

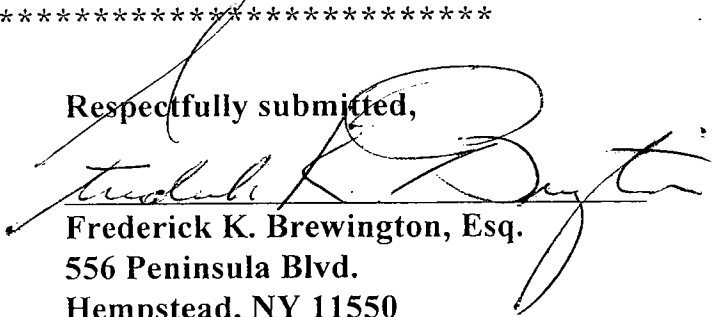
DOCKET ITEM NO. 1012-2

IN THE
JUDICIAL COUNCIL OF
THE UNITED METHODIST CHURCH

In Re: Request from General Conference for a Declaratory Decision as
to the Constitutionality of Legislation Approved as Calendar Item 355
Regarding Guaranteed Appointments

INTERESTED PARTY BRIEF OF THE MAKER AND COLLEAGUES OF
THE ORIGINAL REQUEST FOR A DECLARATORY DECISION

Respectfully submitted,



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**JUDICIAL COUNCIL OF THE UNITED METHODIST CHURCH
OCTOBER 2012 DOCKET
ITEM 1012-2**

IN RE: Request from General Conference for a Declaratory Decision as to the Constitutionality of Legislation Approved as Calendar Item 355 Regarding Guaranteed Appointments

Submitted: August 24, 2012

INTERESTED PARTY BRIEF OF THE MAKER AND COLLEAGUES OF THE ORIGINAL REQUEST FOR A DECLARATORY DECISION ON 2609.1, 2609.2, AND 2610.2 SUBDIVISION A: DOES CALENDAR ITEM 355 OF THE 2012 GENERAL CONFERENCE REMOVING GUARANTEED APPOINTMENTS VIOLATE EITHER THE THIRD RESTRICTIVE RULE OF THE CONSTITUTION UNDER 19 BY SETTING UP A PROCESS THAT CAN DO AWAY WITH THE AUTHORITY OF OUR EPISCOPACY IN OUR DENOMINATION AND/OR THE FOURTH RESTRICTIVE RULE OF THE CONSTITUTION, WHICH IS 20, BY TAKING AWAY A RIGHT OF CLERGY WITHOUT A HEARING, TRIAL OR RESORT TO ANY FORM OF APPEAL AND/OR IN VIOLATION OF HISTORICAL PRECEDENCE TO THE CONTRARY?

The undersigned, as more fully defined below, submit this interested party brief for consideration by the Judicial Council of The United Methodist Church, arising out of the action of the 2012 General Conference in adopting a calendar items that sought to eliminate security of appointment and made related changes to provisions around transitional leave.

In the spirit of Holy Conferencing, it is respectfully asserted that the Judicial Council should enter a judgment declaring that General Conference Calendar Items 352, 355, 358 and 359 are unconstitutional and therefore null, void and of no effect.

We urge the Judicial Council to uphold the primacy of the denomination's Constitution, affirming the plan of our itinerant general superintendency and affirming the privileges of our clergy of right to trial and appeal, and declare unconstitutional any Disciplinary provisions violating those Constitutional provisions.

**Frederick K. Brewington, Esq.
Kevin M. Nelson, Home Missioner
Rev. Timothy J. Riss**

I.	<u>INTRODUCTION</u>	6
A.	<u>Basis for this submission</u>	6
B.	<u>Statement of Facts and General Conference Action</u>	6
	1. <u>Opening Statement</u>	6
	2. <u>Text of Calendar Item 355</u>	7
	3. <u>Text of Calendar Item 352</u>	9
	4. <u>Text of Petition 20299-MH-334</u>	10
	5. <u>Text of Calendar Item 359</u>	10
	6. <u>Text of Calendar Item 358</u>	11
	7. <u>Request for a Declaratory Decision</u>	13
	8. <u>Jurisdiction</u>	14
C.	<u>Summary of Argument</u>	15
	1. <u>Calendar Items 352 and 355 (security of appointment) unconstitutionally violate the Third Restrictive Rule</u>	15
	2. <u>Calendar Items 358 and 359 (transitional leave) unconstitutionally violate the Fourth Restrictive Rule</u>	15
II.	<u>BACKGROUND</u>	16
A.	<u>The Plan of Our Itinerant General Superintendency</u>	16
	1. <u>Historical Background</u>	16
	a) <u>Overview</u>	16
	b) <u>Evolution of Episcopal Power in American Methodism and the Rise of General Conference</u>	19
	c) <u>The Covenant of the Appointment System</u>	35

