

**BEFORE THE JUDICIAL COUNCIL
OF
THE UNITED METHODIST CHURCH**

IN RE: PETITION FOR DECLARATORY DECISION)
OF THE COUNCIL OF BISHOPS RELATED TO)
¶ 2548.2 OF THE BOOK OF DISCIPLINE 2016.)

DOCKET 0522-02

AMICUS CURIAE BRIEF OF THOMAS LAMBRECHT AND JOHN LOMPERIS

The above-named persons submit this *amicus curiae* brief in response to the declaratory decision request of the Council of Bishops on questions related to ¶ 2548.2 of the *2016 Book of Discipline*. Rev. Thomas Lambrecht is a clergy member of the Wisconsin Annual Conference, serving on extension ministry with Good News, Spring, Texas. Mr. John Lomperis is an active lay member of St. Mark's UMC, Decatur, Indiana, and a delegate to General Conference.

In their request, the Council of Bishops poses eight questions to the Judicial Council. This brief will answer each of those questions along with supporting arguments to urge the Judicial Council to rule in favor of Annual Conferences having the *option* of using ¶2548.2 to allow congregations to depart from their respective annual conferences and unite with a member of the Pan-Methodist Commission or with another evangelical denomination, thereby permitting the property of such local churches to be transferred to the other denomination.

The basic provisions of what is now ¶ 2548.2 have been part of the *Discipline* of our denomination and, before that, of The Methodist Church, since 1948. No General Conference has ever chosen to amend ¶ 2548.2 or its predecessors to adopt the restrictive interpretation asserted by the Council of Bishops in its declaratory decision petition. Apart from paragraph renumberings, General Conferences held in 1952, 1956, 1968, 1976, 1988, 2000, and 2012 made minor changes to ¶ 2548.2 and its predecessors. In each instance, ¶ 2548.2 and its predecessors

was opened for possible amendment, but in each case, General Conference delegates declined to add restrictive language, which the Council of Bishops now seeks to have added to the provision by act of the Judicial Council.

The Judicial Council is not a legislative body. As the Judicial Council said in Decision #1274: “Changes in church law can only be made by the General Conference. ... It is a long-standing principle that the Judicial Council will not enter into legislative relief. That prerogative falls to the actions of the General Conference. The Judicial Council is not an appropriate body to change Church law. See Memorandum 1217.” And as the Judicial Council recently recalled in JCD 1407: “‘The separation of authority and decision making is integral to the United Methodist Constitution and law,’ demanding that each branch respect the defined roles of all other branches of the Church. JCD 689.”

The arguments advanced by the Council of Bishops are within the purview of the General Conference if it should choose to amend ¶ 2548.2, but are not to be grafted on to a statutory provision by judicial fiat. When a provision of our church law has been on the books and unchallenged for so many decades, it merits suspicion when some are suddenly attempting to create new legal obstacles to prevent anyone from having the option to implement this provision.

Where the language of a constitutional or statutory provision is clear and unambiguous, the Judicial Council, in declaring its meaning, application, and effect, “may not override a plain ... provision however objectionable it may seem to the parties interested. Where the language is plain and unambiguous, no room is left for construction” (JCD 132). As the Judicial Council has stated, where “the language ... is clear and unambiguous; its meaning, application and effect are plain; no judicial interpretation is required” (Memorandum 578). As argued below, the language of ¶ 2548.2 is clear and unambiguous. The Judicial Council cannot rewrite the provision as urged

by the Council of Bishops by incorporating material beyond the express language of the provision.

The Judicial Council is not an evidentiary body and therefore it is improper for the Judicial Council to consider the purported historical research by a graduate student, Lawrence E. Hillis, submitted as part of the declaratory decision petition. The Hillis paper is but one person's perspective which has not been vetted, subjected to cross-examination, or accepted as dispositive. As the Council of Bishops notes in its petition, "The COB does not propose that the understanding [of the predecessor to ¶ 2548.2] in 1948 must remain static and not subject to expansion." When the language of a statutory provision such as ¶ 2548.2 is clear and unambiguous, it is inappropriate to turn to materials beyond the plain language of the provision in the interpretation and application of the provision.

