MR. WESLEY'S TRUST CLAUSE:
METHODISM IN THE VERNACULAR

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In consonance with the legal definition and self-understanding of The United Methodist Church, and with particular reference to its lack of capacity to hold title to property, The United Methodist Church is organized as a connectional structure, and titles to all properties held at General, Jurisdictional, Annual, or District Conference levels, or by a local church or charge, or by an agency or institution of the church, shall be held in trust for The United Methodist Church and subject to the provisions of its Discipline.¹

Among language's many powers are the abilities to create and to name. Words call new realities into being; words name and identify what already is. Language not only describes experience; it also provides the content of experience, for the choice of symbols, or words, is also the choice of meaning. Russell E. Richey, in his provocative monograph Early American Methodism, writes of Methodist language "and its power to shape Methodist life."² In fact, Richey writes of four languages, vernacular traditions, which have informed and molded Methodism's self-understanding over the years: That which was held in common with other pietists and evangelicals; that which was received from the legacy of the Wesleys; that which was formally adopted in 1784 as our unique episcopal language; and that which emerged as the republican language of the nation whose values had impact upon our denomination in the mid-nineteenth century.³ An examination, then, of our denominational lexicon, our vernacular history, can both reveal and affirm the power of words to call out and to name a new people.

The following essay is an effort to look at one particular term from our own extensive grammar, and its subsequent evolution over the years (for, like all significant human behavior, language changes). That term is taken from the legacy of Methodism's "second language," inherited from the Wesleys. It is a term which remains as an important, albeit neglected, component of our polity, and more importantly, one which is called upon to inform, if not correct, our self-understanding as United Methodists. To write about Mr. Wesley's Trust Clause, given the power of the vernacular, is to write of church law, denominational identity, and Methodist community.

³Richey, Early American Methodism, xvi, xvii.
Our story begins with what on first encounter appears to be an uncharacteristic act of faulty administrative oversight, or self-confessed ignorance, on the part of John Wesley. (Actually, as Frank Baker has observed, it is one more illustration of the reality that Methodist Societies in England “were brought into being, not according to any predetermined plan, but as expedients forced upon a man ready to utilize almost any methods to accomplish what he regarded as a divine mission. The accumulating complexities of Methodist organization arose in the same way. There was no master plan to form a new sect, only the urgent demand to meet another aspect of spiritual need, even though this frequently involved the solution [sic?] of another ecclesiastical problem.”4 In a document dated 3 January 1783, addressed to Mr. Thompson at the Methodist Chapel in Hull, and entitled, “The Case of Birstall House,” John Wesley related the following:

I built the first Methodist preaching-house so called at Bristol, in the year 1739. And knowing no better, I suffered the Deed of Trust to be drawn up in the Presbyterian form. But Mr. Whitefield hearing of it, wrote me a warm letter, asking, “Do you consider what you do? If the trustees are to name the preachers, they may exclude even you from preaching in the house you have built. Pray let this deed be immediately cancelled.” To this the trustees readily agreed. Afterwards I built the preaching-houses in Kingswood, and at Newcastle on Tyne. But none beside myself had any right to appoint the preachers in them.5

In this corrective action, and its subsequent evolution over a period of forty years, we may find implications for itineracy, doctrine, and polity—grammar for community—as well as one more illustration of Wesley’s real, but oft-denied, separatist tendencies.

As George Whitefield made clear, the primary fault of the Deed of Trust “in the Presbyterian form,” was that it placed within the authority of local trustees the right to name their own preachers. Indeed, in the Birstall House case, which occasioned Wesley’s reflections on such matters, the original deed of 1751 gave “twelve or thirteen persons power not only of placing, but even of displacing the preachers at their pleasure . . . .”6 In this instance, Wesley was not able to cancel the objectionable document or even to modify its successor of 1782. However, his failure to alter did not diminish his objection. His argument was four-fold:

4Frank Baker, “Polity,” in Rupert E. Davies and Gordon Rupp (editors), The History of the Methodist Church in Great Britain, Volume 1 (London: Epworth Press, 1975–1987), 213. [Given the context of this quotation, one cannot but speculate that “creation,” and “solution,” would have been a more appropriate word choice, or that “solution” is a misprint.]
6John Wesley, “The Case of Birstall House (1783),” 506. Italics are Wesley’s.
If it be asked, Why should not the Birstall preaching-house, or any other, be settled according to that deed? I answer:

Because whenever the trustees exert their power of placing and displacing preachers, then,

1. Itinerant preaching is no more. When the trustees in any place have found and fixed a preacher they like, the rotation of preachers is at an end—at least till they are tired of their favourite preacher, and so turn him out.

2. While he stays, is not the bridle in his mouth? How dares he speak the full and the whole truth, since whenever he displeases the trustees he is liable to lose his bread? How much less will he dare to put a trustee, though ever so ungodly, out of the society? 

3. But suppose any beside the Conference (who as long as they subsist will be the most impartial judges) name the preachers, should it be thirty or forty men, or the whole society? Nay, why not the entire congregation? Or at least all the subscribers?

