*, put "under authority," and by the Discipline of the Church he remains in that condition to this day. . . .

She [the Church] does insist, however, that a local preacher

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<sup>1</sup> *The Tennessee Methodist*, August 29, 1895, p. 1, col. 1.

<sup>2</sup> *Ibid.*, October 17.

<sup>3</sup> *Ibid.*

is not licensed with a view to his wandering up and down the land in absolute independence of all ecclesiastical control. . . .

The question, then, is simply whether we shall have a reign of law or one of lawlessness. Under the time-honored plan that appointed a field of labor for every man, and held every man responsible to an official body that could supervise his conduct, Methodism has grown great. Is it deliberately proposed to introduce a new order of things, in which every man shall do that which is right in his own eyes without regard to official direction of any sort? Is government despotism? Is law tyranny? Are ecclesiastical regulations a mere means of lording it over God's heritage?<sup>1</sup>

We agree with Dr. Hoss when he says the local preacher's "freedom of movement should [not] mean freedom from law"; and we agree further with him that the local preacher, "by the Discipline of the Church, . . . remains in that condition [under law] to this day," and that he "is not licensed with a view to his wandering up and down the land in absolute independence of all ecclesiastical control"; and we suppose every well-informed local preacher takes the same view of his relation to the Church. In addition to this, we suppose all alike say "we shall have a reign of law," and not "one of lawlessness." But when Dr. Hoss intimates that "it is deliberately proposed to introduce a new order of things, in which every man shall do that which is right in his own eyes without regard to official direction of any sort," we are not prepared to accept the imputation; but we are free to say that if such a thing is proposed, deliberately or otherwise, we are against it, and will do what we can to prevent it. At least by indirection and implication, Dr. Hoss does, with Dr. Messick, make the very

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<sup>1</sup>The *Christian Advocate*, September 12, 1895.

serious charge of "lawlessness" and "insubordination" against the local ministry of the Methodist Episcopal Church, South. From a legal point of view, is this charge true?

It will throw light on this question to trace its evolution through the history of legislation from the beginning to the present time. In 1779 the Delaware Conference adopted this minute:

Every exhorter and local preacher to go by the directions of the assistants where, and only where, they shall appoint.<sup>1</sup>

This put the local preacher absolutely in the hands of the "assistants," for he was "to go only where they shall appoint." To the same effect is the following minute, adopted in 1782:

*Question 15.* How shall we more effectually guard against disorderly local preachers?

*Answer.* Write at the bottom of the certificate: This conveys authority no longer than you walk uprightly, and submit to the direction of the assistant preacher.<sup>2</sup>

"Submit to the direction of the assistant preacher" was the authority then given to the "assistant" over the local preacher. In harmony with the above law is the following:

Meantime let none preach or exhort in any of our societies without a note of permission from the assistant. Let every preacher or exhorter take care to have this renewed yearly; and let every assistant insist upon it.<sup>3</sup>

In 1796 the law governing the local preacher underwent a radical change. Until this time he was licensed and controlled by the assistant, but now the source of his authority to preach and his amenability

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<sup>1</sup> Minutes, p. 19.

<sup>2</sup> *Ibid.*, p. 36.

<sup>3</sup> Emory's History of the Discipline, pp. 159, 160.

is transferred to others. The law adopted in 1796 is as follows:

*Answer* 1. No local preacher shall receive a license to preach till he has been examined and approved at the quarterly meeting of his circuit, which license shall be drawn up in the following words, viz.:

“N. M. has applied to us for liberty to preach as a local preacher in our circuit; and after due inquiry concerning his gifts, grace, and usefulness, we judge he is a proper person to be licensed for this purpose; and we accordingly authorize him to preach.”

2. Before any person shall be licensed as a local preacher by a quarterly meeting, he shall bring a recommendation from the society of which he is a member.<sup>1</sup>

This law says: “N. M. has applied to us for liberty to preach as a local preacher in our circuit; and . . . he is . . . licensed for this purpose.” This confined the local preacher, in his ministerial work, within the bounds of the circuit that licensed him to preach. This accords with some modern views on this point. Another new principle in the law of 1796 was that no one could be “licensed . . . by a Quarterly Meeting” unless he could “bring a recommendation from the society of which he is a member.” The law of 1796 took the local preacher out of the hands of the preacher in charge, and put him in the hands of the society of which he was a member and of the Quarterly Conference.

In 1816 the law of 1796 was changed, but introduced no new principle of government. The law of 1816 was, in 1820, repealed by the adoption of the following:

The District Conference shall have authority to license proper persons to preach, and renew their license, to recommend suita-

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<sup>1</sup>Journal of the General Conference, vol. i., pp. 25, 26.

ble candidates to the Annual Conference for deacons' or elders' orders in the local connection, for admission on trial in the traveling connection, and to try, suspend, expel, or acquit any local preacher in the district against whom charges may be brought: *provided*, that no person shall be licensed without being first recommended by the Quarterly Conference of the circuit or station to which he belongs; nor shall anyone be licensed to preach, or recommended to the Annual Conference for ordination, without first being examined in the District Conference on the subject of doctrine and discipline. The District Conference shall take cognizance of all the local preachers in the district, and shall inquire into the gifts, labors, and usefulness of each preacher by name. When charges are preferred against any local preacher, it shall be the duty of the preacher in charge to call a committee, consisting of three or more local preachers within the station, circuit, or district, before whom it shall be the duty of the accused to appear, and by whom he shall be acquitted, or, if found guilty, be suspended until the meeting of the next District Conference.<sup>1</sup>

This provision took the local preacher from under the authority of the Quarterly Conference, and put him under the authority of the District Conference. With the exception of a few modifications that did not change the fundamental principles, the law of 1820 remained in force until 1836, when the official relations were transferred from the District to the Quarterly Conference, as it had been at first.

By reference to the foregoing history, it will be seen that the form of license, which made up a part of the law of 1796-1819, and which confined the local preacher, in the discharge of his ministerial duties, to the circuit granting the license, was repealed in 1820, and it, or anything like it, has never since been adopted. This is a significant fact.

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<sup>1</sup>Journal of the General Conference, vol. i., p. 219.

The law of 1836 underwent no material change until 1858. The following paragraph was adopted defining further the duty of local preachers. With the exception of the word "also" in the first line of the paragraph as adopted in 1858, it is the same now as then. It is as follows:

It shall also be the duty of local preachers to aid the preacher in charge of the circuit, station, or mission to which they belong, in supplying the people with the ministry of the word. They shall accordingly be applied to by the preacher in charge, as soon as he enters on his work, to state what amount of service they are able and willing to perform. He may then draw up a plan by which their labors shall be regulated.<sup>1</sup>

This law is now the bone of contention, and it demands special consideration. What rights do the local preachers have under this law; what is the measure of their duty, and by what principle is this duty to be determined; and what are the limitations of the pastor's authority over the local preacher in his ministerial work? Is Dr. Messick right in his decision, and is the local preacher required to confine his ministerial labors to the charge where he is a member? Dr. Hoss, speaking of the local preacher in this respect, says: "It was never intended that his freedom of movement should mean his freedom from law," but that the Church "does insist that a local preacher is not licensed with a view to his wandering up and down the land in absolute independence of all ecclesiastical control. The question, then, is simply whether we shall have a reign of law or lawlessness." Is it a reign of lawlessness for a local preacher to spend his time in the evangel-

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<sup>1</sup>Journal of the General Conference, 1858, p. 645.

istic work, most or all of which is done outside the charge in which he lives? When may he go outside the borders of his own circuit to preach, and how much may he do this without incurring the charge of "lawlessness" and "insubordination"? Are there conditions under which he may do this and not violate the law by which he is to be governed? Does his license confine him to the bounds of his own charge? It does not. From 1796 to 1820 it did, but has never done so since. Now he is "authorized to preach the gospel according to the rules and regulations of" the Church. There are no limitations as to place, unless they appear in some rule or regulation of the Church. If there be such limitations anywhere, what are they, and how do they apply?

Dr. Messick says that if a local preacher "devote himself to the work of a general evangelist" he is neglecting the Discipline and his prescribed duties, and is guilty of "insubordination to the General Conference, which has refused to recognize the office and work of the evangelist in the Church." So far as the traveling ministry is concerned, the General Conference "has refused to recognize the office and work of the evangelist," but in the relation of the local ministry to this work the General Conference has done nothing pro or con. Dr. R. N. Price makes the following discriminating comments on the action of the General Conference in regard to evangelists. He says:

The General Conference has never declined to recognize local preacher evangelism; that has existed from the foundation of the Church, and perhaps will exist as long as the local preacher's office is retained in the Church. The local preacher is an evangelist or nothing.



What the General Conference has twice refused to do is this: It has refused to create the office of evangelist as a part of the itinerant machinery of the Church. It has refused to enact a law empowering the bishop presiding in an Annual Conference to appoint a traveling preacher or preachers as evangelists to travel at large within the bounds of the Conference. This is the office which the General Conference has, by negation of action, declined to create—an office to be filled by traveling preachers under episcopal appointment. The office which the General Conference has declined to create was not an office to be filled by local preachers; and it is the sheerest sophistry to attempt to confound General Conference action in relation to traveling preachers with imaginary action in relation to local preachers. If the office referred to had been created, it would not have affected the relations of local preachers an iota. They would still have been at liberty as now to hold meetings within their circuits or without them, as they now do, as they always have done, and we trust always will do.<sup>1</sup>

The General Conference of 1894 took the following action on the question of evangelists:

We have given much time and thought to memorials from the Louisville and Mississippi Conferences; from R. W. Bigham and W. A. Turner, of the North Georgia Conference; from John Owen and L. F. Beaty, of the South Carolina Conference, and others, on the subject of evangelists, and we recommend that no further legislation on the subject is necessary.<sup>2</sup>

There is an attempt to make much out of the fact that the General Conference has refused to recognize the office of evangelist in the Church. When the General Conference in 1894 said, "No further legislation on the subject is necessary," there were more Methodist preachers, local and traveling, engaged in the evangelistic work than ever before. As

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<sup>1</sup> *The Tennessee Methodist*, January 16, 1895, p. 1, col. 4.