Moreover, the undersigned wish to assert that we are *not* conceding Hillis' conclusions as accurate. Hillis was apparently engaged to investigate the historical background of ¶ 2548.2 specifically in relation to the questions posed by the bishops in their request for declaratory decision.¹ In several places, he references particular questions the bishops posed as they relate to answers he proposes.² Therefore, his research cannot be considered objective and unbiased. Additionally, different historians often arrive at different conclusions based on the same historical evidence. (Interestingly, the COB declined to make use of a three-page report on legislative history provided by "staff at the General Commission on Archives and History," dated March 8, 2022. That report addresses different historical data and arrives at different conclusions, leading one to wonder why the COB needed to commission a second report.)

¹ COB Request for Declaratory Decision, p. 3. Hillis Declaration (Exhibit C), p. 1.

² Hillis Declaration, p. 4 (5e), p. 10 (7j)

The plain language of ¶ 2548.2 is the first and best place to interpret the instant questions. The Judicial Council should only consider the arguments made in the Council of Bishops' request or Hillis' conclusions *if* the plain language of ¶2548.2 is unclear. That is patently not the case. Just because ¶ 2548.2 is not preferred as a matter of policy by a majority faction of the Council of Bishops does not make it unclear to the rest of the church.

The plain language of ¶ 2548.2 is extremely clear. The General Conference of The Methodist Church adopted it in 1948. Every successor General Conference of The Methodist Church and The United Methodist Church could have chosen to remove it from the *Discipline* or clarify its language. Yet none has done so. Evidently, General Conferences have consistently judged that this provision's key terms are clear enough to not need further definition, at least not at the general-church level. The special-called General Conference in 2019 chose not to do so and even referenced this provision as a mechanism for a church to depart The United Methodist Church. When the 2019 General Conference adopted new ¶ 1504.23, it referred to ¶ 2548. Paragraph 1504.23 states, "If a local church or charge in the United States changes its relationship to The United Methodist Church through closure, abandonment, or release from the trust clause pursuant to ¶ 2548, ¶ 2549, or otherwise...." The General Conference is clearly making it possible for local churches to depart ("change its relationship") from The United Methodist Church using a variety of paragraphs, including ¶ 2548.

The General Conference in ¶ 2548.2 states that a local church can depart The United Methodist Church and transfer its property *either* to a member of the Pan-Methodist Commission *or* to "another evangelical denomination." It has laid out a clear process whereby an "allocation, exchange of property, or comity agreement" is created to handle all the legal requirements of an annual conference releasing its interest in the property (via the release of the trust clause). The

language of ¶ 2548.2 does *not* require a comity agreement. The property could alternatively be deeded under an “allocation” agreement, allocating the property to the other denomination, or an “exchange of property” agreement, deeding the property in exchange for financial and other considerations. The General Conference has provided for the handling of unfunded pension liabilities under ¶1504.23. Moreover, the General Conference has provided for the local church to be closed as a United Methodist congregation under ¶ 2549 after its assets are disposed of under ¶ 2548.2.

The General Conference clearly chose that the local church, either through its charge conference or a meeting of its church membership, can request an allocation, exchange of property, or comity agreement. The agreement must be approved by the annual conference. Additionally, the General Conference provided that the presiding bishop, a majority of the district superintendents, and the district board of church location and building must give their consent. Through this process, the local church’s assets would be transferred to either a Pan-Methodist Commission member or another evangelical denomination. The trust clause would be released, the church would be closed as a United Methodist congregation, and the pension liabilities would be taken care of in accordance with ¶ 1504.23. If necessary, the church could vote at its charge conference or a meeting of its membership to close the church under ¶ 2549 once the disposition of property under ¶ 2548.2 was executed.

The undersigned believe that the Council of Bishops’ eight questions in their request for declaratory decision are unnecessary because the plain language of the instant paragraph is so clear. That said, to be thorough, the undersigned will briefly address the Council of Bishops’ questions.

(1) What bodies within the United Methodist Church are “duly qualified and authorized representatives of both parties concerned” who must sign and approve a comity agreement under ¶2548.2?

In their rationale, the Council of Bishops says that the language “duly qualified and authorized representatives of both parties concerned” is ambiguous. This could not be further from the truth. Most jurisdictions in the United States have a law called the “statute of frauds.” Such statutes historically require any legal transactions involving real estate be committed to writing. The purpose of local statutes of frauds is to prevent oral contracts concerning real property that cannot be proven in court. The instant paragraph is simply helping to ensure that the allocation, exchange of property, or comity agreement must be in conformance with the laws of the applicable jurisdiction by being reduced to writing. The paragraph even refers to that fact. In other words, the parties to the allocation, property exchange, or comity agreement must sign the transaction to make it legally binding. It is obvious that representatives of the local church, its new denomination, and the persons or entities of The United Methodist Church named in ¶ 2548.2 are the “duly qualified and authorized representatives.”