4. The power of the trustees is greater than that of any nobleman; yea, or of the king himself. Where he is patron, he can put in a preacher, but he cannot put him out.7

Who shall appoint the preachers, and what guarantees are there that the preachers will be free in the exercise of their ministry and in the proclamation of the gospel? As early as 1746, in an attempt to address these, and other related issues, Wesley had caused to be drawn up, by three eminent counselors-at-law, deeds for the aforementioned preaching-houses at the New Room in Bristol, at Kingswood, and at Newcastle upon Tyne. These deeds were to serve as models for all future deeds.8

The effort to craft a Model Deed which could be replicated was not without its problems, for as the deeds obligated the trustees to care for the property, they also bound the trustees to insure that only authentic Methodist doctrine should be preached. Rupert E. Davies, an editor of the Wesley Works Project, points out that:

[I]t is by no means clear why Wesley gave to this particular group in each chapel an authority greater than any of [his] assistants possessed—in effect, the authority to determine what was Methodist doctrine—and so set up a body of people who could not be dislodged from office without great difficulty unless they ceased to be Methodists altogether. . . . Certainly his provision in this matter led to endless conflicts between various parties on matters both of doctrine and of property for the powerful reason that those who were supposed to work together sometimes came to work against each other.9

Further revision was required, and in 1763 the Conference decreed that the deed executed for Birchin Lane preaching-house in Manchester should serve as the appropriate model. In this deed, the trustees were enjoined to

7 John Wesley, "The Case of Birstall House (1783)," 507-8.
9 Rupert E. Davies (editor), The Works of John Wesley, Volume 9, 18.
allow only those “appointed at the yearly Conference” use of the building, and “those so appointed should ‘preach no other doctrine than is contained in Mr. Wesley’s Notes upon the New Testament and four volumes of sermons.’”

Conflict remained, and in light of Wesley’s advanced years, and the potential his death held for destabilizing the community, motivation was found to address issues of property, leadership succession, conference definition, etc., through the crafting of a formal, legalized Deed of Declaration in 1784.

The Birstall case had foreshadowed the potential division and chaos that might follow his death. The trustees of the New Room at Bristol also balked at resettling their house on the Model Deed. Coke, whose Oxford degree was Doctor of Civil Law, had served as Wesley’s deputy in both of those sensitive negotiations, as well as others. There were now nearly four hundred Methodist preaching-houses, with about two dozen applications a year for new houses. At the 1783 Conference, Wesley suggested that “the needless multiplying of preaching-houses” had been a great evil, and that Coke should travel throughout England for the purpose of getting them all “settled on the Conference plan.”

New understandings and insights had evolved; new and potential conflicts needed to be addressed.

Over the years, an additional, if collateral, concept had emerged in that trustees of meeting-houses, now called chapels, were not the proprietors of these properties, “but put in trust to see that the chapels remain unalienated from their original purpose.” Trustees could elect their own officers, receive rent and dispense incomes, mortgage in case of necessity, and build when need warranted. Yet these powers were perceived by some to be inadequate, and dissatisfaction, contention, and misunderstanding within the community remained. The above-mentioned conflict at Birstall House in 1782, presumably resolved with the Deed of Declaration two years later, was soon supplanted by one at Dewsbury House in Yorkshire in 1789.

Jonathan Crowther, on whose observations this essay has already drawn, was a Traveling Preacher in connection with John Wesley. His ministry began concurrently with the Deed of Declaration. Thirty years later, he provided the following rationale and defense for the Model Deed concept:

[T]he settling of a chapel on what is called the conference plan, amounts to nothing more than this, that the chapel shall not be the private property of the trustees; and that if any of

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10Rupert E. Davies (editor), The Works of John Wesley, Volume 9, 19.
12Samples of the Deed of Trust, informed by the provisions of the Deed of Declaration, may be found in Jonathan Crowther, A Portraiture of Methodism . . . , 310–11, and in the Form of a Deed of Trust for the Settlement of Methodist Chapels (London: T. Cordeaux, 1819). For a more comprehensive treatment of the Deed of Declaration, see Frank Baker, John Wesley and the Church of England (London: Epworth Press, 1970), 218–33.
these trustees should change their sentiments, or from any other cause should be inclined to give the occupation of the chapel to some other party of professors of religion, they shall not have power to do so. The conference have never attempted to get any chapel made over to them, only so as to secure it in perpetuity for the purpose for which it was built. The members of the conference do not claim any property in any chapel; they claim no share of the seat-rents; nor do they pretend to sell, or otherwise dispose of these chapels. And they think the settlement they contend for, just and fair. It has been chiefly owing to the labours of the preachers belonging to the conference, that these chapels have been erected. Most, if not all the subscriptions which have been voluntarily contributed towards erecting these buildings, have been given under the idea, that they were always to be used according to the first intention. The trustees are under no subjection to the preachers. No man need become a trustee but by his own choice. . . .

In addition to these matters of itineracy, doctrine, and polity, attention must also be given to the place of the Model Deed within the larger context of the growth, maturation, and evolution of the Methodist community. Accommodation, identity, and institutional security all play a part in an effort to craft this vernacular tradition.