2.	<u>Disciplinary Provisions for Security of Appointment</u>	36
B.	<u>Transitional Leave</u>	38
1.	<u>Overview</u>	38
2.	<u>Disciplinary Provisions</u>	39
C.	<u>Privileges of Our Clergy of Right to Trial by a Committee and of an Appeal</u>	40
1.	<u>Historical Background</u>	40
D.	<u>Ordination as a Life-Time Commitment and a Two-Way Commitment</u>	41
III.	<u>ARGUMENT NUMBER ONE: THE POWERS OF GENERAL CONFERENCE AND THE THIRD RESTRICTIVE RULE</u>	49
A.	<u>The Powers of GC: Section II, Article IV, ¶16</u>	49
B.	<u>Restrictions on Power of GC: The Third Restrictive Rule, Section III, Article III, ¶19</u>	49
C.	<u>The Plan of Our Itinerant General Superintendency</u>	50
D.	<u>Relevant Judicial Council Decisions</u>	51
1.	<u>Decision 380</u>	51
2.	<u>Decision 459</u>	53
3.	<u>Decision 462</u>	53
4.	<u>Decision 492</u>	54
E.	<u>Effect of General Conference Action</u>	54
F.	<u>Assertion</u>	55
IV.	<u>ARGUMENT NUMBER TWO: THE POWERS OF GENERAL CONFERENCE AND THE FOURTH RESTRICTIVE RULE</u>	56
A.	<u>The Powers of GC: Section II, Article IV, ¶16</u>	56

B.	<u>Restrictions on Power of GC: The Fourth Restrictive Rule, Section III, Article IV, ¶20</u>	56
C.	<u>Privileges of Our Clergy of Right to Trial and of an Appeal</u>	56
D.	<u>Relevant Judicial Council Decisions</u>	57
	1. <u>Decision 351</u>	57
	2. <u>Decision 459</u>	58
	3. <u>Decision 462</u>	60
	4. <u>Decision 492</u>	61
	5. <u>Decision 522</u>	62
	6. <u>Decision 557</u>	66
	7. <u>Decision 595</u>	66
	8. <u>Decision 982</u>	67
E.	<u>Effect of General Conference Action</u>	67
	1. <u>Transitional Leave</u>	67
	2. <u>Elders in Good Standing vs. Unacceptability for Appointment</u>	68
	3. <u>Stripping Away Protection of Rights</u>	68
F.	<u>Assertion</u>	69
V.	<u>COUNTER-ARGUMENTS</u>	71
A.	<u>Previous examples [should they exist] of clergy involuntarily not being appointed to a ministry setting would imply that security of appointment is not integral to our plan of the itinerant general superintendency</u>	71
B.	<u>Transitional leave is an appointment and thus satisfies the requirement for an appointment</u>	71

C. Involuntary appointment to transitional leave is indeed an acceptable appointment because it still involves protection of clergy rights via the process for approval by the clergy session of Annual Conference, per 33.....72

VI. CONCLUSION.....73

A. Unconstitutionality of Calendar Items 352 and 355.....73

B. Unconstitutionality of Calendar Items 358 and 359.....73

I. INTRODUCTION

A. Basis for this Submission

Frederick K. Brewington, Esq., laity, and Rev. Timothy J. Riss, clergy, were voting delegates to General Conference, and Home Missioner Kevin M. Nelson, laity, was a reserve delegate to General Conference; all were members of the New York Annual Conference delegation for the General Conference of 2012. Mr. Brewington initiated the request for a declaratory decision on this matter from the floor of General Conference, and Mr. Nelson and Rev. Riss are colleagues of Mr. Brewington. As such, Mr. Brewington, Home Missioner Nelson and Rev. Riss are interested parties in relation to this case. It is in these roles that the instant brief is respectfully submitted.

B. Statement of Facts and General Conference Action

1. Opening Statement

The 2012 General Conference made a number of decisions that effected changes to the plan of our itinerant general superintendency and the privileges of our clergy of right to trial and appeal.

Calendar Item 355, which is set out below, made a critical change in ¶337 of the 2008 Book of Discipline.¹ Amongst a number of other revisions, in sub-point one, it deleted the sentence, "All elders in full connection who are in good standing in an annual conference shall be continued under appointment..." except for under special circumstances like retirement, sabbatical or leave of absence; however, petition 20299, which would have deleted the corresponding sentence in 334, was rejected in committee. Calendar Item 352 extended to Associate Members the change deleting the sentence on security of appointment.