Unambiguously, in any transaction involving the transfer of property, “both parties” plainly refers to the giving entity and the receiving entity. The broadness of the language about “the duly qualified and authorized representatives” seems clearly deliberate, so that this language can cover the range of the different sorts of polities and structures various receiving denominations may have. The “duly qualified and authorized representatives” from “within The United Methodist Church” are already explicitly spelled out in ¶2548.2.

(2) What bodies within the United Methodist Church are required to determine and approve whether an entity is “another evangelical denomination” within the meaning of ¶ 2548.2?

Again, the Council of Bishops is making the execution of the instant paragraph harder than it needs to be. In several case-law precedents, the Judicial Council has made clear that when annual conference actions hinge on particular terms in the *Discipline* (outside of the UM Constitution) that have not been explicitly defined by General Conference, then the terms are to be defined by “the various annual conferences” (JCD 702; Cf. JCDs 722, 1164).

The General Conference has empowered the named entities to decide if the property of the local church is being transferred to an entity that is another evangelical denomination. The General Conference has the right to delegate this decision process to the aforementioned parties. Moreover, in JCD 1379, the Judicial Council held, “the annual conference as the basic body in the Church has the reserved right to make final decisions regarding the disaffiliation of local churches within its boundaries.” While ¶ 2548.2 is not a “disaffiliation,” it stands to reason that the annual conference, its officers (bishop and district superintendents), and its committees (district board of church location and building) would have the reserved right to make final decisions regarding the departure of local churches in any circumstances (¶¶ 2548, 2549, 2553).

In much of the world, the word “evangelical” simply means “Protestant.” Any duly established Protestant denomination could fit the criteria of this paragraph. The paragraph does not require the “other evangelical denomination” to be Methodist, Wesleyan, covenanting, concordat, autonomous or affiliated autonomous or affiliated united church. There is therefore no requirement in ¶ 2548.2 that the General Conference approve or enter into an agreement with the “other evangelical denomination” similar to what is required in ¶¶ 570-574.

Furthermore, it appears the term “evangelical denomination” or “evangelical Church” was a commonly used descriptor in the 1940s without any definition being applied or any

process for “approving” a given denomination as an “evangelical denomination.” The 1940 Methodist Church *Discipline* contains the following provisions (emphasis added):

135. Members in good standing in any evangelical Church who desire to unite with us may be received into membership. Upon giving satisfactory evidence of their willingness to support The Methodist Church and to keep its rules and regulations, and after they and the members of the Church have entered into solemn covenant with one another as provided in the Ritual.

151. A Pastor shall upon request give a Certificate of Membership and of Recommendation to any member in good standing who wishes to unite with any other evangelical denomination.

311. Article 1. Ministers coming from other Evangelical Churches, provided they present suitable testimonials of good standing, and give assurance of their faith, Christian experience, and other qualifications, and give evidence of their agreement with us in doctrine and discipline, may be received into our Ministry in the following manner: ...

505. Members in good standing in any evangelical Church who desire to unite with us may be received into membership upon giving satisfactory evidence of their willingness to support The Methodist Church and to keep its rules and regulations, and after they and the members of the Church have entered into solemn covenant with one another as provided in the Ritual.

521. A Pastor shall upon request give a Certificate of Membership and of Recommendation to any Member in good standing who wishes to unite with any other evangelical denomination.

Dictionaries in the 1940s define “evangelical” as “holding or conforming to what the majority of Protestants regard as the fundamental doctrines of the gospel ... in the United States [the term usually designates] the orthodox churches.”³

(3) What is required under the 2016 Book of Discipline to determine what is a “denomination” within the meaning of ¶ 2548.2?

The General Conference has delegated the authority to decide who is “another evangelical denomination” to the annual conference and its presiding bishop, district superintendents, and district boards of church location and building.

The claim that “the historical context and current language of the Discipline indicate that this authority to recognize another denomination is vested only in the General Conference” is frankly absurd on several counts.

First, part of our being an ecumenical church is showing basic respect for sisters and brothers in other denominations. Minimally, such respect includes recognizing that we do not control them and they do not need our General Conference’s permission to exist.

