

“An Interesting Bit of History”

An Examination of the Methodist Church Case at Maysville, Kentucky, 1845-1847

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This paper examines a dispute regarding church property that arose from the sectional split of the Methodist Episcopal Church (into Northern and Southern General Conferences) in 1844. Originating from the border community of Maysville, Kentucky, this case reflects the increasingly divisive influence of the politics of slavery on American social life. The church at Maysville split into Northern and Southern factions that sharply contested the congregation's future, mirroring broader divisions across the nation. The case also raised important questions about the proper role of courts in adjudicating religious conflicts, as both sides turned to the judicial process for resolution. The Maysville case challenged Kentucky courts to reconcile the vested and secular rights created through a legal trust with the autonomous power of a religious organization to determine its own affairs. This overlooked and understudied aspect of American legal and religious history echoes questions of church and state that resonate clearly in the present day.

“This Maysville Church Case is an interesting bit of history into which we have no inclination to enter here. Let the past bury its dead!”—William Arnold¹

On September 30th, 1845, John Armstrong filed a bill in Mason County Circuit Court seeking an injunction granting him, and the faction he represented, control of the Methodist church in Maysville, Kentucky. That church had become caught up in the broader transformations around the issue of slavery that were remaking both the Methodist Episcopal Church and the United States more broadly. The M.E. Church had recently split into Northern and Southern divisions over slavery, and its Maysville church is emblematic of those divisions. Almost equally divided between those wishing to adhere to the North and those preferring the South, the church represents, on the very local level, the shift toward the hardened attitudes on sectional division that would characterize the last decade before the Civil War. Far from being merely “an interesting bit of history,” the case offers a unique window into a fascinating and unstudied facet of American history.

It is important to situate the case in its historical context before proceeding to analyzing it. Maysville is located along the Ohio River in Northeast Kentucky and is the county seat of Mason County. Census data from 1820-1860 reveal that the county experienced sporadic growth, with double-digit gains in population in the 1820s and 1840s and small contractions in the 1830s and 1850s.² The slave population remained somewhat higher, in percentage terms, than the state av-

¹ William Arnold, *A History of Methodism in Kentucky, Volume II* (Louisville: Herald Press, 1935), 291.

² 1820, 1830, 1840, 1850, and 1860 US Census Data for Kentucky, accessed via Social Explorer, www.socialexplorer.com.

erage throughout the period, peaking at 27.41% of the county's population in 1840.³ These numbers indicate the importance of slavery to the local and state economies. While slavery was never as ubiquitous a factor in Kentucky as it was in other parts of the South, the 1850 census shows that it still played a major role in the Commonwealth's economy.⁴ Despite the lack of large-scale plantation agriculture characteristic of the Deep South, slaves still performed backbreaking labor under "harsh," "unhealthy," and "dangerous" conditions.⁵ Slavery had been essential to Kentucky from "the earliest beginnings" and would continue to play a vital part in the Commonwealth's history through the Civil War.⁶

Yet the census data also reveal that Mason County was a substantial manufacturing center, particularly compared to surrounding counties. This emphasis on manufacturing, which accelerated in the 1840s and 1850s, helped tie Kentucky's Ohio River counties more closely to the Northern economy.⁷ The Northeast region had further ties to the North as an important last stopping point on the Underground Railroad to freedom across the river.⁸ Maysville in particular had several homes that served as safe houses for escaping slaves, including some just down Main Street from the Methodist church.⁹

Mason County thus emerges as a border community in a border state. It is perhaps unsurprising, then, that it was home to the most contentious case rising out of the Methodist Episcopal

³ *Ibid.*

⁴ *Ibid.*

⁵ James Ramage and Andrea Watkins, *Kentucky Rising: Democracy, Slavery, and Culture from the Early Republic to the Civil War* (Lexington: University Press of Kentucky, 2011), 5-6.

⁶ *Ibid.*, 236-240.

⁷ Lowell Harrison and James Klotter, *A New History of Kentucky* (Lexington: University Press of Kentucky, 1997), 138-141.

⁸ Ramage and Watkins, *Kentucky Rising*, 250.

⁹ Ann Hagedorn, *Beyond the River: The Untold Story of the Heroes of the Underground Railroad* (New York: Simon and Schuster, 2002), 231-232; also, I walked past several of them that had historical markers when I visited Maysville on November 25, 2012, see <http://www.cityofmaysville.com/tourism/museums%20libraries.html>.

Church's 1844 decision to sanction its division into two jurisdictionally separate conferences. The major cause of this division was the issue of slavery, though there were also important sectional differences about the "nature of episcopacy itself," with the Southern conferences generally believing the bishops to be a "co-equal branch of church government within the General Conference."¹⁰ Prior to the 1844 General Conference at which the issue came to the forefront, the church had already repulsed challenges from Northern abolitionists to its complicated position on slavery. Some of these abolitionists, led by Orange Scott, had already left the church in 1842 to form the "Wesleyan Methodist Connection," which explicitly disavowed slaveholding by any member, lay or clergy.¹¹ This departure had immediate consequences on the course of the M.E. Church. Prior to 1842, for example, ministers and members had been expelled from the church for being abolitionists. After 1842, no such expulsions would take place. Changes like this were not the result of some deep shift in doctrine; instead, "fear was the controlling factor."¹² Northern church leaders sought to retain as many of their increasingly pro-abolition congregants as possible, and doing so required taking a harder line against slavery in the church. At precisely the same time, some Southern church leaders were becoming more vocal in their support for slavery in the church. One went so far as to urge the General Conference to elect a slaveholding bishop "to place the South in her proper position and attitude as an integral part of the M.E. Church," a position with which church newspapers in Richmond and Nashville agreed.¹³ While other prom-

¹⁰ James Kirby, "Methodist Episcopacy," in *The Oxford Handbook of Methodist Studies* ed. William Abraham and James Kirby (Oxford: Oxford University Press, 2009), 238.