¹ All future references to ¶ or ¶¶ is intended to refer to paragraph numbers contained in the applicable Book of Discipline.

Calendar Item 359 made a key change that deleted the 2008 language on transitional leave which had allowed for clergy to request transitional leave under only a very limited provision-transitioning from an extension ministry appointment to another appointment-for a period lasting a maximum of 12 months.

Calendar Item 358 moved the language on transitional leave to a new paragraph and made changes that included a new provision allowing for transitional leave at the initiation of the bishop, and allows it for the reason of not otherwise being appointed, and with the possibility of lasting up to a maximum of 24 months. A new sub-point 4 also explicitly states that "clergy on transitional leave of absence shall have no claim on conference funds."

On the morning of Friday, May 5, 2012, following points raised on the floor of the General Conference by members of that body, Frederick K. Brewington, Esq., rose to request a declaratory decision regarding the elimination of security of appointment. This request was seconded and sustained. Although Mr. Brewington specifically cited only Calendar Item 355, Calendar Items 352, 358, and 359 and Petition 20299 are intrinsically linked and intertwined to this issue, and thus all will be addressed in this brief. Further, Mr. Brewington clearly referenced his intent to seek "a declaratory decision from the Judicial Council regarding guaranteed appointments."

2. Text of Calendar Item 355

At 8:29 AM on May 1, 2012, General Conference adopted Calendar Item 355. Unbeknownst to many delegates, this calendar item appeared on Consent Calendar A05 and was adopted by consent along with 146 other items, appearing on p. 2178 of the Daily Christian Advocate (DCA).

As reported on p. 2438 of the DCA, efforts had been made the previous day to lift Calendar Item 355 off of the consent calendar. The request was timely filed, however, the request was denied

due to an error in one of the signatures, dropping the number of valid signatures below the minimum requirement. The notice of this infirmity was made known to the proponents of the application to lift the matter from the consent calendar until after the passage of the time in which to file such a request. Accordingly, no opportunity to cure this minor error was available or made available.

Later that morning, after becoming aware of this oversight, Rev. We Hyun Chang, of the New England Annual Conference, who had voted for adoption of Calendar A05, made a motion to reconsider Calendar Item 355 (reported on pp. 2438-2439 of the DCA). The motion was seconded and a debate ensued with a number of delegates supporting Rev. Chang's argument that this was a matter that warranted an opportunity "to really listen to another on this important matter."

As reported on p. 2439 of the DCA, the motion for reconsideration did not pass by a vote of 373 [yes] to 564 [no].

The text of Calendar Item 355 is as follows:

Calendar Item 355, Calendar A05, Petition 20303-MH-337, ADCA p. 1428, DCA p. 2178

Amend

¶337. General Provisions-

~~1. All elders in full connection who are in good standing in an annual conference shall be continued under appointment by the bishop unless they are granted a sabbatical leave, an incapacity leave (357), family leave, a leave of absence, retirement, or have failed to meet the requirements for continued eligibility (334.2, .3), provided that if the elder is appointed to serve in an affiliated relationship in a missionary conference (586.4.b) and that appointment is terminated by the bishop who presides in the missionary conference, then the responsibility for meeting this obligation rests with the bishop of the conference of which the elder is a member.19~~

2. ~~1. In addition to~~ Ordained elders, and persons who have been granted a license for pastoral ministry and who have been approved by vote of the clergy members in full connection may be appointed to local churches as pastors in charge under certain conditions, ~~which are specified in ¶¶315-318~~. All clergy members and licensed local pastors to be appointed shall assume a lifestyle consistent with Christian teaching as set forth in the Social Principles.

3. ~~2.~~ Elders and deacons ~~in full connection~~,

...c) All persons in such appointments ~~should~~ shall:

...3. In the case that an elder or associate member in good standing is not continued under appointment one of the following steps shall be taken:

a) If the elder is not continued because a missional appointment is not available, then the bishop shall recommend the elder to the Board of Ordained Ministry for transitional leave (XXX).

b) If the elder is not continued because of ineffectiveness then the bishop shall initiate an administrative process in 361 at least 90 days prior to the annual conference.

4a: "Each annual conference shall quadrennially name a task force consisting of: four members named by the Conference Lay Leader; at least two clergy members from the Board of Ordained Ministry nominated by the Chair of the Board of Ordained Ministry and elected by the clergy session; a superintendent named by the Bishop; and the Bishop. The task force shall meet annually to develop a list of criteria to guide the Cabinet and Bishop as they make missional appointments.