<sup>2</sup> *Journal of the General Conference*, 1894, pp. 267, 268.

a distinct office in the Church it was well established by custom. It was never more popular with many pastors and people than at that time. In the face of these facts, there were an influential class of persons who were doing all they could to put a stop to the whole matter, and they were using their influence on the General Conference to this end. The General Conference in its action said to evangelists: "We will not try to stop you." To those opposed to evangelists it said: "Let them alone. Itinerant preachers have their work assigned them. If they neglect this, there is law enough to deal with them. The local preachers are under law. The pastor can keep all preachers out of the churches in his charge except bishops and presiding elders. This is law enough for the protection of all concerned." In the light of all these facts, there is no force in the position that the General Conference has refused to recognize evangelists. It has refused to prohibit them from such work.

Bishop Galloway reversed Dr. Messick's decision. His opinion is as follows:

To this appeal I make answer as follows:

This ruling is not sustained, with the understanding that the local preacher has not failed or refused to perform the services required by his pastor, whose duty it is to draw up a plan by which his [their] labors shall be regulated.

CHARLES B. GALLOWAY,  
*President St. Louis Annual Conference.*<sup>1</sup>

Bishop Galloway, unless we fail to understand him, reversed Dr. Messick conditionally. He says: "With the understanding that the local preacher has not

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<sup>1</sup>*The Tennessee Methodist*, October 17, 1895, p. 1.

failed or refused to perform the services required by his pastor, whose duty it is to draw up a plan by which his [their] labors shall be regulated." If we understand this part of the decision, it gives the pastor the power to *require* service of the local preacher, and makes it the pastor's *duty* to draw up a plan by which the local preacher *shall* be regulated in his ministerial work.

The law construed by Bishop Galloway in the above opinion has in it the following elements:

1. It is the duty of local preachers to aid the pastors in supplying the people with the ministry of the word. It must be kept in mind that this "duty" is not without conditions. Otherwise the first sentence of the paragraph would be complete. The conditions will appear in the further analysis of the law.

2. In view of this fact, the preacher in charge *shall* apply to the local preachers to state what amount of service they are *able* and *willing* to perform. The local preacher's duty in this law is determined by his ability and willingness, and he is the judge of both, and not the pastor. He may be able to do the work the pastor desires him to do, but not willing, and *vice versâ*. In either case he has violated no law if he does no work. There may be good reasons why he is not willing, and of these he is the judge.

3. When the preacher in charge has learned what work the local preachers are able and willing to do, "he *may* then draw up a plan by which their labors shall be regulated." It is not obligatory, not his *duty*, to draw up a plan. He *may* do so. He is to be the judge as to whether he will do this or not. There are good reasons for this option. The work that

the local preacher is able and willing to do may not be what the pastor wants. So he is not bound to give the local preacher work unless his judgment approves, simply because the local preacher is able and willing to work. The pastor and local preacher are alike protected in the law.

4. But when the pastor and local preacher, after conference on the question, have agreed on a plan of work, and it is satisfactory to both, then the local preacher's "labors shall be regulated" by said agreement; he shall do the work as per agreement, unless some unforeseen trouble prevents. The first "shall" in this law does not apply until the last "shall" applies—*i. e.*, it is not a "duty" until the last "shall" is applicable. But when such an agreement has been entered into, and the plan in conformity with the agreement has been drawn up, the local preacher is required by law to help the pastor supply the people with the ministry of the word. If the pastor and local preacher have not agreed upon some plan of work, and do not agree, the local preacher has no legal obligation resting upon him to preach in that charge; and if under these circumstances he does not preach, he has violated no law. So far as his pastor and charge are concerned, he is free to go where he pleases.

This whole matter is a question of voluntary agreement between the pastor and his local preacher, and in the very nature of the case must be so. Both are equally protected. The pastor knows what he wants done, and the local preacher knows what he is able and willing to do; and if they can agree, all is well; but if not, neither party has violated any law—the

one by not drawing up a plan, and the other by doing no work.

Therefore, if Bishop Galloway in his opinion intended to bind the local preacher to the pastor, by giving the latter the right to *require* service of the former, and in virtue of such requirement make it the legal duty of the local preacher to perform the service required, he went beyond the plain intent of the law and involved the rights of both local preacher and pastor. The following taken from the Manual of the Discipline states positively that the preacher in charge has no right to control the local preachers in their ministerial labors, unless they come in conflict with the plan of the circuit:

The preacher in charge cannot control the appointments of a local preacher, unless they conflict with the plan of the circuit.<sup>1</sup>

In order to meet the practical difficulties that have arisen in the administration of the law governing local preachers, it is being proposed to enact a law at the next General Conference giving presiding elders the power to direct local preachers in their ministerial labors. But we already have such a law; and in addition to this, the bishops have the same general directing power (§ 109, § 110, Discipline, 1894), and this law is sufficient. By a little study of the principles involved in this question, it will be seen that the presiding elders and bishops, subject to the same voluntary principles of agreement as between pastors and local preachers, and subject to the rights and duties of these in their relation to each other, can within their respective districts employ local

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<sup>1</sup> Manual, p. 55.

preachers. In this particular a fundamental principle is recognized, and the legislation is in harmony with the principle, and it seems to be as near perfect as it can be made. To adopt any legislation that will disturb the relationships as they now stand, or invade the principle upon which the legislation is based, will do more harm than good. The judicial principles governing the local preacher are presented in another part of this work.

Another important phase of this question is the relation of the local preacher to pastors other than his own. The relation of one pastor to another is involved in the same point.

The question is: To what extent can a pastor control the territory over which he presides from invasion by other Methodist preachers, either local or itinerant, for the purpose of conducting religious services in the bounds of his charge? Or, to state the question in another form: When and to what extent may a local or traveling preacher hold services in the bounds of another's charge without violating the law? Some hold to the view that a pastor has authority to prevent other Methodist preachers from conducting religious services anywhere in the bounds of his work. The following is offered in evidence that such views are held:

Last year a city pastor, who has since been appointed presiding elder, received a letter dated "8, 10, '95," from which the following extract is taken: "I have just been informed that you contemplate preaching a series of sermons on my circuit. I forbid you doing so, for the following reasons: 1. You will not be doing to me as you would have me do to you. 2. The spirit of paragraph 120 in the Discipline gives, the presiding elder and bishop being absent, to the preacher in charge the control of

appointments for all services to be held 'in his charge.' If you persist in holding this meeting, even in a private house, on my circuit, I will prefer charges against you at your ensuing Annual Conference." The above extract may be better understood, as to its animus, when it is known that the two pastors were in the same presiding elder's district, were good friends, and that the one receiving the letter had, on different occasions during the year, invited the author of the letter to occupy his pulpit; and the only crime committed by the recipient of said letter was that of preaching "that men are justified before they are sanctified," and offering to preach "that form of doctrine" in a *schoolhouse* within the bounds of the other brother's charge, *on condition that he consented to it.*<sup>1</sup>

In harmony with the above, the Rev. H. C. Morrison has been expelled from the ministry and Church for persisting in holding a union meeting in Dublin, Texas, over the protest of the pastor and presiding elder of the charge. Said meeting was not held in the church, but in the city park. These cases indicate a desire and purpose to exercise authority over the entire territory included in their respective charges, and it is claimed to be within the spirit of the law. That this view is somewhat extensive is evident from the fact that an effort was made at the General Conference in 1894 to confer on pastors the authority that some already claim they have. In addition to memorials on this question, the College of Bishops made the following recommendation in their address:

The responsibility of appointing and directing religious services belongs to the preacher in charge. To hold meetings in his circuit, station, or mission without his consent, and against his remonstrance, would be an unwarranted intrusion, and tend to confusion and strife. It may be well in the section of the Discipline on "Preachers in Charge" to add an express enactment

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<sup>1</sup> Rev. H. O. Moore, in *The Tennessee Methodist*, January 30, 1896, p. 3.

against such interference, whether by local or itinerant preachers.<sup>1</sup>

While the General Conference had under consideration Report No. 5 of the Committee on Itinerancy, and when it had reached the fifth item of said report, the Rev. J. H. Evans, of the Memphis Conference, moved to substitute Report No. 7 of the Committee on Revisals for said item as above. Mr. Evans's substitute is as follows:

To the question, "What are the duties of a preacher who has charge of a circuit, station, or mission?" let the answer read as follows:

"To supply the people with the ministry of the word; to see that the sacraments are duly administered; and, in the absence of the bishop and presiding elder, to have the control and direction of all public religious services held within their bounds, whether by traveling or local preachers."<sup>2</sup>

Instead of the above, the General Conference adopted the fifth item of Report No. 5 of the Committee on Itinerancy. It is as follows:

To preach the gospel, and, in the absence of the presiding elder or bishop, to control the appointment of all services to be held in the churches in his charge.<sup>3</sup>

There is a marked difference in the above paragraph, adopted by the General Conference, and the proposed substitute of Mr. Evans. The substitute proposed that the pastor should "have the control and direction of all public religious services held within their bounds, whether by traveling or local preachers." According to this no Methodist preacher could have held any public religious service in the

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<sup>1</sup>Journal of the General Conference, 1894, p. 26.