One illustration of the above emerges with a consideration of a particular change in Methodist language. The rather inelegant term, "preaching-house," was initially and carefully chosen, for "meeting-house" was, in accordance with the Toleration Act of 1689, the proper legal term for Dissenting places of worship. Wesley's permutation was crafted in a way which skirted any linkage with those who self-consciously placed themselves apart from the Church of England. Yet here, too, adaptation and accommodation were required. In popular usage, "preaching-houses" became "chapels," and by 1787, Wesley agreed, in light of this growing practice, that all Methodist chapels be registered as Dissenting places of worship under the Toleration Act.17

This matter of the Model Deed, and the subsequent Deed of Declaration, is also seen by W. Stephen Gunther, and others, as being one part of Wesley's movement in the direction of separation:

When Wesley shook the dust of Oxford off his shoes with his 1741 sermon, "Hypocrisy in Oxford," he started down a path the steps of which he never retraced. Each decade was marked by steps in the direction of separation. By 1749 there was an infamous connexionalism, a general union of the Methodist societies throughout England. In 1763 the "Large Minutes" summarized Methodist polity and secured a measure of legal protection and continuity. In 1769 he gave up all hope of union with "that rope of sand," the Anglican clergy, and looked to his itinerants for the preservation of the revival and Methodism. . . . and when the issue of separation reached its next major crisis in 1784 with the "Deed of Declaration" and Wesley's ordination of preachers for America, the outcome had for all practical purposes been decided.

16Johnathan Crowther, A Portraiture of Methodism . . . , 308.
17E. Benson Perkins, Methodist Preaching Houses and the Law, 13–15. See also Rupert E. Davies (editor), The Works of John Wesley, Volume 9, 18n.
Of all these steps taken as a composite picture, Frank Baker has appropriately written, "The separatist tendencies of Methodism had long been obvious to all but the most blind or the most prejudiced. Among the latter we must rank John Wesley." 14

Frederick A. Norwood claims that, "The Deed of Declaration (1784) was as definitive for English Methodism as the ordinations of the same year and their consequences were for American Methodism." 19

The story of Wesley's Model Deed, and its modification and redefinition over many years, provides a particular focus of linguistic reference as we trace the growing conviction that if ministry was to be engaged, itineracy for missional deployment protected, the "saving witness" of the gospel faith-fully proclaimed, and property secured, then institutional safeguards were necessary, indeed required. The concept of the Model Deed became, for the Methodist community in England, a matter of self-definition.

II

Wesley's idiomatic legacy, as J. Ernest Rattenbury has characteristically affirmed, was often unique, insightful, and applicable:

It was all to the good that Methodism was not founded on the basis of theoretical Church principles, Episcopal, Presbyterian or Congregational. The selection of its organization might be called opportunist if the word were not so used with a deprecatory significance. Wesley was not a conscious Church builder framing a Church on the basis of any ecclesiastical theories any more than was St. Paul. Wesley was all the time dealing with life, with living men and women newly illuminated, and he was finding organizations which would secure for them continuous corporate existence. ... [He] showed amazing insight in adopting the right institution for his purpose. 20

With special reference to Wesley's Model Deed (later Deed of Declaration) vocabulary, we may summarize the key components of this "second language" gift in the following manner: (1) The modus operandi of Methodism, itineracy, is protected, in that it is Mr. Wesley, and later the Conference, who appoints the preachers to their fields of labor, and such appointments are not subject to local, societal controls. (2) The certification and guarantee that correct Methodist doctrine is being proclaimed by the preachers is the responsibility of the sending, and not of the receiving body. (3) Properties cannot be alienated from their original intent and are not subject to the theological or ecclesiastical fancies of local leadership.

(4) Finally, formal association with a society and the assumption of leadership responsibilities within that body confirm implicit support for its rules and regulations.

The story of how this, or any other component, of our Wesleyan vocabulary was transported to the English colonies in America is difficult to determine. Bishop James K. Mathews, in his study of Methodist episcopacy, credits Thomas Coke as being the one who "originated the Trust Clause, a model deed which has proved of immense practical value in maintaining a connectional and itinerant system. . . ."21 Taken as part of a larger, unfolding story, this claim is largely true. At the same time, the realities of property ownership in America predate Dr. Coke's arrival and influence.

Concurrently and independently, Methodism took root in America at Sam's Creek in Frederick County, Maryland, under the leadership of Robert Strawbridge, and in New York under Philip Embury. The issue of primacy continues to be a matter of debate.22 Both of these Lay Preachers were products of Irish Methodism, unofficial missionaries in search of new life in a new setting. "Although unordained and unappointed in these early days, Strawbridge became virtually an itinerant. He journeyed throughout Maryland and into Delaware, Pennsylvania, and Virginia. . . ."23 Owing to his labor, or to one of his local preachers, a lot was purchased in Leesburg, Virginia, and a deed was executed on 11 May 1766. There are those who claim this to be the first American Methodist deed.24 In New York, after a period of inactivity, Philip Embury reluctantly "assumed the office of preacher."25 The society grew, and on 30 March 1768, a deed of purchase was executed, conveying certain lots from the estate of Mrs. Barklay to "Embury, [Thomas] Webb, [Thomas] Taylor, William Lupton, Charles White, Richard Sause, Henry Newton, and Paul Heck."26

Again the situation changed, and "two years later another deed was executed, conveying the property to Richard Boardman and Joseph Pilmoor, recently arrived Wesleyan missionaries, and to Webb, Lupton, Newton, James Jarvis, and John Southwell. This deed, after the model of the Bristol Chapel deed, secured the use of the new chapel only to those who would

22See Richey, Early American Methodism, 48-49.
24J. Manning Potts, in Bucke (editor), The History of American Methodism, Volume 1, 78. See also footnote, citing Melvin Lee Steadman, Jr., "The First Methodist Deed in America," in World Parish, August, 1959, 19-32.
25J. Manning Potts, in Bucke (editor), The History of American Methodism, Volume 1, 77.
26J. Manning Potts, in Bucke (editor). The History of American Methodism, Volume 1, 77. As Potts notes, "The deed is preserved in the archives of John Street Church and is presented in full in Seaman, Annals of New York Methodism, 416-19," 77n.
'preach no other doctrine than is contained in... John Wesley's Notes upon the New Testament and his four volumes of sermons.' 27