¹¹ Charles Swaney, *Episcopal Methodism and Slavery: With Sidelights on Ecclesiastical Politics* (New York: Negro Universities Press, 1969), 106-107.

¹² *Ibid.*, 113.

¹³ Donald Matthews, *Slavery and Methodism: A Chapter in American Morality* (Princeton: Princeton University Press, 1965), 242-243.

inent Southern Methodists disavowed such claims,¹⁴ the issue of slavery in the church, just like the issue of slavery in the nation at large, was clearly becoming more sectionally divisive, with radicals on both sides beginning to dominate the conversation.

These simmering tensions erupted at the General Conference of 1844, first over an appeal by Rev. Harding of his expulsion from the Baltimore Conference for holding slaves and more importantly over the case of Bishop Andrew of Georgia. Unlike Harding, Andrew had come into slaveholding only indirectly and unwillingly, by marriage to his second wife.¹⁵ He wished to free them, but Georgia law prohibited emancipation. Following the Methodist Discipline, Andrew purposely derived no benefit from the slaves, treated them humanely, and held them only in legal trust.¹⁶ Everyone at the Conference recognized that, despite his adherence to the letter of the Discipline, Andrew would be subject to fierce attack and censure. Both sides (Northern and Southern) met in separate caucuses to discuss their strategies for the impending struggle.¹⁷ During the Southern caucus, Andrew offered to resign to spare the church the division that would result from deciding his case. The caucus refused to entertain the thought, arguing that such a resignation would be a “fatal concession” to the abolitionists and would only encourage them.¹⁸ Such further abolitionist agitation would “probably [have led] to the secession of the greater part of the Southern churches.”¹⁹

Bishop Andrew decided not to resign, and the debate raged for days, eventually becoming something of a public spectacle, with “throngs of strangers pour[ing] into the visitors’ gal-

¹⁴ *Ibid.*, 243.

¹⁵ John Nelson Norwood, *Schism in the Methodist Church, 1844: A Study of Slavery and Ecclesiastical Politics* (Alfred, NY: Alfred Press, 1923), 62-66.

¹⁶ Arnold, *History of Methodism in Kentucky, Volume II*, 279-281.

¹⁷ Matthews, *Slavery and Methodism*, 256.

¹⁸ *Ibid.*, 258.

¹⁹ Norwood, *Schism in the Methodist Church, 1844*, 68.

lery.”²⁰ The debate broke down into three factions: the slaveholding South, solidly united behind Andrew; the Northern abolitionists, solidly against him though abstaining from speaking; and the more conservative element of Northerners, opposed to Andrew as “an honorable, Christian gentleman caught in unfortunate circumstances.”²¹ The Northern conservatives emerged as the numerically decisive bloc, and the abolitionists continually pressured them to support Andrew’s immediate removal. An example of this pressure comes from the Northern conservative opposition to a proposal to postpone adjudication of the issue until the 1848 General Conference. The abolitionist faction made it clear to the Northern conservatives that “New England could not remain with the church” unless the resolution expressing “the sense” of the Conference that “Bishop Andrew should desist from the exercise of his office” were passed at the 1844 General Conference.²²

By a 110-69 vote, this passage is precisely what eventually transpired. Although the resolution did not officially remove Bishop Andrew from the episcopacy, it signaled a shift in the dynamics of the General Conference. The South had witnessed the power the abolitionists held over the Conference and feared that subsequent conferences would continue to press the issue of slavery. It is important to note that most Southerners at the conference did not defend slavery as a “positive good.”²³ Unlike their counterparts in political life, Southern Methodists generally accepted the immorality and fundamentally un-Christian nature of slavery. What they opposed, however, was the rising tide of abolition. Given the abolitionist faction’s demonstrated control over the conference, it is not unreasonable that most Southern Methodists sought to organize a separate church.

²⁰ Matthews, *Slavery and Methodism*, 260.

²¹ *Ibid.*, 261.

²² *Ibid.*, 264.

²³ *Ibid.*, 261.

The General Conference of 1844 established and approved the institutional framework for effecting such a division of the M.E. Church. A “Committee of Nine” appointed to study the issue returned to the Conference a document that would profoundly shape the future of American Methodism. This so-called “Plan of Separation” was the subject of contentious debate but eventually passed the General Conference by “an overwhelming majority.”²⁴ All sides supported the plan, with Northern delegates providing 95 out of 146 total votes in favor of its first resolution.²⁵ The plan had several sections. The one most relevant to this inquiry stated that if the Southern annual conferences should “find it necessary” to form a “distinct ecclesiastical connection,” that all churches and conferences adhering to it, by majority vote of their membership, would be under its “unmolested pastoral care.”²⁶ This was an important consideration for the South, as it ensured that the abolitionist-controlled General Conference would have no jurisdiction over them. This rule, however, only applied to churches and conferences “bordering on the line of division.” Those churches not on the border would have to follow the alignment decision of their respective annual conferences.²⁷ Another section that would later become important stated that “all property of the Methodist Episcopal Church...within the limits of the Southern organization” would be “forever free” from any claim by the remaining M.E. Church.²⁸ Based on this plan, the Southern conferences met in Louisville in 1845 and formally brought about the separation, organizing the Methodist Episcopal Church South.