<sup>2</sup>*Ibid.*, p. 265.

<sup>3</sup>*Ibid.*, p. 267.



bounds of any pastoral charge other than the one with which he is officially connected, without permission from the pastor of the charge where it was proposed to hold said services. So far as Methodist preachers are concerned, this proposed law would have given the pastor control of every schoolhouse, private residence, and lawn in the bounds of his charge. It would have done more: it would have given him authority over every church-house of every other denomination in his charge, in so far as Methodist preachers might be invited to occupy said pulpits. One pastor wrote another: "If you persist in holding this meeting, even in a private house, on my circuit, I will prefer charges against you at your ensuing Annual Conference." Such a law as the proposed substitute, and as was attempted to be put in practice in the quotation just made, would make it so a Methodist preacher could not hold religious service in a Baptist or Presbyterian church, if invited, without at the same time securing the consent of the Methodist pastor in the bounds of whose charge said churches might be located. This proposed law would forbid such service as it contemplates anywhere in such a charge, whether it might be a commencement sermon, a funeral service, or a protracted meeting in a tent or schoolhouse. We know a distinguished Methodist preacher who was the pastor of the leading Presbyterian church in the South for six months or more. This church was within a stone's throw of a large Methodist church. If Mr. Evans's substitute had been adopted, the preacher above mentioned would have been compelled to get permission from the pastor of the Methodist church in that communi-

ty before he could have filled that Presbyterian pulpit. If it be objected that these are extreme cases, and no Methodist preacher would ever object to such things, we reply by saying, Tempt no man by conferring on him such power. One is as liable to use the power as the other is to abuse his opportunity. A wise Church will not tempt its ministry by the bestowment of such power. The claim of right to control the entire territory in a pastoral charge, even to private houses, is absurd and dangerous, and ought never to be tolerated by true men. It is petty tyranny. We talk about the power of bishops and presiding elders: we know of nothing so autocratic and all-pervasive as the position that "if you persist in holding this meeting, even in a private house, on my circuit, I will prefer charges against you." We are in more danger of a reign of autocracy than a reign of lawlessness. That part of the bishops' address recommending just such a law as the one under consideration, and which the General Conference declined to adopt, is being referred to as law. We have seen more than one such reference, and we have heard one of our bishops quoted as giving to it the force of law. It matters not who may make such claims, it is not law. Nothing that our bishops may say, however wise and good, can be given the force of law until adopted by the General Conference.

When the General Conference rejected Report No. 7 of the Committee on Revisals, offered as a substitute by Mr. Evans for item five in Report No. 5 of the Committee on Itinerancy, it said by such act to all Methodist pastors that they do not "have the control and direction of all public religious services held within their

bounds, whether by traveling or local preachers," even to private houses; but the General Conference did say "in the absence of the presiding elder or bishop" the pastor shall "control the appointment of all services to be held in the *churches* in his charge."

The rejection of the proposed substitute effectually answers the claim of authority based on what one calls the spirit of paragraph 120, for the proposed substitute is the spirit of said paragraph, provided it has any spirit.

When a local preacher does the work agreed upon between the pastor and himself, or when they fail to agree as to any work, and he preaches one or many sermons in a schoolhouse or under a tent or tree in the bounds of another circuit without permission from the pastor of said circuit, he has violated no ecclesiastical law. He has done no legal wrong to his own pastor, or to the preacher in charge of the circuit where he preaches. We are at a loss, therefore, to see wherein he is guilty of either "lawlessness" or "insubordination."

Since writing the foregoing, the following has fallen into our hands anent the case of the Rev. H. C. Morrison:

We consulted Bishops Duncan and Keener, who gave us the advice that it was a violation of law for one preacher to enter the charge of another and hold meetings over the protest of the pastor, and for such violations of law the offender could be dealt with.—*E. A. Smith in Texas Advocate, Nov. 25, 1837.*

Aside from the purely legal phases of this question, there is a question of propriety and courtesy that will have due weight with all good men on both sides

of this controversy; but these questions must be determined by the environments of each case, and the parties directly interested, and not by any fixed rules. That the rules of courtesy have been and will be violated by the parties of both sides, no impartial judge can deny, and that it is so is to be regretted; but allowance will have to be made for a difference in ability to appreciate such delicate relationships.

## CHAPTER XV.

JUDICIAL DEPARTMENT OF THE METHODIST EPISCOPAL CHURCH,  
SOUTH.

MR. WESLEY claimed the right to exclude members from his societies. In giving an account of the origin of his power, he said: "To remove those whose lives showed that they had not a desire to flee from the wrath to come. It is a power of admitting into, and excluding from, the societies under my care."<sup>1</sup>

In 1743 Mr. Wesley concluded the General Rules as follows:

If there be any among us who observe them not, who habitually break any of them, let it be known unto them who watch over that soul, as they who must give an account. We will admonish him of the error of his ways; we will bear with him for a season; but if then he repent not, he hath no more place among us: we have delivered our own souls.<sup>2</sup>

The doctrine of the above extract is that if any walk disorderly they are to be reported to those who have the care of souls, and if they fail to cure them they are to exclude them. We have the following account of the practical application of the foregoing rule:

At this time (1763), and for some years after, it was customary for the preachers to expel persons from the society by mentioning their names in public, and also the crimes they had

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<sup>1</sup> Wesley's Works, vol. v., pp. 220, 221.

<sup>2</sup> Discipline, 1894, pp. 25, 26.

committed. But it was found that in so doing they laid themselves open to an action by the party expelled. All they do at present is to declare in the meeting of the society that A. B. is no longer a member of the society. No evil can follow from this. (Myles's Chron. History of the Methodists, ed. 1813, p. 96.)<sup>1</sup>

American Methodism, in its early history, taught and practiced the same doctrine as English Methodism. Mr. Asbury wrote in his Journal, in 1788, as follows: "I rested; and compiled two sections, which I shall recommend to be put into our form of Discipline, in order to remove from society, by regular steps, either preachers or people that are disorderly."<sup>2</sup>

The section referred to by Mr. Asbury is as follows:

*Question.* How shall a suspected member be brought to trial?

*Answer.* Before the society of which he is a member, or a select number of them, in the presence of a bishop, elder, deacon, or preacher, in the following manner: Let the accused and accuser be brought face to face: if this cannot be done, let the next best evidence be procured. If the accused person be found guilty, and the crime be such as is expressly forbidden by the word of God, sufficient to exclude a person from the kingdom of grace and glory, and to make him a subject of wrath and hell, let him be expelled. If he evade a trial by absenting himself, after sufficient notice given him, and the circumstances of the accusation be strong and presumptive, let him be esteemed as guilty, and accordingly excluded. And without evident marks and fruits of repentance, such offenders shall be solemnly disowned before the Church. Witnesses from without shall not be rejected if a majority believe them to be honest men.

But in cases of neglect of duties of any kind, imprudent conduct, indulging sinful tempers or words, disobedience to the order and discipline of the Church, first let private reproof be given by a leader or preacher: if there be an acknowledgment

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<sup>1</sup> Pierce's Wesleyan Polity, pp. 50, 51.

<sup>2</sup> Vol. ii., pp. 29, 30.

of the fault, and proper humiliation, the person may remain on trial. On a second offense, a preacher may take one or two faithful friends. On a third failure, if the transgression be increased or continued, let it be brought before the society, or a select number: if there be no sign of humiliation, and the Church is dishonored, the offender must be cut off. If there be a murmur or complaint that justice is not done, the person shall be allowed an appeal to the quarterly meeting, and have his case reconsidered before a bishop, presiding elder, or deacon, with the preachers, stewards, and leaders who may be present. After such forms of trial and expulsion, such persons as are thus excommunicated shall have no privileges of society and sacrament in our Church without contrition, confession, and proper trial.<sup>1</sup>

This new law gave the society no right to try a member. He was simply to be tried *before* the society, or a select number, as the following will show:

The words "before the society," "or a select number," might mislead the reader who is used to the Church jury of the present day. They mean no more than this: The members saw the minister acting as chancellor in the trial, gave their own testimony if they had any, and made remarks, and heard the case developed and disposed of. It was decided not *by* them, but in their presence; and thus they could be satisfied that it was fairly done. Both judgment and censure were exercised by the same person. The following explanation of this new—and then thought liberal—law was published in the Minutes:

"As a very few persons have, in some respect, mistaken our meaning in the thirty-second section of our form of Discipline, on bringing to trial disorderly persons, etc., we think it necessary to explain it. When a member of our society is to be tried for any offense, the officiating minister or preacher is to call together all the members, if the society be small, or a select number, if it be large, to take knowledge, and give advice, and bear witness to the justice of the whole process, that improper and private expulsions may be prevented for the future."<sup>2</sup>

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<sup>1</sup> Emory's History of the Discipline, pp. 220, 221.

<sup>2</sup> Manual of the Discipline, pp. 117, 118.

As a further confirmation of the above explanation the General Conference of 1792 changed the words "let him be expelled" to "let the minister or preacher who has charge of the circuit expel him."<sup>1</sup>

In 1800 the General Conference, after the words "if the accused person be found guilty" in the law of 1789, inserted the following: "By the decision of a majority of the members before whom he is brought to trial."<sup>2</sup> This amendment took from the preacher the power to expel a member, and gave it to a majority of the members of the Church.