The issue for our consideration is not one of priority. What is important is the fact that at both Leesburg and New York, early efforts were made to secure property and to execute deeds according to the Methodist plan. It is noteworthy that in the second New York deed, the trustees are named in the order of their relationship with the Methodist connexion, Boardman and Pilmoor being Wesley's first appointed missionaries to the colonies. A similar deed, in proper form, was executed on 11 September 1770, on behalf of St. George's Church in Philadelphia. Again, Boardman and Pilmoor are the first trustees named. 28

Like their predecessors in England, however, these deeds also became a source of controversy, as they were viewed in the pre-Revolutionary milieu as inappropriate extensions of Wesley's authority and control. This issue would become a matter of no small importance at the gathering of the first American Methodist Conference at St. George's Church, in July, 1773. Under the leadership of Wesley's general assistant in America, the newly-arrived Thomas Rankin, who was known and recognized "as a man of ripe experience and energetic action and as a strict disciplinarian," 29 the "Conference was at pains to affirm Wesley's authority in unmistakable terms." 30

The following queries were proposed to every preacher:—
1. Ought not the authority of Mr. Wesley, and [the British] Conference, to extend to the preachers and people in America as well as in Great Britain and Ireland? Ans. Yes.
2. Ought not the doctrine and discipline of the Methodists, as contained in the Minutes [Wesley's Large Minutes31] to be the sole rule of our conduct, who labour in the connection with Mr. Wesley in America? Ans. Yes. 32

In the acceptance of "the doctrine and discipline of the Methodists," those gathered in conference were also affirming the Model Deed legacy.

27J. Manning Potts, in Bucke (editor), The History of American Methodism, Volume 1, 77-78. Potts cites J. B. Wakeley, Lost Chapters Recovered from the Early History of American Methodism (New York: Published for the Author by Carlton and Porter, 1858), 62, as his source. He further notes, "This deed is also preserved at John Street Church," 78n.
28J. Manning Potts, in Bucke (editor), The History of American Methodism, Volume 1, 84. Potts cites Pilmoor's MS Journal, in the Historical Center Library, St. George's Church, Philadelphia, entry for September 11, 1770, 84n.
30Arthur Bruce Moss, in Bucke (editor), The History of American Methodism, Volume 1, 122.
31Including the Model Deed of 1763, as cited in Norman W. Spellman, "The Formation of the Methodist Episcopal Church," in Emory Stevens Bucke (general editor), The History of American Methodism, Volume 1, 224.
32Arthur Bruce Moss, in Bucke (editor), The History of American Methodism, Volume 1, 122. Parenthetical clarifications of the text are Moss's.
It is important that we place the issue of property deeds here in the American colonies in perspective. James M. Buckley reports that, "[t]here were in the United Kingdom three hundred and fifty-nine chapels by the year 1784." The reality in the colonies, in contrast to attention given to deeds for Leesburg, New York, and Philadelphia, and the emergence of Barrett's Chapel and Lovely Lane Chapel, was quite different:

This was not the "church" that a traveler from Old England or New England might recognize—the typical parish encircled by its graveyard or a little community anchored to a green by meeting house. Instead, this congregation gathered at some appointed place, centered itself in the sharing of personal religious experiences that constituted love feast, reached out to even larger circles through the preached word until it may have seemed that even the woods were taken in and then dispersed.

Although property would again emerge as a divisive and contested issue, authority and its corollaries would demand the energy and focused concern of the community. Or, to use Richey's paradigm, American Methodism would now struggle with the contradictory messages received from a varied and multi-sourced vocabulary. Rupert E. Davies has observed that, "[a]s Wesley was opposed to the introduction of the democratic principle into Methodism, so also he allowed no vestige of congregationalism." Wesley's "second language" would soon be in conflict with our own emerging linguistic legacies: that is, the episcopal language of 1784, and the new republican language of the James O'Kelly controversy.

Upon initial review, the story of the O'Kelly Schism seems unrelated to our consideration of the Trust Clause; however, a more thoughtful consideration reveals an attack, albeit tangential, upon this fundamental operating assumption. O'Kelly's challenge was directed in the abstract against the power of a bishop and the newly appropriated episcopal language of American Methodism, and in the particular against Francis Asbury. Fueled by his displeasure with Asbury's failed attempt to respond to the proliferation of Annual Conferences with the creation of a Council, O'Kelly went on at the first General Conference of 1792 to challenge Asbury with the following motion: "After the bishop appoints the preachers at conference to their several circuits, if any one thinks himself injured by the appointment, he shall...

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4Richey, *Early American Methodism*, 70.
have liberty to appeal to the conference and state his objections; and if the conference approve his objections the bishop shall appoint him to another circuit."

Debate raged, at times approaching rancor, but after several days the motion was defeated. "In defeat but unbowed the man [O’Kelly] who stood up to Asbury left the conference."

The issue, of course, was far from resolved, and in 1798 O’Kelly published, under the nom de plume of "Christicola," The Author’s Apology for Protesting Against the Methodist Episcopal Government, wherein he outlined and attempted to justify the reasons for his schismatic activities, which had resulted in the creation of a number of societies under the name "the Republican Methodist Church," and in a substantial numerical loss to American Methodism.