4b: "The Cabinet shall report the following information annually to the Board of Ordained Ministry Executive Committee: 1) those elders, provisional elders and associate members who have not received a full-time missional appointment and the rationale; 2) those elders, provisional elders and associate members who have not received an appointment for reasons of ineffectiveness and the steps which have been taken in the complaint process; 3) statistics by age, ethnicity and gender of elders who have not received a full-time missional appointment; and 4) learnings that have been gleaned as appointment-making is carried out in a new way. This data will also become a part of the agenda of the Committee on the Episcopacy at the conference and jurisdictional levels. This data will also become part of the evaluation of bishops by the Committee on the Episcopacy at the conference and jurisdictional levels."

3. Text of Calendar Item 352

Along with Calendar Item 355, Calendar Item 352 was adopted at 8:29 AM on May 1, 2012 on Consent Calendar A05. The text is as follows:

Calendar Item 352, Calendar A05, Petition 20285-MH-321, ADCA p. 1408, DCA p. 2178

Amend by deletion

¶321. Eligibility and Rights of Associate Members-Associate members of an annual conference are in the itinerant ministry of the Church and are available on a continuing basis for appointment by the bishop. They offer themselves without reserve to be appointed (and to serve as their superiors in office shall direct). They shall be amenable to the annual conference in the performance of their ministry ~~and shall be granted the same security of appointment as provisional members and members in full connection....~~

4. Text of Petition Number 20299-MH-334

Petition 20299-MH-¶334 was rejected by committee at 4:57 PM on April 28, 2012. The text is as follows:

Non-Calendar Item, Petition 20299-MH-334, ADCA p. 1423, DCA p. 2201

Amend by deletion

~~¶334. Ministry, Authority-, and Responsibilities of an Elders in Full Connection- An elder in full connection is authorized to give spiritual and temporal servant leadership in the Church in the following manner:~~

~~1. Elders in full connection shall have the right to vote on all matters in the annual conference except in the election of lay delegates to the general and jurisdictional or central conferences (602.1a) and shall share with deacons in full connection responsibility for all matters of ordination, character, and conference relations of clergy. This responsibility shall not be limited by the recommendation or lack of recommendation by the Board of Ordained Ministry, notwithstanding provisions which grant to the Board of Ordained Ministry the right of recommendation.13 They shall be eligible to hold office in the annual conference and to be elected delegates to the general and jurisdictional or central conferences under the provision of the Constitution (35, Article IV). Every effective elder in full connection who is in good standing shall be continued under appointment by the bishop provided that if the elder is appointed to serve in an affiliated relationship in a missionary conference (586) and that appointment is terminated by the bishop who presides in the missionary conference, then the responsibility for meeting this obligation rests with the bishop of the conference of which the elder is a member.14....~~

5. Text of Calendar Item 359

Calendar Item 359 was adopted at 8:29 AM on May 1, 2012 on Consent Calendar A05.

Calendar Items 334 and 335 also made changes to this paragraph, but they did not affect the substance of this calendar item. The text is as follows:

Calendar Item 359, Calendar A05, Petition 20309-MH-354, ADCA p. 1437, DCA p. 2178

Amend by deletion

~~¶354. Voluntary Leave of Absence-~~

~~2. A voluntary leave of absence may be taken for a variety of reasons:...~~

~~c) Transitional Leave-A leave granted for up to twelve months with approval of the bishop and the Board of Ordained Ministry Executive Committee to provisional and associate members and full clergy members in good standing who are temporarily between appointments:~~

~~A transitional leave of absence may be granted for the following reasons:-~~

~~(1) A provisional or full member deacon needs to seek and secure an appointable primary position-compensated or nonsalaried:-~~

~~(2) A provisional member, associate member, or full member elder needs to transition from an extension ministry to another appointment:-~~

~~During transitional leave, the clergy person shall provide quarterly substantiation of his or her effort to obtain such an appointable position to the bishop and to the Board of Ordained Ministry Executive Committee:-~~

~~3. Written request for a voluntary leave of absence , with the exception of transitional leave, should be made at least ninety days prior to the annual conference...~~

~~11. When an end to voluntary leave of absence is requested , except for transitional leave, it shall be by written request at least six months prior to the session of annual conference....~~

~~Renumber subsequent paragraphs.~~

6. Text of Calendar Item 358

Calendar Item 358 was adopted at 8:29 AM on May 1, 2012 on Consent Calendar A05. The text is as follows:

Calendar Item 358, Calendar A05, Petition 20308-MH-300, ADCA p. 1400, DCA p. 2178