In 1808 the privilege of trial of the members of the Church before the society, or a select committee, was secured to the membership of the Church in the fifth Restrictive Rule. Not only the right of trial, as above, but the right of appeal to the Quarterly Conference, is guaranteed in the same constitutional provision. This is as it should be. The only thing needed is such legislative enactments from time to time as will adapt the constitutional principle to the circumstances of the Church.

Provision for the trial of a preacher in the early history of the Church was very meager. In 1779 the following law was adopted, naming the offense and the penalty, but without prescribing the process of trial or whose duty it was to try. The law is as follows:

*Question 8.* In what light shall we view those preachers who receive money by subscription?

*Answer.* As excluded from the Methodist connection.<sup>3</sup>

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<sup>1</sup> Emory's History of the Discipline, p. 222.

<sup>2</sup> *Ibid.*, p. 223.

<sup>3</sup> Minutes, 1779, p. 22.



In 1782 the Conference adopted this law:

*Question 13.* How shall we more effectually guard against disorderly traveling preachers?

*Answer.* Write at the bottom of every certificate: The authority this conveys is limited to next Conference.

*Ques. 14.* How must we do if a preacher will not desist after being found guilty?

*Ans.* Let the nearest assistant stop him immediately. In Brother Asbury's absence, let the preachers inform the people of these rules.<sup>1</sup>

In 1784 provision was made to deal with disorderly preachers in the interval of the Conference. The following law was adopted:

*Question 8.* How shall we keep good order among the preachers, and provide for contingencies in the vacancy of Conference and absence of the general assistant?

*Answer.* Let any three assistants do what may be thought most eligible, call to an account, change, suspend, or receive a preacher till Conference.<sup>2</sup>

The "three assistants" under the above law could act only in the "absence of the general assistant," and they had power to "suspend a preacher till Conference."

In addition to the above law, the following was adopted in 1784:

*Question 63.* Are there any further directions needful for the preservation of good order among the preachers?

*Answer.* In the absence of a superintendent, a traveling preacher or three leaders shall have power to lodge a complaint against any preacher in their circuit, whether elder, assistant, deacon, or helper, before three neighboring assistants; who shall meet at an appointed time (proper notice being given to the parties), hear and decide the cause. And authority is given

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<sup>1</sup> Minutes. 1782, p. 86.

<sup>2</sup>*Ibid.*, 1784, p. 46.

them to change or suspend a preacher, if they see it necessary, and to appoint another in his place, during the absence of the superintendents.<sup>1</sup>

All that the "traveling preacher," "three leaders," or "three neighboring assistants" could do under the above law was done only "in the absence of the superintendents."

The following is what Mr. Asbury prepared on the trial of a preacher:

*Question 1.* What shall be done when an elder, deacon, or preacher is under the report of being guilty of some capital crime, expressly forbidden in the word of God, as an unchristian practice, sufficient to exclude a person from the kingdom of grace and glory, and to make him a subject of wrath and hell?

*Answer.* Let the presiding elder call as many ministers to the trial as he shall think fit, at least three, and if possible bring the accused and the accuser face to face. If the person is clearly convicted, he shall be suspended from official service in the Church, and not be allowed the privileges of a member. But if the accused be a presiding elder, the preachers must call in the presiding elder of the neighboring district, who is required to attend and act as a judge.

If the persons cannot be brought face to face, but the supposed delinquent flees from trial, it shall be received as a presumptive proof of guilt, and out of the mouth of two or three witnesses he shall be condemned. Nevertheless, he may then demand a trial face to face, or he may appeal to the next Conference in that district.<sup>2</sup>

Attention is called to the following facts in the above law: (1) The presiding elder had exclusive jurisdiction in the case. No provision was made for a bishop to participate in the investigation or trial of a preacher. (2) Provision is made for a different

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<sup>1</sup> History of the Discipline, by Emory, p. 182.

<sup>2</sup> *Ibid.*, p. 183.

process if the offender be a presiding elder. "The preachers"—all the preachers in the district—shall call in a presiding elder from a neighboring district, "who is required to attend and act as a judge." In the case of a presiding elder being accused, it took all the preachers of his district to institute proceedings; but in the event it was a preacher in charge that stood accused, the presiding elder alone instituted proceedings. Why did it require so much more in the case of a presiding elder than it did in the case of a preacher? We will meet this fact again. (3) In the event the accused was not present when tried, he could "demand a trial face to face," or take an "appeal to the next Conference in that district."

In the law of 1784 the case was to be considered by "three neighboring assistants" "in the absence of a superintendent," but in the law of 1789 the presiding elder was to act regardless of the superintendent's whereabouts. The law of 1789 was changed in 1792 in the following particular: The presiding elder was allowed to summon a committee only "in the absence of a bishop"; and suspension was to hold only "till the ensuing District Conference, at which his case shall be freely considered and determined."

In 1792 it was made the duty of the presiding elder, "in the absence of a bishop, to . . . suspend preachers in his district during the intervals of the Conferences."<sup>1</sup>

In 1796 the law stood in the Discipline as follows:

What shall be done when an elder, deacon, or preacher is under the report of being guilty of some crime expressly forbidden in the word of God, as an unchristian practice, sufficient to

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<sup>1</sup> Emory's History of the Discipline, p. 133.

exclude a person from the kingdom of grace and glory, and to make him a subject of wrath and hell?

*Answer.* Let the presiding elder, in the absence of a bishop, call as many ministers as he shall think fit, at least three, and if possible bring the accused and the accuser face to face. If the person be clearly convicted, he shall be suspended from all official services in the Church till the ensuing yearly Conference, at which his case shall be fully considered and determined.<sup>1</sup>

Bishops Coke and Asbury explained the above law. They say:

The answer to the first question serves to remove every reasonable objection to the *suspending power* of the presiding elder.

The trial of a minister or preacher for gross immorality shall be in the presence of at least three ministers. These ministers have, of course, full liberty to speak their sentiments either in favor or disfavor of the accused person. This must always serve as a strong check on the presiding elder respecting the abuse of his power.<sup>2</sup>

It is clear from the foregoing that the bishop and, in his absence, the presiding elder had suspending power, and that the trial took place in the presence of a committee; but the accused was not tried by the committee, but by the superintendent or presiding elder.

In 1804 the third item of the presiding elder's duties was amended so as to read: "As the Discipline directs."<sup>3</sup> Bishop McTyeire makes the following comment on the above words:

In 1804 these pregnant words were added to the above third answer, making it what it has been ever since: "As the Discipline directs." The power of suspending a preacher without a

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<sup>1</sup> Manual of the Discipline, pp. 129, 130.

<sup>2</sup> Emory's History of the Discipline, pp. 418, 419.

<sup>3</sup> Journal of the General Conference, 1804, p. 54.

previous conviction by a committee was taken away, and this "privilege of our ministers or preachers" was guarded in the Fifth Article or Restrictive Rule in the Constitution, adopted four years later.<sup>1</sup>

At the Conference of 1784, when the Church was organized, and it was decided to have superintendents, the following law was enacted, defining their relation to the Conference:

*Question 27.* To whom is the superintendent amenable for his conduct?

*Answer.* To the Conference, who have power to expel him for improper conduct, if they see it necessary.<sup>2</sup>

In 1792 the following provision was made for the trial of an immoral bishop in the interval of the General Conference:

*Question 5.* What provision shall be made for the trial of an immoral bishop in the interval of the General Conference?

*Answer.* If a bishop be guilty of an immorality, three traveling elders shall call upon him and examine him upon the subject; and if the three elders verily believe that the bishop is guilty of the crime, they shall call to their aid two presiding elders from two districts in the neighborhood of that where the crime was committed, each of which presiding elders shall bring with him two elders, or an elder and a deacon. The above-mentioned nine persons shall form a conference to examine the charge brought against the bishop; and if two-thirds of them verily believe him to be guilty of the crime laid to his charge, they shall have authority to suspend the bishop till the ensuing General Conference, and the districts shall be regulated in the meantime as is provided in the case of the death of a bishop.<sup>3</sup>

The above law was amended in 1804 as follows:

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<sup>1</sup> Manual of the Discipline, p. 180.

<sup>2</sup> Lee's History of the Methodists, p. 98; and Emory's History of the Discipline, pp. 38, 129.

<sup>3</sup> Emory's History of the Discipline, p. 131; and History of the Methodists, pp. 182, 183.

“But no accusation shall be received against a bishop except it be delivered in writing, signed by those who are to prove the crime; and a copy of the accusation shall be given to the accused bishop.”<sup>1</sup>

We now have the following provisions for the trial of preachers:

*I. TRIAL OF A BISHOP.*

(1) Provision is made for the trial of a bishop in the interval of the General Conference. It is provided that when a bishop is under report or accused of immorality, three traveling elders shall inquire into the case; and if they believe an investigation necessary, they shall report the matter to another bishop, who shall call together twelve traveling elders. It takes two-thirds of these to suspend him. The suspended bishop is under disability till the next General Conference, be it a few months or nearly four years. At the expiration of this time the General Conference shall take up the case, and consider it without the intervention of another committee.

The attention of the reader is called to the following features in the above-mentioned provision:

(a) “When a bishop is under report or accused of immorality,” the requirement is that “three traveling elders shall inquire into the case; and if they believe an investigation necessary, they shall report the matter to another bishop.” In this case the three elders are required to make a more or less formal investigation, and this is preparatory to another investigation which is preparatory to a final disposition of the matter.