Both the Kentucky Annual Conference and the Maysville church were thrust headlong into this ecclesiastical maelstrom and forced to make a decision about which side to adhere to.

²⁴ Norwood, *Schism in the Methodist Church*, 1844, 87.

²⁵ Swaney, *Episcopal Methodism and Slavery*, 138.

²⁶ Quoted in *The Methodist Church Case at Maysville, Kentucky* (Maysville: Maysville Eagle, 1848), 14. See Appendix for full text of the Plan.

²⁷ *Ibid.*

²⁸ *Ibid.*, 15.

For the Kentucky Conference, the decision was obvious. Its leaders had been prominent in the 1844 General Conference, and perhaps its greatest figure, Henry Bascom, had been on the Committee of Nine charged with drafting the Plan of Separation.²⁹ The Kentucky Annual Conference was the first Southern conference to meet after the General Conference, convening at Bowling Green in the fall of 1844 to officially “take exception” to the General Conference’s treatment of Bishop Andrew and to endorse the holding of a Southern conference.³⁰ When that conference convened at Louisville in 1845, the Kentucky Conference sent the largest delegation of any conference, and that delegation overwhelmingly supported the conference’s decision to organize the M.E. Church South. The Kentucky Conference was again the first Southern conference to meet following the Louisville Conference, and again it voted (77-6) to support the Southern position.³¹ The Annual Conference invited local churches to hold similar votes, and those votes were “almost unanimous.” The one clear exception was the community at Augusta, another community along the Ohio River, which was home to a Methodist college operated in conjunction with the Ohio Annual Conference.³²

The much more ambiguous case was at Maysville. Both Northern and Southern factions claimed the support of a majority of the membership. Pursuant to the “directions of the college of Bishops” and as provided for in the Plan of Separation, the Maysville church took a vote on the question of which faction to align with at an announced church meeting.³³ The result of that vote, as stipulated by both sides in the case, was 109 for the M.E. Church South and 97 for the M.E. Church. The meeting moved that these vote totals and a copy of the proceedings be sent to the

²⁹ Roy Short, *Methodism in Kentucky* (Rutland, VT: Academy Books, 1979), 10.

³⁰ *Ibid.*, 11.

³¹ *Ibid.*, 13.

³² *Ibid.*, 14.

³³ “Answer of William Gibson et al.,” in *The Methodist Church Case*, 29.

Kentucky Annual Conference and the Ohio Annual Conference to inform them of the congregation's decision to adhere to the M.E. Church South.³⁴

Complicating this result, however, the Northern faction claimed that there were 33 additional members "in good standing" who could not attend the meeting "from various causes" but who nonetheless supported the M.E. Church. Armstrong and the other Northern trustees appended a document to the transmission to the Ohio Annual Conference certifying a majority of 21 (130-109) in favor of continuing with the M.E. Church.³⁵ The Northern trustees did not inform those adhering to the M.E. Church South about this appendix, and it was only authorized by a meeting of "the committee appointed by adhering members [those adhering to the M.E. Church] who voted in the church," not the congregation writ large.³⁶

This appendix allowed both sides to later claim further support from members not attending the meeting. John Armstrong's initial complaint to the circuit court claimed that 141 members of the Maysville church adhered to the Church North, while the respondents argued that twenty of this number either actually supported the Church South or were not members of the congregation. Their answer instead asserted that either 147 or 148 members supported the South, giving them a majority of twenty-six or twenty-seven members.³⁷

Under the Plan of Separation approved at the 1844 General Conference in New York, a church "on the line of division" between the M.E. Church South and the M.E. Church had the right to decide, "by a vote of a majority of the members of said [church]," whether to "remain under the unmolested pastoral care" of the M.E. Church South or to align with the M.E.

³⁴ "Proceedings of the Church," in *Ibid.*, 48.

³⁵ "Deposition of Jacob Outten," in *Ibid.*, 66-68.

³⁶ *Ibid.*, 67.

³⁷ "Answer" of William Gibson, Henry Davis, et al., in *The Methodist Church Case at Maysville, Kentucky* (Maysville: Maysville Eagle, 1848), 30-31.

Church.³⁸ While both sides claimed the majority, they also recognized that the courts would not simply defer to whichever side could conclusively establish majority support. Instead, both the Mason Circuit Court and the Kentucky Court of Appeals emphasized the importance of the original trust conveying the property to the church. This trust was just as contested an issue as the numbers supporting each church.³⁹ According to Armstrong, the M.E. Church South represented “a new and different organization” that had “seceded” from the “Methodist Episcopal Church of the United States” for whose benefit he was required to administer the property in trust.⁴⁰ Armstrong’s initial petition to the circuit court for an injunction reiterated this claim that those in the Maysville church adhering to the M.E. Church South were “seceders” who had rejected the M.E. Church and therefore had no right to use the church property.⁴¹

The Southern faction’s answer took issue with Armstrong’s characterization of them as illegitimate “seceders.” They argued that the Armstrong, as a trustee, was required to respect the decision of the majority to align with the M.E. Church South. That church could not have seceded, they claimed, because the “supreme power” of the M.E. Church had “authorized and directed us to do precisely what we did.” Their response instead argued that Armstrong was the true seceder, as he was ignoring the “law of the General Conference.”⁴² This contested discussion of secession and legitimacy represented a vital legal point. For Armstrong and the Northern faction, it was important that the court construe the M.E. Church South as a new entity distinct from the “Methodist Episcopal Church in the United States” described in the trust. If the two were distinct organizations, and the trust explicitly required the building to be used for the benefit of one and

³⁸ James Monroe Buckley, *Constitutional and Parliamentary History of the Methodist Episcopal Church* (New York: Eaton and Mains, 1912), 273.