Insert New Paragraph After current Paragraph 353 and renumber subsequent paragraphs -

Transitional Leave - 1. In order for the church to be missional in its focus, and flexible in appointment making, associate, provisional, and members in full connection may move into the status of transitional leave for up to 24 months during a period of time that they are between appointments. A request to the Board of Ordained Ministry for transitional leave may come from a clergy person or a bishop and cabinet whenever it is clear that appointive service will be interrupted. The request must come at least 90 days prior to the annual conference session. Transitional leave requests require the approval of the bishop and cabinet and the annual conference board of ordained ministry and shall include a plan, developed by the clergy person and the Cabinet, for future service to the church, appointive or otherwise.

The bishop and cabinet shall give to the clergy member and the Board of Ordained Ministry in writing specific reasons for the request. The clergy person has the right to an interview with the Conference Relations Committee of the Board of Ordained Ministry and may choose a clergy person in full connection from the Annual Conference to accompany him or her to the interview with the right of voice. This leave is subject to the approval of the clergy

session of members in full connection with the annual conference.

A transitional leave of absence may be granted for the following reasons:

(1) An associate member, provisional or full connection elder is not appointed.

(2) A provisional or full member deacon needs to seek and secure an appointable primary position-compensated or nonsalaried.

(3) A provisional member, associate member, or full member elder needs to transition from an extension ministry to another appointment.

2. Between sessions of the annual conference, transitional leave of absence may be granted or terminated for a deacon, with the approval of the bishop and district superintendents, by the executive committee of the Board of Ordained Ministry. 40 This interim action shall be subject to the approval of the clergy session of members in full connection with the annual conference at its next session.

3. Should there be active complaints or charges, a request for transitional leave of absence shall not be permitted until those complaints or charges have been resolved. At the resolution of completion of an administrative or judicial complaint process, a clergy respondent may be placed on transitional leave if the process has taken at least 90 days following initial notification of the complaint to the respondent.

4. Clergy on transitional leave of absence shall have no claim on the conference funds. Notwithstanding the foregoing, where the conference has made certain elections under applicable benefit plans that require continued participation by clergy on voluntary leaves of absence, the clergy shall continue to participate in such plans. They may participate in the conference health program through their own contributions, if applicable.

5. Clergypersons on transitional leave shall be eligible for membership on annual conference committees, commissions, or boards. They may vote for other clergy delegates to general or jurisdictional conferences and may be elected to serve as delegates themselves.

6. After consultation and with the written consent of the pastor in charge, and with the approval of the district superintendent and the staff-parish relations committee of a local church, clergy members shall designate a charge conference within the bounds of the annual conference to which they shall relate and submit an annual report. They shall report all marriages performed, baptisms administered, funerals conducted and other ministerial activities to the charge conference, pastor in charge, and Board of Ordained Ministry. The exercise of this ministry shall be limited to the charge conference to which they relate and with the written permission of the pastor in charge unless special permission is granted by the bishop of the conference where membership is held. With the permission of the bishop of the conference where membership is held, under the supervision of the district superintendent, the clergy member may preach, teach, perform marriages, and, if holding sacramental privileges, administer the sacraments outside of the charge where membership is held.

7. Those on transitional leave of absence shall be held amenable to the annual conference for their conduct and the performance of their ministry. In case of failure to report to the Board of Ordained Ministry, the complaint procedures may be invoked (361).

8. Clergy members on transitional leave of absence may, with the permission of the bishop and with the approval of the United Methodist Endorsing Agency, continue to hold an existing reserve commission as an armed forces chaplain, but may not voluntarily serve on extended active duty.

9. "The transitional leave shall NOT be counted as a part of the eight year limit for provisional members (paragraph 327)."

7. Request for Declaratory Decision

The following request for a declaratory decision on the matter of the elimination of security of appointment and the privilege of clergy right to trial and appeal was made and adopted on Friday morning, May 5, 2012. The text is as follows:

Request for a Declaratory Decision, DCA p. 2760

Daily Christian Advocate, May 5 2012, P. 2760

Friday Morning Proceedings

Elimination of Guaranteed Appointment Referred for Judicial Council Declaratory Decision

FREDERICK K. BREWINGTON (New York):

Fred Brewington, New York Annual Conference, Lay. I rise to seek a request for a declaratory decision from the Judicial Council regarding guaranteed appointments. Is that in order at this time?

BISHOP OUGH:

It is in order. Let me see if there's a second to it.

MULTIPLE VOICES:

Second.

BISHOP OUGH:

All right, you may speak to it.