In summarizing the life and work of James O’Kelly, Frederick A. Norwood writes:

O’Kelly’s spirit was... a divisive spirit... But the obverse of this spirit of division is the spirit of democracy. The same independence, individualism, and insubordination that caused so much pain also brought in a fine devotion to democracy. From that day on American Methodism has been blessed—and cursed—with a long train of democratic movements, which have kept alive many of the issues over which O’Kelly agonized. Episcopal consultation in the making of appointments, elective presiding elders, conference rights for local preachers, lay representation in General and Annual Conferences, and above all free and open debate—all these great controversies were either directly or indirectly contained in the movement just discussed.

To which may be added one more component, in that O’Kelly’s challenge to the absolute power of the bishop to set appointments also constituted a challenge to the collateral guarantees of the Model Deed/Trust Clause which gave to John Wesley, then to the British Conference, and in America to the bishop, the sole right to send preachers to their fields of labor.

In the same year [1798] that saw the publication of O’Kelly’s The Author’s Apology for Protesting..., the new edition of The Doctrines and Discipline of the Methodist Episcopal Church in America carried the following subtitle: "With Explanatory Notes, by Thomas Coke and Francis Asbury." As directed by "... the prior General Conference [1796], they explained and defended Methodism’s episcopal claims. They did so, at least


38Norwood, in Bucke (editor), The History of American Methodism, Volume 1, 438.

39Norwood, in Bucke (editor), The History of American Methodism, Volume 1, 445.

40Norwood, in Bucke (editor), The History of American Methodism, Volume 1, 443–44.

41Norwood, in Bucke (editor), The History of American Methodism, Volume 1, 452.

42A facsimile edition of The Methodist Discipline of 1798, including the annotations of Thomas Coke and Francis Asbury, edited by Frederick A. Norwood, was published under the sponsorship of The Institute for the Study of Methodism and Related Movements, Garrett-Evangelical Theological Seminary, Evanston, Illinois, and printed by Academy Books of Rutland, Vermont, in 1979.
in part, to answer the criticisms levied by James O’Kelly and to staunch the hemorrhaging loss of good Methodists to his protest schism." This volume, and its annotations, gave a more complete voice to the third component of our vernacular tradition, episcopal language.

In the sacraments, in the Articles and in its episcopal government (bishop, elder, deacon), Methodists applied to themselves the terminology of Anglicanism. Theirs was not a high church language after the fashion of Archbishop Laud, the Non-Jurors, the early Wesley, or the nineteenth century Tractarians. It was rather an Anglican terminology familiar to Americans who had known the established church in the colonies. When it talked about its government, when it celebrated its sacraments, when it identified the core of its belief, and when it ordained ministers, Methodism spoke an episcopal tongue.

For our purposes it is important to note that the Discipline of 1798 contains in Chapter III, Section 1, "Of building Churches, and the Order to be observed therein," the following question:

Question 4. What shall be done for the security of our preaching-houses, and the premises belonging thereto?

Answer. Let the following plan of a deed of settlement, be brought into effect in all possible places, and as far as the laws of the states respectively will admit of it, viz.

This is followed by a "model deed," and in the annotated notes by a lengthy explanation. Herein lies the claim made by Bishop Mathews that Thomas Coke is responsible for the transportation of the Model Deed/Trust Clause to America.

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Richey, Early American Methodism, 87.
Richey, Early American Methodism, 87.
Frederick A. Norwood (editor), The Methodist Discipline, 1798, 173.
Frederick A. Norwood (editor), The Methodist Discipline, 1798, 173-76.
Frederick A. Norwood (editor), The Methodist Discipline, 1798, 177-78.
See above, n. 20

It is important to note that the first Deed recorded is contained in the text of the 1796 Discipline and that the editorial comments of Asbury and Coke were appended to the 1798 Discipline. The 1796 text reads as follows: "for the use of members of the Methodist Episcopal Church in the United States of America, according to the Rules and Discipline which from time to time may be agreed upon and adopted by the ministers and preachers of the said Church, at their General Conferences in the United States of America; and in further trust and confidence that [the trustees] shall at all times, forever hereafter, permit such ministers and preachers, belonging to the said Church, as shall from time to time be duly authorized by the General Conferences of the ministers and preachers of the said Methodist Episcopal Church, or by the yearly Conferences authorized by the said General Conference, and none others, to preach and expound God's Holy Word therein." Quoted in Thomas Edward Frank, Polity, Practice, and the Mission of The United Methodist Church (Nashville: Abingdon Press, 1997), 265. This Deed differs from its English predecessors in that it does not contain any reference to the Sermons and Notes, thereby transferring the matter of doctrinal standards to a different location. See Richard P. Heitzenrater, "At Full Liberty: Doctrinal Standards in Early American Methodism," in Quarterly Review, Volume 5, No. 3, Fall, 1985 (Nashville: United Methodist Publishing House), 6-27.
But one volume, even one so carefully annotated, did not alter reality. O’Kelly had touched a vital nerve, was in sympathy with the feelings, attitudes, and aspirations of a post–Revolutionary War population, and spoke for many. His protest, though short-lived, served as a precursor to any number of causes and concerns which arose as American Methodism struggled to come to terms with the language of the Republic. Reflecting on the unique genre of O’Kelly’s *Apology*, Russell E. Richey has written:

This was republican language, the rhetoric of the British Commonwealthman tradition, the world view of radical Whiggery, the ideology of the American Revolution. It described a world in which republics were rare and fragile institutions, where power ever threatened the liberties of the people, where authority transmuted itself into tyranny unless checked and vigilantly watched, where freedom’s only hope lay in the collective resolve of a virtuous citizenry, where virtue easily succumbed to luxury or the inducements of power, where the fate of the republic therefore rested with the virtue or corruption of its citizens. Its recurrent terms were virtue, liberty, corruption, tyranny, republic, rights, and reason.\(^5\)

Ontologically, and verified experientially, the emergence of a republican language and the legacy of the Trust Clause were and remain in conflict with each other. A survey of the nineteenth century provides ample illustration of this fact, typified by the following examples.