³⁹ See appendix Document 1 for the full wording of the trust.

⁴⁰ “Record,” in *The Methodist Church Case*, 18.

⁴¹ *Ibid.*, 18-20.

⁴² “Answer,” in *Ibid.*, 26-27.

not the other, then the North would prevail. The Southern faction advanced the opposite interpretation. The court should not interpret the phrase “Methodist Episcopal Church in the United States” to mean the M.E. Church (North) because “that church [Methodist Episcopal Church in the United States] in point of general jurisdiction, exists no longer as a whole, though one in doctrine, faith, and discipline.”⁴³ The schism had created two separate churches, and the court should follow the Plan of Separation the General Conference had detailed, which “has given [the property] to the South.”⁴⁴

The issues raised in interpreting the requirements of the trust led to larger questions about how much deference courts should grant ecclesiastical bodies and their decisions in adjudicating the requirements of a legal document such as a trust. Armstrong offers one position:

The General Conference is an ecclesiastical tribunal; and the rights created by the deed, are civil and vested rights. Vested rights can never be infringed by any power, legislative or judicial, civil or ecclesiastical; and *civil* rights can only be reached and adjudicated in *civil* tribunals [emphasis original]. No ecclesiastical tribunal can control them.⁴⁵

In this interpretation, neither the Plan of Separation nor the decisions of the General Conference were binding on the court, as they represented ecclesiastical judgments. Instead, the court was bound to respect the obligations of the trust as a civil document creating civil, vested rights with whose execution an ecclesiastical body cannot interfere. The Southern response took the opposite approach, arguing that:

the acts and decrees [of the General Conference] are law to the court, when within the scope of its authority. The only question should be, has the General Conference acted in the premises, and directed the use of the property? If it has, their mandate should be obeyed, and the court cannot inquire into the reasons of the act, if it was not fraudulent.⁴⁶

⁴³ *Ibid.*, 31.

⁴⁴ *Ibid.*, 32.

⁴⁵ “The Replication,” in *Ibid.*, 41.

⁴⁶ “Mr. Hord’s Argument,” in *Ibid.*, 88.

Since the General Conference had authorized the Plan of Separation and the Maysville church had voted to adhere to the M.E. Church South, the court was incompetent to interfere. This interpretation posited that the decisions of the General Conference and the Kentucky Annual Conference, both ecclesiastical bodies, should guide the court's interpretation of the vested rights the trust created.

Mason County Circuit Judge Walker Reid heard the case and issued a confusing verdict with which neither side was content. Instead of addressing the major issues of the case directly, Judge Reid turned to an 1814 Kentucky statute “for the benefit of Religious Societies in this Commonwealth.”⁴⁷ This statute had five major components. The first was a provision authorizing “any society or sect of Christians...in congregational form” to hold and convey property using a trust. This section also provided a mechanism for appointing new trustees, whose names were to be reported to the county court and recorded in its records.⁴⁸ The Maysville church had done precisely this in December 1844. Mason County court records show that “John Armstrong, John C. Reed, Henry L. Davis, Thomas K. Ricketts, and William Gibson, were duly and regularly appointed trustees of the Methodist Episcopal Church, Maysville station.”⁴⁹ The statute's second major component loosely defined the powers of the trustees, who were “vested with the legal title of said land, for the use and benefit of said congregation.”⁵⁰ A third section provided that, in case of schism or division “in said congregation or church,” the statute was not to be construed “to authorize said trustees to prevent either of the parties so divided, from using the house or

⁴⁷ See Appendix Document Two for the full text of this statute.

⁴⁸ *The Statute Law of Kentucky, with notes, praelections, and observations on the public acts* (Frankfort, KY: Butler and Wood, 1819), 131, <http://digital.library.louisville.edu/cdm/compoundobject/collection/law/id/2525/rec/8>.

⁴⁹ “Answer” of William Gibson, Henry Davis, et al., in *The Methodist Church Case at Maysville, Kentucky* (Maysville: Maysville Eagle, 1848), 26.