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<sup>1</sup> Emory's History of the Discipline, p. 132.

(*b*) The bishop to whom the matter has been reported "shall call together twelve elders." In case an investigation is to be made concerning reports against a presiding elder or pastor, only three elders are required to make an investigation similar to the one now under consideration.

(*c*) In this investigation it requires two-thirds, or eight elders, to suspend a bishop until the next General Conference.

(*d*) If such a suspension were to be visited on a bishop immediately after the adjournment of a General Conference, he would have to suffer all the disabilities of a penalty uncertain in its final results for nearly four years. Is not this sufficient to forever condemn such a law?

(2) If an accusation is preferred against a bishop during the meeting of the General Conference, it is to be referred to an investigating committee of twenty-five members of the General Conference, selected by the president in the chair. If said committee find a trial necessary, it shall prepare the case for trial; and it shall be tried by the Committee on Episcopacy, whose decision shall be final, save the right of appeal to the General Conference.

Attention is called to the fact that in the above provision exactly the same investigation is to be made as is made in the interval of the General Conference; but in the first instance it is to be done by twelve elders, two-thirds of whom can find a verdict; and in the second instance it is to be done by twenty-five members of the General Conference, without any provision being made for the number of votes necessary to convict. Why in the one case is it required

that twelve shall be necessary to constitute a court, while in the other twenty-five are required? and why is it that in one instance the number necessary to convict is specified, and in the other no provision is made?

We have in the foregoing two distinct courts organized for the trial of a bishop. It is true that one is called an investigation, but it is invested with all the prerogatives of a court, when held in the interval of a General Conference, save as to the finality of its verdict.

*II. TRIAL OF A TRAVELING PREACHER.*

(1) Paragraphs 265 and 268 inclusive provide for the trial of a traveling preacher in the interval of the Annual Conference.

(2) Paragraph 269 provides for the trial of a presiding elder in the interval of the Annual Conference, and is distinct from the provision for the trial of a traveling preacher in that three traveling elders are required to make a more or less formal investigation prior to the investigation of a committee appointed by the bishop of not less than three elders, while in the case of the traveling preacher the bishop or presiding elder calls together not less than three elders, whose work is final in the interval of the Conference and is done without reference to any previous formal investigation. Why such difference? Is a presiding elder entitled to such previous safeguards, while the traveling preacher is not entitled to such consideration?

(3) Paragraphs 271 and 273 inclusive provide for the trial of a traveling preacher when complaint is



made during the session of the Annual Conference. In this provision presiding elders and traveling preachers are to be dealt with on exactly the same terms.

By reference to the preceding history, we find that there are five distinct courts for the investigation and trial of traveling preachers, including the bishops.

The law separates traveling preachers into three classes for judicial investigations: bishops, presiding elders, and elders and deacons. Why a separate judicial tribunal for each class? What is there so peculiar about bishops and presiding elders that they require provisions for investigation and trial, separate from elders and deacons? Is there not a relic of the past in such provisions that partakes of ecclesiastical distinctions, against which Methodism entered its protest? Do not these separate tribunals for the investigation of the moral character of preachers tend to develop and perpetuate class distinctions in the ministry that are uncalled for and hurtful? There are in the law—for the distinctions run back to the beginning—the seeds of high-churchism. Besides this, the law, as it has been in the past and is now, is confusing, and has not only puzzled the administrators, but caused them to make many blunders, and in some cases do much harm. Another evidence against the clearness and efficiency of our present laws is the fact that nine-tenths of the cases appealed to the General Conference are either reversed or remanded for a new trial. Our laws are complicated, and in many respects poorly administered. This is not altogether surprising. The courts are organized at the moment promiscuously from

members of the Conference, usually selected by the bishop presiding, who is not very familiar with the legal ability of the various members of the Conference, and the individuals selected enter upon their delicate and difficult task without opportunity to make previous preparation for the work in hand. It had not occurred to a majority of the court, or perhaps to any of them, that they would be called upon to discharge such duties. Besides this, there is not a large number in any Conference with judicial minds or that have taken pains thoroughly to inform themselves in such matters; and what they know must in a large measure be what some one has told them, and what they do is the result of such information.

The foregoing statements find their illustration in the practical workings of our judicial system.

The writer had his attention called to these things by two or three of the most prominent cases that have ever come up in our Church. They sadly revealed the defects of our judicial system.

The cases above referred to, together with others that have been investigated in other parts of the Church, with such unsatisfactory results, have made the impression on many thoughtful minds that our judicial system is lacking in those safeguards that forbid abuse and insure alike both to the Church and to the accused preachers protection and justice. Such administration of this important department of our church government has done much to impair our confidence in the efficiency of our system of church trials, and in the impartiality and singleness of purpose upon the part of those who are charged with such grave responsibilities.

These things call for such changes in our judicial system as will remove its administration from all influences in any way calculated to defeat justice, and put it on a basis that will secure a more intelligent, efficient, and just administration. In order that these things may be secured, foolish and hurtful class distinctions in the ministry done away with, and the interests of the Church and the rights of preachers more securely guarded, the following suggestions are made:

1. Let each Annual Conference organize a court whose members shall hold office four years. Let the members of said court be elected by ballot from among the members of Conference. Let the court be composed as follows:

(1) Elect a grand jury or committee of investigation, whose duty shall be to investigate all complaints, and when a trial is necessary prepare the case for trial and put the same in the hands of the prosecuting attorney.

(2) Elect a committee or court of trial, who shall have full power to try the case under the laws defining their duties.

(3) Let the bishop appoint a chairman or judge, who shall preside and decide all questions of law arising out of the case, and pass upon all other questions that pertain to the duties of such an officer.

(4) Elect an attorney general or prosecutor for the Conference, who shall discharge all the duties of such an officer.

(5) Let this court investigate and try all cases at the time they are made known, whether in the interval of the Conference or during its session. Let all

such cases be reported in full to the Annual Conference and recorded on its Journal as its own act. Let the findings of the court in each case be final, subject only to an appeal.

2. Such an arrangement will have the following advantages:

(1) Our laws will be simplified and made clearer.

(2) Each preacher's case will be disposed of at once, and with one investigation and trial. If cleared, he can go on with his work; and if condemned, he enters on his penalty at once.

(3) It conforms our jurisprudence more nearly to those forms of investigation and trial that the wisdom of the ages and the best legal minds have found to be the most conducive to justice.

(4) The selection of such a court by ballot from among the members of a Conference to serve four years will secure the best talent for such work, and as their term of office is for a long period and their acts to be passed upon by a higher court, they will make special preparation for the discharge of their delicate and difficult duties.

(5) This arrangement will remove the court from such influences as are inseparable from their appointment as they stand related to the case in hand, the assembled Conference, and the presiding bishop; said appointment, under the law as it now stands, having reference to a special case and only one. Under the proposed change the charge cannot be made that the court was organized to clear or convict the accused, for it is a court provided for and organized without reference to a special case, but is to investigate and try all cases alike.

(6) This arrangement will give such peculiar importance and dignity to the court, and put such responsibilities upon it, as naturally grow out of such an election as it stands related to its constituency, that will secure the best possible results.

(7) This arrangement will result in a much smaller number of cases being reversed or remanded for a new trial—a thing much to be desired.

3. Do away with the present law for the investigation of a presiding elder, and let his case come under the same law that is to govern deacons and elders.

4. Do away with the present arrangements for the trial of a bishop, and let his case be tried by the court for the trial of a traveling preacher in the bounds of whose jurisdiction the offense is alleged to have been committed.

If it be objected to this that a bishop is not a member of an Annual Conference by whose court he is to be tried, and therefore is not subject to its jurisdiction, it may be replied that neither is he a member of the General Conference; and if the fact of not being a member would exempt him in the one case, it would in the other. As a matter of fact, the General Conference can make any arrangement for the trial of a bishop it may think best that is not a violation of his constitutional rights. Such a provision as is here proposed would in no sense be a violation of such rights.

Such a court would be just as competent to try a bishop as it would an elder or deacon, and just as competent as any court that might be organized on any other plan.

There would be the additional advantage of trying the case where the offense is alleged to have been

committed, and where all the evidence can be secured for or against the accused. Then, too, the members of the court would not have to travel great distances, and be at unnecessary expense.

In keeping with the suggestion that a bishop be tried where he is charged with violating the law, and in view of the fact that traveling and local preachers are sometimes complained of for misconduct far removed from the charges in which they hold membership, the Church would do well to provide for judicial proceeding against any and all such cases by the ecclesiastical courts in the bounds of whose territory the offense is alleged to have been committed. If it be thought best not to give complete judicial oversight in such cases, it would be well at least to give such courts the power to act in the capacity of a grand jury, with full power to take all testimony in writing, and prepare such cases for trial by the body to which they belong. We see no reason why such a principle of judicial oversight might not be adopted. There are good reasons for it.

(1) The fact that we are a connectional Church, and that as preachers we are members of such a Church—as much so at least as we are members of a local body—it seems to us, would remove any objections on constitutional grounds.

(2) Some such arrangement would conform our jurisprudence to civil judicial proceedings.

(3) Such investigations could be conducted with much less trouble and expense to all parties.

(4) As the Church cannot compel witnesses to attend its courts, the local court could better procure the needed information.

(5) Such reports could be required as would guarantee all appellate rights.

(6) This would put all preachers on an equality before the law.

5. Let the General Conference elect a court of appeals, made up of an equal number of preachers and laymen, who shall hold office four years. Let this court meet once a year to try all appeal cases and decide all questions of law, and let their decisions be final. Let this court be presided over by a bishop appointed for the purpose by his colleagues.