Second, the extreme narrowness with which the COB’s logic would restrict ¶ 2548.2’s reference to other evangelical denominations (and by extension, the other provisions for other denominations noted elsewhere in this brief) is especially stark when we consider that, while the UMC has formal, bilateral ecumenical relationships with many other Methodist denominations and denominations formed by mergers that included Methodists or EUBs, it has only established “full communion relationships” with just two completely non-Methodist denominations.⁴ These are with the Evangelical Lutheran Church in America (a relationship only established in 2009⁵)

³ *Funk & Wagnalls new practical Standard dictionary of the English language*, 1948 edition, page 458.

<https://archive.org/details/funkwagnallsnewp01funk/page/458/mode/2up>

⁴ <https://www.unitedmethodistbishops.org/ecumenicaldetail/list-of-umc-partnerships-12822590>

⁵ <https://www.umcdiscipleship.org/about/press-center/united-methodists-and-lutherans-look-for-ways-to-work-together>

and the Moravian Church, Northern and Southern Provinces (established in 2018⁶). There is simply no credibility in claiming that the 1948 General Conference and every subsequent General Conference intended to restrict its chosen broad wording of “another evangelical denomination” (rather than “another Methodist denomination” or “another historically Methodist-related or EUB-related denomination”) so that no non-Methodist denominations could possibly be covered before 2009.

Third, in terms of “the current language of the *Discipline*,” there are plenty of parts of the *Discipline* that allow or even require certain local processes with regard to “other denominations,” but nothing in these provisions requires any General Conference or general-church-level action to formally recognize any other denomination involved.

Fourth, there is a clear, ongoing “historical context” of annual conferences and local United Methodist authorities recognizing other denominations for such purposes as:

- Pastors allowing baptized members of “other denominations” to transfer into the UMC from other denominations (§ 225, descending from the aforementioned § 505 in 1940);
- Pastors allowing “member[s] of another denomination” to become associate members of a UM congregation (§ 227);
- Lay members being allowed to have their membership “transfer to a particular church of another denomination” (§§ 228.2.b.1.c, 240);
- Federated congregations, union churches, yoked parishes, or congregational mergers involving the UMC and other denominations (§§ 207-211, 230.6, 339fn33, 2547, 2548.1);
- Pastors removing people from their congregation’s membership rolls after confirming that they have “united with a church of another denomination” (§ 241);

⁶ <https://www.umc.org/en/content/moravian-church-in-america-ratifies-full-communion-agreement-with-the-unite>

- Licensing and appointing “Licensed or ordained clergy from other denominations” to pastor United Methodist congregations in certain situations (§§ 315.5, 318.4, 346.2);
- Discontinuing the candidacy of provisional clergy members of annual conference who “unite with another denomination” (§ 327.6);
- Allowing the bishop to appoint deacons and provisional deacons to serve in settings in “another denomination” (§ 331.8);
- Allowing the bishop to appoint elders and licensed local pastors “to a church of another denomination” (§ 339);
- The conference board of ordained ministry and clergy session “recogniz[ing] the orders of ordained clergy from other denominations and receiv[ing] them as provisional members or local pastors” (§ 347.3, cf. §§ 347.4-5, 348.3);
- Clergy “withdraw[ing] to unite with another denomination” (§§ 360.1, 360.4);
- A UMC “mission” in a particular region seeking cooperative “relationships with other denominations” operating nearby (§ 590);
- Annual conferences inviting “official representatives from other denominations” to attend annual conference sessions (§ 603.9);
- The responsibility of campus ministries to evaluate “the number and size of other denominational campus ministries” (§ 634.4.d.16);
- The General Board of Global Ministries “working cooperatively with ... other denominations” for the sake of “developing action and advocacy for global justice, peace, and freedom” (§ 1314.2.f); and
- The landmark JCD 696 ruled that “a person cannot belong to another denomination and remain a member of The United Methodist Church.”

Common sense would say that in each of these provisions of church law, it is up to the relevant authorities (pastor, superintendent, board of ordained ministry, etc.) to exercise its own judgment in deciding what counts as “another denomination.” There is no hint in any of these provisions that recognition or approval by General Conference is necessary. Every term in the *Discipline* does not have to be meticulously defined, especially if the meaning is generally intuitive. If there is any genuine uncertainty about the meaning of particular words, it is up to the implementing authority to interpret.