BREWINGTON:

I request a declaratory decision on the paragraphs 2609.1, 2609.2, and 2610.2 subdivision a. The question: does Calendar Item 355 of the 2010 (sic) General Conference removing guaranteed appointments to clergy violate either the third restrictive rule of the constitution

under paragraph 19 by setting up a process that can do away with the authority of the episcopacy in our denomination and/or the fourth restrictive rule of the constitution, which is paragraph 20, by taking away a right of clergy without a hearing, trial, or resort to any form of appeal and/or in violation of historical precedence to the contrary?

Bishop, I believe that this is in order given the fact that there was no appeal process to the body disallowing the matter being pulled from the consent calendar based on the administrative determination.

Two: that no opportunity existed to cure any technical defect in the request which was disallowed to pull the matter from the consent calendar.

Three: no voices have been heard by the persons most affected by this matter.

Next: the contextual and contractual destruction of the quid pro quo of a covenant vow of itinerancy of all existing and future clergy would be affected. And finally, the question of the impact on our ability to attract new and young clergy to The United Methodist Church at a time when the proclamation has been made that their very presence is needed in our church. I have this in electronic form and will be able to present it to the dais if it is voted in.

BISHOP OUGH:

That would be very helpful. Folks, let me tell you where we are. There has been a motion for this body to request a declaratory decision. It is in order. You've heard one speech for it by the maker of the motion. It requires 20 percent of the voting body to order this request. So are there any speeches against this request? I would be looking for a red card or an orange card.

All right, any other speeches or comments?

All right, I think you're ready to express your opinion on this. If you would get your keypads out.

If you are in favor of this request in ordering, requesting this declaratory decision you will push number 1, you'll vote yes.

If you're opposed to this you'll vote no; that would be number 2.

Vote now.

(pause)

All right. Five seconds.

(pause)

And, ballot is closed. We'll wait for the results.

[Yes, 397; No 341].

You have ordered this request and so it will be forwarded to the Judicial Council.

C. Jurisdiction

The Judicial Council has jurisdiction under 2609.1: "The Judicial Council shall determine the constitutionality of any act of the General Conference upon an appeal by a majority of the Council of Bishops or one-fifth of the members of the General Conference." As reported on p. 2760

of the Daily Christian Advocate, General Conference sustained a request for a declaratory decision on this matter by a vote of Yes 397 to No 341, with 53.8% supporting the request.

D. Summary of Argument

This interested party brief addresses the following arguments pertinent to consideration of the action of the 2012 General Conference in relation to security of appointment via Calendar Items 352, 355, 358 and 359.

1. Calendar Items 352 and 355 (security of appointment) unconstitutionally violate the Third Restrictive Rule

Security of appointment is an intrinsic part of the plan for our itinerant general superintendency, referenced in the Third Restrictive Rule (19) which forbids the General Conference to destroy the plan of our itinerant general superintendency. Additionally, security of appointment is implicit in 54, which authorizes the bishops to appoint ministers to charges. Action of the General Conference in Calendar Items 352 and 355, amending 321 and 337 would have the effect of drastically overturning our historic security of appointment.

Therefore, Calendar Items 355 (amending ¶337) and 352 (amending ¶321) must be declared unconstitutional.

2. Calendar Items 358 and 359 (transitional leave) unconstitutionally violate the Fourth Restrictive Rule

Fair process procedures, trials and appeals are integral parts of the privilege of our clergy of right to trial by a committee and of appeal, referenced in the Fourth Restrictive Rule (20) which forbids the General Conference from violating or infringing on those rights. Action of the 2012 General Conference in Calendar Items 358 and 359, creating a new paragraph on transitional leave and amending 354, would have the effect of striking a blow to the protection of the rights of our

clergy and takes the extraordinary step of creating a process by which elders in good standing may be denied an appointment in a ministry setting, with the unprecedented additional provision of doing so absent any requirement for evidence of unappointability and without the protection of fair process or recourse to trial.

Therefore, Calendar Items 359 (amending ¶354) and 358 (creating a new paragraph on transitional leave) must be declared unconstitutional.

II. Background

A. The Plan of Our Itinerant General Superintendency

1. Historical Background

a) Overview

The "plan of our itinerant general superintendency," if it were explicitly presented, would describe the rights and responsibilities of the bishops. Their responsibilities would include the management of the traveling preachers, but they have never had a role in constituting the traveling preachers. Typically, the third restrictive rule has been used to defend the rights of the episcopacy; that is, it has been used to prevent the erosion of the power of the bishops. To give more power to the bishops is equally destructive of our plan. Bishops in the Methodist Episcopal tradition have never been permitted to determine that a member of the connection is not worthy of an appointment. To add this responsibility to their office would equate to a dramatic change in their responsibilities and alter the historic reality which has been our tradition.