6. Give traveling preachers and bishops the same right of appeal to this supreme court.

7. The advantages of such a court of appeals, meeting annually, would be as follows:

(1) It would secure a much quicker disposition of each case.

(2) It would separate the judicial, executive, and legislative departments of the Church.

(3) It would place this interest of the Church in the hands of men chosen for a specific work and divorced from all other departments of the government. Such a court would not at the same time be charged with legislative and executive duties, as we now have these departments joined together in such a way as leads to much confusion and dissatisfaction, which is a dangerous combination of powers. A court thus provided would have time to make preparation for the discharge of its delicate responsibilities.

8. Some such changes as the foregoing are demanded to meet our present conditions. Each case to be tried in these modern times is contested as they

were not in former days. Technicalities, the laws of evidence, as well as every phase of a trial, are watched much more closely than ever before, and all the principles and privileges involved in such matters are rigidly applied. Much more is now made of mistakes and blunders than was done in former days. Men whose all is involved in the issue are not to be blamed for such vigilance in their own behalf. Such scrutiny and care are the enemies of tyranny and corruption, and the friends of right and liberty. Such close investigation is to be coveted by the Church, and not repelled. Let the Church be wise, and meet the demands upon her.

9. Let the law which presumes every preacher guilty until he proves himself innocent, and which is a reversal of a fundamental principle in civil law, be repealed. Let us be done with calling each preacher's name, and asking, "Is there anything against him?" This custom has served its day and generation, and ought to be relieved of any further service. Such an arrangement as the foregoing does away with all necessity for it, if such ever existed. If there be anything peculiar in any case, let it be disposed of under the law provided for such, but do not ask in every man's case if there be anything against him.



## CHAPTER XVI.

### RELATION OF LAYMEN TO THE GOVERNMENT OF THE METHODIST EPISCOPAL CHURCH, SOUTH.

IT is a fundamental principle of government that the governed are the ultimate source of authority. The consent of these must be had as to what kind of government they will live under, and as to who shall make and enforce the laws, and on what principle these things shall be done. It is within the power and right of the people, when they desire it, to change the form of their government. If there be impediments in the way of a regular constitutional change—impediments that cannot be peaceably removed—the desired end will be accomplished by means of revolution, a method which is sometimes righteously just, as the early history of this country will show. Even monarchies, absolute and limited, exist with the consent of the citizens of such governments. The authority of the people, which is inherent and original—if you please, constitutional—may assert itself positively, or it may be waived, and government assigned to monarchies and aristocracies. But if it is waived, it can be resumed again when the source of authority decides to resume it. These principles apply alike to civil and religious organizations.

The members of a Church are the ultimate source of authority<sup>1</sup> in all ecclesiastical governments. Their consent must be had in order to peaceful and secure,

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<sup>1</sup> See Matt. xviii. 15-17; Acts vi. 1-6.

as well as successful, government. Their well-being is involved, and they must be the judge of what is the best in the absence of any divine directions in the premises. The members of the Church support the institutions of the ecclesiastical household, and are to be affected by its polity and doctrine, and they therefore must have the voice of regulation. As they and their children are to be taught in religion, and such teaching must be far-reaching in its influence on their character and destiny, they have an inherent right to say how all such matters shall be regulated. These principles are true, whether applied to congregational or episcopal forms of church government—whether it be a Church made up of one society or a number of local churches combined into a connec-tional Church.

It is a question susceptible of historical proof, beginning with apostolic teachings and extending far into the second century, that Church members as a community exercised all functions belonging to Church life; such as preaching, baptizing the people, administering the Lord's Supper, admitting to and excluding from membership in the Church. In a word, the members of a Church had and exercised the voice of government.<sup>1</sup>

In the light of these principles, we come to ascertain the relation of the laity to the government of the Methodist Episcopal Church, South, and to see whether or not any modifications are needed to adapt our church government to changed conditions.

Mr. Wesley, speaking of the origin of the Methodist movement, says: "They had no previous design

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<sup>1</sup> See Organization of the Early Christian Churches, by Hatch, pp. 115-131.

or plan at all; but everything arose just as the occasion offered.”<sup>1</sup> He and his brother Charles, in the year 1738, preached with great earnestness to the multitudes in the open air. His preaching made a profound impression, and produced deep conviction for sin; so much so that many of the people earnestly desired to be saved from sin, but most of them were too ignorant to find their way into the light. Very naturally they turned for help to the men who had, by their preaching, produced such conviction. “One and another and another came to us, asking what they should do, being distressed on every side.”<sup>2</sup> Mr. Wesley advised them to talk and pray together, and help each other in a religious life; but this was not enough:

“But we want you likewise to talk with us often. To direct and quicken us in our way, to give us the advices which you well know we need, and to pray with us as well as for us.” I ask, “Which of you desire this? Let me know your names and places of abode.” They did so. But I soon found they were too many for me to talk with severally so often as they wanted it. So I told them, “If you will all of you come together every Thursday, in the evening, I will gladly spend some time with you in prayer, and give you the best advice I can.” Thus arose, without any previous design on either side, what was afterwards called a society.<sup>3</sup>

On another occasion Mr. Wesley gives an account of the origin of the Methodist societies as follows:

In November, 1738, two or three persons who desired “to flee from the wrath to come,” and then a few more, came to me in London, and desired me to advise and pray with them. I said, “If you will meet me on Thursday night I will help you

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<sup>1</sup> Wesley's Works, vol. v., p. 176.

<sup>2</sup>*Ibid.*, p. 177.

<sup>3</sup>*Ibid.*

as well as I can." More and more then desired to meet with them, till they were increased to many hundreds. The case was afterwards the same at Bristol, Kingswood, Newcastle, and many other parts of England, Scotland, and Ireland. It may be observed, the desire was on their part, not mine. My desire was to live and die in retirement. But I did not see that I could refuse them my help, and be guiltless before God.

Here commenced my power; namely, a power to appoint when and where and how they should meet, and remove those whose lives showed that they had not a desire "to flee from the wrath to come." And this power remained the same, whether the people meeting together were twelve, or twelve hundred, or twelve thousand.

In a few days some of them said: "Sir, we will not sit under you for nothing; we will subscribe quarterly." I said: "I will have nothing; for I want nothing. My fellowship supplies me with all I want." One replied: "Nay, but you want a hundred and fifteen pounds to pay for the lease of the foundry; and likewise a large sum of money to put it into repair." On this consideration, I suffered them to subscribe. And when the society met, I asked: "Who will take the trouble of receiving this money, and paying it when it is needful?" One said: "I will do it, and keep the account for you." So here was the first steward. Afterwards, I desired one or two men to help me, as stewards and in process of time a greater number.

Let it be remarked, it was I myself, not the people, who chose these stewards, and appointed to each the distinct work wherein he was to help me as long as I desired. And herein I began to exercise another sort of power, namely, that of appointing and removing stewards.

After a time a young man, named Thomas Maxfield, came and desired to help me as a son in the gospel. Soon after came a second, Thomas Richards; and then a third, Thomas Westell. These severally desired to serve me as sons, and to labor when and where I should direct. Observe: these likewise desired me, not I them. But I durst not refuse their assistance. And here commenced my power to appoint each of those when and where and how to labor. The case continued the same when the number of preachers increased. . . . On these

terms, and no other, we joined at first; on these we continue joined.<sup>1</sup>

From these accounts of this wonderful movement we learn the following facts:

1. The people who had heard Mr. Wesley preach came to him and asked him to instruct them in the way of life. They sought him, and not he them. They desired to put themselves under his care and direction for religious instruction.

2. There were too many of them for Mr. Wesley to converse with one at a time. He proposed to meet their request if they would meet together as he would direct. They agreed to do this.

3. Those who attended these society meetings proposed to contribute to the support of Mr. Wesley's work. He finally agreed to accept their contributions, and as he was a busy man, with no time to serve tables, he found it necessary to appoint stewards to take charge of these financial interests.

4. A little later on Mr. Maxfield and others came to Mr. Wesley and offered him their services as sons in the gospel. He agreed to accept their help, on condition that they do the work he would assign them from time to time. This offer and acceptance, together with the fact that the people had agreed to be directed by Mr. Wesley in matters of religion, involved two important and far-reaching factors. It was in the first place, a surrender of the right on the part of the ministry to select their own fields of labor. The second point involved in this agreement was, the people had put themselves under Mr. Wesley's direction, and they therefore agreed to accept

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<sup>1</sup> Wesley's Works, vol. v., p. 220.

his help, whether in person or through his assistants. In this way the people surrendered their right to select their own preachers or pastors. This twofold agreement has ever since been known as the itinerant compact.

5. All the foregoing agreements were entered into voluntarily by all the parties interested, and were to be perpetuated just so long as agreeable. The assistants and members could withdraw from Mr. Wesley and he from them at any time any of the parties desired to do so.

The three great facts of the itinerant compact, the surrender of the right to select fields of labor, the right to select pastors, and the directing or appointing power, were all from the very beginning transferred to American Methodism, at first subject only to the modification that Mr. Wesley delegated the appointing power to such persons as he might choose from time to time. When the Church was organized in 1784, this itinerant compact was retained in all of its essential features.