Accepting the COB’s logic here would open many cans of worms of chaos. It could largely nullify much or even *all* of the church law in the bullet points above, by establishing that none of these longstanding parts of our church law related to “other denominations” can ever be applied anymore, unless people can cite some specific General Conference resolution that explicitly named the particular denomination in question and said “that denomination is indeed another denomination that officially exists.” This could immediately bring chaos to numerous vital local arrangements, regional partnerships, pastoral appointments, and already-begun ordination-transferring processes throughout our connection!

But fortunately, there is no good legal reason for the Judicial Council to go down such a chaotic road of destructive unintended consequences. One recent ruling has great relevance here. In the recently released JCD 1436, the Judicial Council ruled about another matter:

“Evidently, the General Conference had ample opportunities to regulate the voting process in the district conference but chose not to do so. The silence of the Discipline on this specific question should not be interpreted as General Conference’s intent to occupy the field and to bar annual conferences from adopting gap-filling policies, for such conclusion would directly contradict

General Conference’s express declaration allowing an ‘annual conference, for its own government, [to] adopt rules and regulations not in conflict with the Discipline of The United Methodist Church.’ ¶ 604.1. Indeed, it would be pointless to grant an annual conference this right if, at the same time, General Conference legislation operated in a manner to preempt all annual conference policies in the same field.”

So by the Judicial Council’s logic, in this present case: Evidently the General Conference has had ample opportunities to provide more detailed regulations for ¶2548.2 and has repeatedly chose not to do so. The *Discipline*’s silence on particular details related to some of the questions raised by the COB should not be interpreted as General Conference’s intent to occupy the field and to bar annual conferences from adopting gap-filling policies, for such conclusion would directly contradict General Conference’s express declaration allowing an “annual conference, for its own government, [to] adopt rules and regulations not in conflict with the *Discipline* of The United Methodist Church.” ¶ 604.1. Indeed, it would be pointless to grant annual conferences the rights granted by ¶¶ 604.1 and 2548.2 if, at the same time, General Conference legislation operated in a manner to preempt all annual conference policies in the same field.

Furthermore, ¶ 311 of the 1940 *Doctrines and Disciplines* of The Methodist Church provided a process for how “Ministers coming from other Evangelical Churches” could transfer into the denomination. Nothing in ¶ 311 indicated a narrow list of which specific denominations would qualify as “other Evangelical churches.” In JCD 16, decided in 1943, the Judicial Council addressed a case of a man ordained “in the Baptist Church” seeking to use this provision. In that ruling, the Judicial Council showed no interest in examining which of the various Baptist churches and denominations this man was ordained in, or if the man’s Baptist church was ever

explicitly “recognized” by any specific General Conference action, or if his church had joined any particular ecumenical body like the Federal Council of Churches. This ruling made clear that in such cases, judgments like whether or not a minister’s church qualified as another “Evangelical Church” are to be decided at the annual-conference level, and that no further action is needed by the General Conference, Council of Bishops, or other general-church entity to scrutinize the details of the particular other church in which the minister was ordained.

To be clear, one other point needs to be addressed. The Council of Bishops in response to these questions makes a reference to the newly formed Global Methodist Church and whether it is in fact a real denomination. The Global Methodist Church formed on May 1, 2022. It is fully incorporated under the laws of the State of Texas. It has a fully fleshed out *Transitional Book of Doctrines and Discipline* that utilizes both the Articles of Religion and Confession of Faith of The United Methodist Church. It provides for an episcopacy, General Conference, and doctrinal standards that meet and exceed The United Methodist Church’s doctrinal standards, including adding the Nicene Creed, the Apostles’ Creed, the Definition of Chalcedon, John Wesley’s *Standard Sermons*, and John Wesley’s *Explanatory Notes upon the New Testament*. It already has chartered churches, ordained clergy, paid staff, and established a hierarchy. If The United Methodist Church is an evangelical denomination, then the Global Methodist Church most certainly is.

(4) Does the provision of ¶ 2548.2 that “the annual conference may instruct and direct the board of trustees of a local church to deed property to one of the other denominations represented in the Pan-Methodist Commission or to another evangelical denomination” violate the constitutional authority of an annual conference under ¶ 33 with respect to local church property, including the “constitutionally embedded separation of executive and legislative powers” noted as “settled principles of church law and polity” acknowledged in Judicial Council Decision 1257?