John Wesley, of course, could and did declare preachers unworthy of appointment. Not only is Wesley the primary model for the episcopacy in our tradition², but he was explicitly named in the 1789 and 1790 Minutes as one of those "Persons that exercise the Episcopal office in the Methodist Church in Europe and America," along with Thomas Coke and Francis Asbury (in that order)³. This designation was not made in earlier or later Minutes, because the relationship between Wesley and the preachers fundamentally changed between 1760 (the approximate time at which Methodist preaching seems to have begun in America) and 1808 (when the constitution with the restrictive rules was established).

The first Methodist preaching in America was offered without John Wesley's knowledge. Robert Strawbridge in Maryland and Philip Embury in New York independently started services (Strawbridge eventually offering sacraments as well as preaching)⁴. However, in 1768 the society

2

See for example Gerald F. Moede, *The Office of Bishop in Methodism*. Publishing House of the Methodist Church, Zurich, Switzerland, 1964, pp. 15-26; (Bishop) James K. Mathews, *Set Apart to Serve*, Abingdon Press, Nashville, 1985, pp. 69-73; and James E. Kirby, *The Episcopacy in American Methodism*, Abingdon Press, Nashville, 2000, pp. 25-35.

3

Minutes of the Methodist Conferences, annually held in America; From 1773 to 1813, inclusive, published by Daniel Hitt and Thomas Ware for the Methodist Connexion in the United States, 1813, reprinted by Magnolia Press, Swainsboro, GA, 1983, p. 77 and pp. 89-90.

4

Moede, p. 27; Mathews, p. 74; Kirby, pp. 13-14. Strawbridge's use of sacraments resulted in protests such as this in the first printed *Minutes* (those of 1773—see p. 5 of the reprint of Hitt & Ware): "The following rules were agreed to by all the preachers present:

.Every preacher who acts in connexion with Mr. Wesley and the brethren who labour in America, is strictly to avoid administering the ordinances of baptism and the Lord's supper.

.All the people among whom we labour 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.

On Strawbridge, see also Wallace Guy Smeltzer, *Bishop Francis Asbury, Field Marshal of the Lord*, published by the Commission on Archives and History of the Western Pennsylvania Conference of The United Methodist Church in cooperation with the author, 1982, p. 43.

in New York wrote to England to ask for preachers to be appointed by Wesley⁵. Thus the Methodists in America were asking to be included in the discipline and organization that Wesley had established in Great Britain and Ireland. Accordingly, the earliest Minutes were entitled "Minutes of some conversations between the preachers in connexion with the Reverend Mr. John Wesley."⁶

"Preachers in connexion with ... Wesley" is the only way to describe the fetal church. Such a connection would have to be voluntary and acknowledged by both sides. The connection between both sides did evolve, however, so that "the Connection" came to mean just the connection between the Methodist preachers-and today, the connection among all members of the denomination. In the period from 1760 to 1808, the connection evolves with laity in the colonies yearning for the discipline and guidance offered by Wesley-connected and Wesley-trained Assistants. The change continued through the War of Independence, which Wesley opposed, alienating the two sides. Wesley gave the American Methodists a bishop and two elders, saying "We judge it best that they should stand fast in that liberty, wherewith God has so strangely set them free."⁷ Although they were free, Wesley still imagined that he could appoint a bishop over them, and so he directed them in 1786 to ordain Richard Whatcoat.⁸ The preachers refused to accept this, although Whatcoat became a bishop in 1800 after all. At the same time, they required Bishop Coke to sign an extraordinary document, asserting that he will not "exercise any government whatever in the said Methodist

⁵Moede, pp. 26-27; Mathews, p. 75; Kirby, p. 15.

⁶Hitt & Ware reprint, pp. 5, 7, 9, 11, 13, 16, 18, 21, 23, 28, 33, 38, 43, for the years 1773-1784 inclusive. The *Minutes* of 1785 are entitled "Minutes taken at the several annual conferences of the Methodist Episcopal Church" (see p. 49). See also Smeltzer, pp. 41-42.

⁷Hitt & Ware reprint, p. 51.

⁸Moede, pp. 57-59; Mathews, 123-125; Kirby, pp.45-49.