The Stillwell Crisis at John Street Church in New York City began when local trustees adopted a policy, with reference to property and pastoral compensation, which differed from that of the Conference. Bishop William Ralph Ward, Jr., writes, in his history of the New York Annual Conference, that the General Conference of 1820 “... made it clear that all Methodist churches must conform to the Conference Minutes in regard to both property and support. The New York Conference, accepting this principle, took steps to bring the John Street Church trustees into conformity.”\(^5\)

Again in the 1850’s the John Street congregation was involved in an internal as well as a denominational conflict regarding property, which led, in 1866, to the writing of new articles of incorporation and a special charter which guaranteed the continuation of this historic site and placed the election of the Trustees in the hands of the General Conference.\(^5\)

Another illustration is taken from a series of incidents from the 1820’s, when it was felt by some that a lay member of the New Haven Methodist Church had been accused of dishonesty, tried, convicted, and dismissed from the congregation on the basis of hearsay and not of fact. This action prompted John W. Barber to seek an appeal before Bishops Robert Richford

\(^5\)Richey, *Early American Methodism*, 89.
Roberts and Elijah Hedding and the New York Annual Conference meeting in Troy, New York, in May of 1829. Failing to achieve his desired end, Barber wrote a pamphlet attacking the church on republican principles. He wrote against an institution which, in his judgment and experience, was autocratic, often unjust, and certainly oppressive. Barber contends:

Our government, institutions, and habits of the people being republican, any system of church government which is monarchial and arbitrary in its operations, will be eventually thrown off by the "sovereign people," provided they remain enlightened and intelligent, and continue under a civil government like the present government of our country.53

The most obvious illustration of the ongoing influence of the O'Kelly Schism and the debate which ensued was the creation in the late 1820's of the Methodist Protestant Church and its republican components.

The Methodist Protestant Church was formally organized at the constituent general convention held in Baltimore in November, 1830. . . . Although local churches gained a degree of autonomy, the connectional system was preserved, however, without bishops. Laymen gained equal representation in annual and general conference, but local preachers were denied membership in the annual conference. Although women had been given the vote in the "Associated Methodist Churches," they did not have it now. Moreover, slavery was not rejected. . . . Although bishops were dispensed with, a president of an annual conference made appointments, "subject to revision by a Committee of Appeals." Shades of James O'Kelly! A book committee, a new periodical (The Methodist Protestant), a discipline, a hymnbook, and other trappings of Methodism were provided for.54

It was during these early years of the nineteenth century that the Methodist community was taking upon itself the formal language of a constitution. Like our national Constitution and its first ten Amendments constituting a Bill of Rights; like the growing preference of the learned and influential for Greek Revival architecture; and like the publication of our first Dictionary compiled by Noah Webster; the church's constitution was a largely self-justifying attempt to proclaim to others, and to itself, that the church had arrived and was here to stay. A constitution is self-conscious and self-assertive; it is the formal language of community.

The Discipline had of course developed over the years since 1784. But its history had so far been that of a helpless victim left to the mercy of Annual Conferences and then quadrennial General Conferences. Now all was changed. An element of permanence and continuity was introduced that gave to the church an elastic but continuous tradition, a deeper sense of a solid foundation on which to build.55

53John W. Barber, Thoughts on Some Parts of the Discipline of the Methodist Episcopal Church (New Haven, Connecticut: Baldwin and Treadway, 1829), 5.
55Norwood, in Bucke (editor), The History of American Methodism, Volume 1, 478.
For the purpose of this essay our attention must turn from the conflicts and reforms of the last century to a brief consideration of developments within our civil courts with reference to church property, polity, and the Trust Clause.

In 1872 the Supreme Court of the United States reviewed on appeal *Watson v. Jones*, a case which originated between the Warren Street Presbyterian Church of Louisville, Kentucky, the Presbytery of Louisville, and the Synod of Kentucky. The issue was one of disagreement with the denomination and subsequent litigation over the control of local church property. Although, strictly speaking, not a Methodist matter, this case was of interest in that the Presbyterian Church had its own parallel version of the Trust Clause. In its decision the court held that “when a civil right depends upon an ecclesiastical matter, it is the civil court and not the ecclesiastical which is to decide. But the civil tribunal tries the civil right, and no more, taking the ecclesiastical decisions out of which the civil right arises as it finds them.”