This question is moot. The Council of Bishops admits in their own discussion of their question (4) the following, “That is, a preliminary review of the *Discipline* suggests that, other than ¶2548.2, an annual conference only has authority to instruct a local church to deed its property or to otherwise cause a transfer of local church property when the church has been abandoned and is being closed pursuant to ¶2549.” If a church is utilizing an allocation, exchange of property, or comity agreement to deed its property to a Pan-Methodist Commission or other evangelical denomination, then it undoubtedly will be closing as a United Methodist congregation. Otherwise, it would continue to exist in name only. This clearly is why ¶2549 immediately follows the instant paragraph. They are indeed related. The church is departing the annual conference by transferring its assets and then closing as a United Methodist congregation under ¶2549. This does not need to be complicated any further.

Since the request to deed the property is coming from the local church and not being imposed by the annual conference, there is no violation of the “constitutionally embedded separation of executive and legislative powers.” The trustees, as part of the local church, are requesting to make this move. The annual conference, in directing that such be done, is only giving its permission through the release of the trust clause. The Judicial Council has long recognized the right of annual conferences to give annual conference property to some entity outside of the denomination (see JCD 64). The paragraph is clearly constitutional.

(5) If ¶2548.2 is constitutional, may ¶2548.2’s authority to direct the local church to deed its property in accordance with that paragraph be exercised separately from any other process that results in the merger of the local church pursuant to ¶2547, disaffiliation pursuant to ¶2553, closure pursuant to ¶2549, or some other disposition of the local church deeding the property that results in termination of the local church as a unit of the United Methodist Church?

Under ¶2548.2 a local church has decided to depart the annual conference and transfer all its assets to another church that is either part of the Pan-Methodist Commission or another

evangelical denomination. If a church is doing so, it is obvious from the plain meaning of its decision that it is choosing to close as a United Methodist congregation and to do so under the established process set forth by the General Conference in ¶2549. It certainly meets the criteria of ¶ 2549.1b, that the local church property “is no longer used, kept, or maintained by its membership as a place of divine worship of The United Methodist Church” (emphasis added). This is a separate process from that in ¶¶ 2547 or 2553, so the use of those other paragraphs is not required, as the question itself implies.

(6) Must “an allocation, exchange of property, or comity agreement” within the meaning of ¶ 2548.2 comply with the connexional polity of the United Methodist Church as set forth in the 2016 Book of Discipline, including ¶¶ 206 – 213 of the Discipline?

This question is moot. Regardless of obscure arguments about what previous General Conferences may or may not have intended, the plain language of the *Discipline* clearly does not require ¶ 2548.2 (or ¶ 2553 or ¶ 2549 for that matter) to comply with ¶¶ 206-213, and it is unreasonable to suggest that this is General Conference’s intention. Paragraph 2548.2 clearly contemplates a local church departing The United Methodist Church. If a local church deeds all its assets to another Pan-Methodist or evangelical denomination, then the church is signaling its intent no longer to be United Methodist. Once the church property is entirely “deeded” to an entity outside of the UMC, then by the plain-sense meaning of the word, the property is no longer subject to the United Methodist *Discipline*. Accordingly, serving in a cooperative parish subject to ¶ 206 is not germane. Moreover ¶¶ 207-213 clearly are written for congregations that intend to remain at least partially United Methodist but wish to engage in formalized, covenantal relationships with other non-UM churches. Paragraph 207 and ¶ 208 state that ecumenical shared ministries are “ecumenical congregations formed by a local United Methodist church and one or more local congregations of other Christian traditions.” Accordingly, ¶ 2548 need not comply

with ¶¶ 207-213, since those paragraphs specifically intend for United Methodism to continue within that congregation. Additionally, ¶ 210 specifically requires ecumenical shared ministries to maintain an “avenue of vital relationship and connection to The United Methodist Church.” Paragraph 2548.2 instead applies to a congregation departing The UMC and moving its assets to a denomination in the Pan-Methodist Commission or “another evangelical denomination,” Paragraph 2548.2 does not reference any second congregation. But ¶ 208 provides for relationships between a United Methodist congregation and *any* “congregation of other Christian traditions,” including non-Pan-Methodist Commission denominations and denominations that are not evangelical. The General Conference has spoken loudly and clearly that ¶ 2548.2 is a different category from ¶¶ 206-213.

(7) May a comity agreement within the meaning of ¶2548.2 include provisions not authorized or prohibited by the 2016 Book of Discipline?