⁵⁰ *The Statute Law of Kentucky* (Frankfort, KY: Butler and Wood, 1819), 132, <http://digital.library.louisville.edu/cdm/compoundobject/collection/law/id/2525/rec/8>.

houses of worship, for the purposes of devotion, a part of the time, proportioned to the numbers of each party.”⁵¹ A fourth section limited the quantity of land held under such trusts to four acres or fewer to prevent mortmain. The fifth section prohibited “the minority of any church having seceded from...the church or congregation, from interfering in any manner, in [the majority’s] appointments for preaching or worship, [or] with any appointment for similar purposes, which may have been made by the body or the major part of such church or congregation.”⁵²

Judge Reid found the statute applicable in the case and used it to issue an injunction splitting the use of the property equally between the two factions. In interpreting the requirements of the trust, he adopted the position advocated by Armstrong and the Northern faction, that “with all proper respect for the Church, and the Minsters and Bishops, the law treats them as the rest of mankind, when they differ about property or the use of it.”⁵³ Judge Reid acknowledged that a majority of the Maysville church wished to adhere to the South. He also recognized that, given this fact, the Plan of Separation approved at both the General Conference of 1844 and the Louisville Conference of 1845 required that the church property be attached to the Church South. Despite these concessions, he found that Armstrong and the Northern faction had “rights, under the laws of Kentucky, which no Church or Ecclesiastical Court can take away.”⁵⁴ He did not explicitly spell out what these rights were, only that they existed and compelled him to divide the use of the property between the two factions. In this aspect, the opinion is unsatisfying, as it does not clearly establish any specific grounds for the ruling other than the third section of the 1814 statute. Judge Reid then ignored the distinctions the statute made among churches, congregations,

⁵¹ *Ibid.*

⁵² *Ibid.*

⁵³ “Opinion of the Hon. Walker Reid, Judge of the Mason Circuit Court,” in *The Methodist Church Case*, 76.

⁵⁴ *Ibid.*, 78.

and societies, arguing that the statute embraced all religious societies, regardless of structure.⁵⁵ This would be an important point of disagreement in the subsequent appeal. Finally, he concluded by recommending “*union* according to the advice of the Conference.... Adhere to the Methodist Episcopal Church South—it is the wish of the Conference, it is the *law* of the Church—and whether you adhere South or North, peace with you [emphasis original].”⁵⁶ This section of the opinion reads more like a sermon than a legal document, and it probably reflects just how divisive the issue had become in Maysville.

Neither party believed the statute of 1814 was applicable, and both sides appealed Judge Reid’s ruling to the Kentucky Court of Appeals. The Southern appeal was based on nine claimed errors, eight of which can be distilled into one large category. Judge Reid had erred in not looking to the specific language of the deed of trust, which established that the property was to be “held, controlled, and used” according to the decisions of the General Conference.⁵⁷ As the General Conference had clearly laid out a procedure by which border stations, like Maysville, could decide to which conference to adhere, and given that Judge Reid had acknowledged a majority for the South, the court was obliged to award control of the property to the Southern faction.⁵⁸ This claim was rooted in the assertion that the statute of 1814 did not override the terms of the trust. If the Court of Appeals found that the statute did apply, the Southern faction found error in the circuit court’s decision to split the usage of the property equally. As the court recognized that a majority of the congregation desired to adhere South, the time should be split to reflect this majority.⁵⁹

⁵⁵ *Ibid.*, 80.

⁵⁶ *Ibid.*, 81.

⁵⁷ Refer to the full-text of the Trust in the Appendix.

⁵⁸ “Mr. Hord’s Argument,” in *The Methodist Church Case*, 84-85.

⁵⁹ *Ibid.*, 85.

The Southern faction also believed the statute did not apply because the deed was not made to a church in the “congregational” form but to a church in the “Episcopal” form.⁶⁰ This was an important distinction, not only because of the language of the statute, but also because of the differences in ecclesiastical structure between the two. In a congregational church, the local church is the sole actor, and its property “belongs to the church in its aggregate form.”⁶¹ In case of a division in such a church, the Commonwealth would need to intervene (in the form of the 1814 statute), as there would be no higher ecclesiastical authority to adjudicate the dispute. The very meaning of the word “Episcopal,” however, implies that higher authority’s existence and therefore defeats the need for such an intervention. In such a church, the ecclesiastical structure would provide rules governing the ownership and use of church property, which is precisely what the General Conference did in the Plan of Separation. Furthermore, the church was the property “of the Methodist Episcopal Church in the United States in its aggregate form or capacity,” not of the individual members of the congregation.⁶²

In support of this claim, the Southern faction cited the Supreme Court’s decision in Mason v. Muncaster, an 1824 case relating to the sale of property by an Episcopal church in Virginia. The Court found that the parishioners had no individual title to the property; rather, it was “the property of the parish, in its corporate or aggregate capacity, to be applied and disposed of for parochial purposes, under the authority of the Vestry, who are its legal agents and representatives.”⁶³ While the case does show that the individual members do not have title to the property, it also seems to suggest that the church and glebe are the property of, and to be controlled by, the

⁶⁰ *Ibid.*, 86.

⁶¹ *Ibid.*, 87.

⁶² *Ibid.*, 86.

⁶³ Mason v. Muncaster, 22 U.S. 445 (1824),
<https://bulk.resource.org/courts.gov/c/US/22/22.US.445.html>.

particular parish vestry, not the broader Episcopal Church. This argument runs counter to the one the Southern faction wanted to make, that the trustees of the Maysville church (the equivalent of the Episcopal parish vestry) were required to adhere to the Plan of Separation approved at the General Conference. The faction had a much more solid legal argument when it discussed the text of the deed itself. The deed required that the property be used for the Methodist Episcopal Church in the United States “according to the rules and discipline” established by the church in General Conference.⁶⁴ The General Conference had directed that the property belong to whichever church (North or South) that the majority of the congregation supported, and, in this case, the lower court had found, as a matter of fact, that the majority supported the Church South.