The laity were pleased with, and assented to, what was done at the organization of the Church in 1784. On this point we offer the following evidence:

The Methodists were pretty generally pleased at our becoming a Church, and *heartily united together in the plan which the Conference had adopted.* And *from that time religion greatly revived.*<sup>1</sup>

The Methodist laity waived their right to a voice in the government of the Church, and assented to what was done in 1784, by the preachers; but it does not

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<sup>1</sup> Lee's History, p. 107.

necessarily follow from this that it must or will always remain so.

In 1816, just thirty-two years after the Methodist Episcopal Church was organized in America, we find a formal movement on the part of local preachers seeking membership in the legislative body of the Church; and as they have been classed with laymen in the government of the Church, we recognize this as the first lay movement in this direction. Of this effort we find the following record:

The committee appointed to take into consideration the state of the local preachers beg leave to report, that they have deliberately examined the memorials from certain local preachers which have been referred to them, in which three objects particularly seem to be proposed:

1. That they may have representatives in the General Conference.
2. The government of societies, etc.
3. Be permitted to stipulate for salaries for their services.

Your committee are of opinion that the first of these is inconsistent with the present constitution of the General Conference.<sup>1</sup>

There was a more extensive effort made in 1824 upon the part of the laity, which shows that they were in earnest and their cause was growing in interest and influence. While we cannot determine definitely from the Journal the number of petitions and memorials on this subject, yet it is evident there was a considerable number. In answer to these the General Conference made an elaborate reply. We find the following record in the Journal:

The Committee on Addresses, Memorials, and Petitions report, that it is inexpedient to recommend a lay delegation. They therefore submit for adoption the following resolution:

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<sup>1</sup>Journal of the General Conference, vol. i., p. 166.

*Resolved*, by the delegates of the several Annual Conferences in General Conference assembled, That the following circular be sent in answer to the memorials, petitions, etc. (See file.)<sup>1</sup>

The circular letter referred to above reveals the fact that the laymen asked the General Conference "to admit into the Annual Conferences a lay delegation from each circuit and station, and into the General Conference an equal delegation of ministers and lay members"; or "a representation of local preachers and lay members into the General Conference, to be so apportioned with the itinerant ministry as to secure an equilibrium of influence in that body." To this request the General Conference replied as follows:

We believe the proposed change to be inexpedient:

1. Because it would create a distinction of interests between the itinerancy and the membership of the Church.

2. Because it presupposes that either the authority of the General Conference "to make rules and regulations" for the Church, or the manner in which this authority has been exercised, is displeasing to the Church; the reverse of which we believe to be true.

3. Because it would involve a tedious procedure, inconvenient in itself, and calculated to agitate the Church to her injury.

4. Because it would give to those districts which are conveniently situated, and could therefore secure the attendance of their delegates, an undue influence in the government of the Church.<sup>2</sup>

The question of lay representation was brought before the General Conference again in 1828, but we have not been able to learn from the Journal what action, if any, was taken. It does not appear that

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<sup>1</sup>Journal of the General Conference, vol. I., p. 297.

<sup>2</sup>The Methodist Magazine, vol. vii., 1824, pp. 274, 276.



in 1832-36 the question received any attention. In 1840 the matter was presented again and rejected.

In 1850 the question of laymen's relation to the government of the Church was presented to the General Conference in a new light, and if it had been adopted would in its general results have been far-reaching. The following plan was proposed:

*Resolved*, That a special committee be raised, with instructions to consider and report a bill, if they deem it expedient, for the organization of future sessions of the General Conference of the Methodist Episcopal Church, South, *by two Houses*—an Upper and a Lower House, conformed, as far as may be deemed advisable, to the following outline, viz.:

1. The Lower House shall be constituted as the present General Conference now is, and invested with the same authority, so far as may be judged necessary to conform its relative powers to those of the other branch of the legislature.

2. The Upper House shall be constituted by not less than *one* nor more than *two traveling elders* for each Annual Conference, to be elected by those laymen who are of mature age, and in full connection with the Church. It shall be invested with authority to pass upon all the acts of the Lower House, and shall constitute a High Court of Appeals in the case of the trial and condemnation of the bishop, and to determine all questions of ecclesiastical law that may arise in the administration of the Discipline.

WILLIAM A. SMITH,  
THOMAS CROWDER.<sup>1</sup>

The General Conference of 1854 and 1858 rejected renewed efforts in behalf of lay representation.

In 1866 the General Conference, the Annual Conferences concurring, admitted laymen as members of the General and Annual Conferences.

The rights of the lay members of the General Conference were raised at the General Conference in

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<sup>1</sup>Journal of the General Conference, 1850, pp. 146, 147.

1890. The Tennessee delegation appointed Judge E. H. East on the Committee on Appeals, whereupon the question of his right to act on said committee was raised. The matter was disposed of as follows:

Pending the nomination of the standing committees, the question was raised whether laymen were eligible to membership on the Committees on Appeals and Episcopacy. The reason assigned for their exclusion was that these committees were appointed to consider subjects that related to ministerial character. The chair [Bishop Keener] ruled that laymen were not eligible to appointment upon these committees.

From this decision Paul Whitehead appealed.

Pending the consideration of the appeal, it was withdrawn, and notice given that it would be renewed at the next session.<sup>1</sup>

On May 8th the above question was brought forward as follows:

T. A. Kerley, B. F. Haynes, and D. C. Kelley moved the following:

“Resolved, That it is the sense of this General Conference that lay members of this body are eligible to appointment on all its committees.”<sup>2</sup>

The foregoing was adopted May 9th, after sundry motions and one amendment had been voted down.

The Hon. J. S. Candler spoke of the above as a simple resolution without any binding force. He said: “If this resolution should be passed, to use a legal phrase, it would be *functus officio*.”<sup>3</sup> Bishop Keener, in 1894, spoke of the matter as though it were a simple resolution or a point of order. It was neither an ordinary resolution, nor was it a question of order, but it was a judicial interpretation of the

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<sup>1</sup>Journal of the General Conference, 1890, p. 45.

<sup>2</sup>*Ibid.*, p. 52.

<sup>3</sup>*Daily Advocate*, 1890, Saturday, May 10.

law, admitting laymen to membership in the law-making body of the Church. The General Conference could not have acted otherwise than in its judicial capacity on this question, for a case had come up under this very law which gave equal numbers and rights to lay members with clerical members. Judge E. H. East, a layman of the Tennessee Conference delegation, was nominated by said delegation as a member of the Committee on Appeals. The question was raised as to his right to membership on said committee. Bishop Keener, in the chair, decided that laymen were not eligible to membership on the Committees on Episcopacy and Appeals, on the ground that they had to pass upon ministerial character. It was on this question, in this attitude, that the resolution was offered proposing to construe the law judicially in relation to the case which had arisen, and it "was adopted by a decided majority."

The fact that the General Conference in 1866, and the Annual Conferencès concurring, made the distinction in the law in the General and Annual Conferences limiting the lay members in their rights in the latter, but not in the former, shows that they intended it to be that way. If the position of the College of Bishops, as expressed in their veto message in 1894, be true, that the whole plan of lay delegation is a constitutional provision, then the equal rights of lay members with the clerical members in the General Conference can be taken from them only by a concurrent constitutional vote of the General and Annual Conferences. But, be this as it may, the question as to what the law is, and what rights and powers it confers, is one that applies only to the composition

of the General Conference and the rights of one-half of its members, and cannot therefore be interpreted anywhere else than in the General Conference, and then *only by that body acting in its judicial capacity in relation to a case over which it has jurisdiction.* This the General Conference has done, and the decision cannot be treated as a question of order or an ordinary resolution.

The law admitting laymen to membership in the Annual Conferences gives them the right to "participate in all the business of the Conference except such as involves ministerial character." We think the time has come when this restriction ought to be removed. It denies laymen a right in Annual Conferences which they exercise in the General Conference. They have to help license and hear the preachers, and support them, and they ought, as a matter of right, to be allowed, with the clerical members, to pass upon their moral fitness to preach the gospel. There are two objections urged against this view. The first is that a preacher ought to be tried only by his peers. In answer to this we call attention, in the first place, to the fact that Jesus Christ, in his law of trial in Matthew xviii. 15-17, makes no such distinction as is made in our Church law. In the second place, the trial by peers, as it is known in English law, has no place in American jurisprudence. Mr. Cleveland would be put on trial for an offense against our laws before a jury of everyday, ordinary citizens. The Bible and American institutions are both adverse to such distinctions as we have in our Church law. We affirm that laymen are as much the peers of a preacher as one

preacher is the peer of another. That this is true, is evident from the practice of the early Church. Mr. Hatch says: "St. Paul addresses the whole community, and urges them to meet together, and exercise the power of expulsion in the case of one who was guilty of open sin. (1 Cor. v.) Clement

. . . does not question the right of the community to remove its officers if it thinks fit. Polycarp urges that a presbyter who had been removed should be restored. Polycarp, like Clement, and like St. Paul, addresses the community at large; in doing so, he implies that it was with the community that the power of restoration lay.

At first the vote of laymen, as well as of officers, was taken in cases of discipline, and so late as the fifth century the existence of the disciplinary rights of laymen is shown by the enactment of an African council that a parish must not excommunicate its clergyman."<sup>1</sup>

The other objection to the proposed change is a constitutional one, which we have already discussed in another part of this work, to which the reader is referred. But if it be true that it is a constitutional provision, then let it be removed constitutionally, and put the laity in right relation to this question.

In this connection, we suggest another change in our law, in order that laymen may be truly representative, and in their official capacity have a real connection with the membership of the Church. We think the members of the Quarterly Conference ought to be elected by the members of the Church Conference who are twenty-one years of age, on nomination of the pastor, instead of by the Quarterly Conference.