Furthermore, in this specific instance, whatever may have been the case before the Kentucky court, the appellants in the case presented to us have separated themselves wholly from the church organization to which they belonged when this controversy commenced. They now deny its authority, denounce its action, and refuse to abide by its judgments. They have first erected themselves into a new organization, and have since joined themselves to another totally different, if not hostile, to the one to which they belonged when the difficulty first began. Under any of the present decisions which we have examined, the appellants, in their present position, have no right to the property, or to the use of it, which is the subject of this suit. 56

Bishop Jack M. Tuell, educated in the law and admitted to the bar, reflects upon the court’s seminal decision in *Watson v. Jones*:

The theory back of this position is basically this: you don’t have to join a church; when you do so, it is presumably with knowledge of how the church functions, how it holds its property, and so forth. If you don’t like these provisions, you can try to change them, but failing that, you have to live with them or leave the church; the courts will not intervene in the internal affairs of churches to remedy things that a member thinks unfair. This basic view has been reiterated again and again by the courts, and is the well-accepted law of the land. 58

Frederick Mark Gedicks, a constitutional scholar, writes under the general topic “religion,” and specifically of the “free exercise” clause of our Constitution:

A final area of free exercise doctrine relates to adjudication by secular courts of religious disputes. In a typical case, a hierarchy or congregation divides itself into two or more theologically opposed factions that then argue over which faction is entitled to control the property and offices of the preexisting church.

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The Court has developed a free exercise analogue to the political question doctrine that disposes of most of these cases. To the extent that resolution of a hierarchical or congregational dispute depends upon interpretation of religious doctrine, the secular court must defer to the interpretation advanced by the church’s governing structure. If no interpretation is forthcoming, the court must abstain from adjudicating the case rather than offer the interpretation itself, on the theory that ecclesiastical and theological questions are not justiciable. . . .

The rationale of the church property cases is that judicial resolution of ecclesiastical or theological disputes impermissibly entangles government in the affairs of religion. Accordingly, the decisions frequently advert to the constitutional value of church autonomy.

This principle is further illustrated in the story of the union of the Methodist Episcopal Church, the Methodist Episcopal Church, South, and the Methodist Protestant Church. The Uniting Conference met in Kansas City, Missouri, on 26 April 1939 and there crafted a Declaration of Union. The document stated:

The Methodist Church is the ecclesiastical and lawful successor of the three uniting Churches, and through which the three Churches as one United Church shall continue to live and have their existence, continue their institutions, and hold and enjoy their property, exercise and perform their several trusts under and in accord with the Plan of Union and Discipline of the United Church; and such trusts or corporate bodies as exist in the constituent Churches shall be continued as long as legally necessary.

Declarations of union aside, the united body soon found itself defending the right to be a united church under the title, “The Methodist Church.” The Pine Grove congregation in Tuberville, South Carolina, filed a class-action suit against union. This became the test case for all similar filings. The matter was appealed to the State Supreme Court and was the subsequent content of five federal decisions before the issues were settled and union secured.

The story then is one of ongoing tension and conflict, as populist, republican sympathies continue to call for reform and attack, either directly or indirectly, the Trust Clause and its corollaries. The civil courts, through their interpretation of our national Constitution, have continued to guarantee to the denominations the right to maintain their respective polities, discipline, and order, particularly with reference to property.

IV

Institutions, like language itself, have a way of evolving over time in the directions of codification and increased complexity. It is no mere coincidence

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61 McElreath’s study is the best and most comprehensive treatment of the legal ramifications of Methodist union.
that the size and content of *The Book of Discipline* has increased in much the same way as have today’s successors to Noah Webster’s initial attempt to provide a dictionary of the American language. Mature institutions, in response to current reality, require increased self definition, careful articulation of procedures, and focused legislation. Polity expands with age; grammar becomes more intricate.

This evolution of polity has impacted our understanding and application of the Trust Clause as well. We now find ourselves in a position where not only the wording of a clause, but also the implication of meaning within the larger context, independent of wording, bears weight.

... [A]lthough title to the property may be held by an entity in the church subject to the provisions of the *Discipline*, said title is merely held in trust for the denomination by that entity. The title may be taken in the name of the corporation or certain trustees, but the *Discipline* clearly states that all such properties are held in trust for the denomination, *whether or not a trust clause included in the instrument of conveyance.*

The standard assumption is that all instruments of conveyance involving property which is acquired for use as a place of worship, a parsonage, or for other usages consistent with church activities, must contain a Trust Clause. For a place of worship, the Trust Clause shall read:

> In trust, that said premises shall be used, kept, and maintained as a place of divine worship of the United Methodist ministry and members of The United Methodist Church; subject to the *Discipline*, usage, and ministerial appointments of said church as from time to time authorized and declared by the General Conference and by the Annual Conference within whose bounds the said premises are situated. This provision is solely for the benefit of the grantee, and the grantor reserves no right or interest in said premises.

(Additional clauses are contained in *The Book of Discipline* with specific reference to parsonages or other buildings used for church related activities.)

The only exception to the claims of the Trust Clause is when the deed of conveyance contains a reversionary clause to the grantor, should the property no longer be used for its stated purpose. In many cases, however, reversionary clauses refer to the property, i.e., the land upon which a building is erected, and not to the building itself. Furthermore, a Board of Trustees now has the power to decline any gift “for any reason satisfactory to the board,” including a reversionary clause.

Of greater interest are those cases in which deeds of conveyance were written prior to the church’s affiliation with The United Methodist Church,

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Mr. Wesley's Trust Clause

or where the placement of the Trust Clause within the deed was omitted either by ignorance or by design. In such cases, the claims of the Trust Clause still obtain.