This Judicial Council has ruled on this question in JCDs 1424 and 1425 where it expressly held that annual conferences could add provisions to disaffiliation agreements under ¶2553. There is no reason to believe that the Judicial Council’s decision would not also apply to ¶2548, so long as those provisions do not directly contradict or violate the *Discipline*. Additionally, it would seem natural that an allocation, exchange of property, or comity agreement may include other provisions to conform with local law. Paragraph 1504.23 clearly applies to ¶2548.2 and therefore must be included. Notably, all three of the resolutions that the Council of Bishops provides in its request for declaratory decision (Exhibit D) include provisions related to unfunded pension liabilities that satisfy ¶1504.23.

As mentioned above under Question 3 (pp. 12-13), JCD 1436 states that the *Discipline*’s silence must not be construed “to bar annual conferences from adopting gap-filling policies.”

This question is therefore already ruled upon, and the answer is affirmative.

(8) What vote is required for an annual conference to “instruct and direct the board of trustees of a local church to deed property” under the authority of ¶ 2548.2?

The Council of Bishops has correctly answered its own question when it stated the following, “It appears to the COB that a simple majority vote by the annual conference is also the voting threshold for the annual conference voting on a request under ¶2548.2.” For a super majority to be required in the *Discipline*, the super majority must be stated, i.e., two-thirds or three-fourths or some other percentage. In the absence of such specification, a simple majority is assumed. JCD 1076 states, “Where there is no stipulation regarding the number of votes required, a simple majority vote is all that is necessary to approve an action” (see also JCD 1354 and 1379). A super majority can never be assumed because the precise size of the majority must be designated for a super-majority requirement to be effective. It is for this reason that the General Conference also provided for an assumed simple majority in the decision of a local church membership body or charge conference to begin the process of departing The United Methodist Church under ¶2548.2, as well as for a simple majority in the decisions of the annual conference and the district board of church location and building.

Relief Requested

In some form, the basic provisions of ¶2548.2 have been an unchallenged part of our church law for many decades. While there are plenty of places in which relevant authorities of our denomination are not interested in utilizing this provision, in this case, some are taking the rather extreme step of trying to effectively prevent anyone anywhere in our connection from actually being able to use this longstanding part of our church law, even in situations in which there may be strong agreement with the annual conference, bishop, and congregation in question.

For the Judicial Council to accept such obstructionist arguments and invalidate ¶2548.2 or effectively prevent it from actually being utilized would not only defy logic, undermine trust,

and have harmful consequences in other areas of our church law (especially as noted under Question #3 above), but also defy the basic respect to which the General Conference is entitled under the separation of powers. In the Judicial Council’s own well-established jurisprudence for reviewing such enactments of General Conference as ¶2548.2, “it is a general principle of constitutional construction that legislation must be upheld unless it is clearly in conflict with the Constitution interpreted as a whole” (JCD 7). As JCD 1210 put it: “When reviewing legislation for constitutionality, we defer to the legislative authority of the General Conference. In reviewing acts of the General Conference for constitutionality, our first inclination is to save legislation, if at all possible, and not destroy.”

The Judicial Council should rule with regard to the specific questions asked:

1) The “duly qualified and authorized representatives” from “within The United Methodist Church” are those expressly named in ¶2548.2.

2) The annual conference and its officials identified in ¶2548.2 are “the bodies ... required to determine and approve whether an entity is ‘another evangelical denomination’ within the meaning of ¶ 2548.2.”

3) Any legally formed denomination is a “denomination” within the meaning of ¶ 2548.2. There is no requirement for any body to formally recognize a denomination’s existence.

4) Paragraph 2548.2 is constitutional and does not violate “the separation of executive and legislative powers.”

5) The process outlined in ¶ 2548.2 is to be exercised separately from other processes of disaffiliation or merger, but does result in the “termination of the local church as a unit of the United Methodist Church,” so may involve ¶ 2549. Paragraph 1504.23 does apply to this process.

6) The agreement under ¶ 2548.2 is a different category and therefore does not involve any of the categories envisioned in ¶¶ 206-213.

7) A comity agreement within the meaning of ¶ 2548.2 may include additional provisions not expressly prohibited by the *Discipline*.

8) A simple majority vote of the annual conference is required to “instruct and direct the board of trustees of a local church to deed property” under the authority of ¶ 2548.2.

Respectfully submitted,

Rev. Thomas A. Lambrecht

Mr. John Lomperis