One recurrent feature of the Southern faction’s appeal is its constant reference to outside, Northern agents interfering with what should properly be decided by Kentuckians. The appeal chastises Judge Reid for “extending Northern jurisdiction over Maysville...to the detriment of the church and the peace of society.”⁶⁵ This decision to “turn the channel of the Ohio river” creates the possibility that the North could encroach further upon the South, “extend the jurisdiction of the Ohio Conference over the entire South,” and “select the preachers who are to minister to the entire South.”⁶⁶ All of this purported Northern interference is contrary to the will of the General Conference and is “evidence of [an] omnipotent power of the [court] over the consciences and temporalities of the church not heretofore understood or practiced.”⁶⁷ The Southern faction urged the Court of Appeals to “cut [the Maysville church] loose from the Northern Abolitionists who are pirating upon our property [and] endeavoring to undermine our political institutions.”⁶⁸

⁶⁴ Refer to the full-text of the Trust in the Appendix.

⁶⁵ *Ibid.*, 90.

⁶⁶ *Ibid.*, 91.

⁶⁷ *Ibid.*, 93.

⁶⁸ *Ibid.*, 99.

Northerners are portrayed as abolitionists diametrically opposed to Kentucky and Southern interests, an appeal clearly calculated to resonate with the Kentucky Court of Appeals. Phrases such as “if I am a *Kentuckian*, I do not wish that a New England or Ohio Abolitionist should rule over me” and “no true-hearted *Kentuckian*, whose mind is not dethroned, or whose judgment is not warped, can desire it [emphasis original]” reinforce this rhetoric of outside interference.⁶⁹

In a similar vein of argument, the appeal also foresees the North sending “her worst spirits to conduct and lead her invading forces...on the subject of Abolition.”⁷⁰ Such “unjustifiable interference” was already having consequences, as “the colored people [of Kentucky] no longer attend the preaching of the South.”⁷¹ The inevitable outcome of finding for the Northern faction would be the breakdown of master-slave relations. According to the Southern appeal’s fiery conclusion, nothing less than the fate of Kentucky as a slave state was at stake.

The Northern faction’s appeal agreed with that of the Southern faction, in that neither supported the application of the 1814 statute. It also gave as evidence for this assertion the text of the deed itself, which it claimed required that “the property [be] held for the use of the members ‘as a place of worship,’ and for the use of the ministers ‘to preach and expound God’s holy word therein.’”⁷² In their view, the deed therefore created “two distinct classes of beneficiaries,” both of whom were “recognized in their *individual* capacities, and not as associated into *societies* and *conferences* [emphasis original].”⁷³ This distinction is important. Unlike the Southern faction, which interpreted the deed to mean that the church was the property “of the Methodist Episcopal Church in the United States in its aggregate form or capacity,” the North argued that the deed

⁶⁹ *Ibid.*

⁷⁰ *Ibid.*

⁷¹ *Ibid.*, 99-100.

⁷² “Substance of Mr. Waller’s Argument,” in *The Methodist Church Case*, 103, quoting the deed.

⁷³ *Ibid.*

required the property to be held in trust for the benefit of the local members and ministers.⁷⁴ In order to receive this beneficial interest, the members and ministers had to “belong to the Methodist Episcopal Church in the United States of America.”⁷⁵ Neither the General Conference nor the Court of Appeals had any right to interfere with this “solemn, irrevocable condition of the trust.”⁷⁶ According to the Northern faction’s argument, a person could only be a member (or a trustee) of the Methodist Episcopal Church in the United States if he or she were part of a society “connected with and under the jurisdiction of the General Conference.”⁷⁷ By this argument, the Northern faction sought to exclude anyone adhering to the M.E. Church South from membership in the Maysville Church, which would thereby exclude them from serving as trustees and from gaining any beneficial interest in the property under the trust.

So long as one accepts the definition of membership (being under the jurisdiction of the General Conference) offered and the assertion that the M.E. Church was the legitimate successor of the “Methodist Episcopal Church in the United States,” the Northern argument is technically correct. The General Conference of 1844’s “Report of the Committee of Nine,” which was adopted and led to the Plan of Separation, stated that the General Conference of any Southern church would be a “distinct ecclesiastical connection” from the General Conference already in existence.⁷⁸ The Louisville Conference of 1845 that formally established the M.E. Church South agreed, “solemnly declar[ing] the jurisdiction hitherto exercised over said Annual Conferences by the General Conference of the Methodist Episcopal Church entirely dissolved.”⁷⁹ Those ad-

⁷⁴ “Mr. Hord’s Argument,” in *Ibid.*, 86.

⁷⁵ “Substance of Mr. Waller’s Argument,” in *Ibid.*, 103.

⁷⁶ *Ibid.*

⁷⁷ *Ibid.*

⁷⁸ J.M. Buckley, *Constitutional and Parliamentary History of the Methodist Episcopal Church*, 273.