Church during [his] absence from the United States," and promising not to appoint the preachers to their circuits and stations.⁹ The preachers' point was that they, not their bishops (Wesley, Coke, and Asbury¹⁰), would govern the church.¹¹ Coke and Asbury signified their acceptance of this situation in various ways, including Coke's note of partial abdication and their joint authorship of an annotated Book of Discipline in 1798.¹²

The balance of governance that is set in stone in the Restrictive Rules of 1808 provides for an episcopacy that appoints traveling preachers (those who have been admitted on trial and those who have been admitted in full connection). The power of determining who is a traveling preacher is reserved for the company of traveling preachers in full connection. Today our constitution permits certain laypersons and deacons in full connection also to participate in decision-making about who is eligible for appointment among the churches and ministries of the annual conferences. However, this change did not alter the plan of our itinerant general superintendency-the bishops still have no authority to determine who can and cannot be appointed.

b) Evolution of Episcopal Power in American Methodism and the Rise of General Conference

In the earliest days, before the Christmas Conference, all preachers who came from England with Wesley's approval were accepted without question. There was probably a sense that the

⁹Moede, p.57; Mathews, p. 127; Kirby, pp. 46-47.

¹⁰Hitt & Ware reprint, p. 77.

¹¹On p. 59 Moede writes, "The American Church was now (in 1787) fully autonomous, the Conference having declared openly that *it*, and not Mr. Wesley, would govern the church."

¹²See an excerpt in Russell E. Richey, Kenneth E. Rowe, and Jean Miller Schmidt, eds., *The Methodist Experience in America: A Sourcebook*, Abingdon Press, Nashville, 2000, vol. II, pp. 123-133

preachers coming from England were a part of the same "connexion" that the Americans had joined. So in 1774, the second year for printed Minutes, the first question raised was, "Who are admitted this year?" and the second one was, "Who are admitted on trial?" None of those listed were commissioned by John Wesley.¹³ In 1775, the names of Martin Rodda and James Dempster appear as assistants (a precursor to a presiding elder or district superintendent), but they were not ever listed as having been admitted in full or on trial.¹⁴ This must be because they had been admitted to the "connexion" in England.¹⁵ Even as late as 1784, Francis Asbury, Wesley's "general assistant" (that is, personal representative with authority), wrote to him asking Wesley to send "a minister, and such preachers as you can fully recommend ...; without your recommendation we will receive none."¹⁶

Wesley could send preachers to America, but he could not approve native-born preachers without traveling here to meet them and know them. However, it was obviously desirable to recruit new people without the expense and delay (and personal sense of exile) entailed in importing them from England. This was a fundamental difference between American and British Methodism in the 18th century. Admitting new people without Wesley's approval led to a much more democratic, perhaps even acephalous, church in America. By whose authority were preachers "admitted" or "admitted on trial" in the early years?

¹³Hitt & Ware reprint, p. 7.

¹⁴Hitt & Ware reprint, p. 9.

¹⁵Mathews, p. 77, notes that they were sent by Wesley as missionaries.

¹⁶From Asbury's letter of March 20, 1784 in J. Manning Potts, ed., *The Journal and Letters of Francis Asbury*, Epworth Press, London, and Abingdon Press, Nashville, 1958, Vol. III, pp. 33-34.

Apparently, the consensus of the group of preachers provided for the admittance of new preachers. There is no record of any early bishop in America dismissing a preacher (a member of the "connexion") on his own authority. We know that Wesley used the British Conference as an advisory group, but that he made all final decisions himself.¹⁷ No one in America dared to take such a role. In fact, no one but Wesley could act in such an authoritarian way, which he recognized in developing the Deed of Declaration in 1784. This document provided a legal framework for Methodism in Britain to continue after his death.¹⁸ Central to Wesley's vision of the work after his death is the establishment of a group of preachers who will be entitled to make decisions as he used to make them. As early as 1769 (two years before Francis Asbury came to America), Wesley presented a proposal to the British Conference that contained the germ of this idea, and he published it with the Minutes of 1769, 1773, 1774 and 1775.¹⁹ Thus the idea of a conference or committee functioning as Wesley's successor was already current at the time British preachers were being sent to America.

In the late 1770s all the British preachers in America but Asbury sailed back to England, and there was some concern that he would go, too. As a result, the need for providing native-born leadership became urgent, and who among them could Wesley confidently appoint, having met none of them? As Moede points out, the decision to create a committee to lead (consonant with Wesley's thinking in 1769) "was a momentous innovation, for it was done without the direction of Wesley, and it thus created a precedent for later decisions made by the Americans without Wesley's

¹⁷Moede, pp. 15-18.

¹⁸Moede, pp. 21-24; Mathews, pp. 83-84.

¹⁹Moede, p. 22.