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<sup>1</sup>The Organization of the Early Christian Churches, pp. 119, 120, 128.

This change would recognize the ultimate source of authority, and give it the right to express itself, and we believe to the advantage of the Church. As a matter of principle, it is right that the change be made; and when this is true, we need not fear the results. Such a change will in no sense be in conflict with the polity of Methodism in its fundamental principles, for the lay members of the General Conference are elected by the lay members of the Annual Conferences, and the lay members of the latter are elected by the lay members of the District Conferences, and these by the Quarterly Conferences. Now why such an unseemly crack in our economy at the point where the members of the Quarterly Conference elect themselves, instead of provision being made for their election in the Church Conference?

We have seen in the first part of this chapter that at the very beginning of Methodism the preacher waived his right to select his field of labor, and the church its right to select its pastor. This has been the law of the Church ever since. The whole matter is in the hands of the bishop, and he is responsible for the appointments.

On two former occasions we have expressed our decided preference for the fundamental compact of the itinerancy as we received it from the fathers, and we think now if all parties could and would adhere to it rigidly, and our bishops could hold all to it impartially, it is the best arrangement for the work in hand. But candor compels us to say that the compact is no longer lived up to by many preachers and people, and the difficulties are largely augmented by our bishops to a considerable extent yielding to the pressure

from both sides. As a matter of fact, we are at the "forks of the road,"<sup>1</sup> and it is a question of practical moment whether, after all, we are not there by the logic of conditions that are in their nature inevitable.

We are now involved in the following facts and conditions in relation to our itinerant compact:

1. We have the law which requires every preacher to waive his right to select his field of labor, and the church its right to select pastors, and we have the law in its relation to its origin and development. At first the preachers were nearly all unmarried men, were comparatively few in number, and were changed from every three to six months. The country was new, and the people simple in their habits and wants. The conditions of the country and Church were remarkably free from perplexing complications. Things were homogeneous. Salaries were regulated by law, and the essential feature of that law was equality. There were very few temptations to induce preachers to seek places, and places preachers. In view of all these facts, it was a very easy matter for the bishops to know the conditions and wants of both preachers and churches.

2. In contrast with the above facts and conditions, our country has grown in age, and with this growth new conditions of civilization, complicated interests, powerful influences, and immovable difficulties render the administration of our ecclesiastical economy, under the old order of things, far more delicate and difficult than in other years. There are diversified demands in many of our pastoral charges that require almost superhuman wisdom to solve, when it comes

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<sup>1</sup> Bishop O. P. Fitzgerald.

to making the appointments; and these things will become more difficult to adjust with coming years. On the other hand, preachers and their families, with all their demands, have to be adjusted so that the preacher can meet the demands upon him, and at the same time provide for his children food and raiment and education, and with these whatever pertains to their well-being; and all of this must be done oftentimes far removed from educational advantages, and on meager salaries. All these facts and conditions induce preachers and churches alike to take a very lively interest in the making of the appointments. A Methodist bishop of to-day, in this one great question, has difficulties to contend with that his predecessors knew not of, and when viewed in all their bearings and possibilities, are enough to almost crush him. To meet these obligations it requires the tenderness of a woman, the wisdom of a Solomon, and the firmness of a Wesley. He must be above prejudice, without partiality, and a stranger to a partisan spirit.

3. One of the practical difficulties of our diversified interests and complications is the utter impossibility of our bishops procuring such minute and accurate knowledge of the interests and demands of churches and preachers as is necessary for an intelligent and impartial discharge of the duties of his office, as an appointing power. Take an episcopal district that reaches from Bristol, Tenn., to San Francisco, Cal., in which is included six or seven Annual Conferences, with seven or eight hundred preachers and their families, and with as many pastoral charges, with almost endless interests to be looked to, all of which are more or less important, and anyone may see at a



glance that no one man can know the conditions as they ought to be known for an intelligent discharge of such duties. The difficulty is increased by the fact that the bishop will receive hundreds of personal suggestions and applications, involving the most delicate interests, the environments of which he never will or can know. But we are told these difficulties are met through the presiding elders. How and to what extent, what immediately follows will tell.

4. Intimately connected with the above point is the fact that the more prominent churches and preachers in the Annual Conferences have for years to a great extent ignored the presiding elders in their appointments. There is beyond a doubt some cause for this. This fact is all the more prominent for the reason that the bishops, with few exceptions, have joined these leading churches and preachers in a practical rejection of the presiding elders in this class of appointments. It is now a very common thing for leading churches and preachers never to be mentioned in a cabinet meeting of presiding elders. They are not consulted by either bishop, preacher, or churches, and they are ignorant as to what is going on in this direction, save as to what they can guess. In marked contrast with this is the fact that the presiding elder is to a large extent recognized by all parties in another class of appointments; but from this quarter he has to meet the same conditions and demands that the bishop has to meet in the other, and the compact is violated as much through the presiding elder as through the bishop. The presiding elder practically determines the questions involved that decide how the appointments shall be made where he is recognized, and the

bishop sanctions largely what is done on the judgment of the presiding elder. To a great extent the bishop secures his information, independent of the presiding elder, by which he determines the appointments of the more influential preachers and churches, but relies largely on him for information in regard to the other class of preachers and appointments. These are conditions and facts that have causes, and will produce results sooner or later. It may be too early to dogmatize on either.

5. All the foregoing facts bearing on this question have led to such a lively interest in the appointments on the part of preachers and churches as has made them very urgent in their demands on the appointing power, that they may have their wishes complied with. This has caused all parties involved to a great extent to lose sight of the itinerant compact; and out of these conditions has grown up among us a disposition to contend for men and places. The laity are not only demanding a right to be heard in the selection of their pastors, but in many instances they select the man. That they have rights in this direction, if they choose to exercise them, is not denied. But the assertion of this inherent right, as matters now stand, is not only a violation of the compact, but is largely unofficial and personal. The thing is being done. The vital question is, whether it shall be done according to law, or in disregard of law.

6. Another factor in the problem, more particularly in its relation to the preacher, is the profound secrecy with which all this work is done. Under this secret cover many things are said and done that have produced painful results; and if it had been under-

stood in advance that the parties would be required to face their work in such a way as that both sides could have an official and an impartial hearing, much semi-official and personal information would be withheld or given in an impartial way. In many instances one or two individuals, claiming to represent an entire pastoral charge, have had preachers removed to their great harm and with bad results to the church, to gratify some personal whim of opposition to one man and preference for another; and this too in the face of the fact that nine-tenths of the best people in the church did not desire or expect a change. In such cases the preachers and their families are sacrificed without a cause. We could give many instances, if it were necessary, to confirm the truth of these statements.

7. Since the laity of the Church have an inherent right to a voice in the selection of their pastors, and since they are exercising said right to a great extent in a semi-official and personal way, in violation of our itinerant compact, the practical question is, How can we adjust our economy so as to recognize this right in a lawful and regular manner, and at the same time put a stop to lawlessness in this direction? If we maintain our polity, and retain the respect of all parties involved, we must require all things to be done in a lawful and regular manner; and the law of action must be the agreement of all parties to the transaction, and then carried out impartially. It seems clear to us that we are at the "forks of the road," and notwithstanding our glorious past the logic of the situation forces upon us the conclusion that in the near future there will have to be an ad-

justment of the fundamental principle of our itinerant system to existing conditions that are the product of modern developments. The laymen are exercising their inherent rights in the premises without an agreed basis. We may be sure that there will be no retrograde movement in this matter.

8. The practical question that now confronts us is, how to meet the conditions with law so as to preserve the itinerancy and the rights of both laymen and preachers. It is not an easy problem to solve, but it can be done; and if we are wise and equal to the demands upon us, we will do it.

The only way we can think of is to confer on the lay members of the District Conference the right to elect a member within the bounds of the district, by ballot, to represent it in the bishop's cabinet, in connection with the presiding elder.<sup>1</sup> Then change the law so as to make all information that is to have any influence on the appointments the common property of the bishop and his entire cabinet. Require all information from churches to be official—the act, say, of the fourth Quarterly Conference. When it is adverse to the pastor and reflects on his fidelity, let him know it; and if he desires, let him be heard in his own behalf before the bishop and his cabinet. If a true man, he will learn and improve by such a course; if not, he will soon get out of the way.

This plan would make legal and official what the laymen are now doing; recognize their right to be heard, shut off all purely personal representations, destroy the ground for suspicion of unfair dealing

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<sup>1</sup>We are indebted to the Rev. W. R. Peebles, of the Tennessee Conference, for the germ of this plan.

under our present arrangement, where matters are kept a profound secret, and save the preachers from many heartaches and the churches from hurtful consequences. Another benefit will be that the bishop will no longer be confined in his information to a few churches and preachers, but will, on the other hand, be recognized as the bishop of the entire Conference; which, whether he knows it or not, is not the fact in the minds of some, and the number who feel that way is growing; and he will no longer be imposed upon from any quarter with purely personal representations based on prejudice. The great points to be gained are to recognize the inherent right of the laity to a voice in the question, which they are exercising without law, according to law; and do away with all purely personal and clandestine representations. In these two things much will be gained, and will perhaps meet our demands for a long time.

It is not proposed in the foregoing in any way to lessen the appointing power of the bishop, but simply to confine him in his action to official information that has been submitted to him and his cabinet, and there carefully scrutinized. Let the bishop, after he has had the matter before him officially, and it has been officially considered both by the laymen and presiding elders in cabinet, decide each case in the light of the facts.