⁷⁹ *Ibid.*, 277.

hering South agreed that they were under the exclusive jurisdiction of the General Conference of the M.E. Church South and had no jurisdictional ties to the General Conference of the M.E. Church. Thus, by adhering to the Church South, they had “forever parted with their legal rights under the deed,” according to this Northern argument.⁸⁰

Less compelling is the Northern faction’s subsequent argument about whether the General Conference had actually approved the split of the Southern conferences. The appeal contended that the “action of the General Conference...did not *provide for or contemplate a division or re-organization of the Church* [emphasis original].”⁸¹ This interpretation stressed that the Southern conferences had voluntarily left the General Conference and that the General Conference neither “advise[d]” nor “authorize[d]” this separation.⁸² It instead “simply *submitted* to the necessity [of separation], and resolved to meet the emergency with ‘Christian kindness and the strictest equity [emphasis original].’”⁸³ To substantiate this claim, the appeal examined the deliberations and resolutions of the General Conference of 1844, quoting Northern ministers opposed to the separation of the church.⁸⁴ Yet this sampling of Northern opinion represents only a limited perspective of the General Conference. The Southern delegates’ understanding was that the General Conference was authorizing the potential division of the church. Following the Louisville Conference’s decision to bring about that split, the separation proceeded according to the Plan of Separation the General Conference had laid out. It seems rather pointless for the General Conference to have expended the effort to delineate the Plan of Separation if it did not intend for it to be the model by which any separation would be effected. That the General Conference as a whole

⁸⁰ “Substance of Mr. Waller’s Argument,” in *The Methodist Church Case*, 107.

⁸¹ *Ibid.*, 109.

⁸² *Ibid.*

⁸³ *Ibid.*, quoting the “Plan of Separation.”

⁸⁴ *Ibid.*, 109-112.

adopted the Report of the Committee of Nine and the subsequent Plan of Separation indicates that the consensus of the ministers there represented was that the General Conference would accept and authorize the separation.

Both sides of the controversy, then, presented compelling legal arguments. For the Southern faction, the trust's emphasis on the control of the General Conference was paramount to its interpretation. As the General Conference had authorized and endorsed the Plan of Separation, the trust should be interpreted accordingly. For the Northern faction, even if the General Conference had authorized and endorsed the Plan of Separation (a contention they disputed), that acceptance could not alter the vested, civil rights created in the trust. Only the members of the Maysville church who adhered to the Methodist Episcopal Church and were under the jurisdiction of the General Conference could be beneficiaries under the trust.

It was left to the Kentucky Court of Appeals to sort out these conflicting legal arguments and render a verdict. Chief Justice Marshall wrote the Court's opinion, finding for the Southern faction and awarding them control of the property. In so doing, he adopted elements from both the Northern and Southern appeals. Marshall began by agreeing with both sides that the 1814 statute was not applicable in the case. Marshall held that the statute merely standardized the practices of the trustees and did not prescribe "the establishment of a rule which might in many instances, defeat the obvious intent of the deed."⁸⁵ Such a rule would be "perhaps beyond the competency of the legislative power."⁸⁶ This determination makes sense, as the statute did not facially require the equal splitting Judge Reid had ordered.

After establishing that the statute did not apply, Marshall next examined the language of the deed of trust. Agreeing with the Northern faction, he found that the local society at Maysville

⁸⁵ "Opinion of the Court of Appeals," in *The Methodist Church Case*, 131.

⁸⁶ *Ibid.*, 132.

“and its members alone” were the only beneficiaries possible under the first provision of the deed.⁸⁷ Rejecting the Southern claim of the M.E. Church as a whole being a beneficiary, Marshall reasoned that, because “membership [in the M.E. Church as a whole] [was] itself acquired only by a membership in some local society connected with the general organization,” only the local members could be considered beneficiaries.⁸⁸

While this finding in isolation would help the Northern faction, Marshall limited its impact by agreeing with the Southern faction that the use of the building in accordance with the will of the General Conference was “of paramount importance.”⁸⁹ That the Southern faction was the rightful holder of the property under the Plan of Separation approved by the General Conference, “which had jurisdiction over the original society,” constituted “a strong and, *prima facie*, a satisfactory proof of right.”⁹⁰ Marshall was very concerned with overstepping his role as a civil judge and interfering with the decisions and workings of an ecclesiastical body like the General Conference. Given that the Northern faction “acted in defiance of the highest tribunals of the Church,” it would be difficult for the Court to award them possession of the property.⁹¹

After establishing this framework for adjudicating the case, Marshall next turned to the issue of the deed’s reference to the “Methodist Episcopal Church in the United States.” The Court found that that previous church had divided into two separate churches and that neither of these resulting churches could claim to be synonymous with the old church. Instead, both new churches were its “legitimate successors.”⁹² Such a finding was necessary, the Court reasoned, in

⁸⁷ *Ibid.*, 136.

⁸⁸ *Ibid.*

⁸⁹ *Ibid.*, 139.

⁹⁰ *Ibid.*

⁹¹ *Ibid.*, 140.

⁹² *Ibid.*, 145.

order for the deed to remain “effectual to secure its substantial and primary objects.”⁹³ It represented a clear victory for the Southern faction, as one of the major Northern arguments had been that the M.E. Church South was not a part of the “Methodist Episcopal Church in the United States” specified in the deed. Applying as restrictive and literal a standard to the language as the North urged would subvert the purpose of the deed, which was to secure a place of worship for the Methodist community in Maysville. The General Conference was competent to authorize the division of its jurisdiction, and the deed should not fail because it had done so.