The absence of a trust clause in a conveyance instrument in no way mitigates or compromises the connectional obligation of the local church or other church agency to the denomination as a whole. . . . Where there is no express trust clause, an implied trust is imposed pursuant to [paragraph] 2503 [of The Book of Discipline]. Evidence that church property which has no express trust in the deed is intended to be used for denominational purposes includes the following:

1. Prior conveyances in the chain of title to predecessor local churches or agencies within The United Methodist Church or its predecessors;
2. Use of the name, customs, or polity of The United Methodist Church or its predecessor denominations in such a way that it becomes known by the community as part of the denomination;
3. Acceptance of a pastor appointed by a bishop or employed by the superintendent of the District of an Annual Conference of The United Methodist Church or its predecessors.

Where such evidence is present, secular courts have upheld the right of denominational units to succeed to the title on the implied trust theory.67

Like an ellipsis in grammar, the theory of implied trust and its application to church polity is reflective of just how far our denominational lexicon has evolved.

Independent of, and in addition to, the findings of the secular courts, the Judicial Council of The United Methodist Church, a parallel structure in church law to the United States Supreme Court, has also reviewed the matter of the Trust Clause. On at least two occasions, in declaratory judgments, the Council has interpreted deeds of conveyance in language consistent with Trust Clause implications.68

Bishop Jack Tuell outlines three basic historical approaches to property holding among religious bodies, placing our own particular grammar within a larger ecumenical vocabulary:

In the Roman Catholic Church, the title to the local church property is held by the bishop of the diocese. Most states provide in their laws for a "corporation sole," a legal device by which a Roman Catholic bishop can enjoy all the benefits of being a corporation in regard to his holding title to real estate. Thus, title to any Roman Catholic church is clearly not in the hands of the local congregation.

In nonconnectional or more strictly congregational type churches, such as the Baptist, the title to the church property is held by the local church itself and controlled completely by the congregation.

In The United Methodist Church, we come in between these two. The title to a local church building is actually held by the local church itself, but it is held in trust for the

67Legal Manual, 15–16.
whole United Methodist Church, and is subject to the rules of its Discipline. The statement is sometimes made that United Methodist churches are "owned by the conference." This is not true. The local church owns its own property, subject to certain checks and balances in the Discipline. One of the key ones is the trust clause."

It is possible, however, to posit that the Trust Clause, with its guarantees in support of itineracy, places the Roman Catholic and the United Methodist traditions much closer than Bishop Tuell's analysis would indicate. In both cases, the most important decisions related to the ongoing life of a local church, i.e., the selection, training, certification, and deployment of ministerial leadership, is not the local church's to make. Such decisions are more consistent with denominational, diocesan, or conference policy; and in both cases, bishops appoint pastors to their fields of labor.

As recently as the General Conference of 1996, efforts were made to weaken itineracy by compromising the appointive power of Bishops. Such attempts were rejected by the General Conference. They do, however, represent an ongoing lovers' quarrel within the community of faith. If we are to modify the appointive process so that it becomes the responsibility of the receiving local congregation to determine who shall be appointed as its pastor, then the question first raised by Mr. Wesley continues to obtain: If the church puts in its preacher, can it not also put the preacher out? If itineracy is weakened, then there is no longer a guarantee that for the mission, ministry, and development of the church, certain appointments must be made, regardless of age, gender, or race, and we shall be in no better condition than our sister churches of congregational polity, who are all too ready to dismiss the candidacy of those they do not like or with whom they disagree.

Of lasting consequence is the fact that every section of The Book of Discipline has been impacted, shaped, and colored by the Trust Clause legacy. Even a cursory overview of the book's contents reveals the stated or implied grammar of the Trust Clause, with specific, but by no means exclusive, reference to church property, the conferences, superintending ministries, the work of the Board of Ordained Ministry, and the local church. It would be as difficult to define the mission and ministry of The United Methodist Church without the Trust Clause, as it would be to construct a language without the verb "to be."

V

Russell E. Richey's monograph, Early American Methodism, has provided the conceptual framework for this essay and offers a helpful corrective to our revisionist approach to our common past.

*Tuell, The Organization of The United Methodist Church, revised 1993 edition, 144-45.
The problem for the historian is to make some sense of a Methodist past characterized by this complex interplay of languages. The interpreter may, at times, be tempted by the impulse (to which the movement or portions thereof occasionally succumbed) to take one of these languages as authentic, or controlling, or basic, and to construe Methodism in its terms alone. That lure has shaped histories as well as policy. Methodism is better understood by recognizing the place and power of all the languages. [i.e., that shared with other pietists and evangelicals; the legacy of the Wesleys; America’s episcopal language; and our nation’s republican language.] The four languages, after all, have been claimed, used, valued, and even championed. They represent for the historian rich intellectual resources, symbol systems in terms of which to understand the movement.50

In an effort to avoid any truncated understanding of the Trust Clause, this essay has traced its development over the last three languages cited above into the present, with particular attention given to how this unique dimension of our vernacular has both called out and defined a community called Methodist.

Experience plus symbolization yields meaning; or, to state this theorem in the negative, without symbolization, experience holds no meaning. The experience confronting Mr. Wesley was the need to do a new thing in the most effective and economical way possible. In response to this reality, he created a new language, a new symbolic structure, and one component was the Trust Clause. That clause, albeit modified, challenged, expanded, and clarified over the years, provided us with one helpful linguistic approach to the ongoing task of determining who we have been and who we are today.