This finding brought the Court to another of the Northern appeal’s major arguments, that the General Conference had not approved the division of the church. To refute this claim, Marshall looked to the text of the resolutions the General Conference had passed in 1844, finding in them “a weight of authority not easily overcome.”⁹⁴ These resolutions “necessarily involve[d] a partition of the governing power between [the] two jurisdictions, each possessing within its territorial limits, the same authority and power as had previously belonged to the whole church.”⁹⁵ The opinion also pointed to the assent of overwhelming numbers of both Southern and Northern delegates to the General Conference in approving the Plan of Separation as evidence of their consent to its provisions.⁹⁶

Based on these findings, the Court of Appeals awarded full control of the property to the Southern faction, as it held the majority of the congregation and was therefore entitled to it under the Plan of Separation. The opinion is closely argued and effectively rebuts the major Northern points about the powers and intentions of the General Conference. On the all-important question of how far to rely on those ecclesiastical powers and intentions in interpreting the requirements

⁹³ *Ibid.*

⁹⁴ *Ibid.*, 153.

⁹⁵ *Ibid.*, 156.

⁹⁶ *Ibid.*, 158-159.

of the civil trust, it strikes an effective balance between the extreme positions advocated by each faction. To the frustration of the Northern faction, the Court found that the Plan of Separation should be an essential consideration in interpreting the trust. Yet it also refused to adopt the Southern faction's view that the ecclesiastical determination should defeat consideration of any civil, vested rights created by the trust. The Court was concerned about its obligations to preserve the distinction between it and the church and was reticent to second-guess the decisions of the church in questions of doctrine and authority. But, in so doing, it did not abrogate its responsibility to uphold the deed of trust as a binding civil document. The opinion also gains merit for discarding a less benign aspect of the Southern appeal, namely its blatant attempts to play on racial and sectional tensions. Instead of using these arguments as the basis for the ruling, the opinion sticks to legal arguments. It offers none of the race baiting that characterizes the Southern appeal's conclusion, and it consciously avoids any mention of the role of slavery in precipitating the division. Given the role such appeals to racial and sectional fears would play in many subsequent decisions—most notably Dred Scott v. Sanford in 1857—the opinion should receive credit for its strict adherence to the two sides' legal arguments.

Maysville was not alone in experiencing such sectional tumult. By the mid-1840s, division was becoming an increasingly common phenomenon across a wide swath of American society. The Methodist Episcopal Church presents but one example of this trend. Other major religious organizations, including the Baptists and the Presbyterians, underwent similar splits. This division was not merely sectional; tensions between native-born Americans and immigrants, for example, also flared. But sectional division between the South and North would characterize the remaining years before the Civil War. Institutions that had helped bind the nation together, from the Methodist Episcopal Church to the Whig Party, would dissolve into competing, sectional fac-

tions. As the abolitionists had demonstrated in the General Conference of 1844, more radical perspectives would begin to dominate and shape discourse on the essential question of slavery. The Maysville Church Case was but an opening skirmish on the longer march toward the inevitable sectional conflict, as the Northern faction's appeal recognized. While the nation's "political union still endure[d]" in 1847, the unresolved issue of slavery would "continue to agitate the nation" for many years after.⁹⁷

⁹⁷ "Substance of Mr. Waller's Argument," in *The Methodist Church Case*, 127.

APPENDIX

Document 1: Original Trust, October 28, 1812

Daniel McKinney and Polly McKinney did, on the 28th of October, 1812, convey to John Tribby, jr., John Armstrong, Jacob Outten, Peter Grant, and Richard Willett, trustees, and their successors in office, the lot in the deed mentioned, for the use of the members of the Methodist Episcopal Church in the United States, on which to erect a house or place of worship, which property was to be held, controlled and used according to the rules and discipline, which from time to time might be agreed upon and adopted by the ministers and preachers of the said church at their General Conferences in the United States; and in further trust and confidence, that they should at all times thereafter, permit such ministers and preachers belonging to said church, as should from time to time be authorized by the General Conference of ministers and preachers of the said Methodist Episcopal Church, or by the yearly conferences authorized by the said General Conference, to preach and expound God's holy word therein; and in further trust and confidence, that as often as any one or more of the trustees herein before mentioned shall die, or cease to be a member or members of said church, according to the rules and discipline as aforesaid, then and in such case it shall be the duty of the stationed ministers or preachers (authorized as aforesaid) who shall have the pastoral charge of the members of said church, to call a meeting of the remaining trustees, as soon as conveniently may be, and when so met, the ministers or preachers shall proceed to nominate one or more persons to fill the place or places of him or them whose office or offices has or have been vacated as aforesaid.⁹⁸

Document 2: 1814 Kentucky Statute “for the benefit of Religious Societies in this Commonwealth”

That if any society or sect of Christians in any part of this commonwealth, shall heretofore have associated, or hereafter shall associate themselves together, in congregational form, and shall have acquired, or hereafter shall acquire a piece or lot of ground, for the purpose of erecting thereon a house or houses or worship, grave-yard, and pound for horses; and shall have heretofore received, or shall hereafter receive the title of said ground, by devise, or conveyance to trustees for the use and benefit of said society or congregation, and it shall become necessary, by reason of the death or removal of said trustees, or through any other cause, to appoint new trus-

⁹⁸ “Answer of William Gibson et al,” in *The Methodist Church Case at Maysville, Kentucky*, 21.

tees to support the legal estate, it shall and may be lawful, for said society or congregation, by the election held by its members, or by those appointed for that purpose, according to the rules of said society, to elect or appoint, as often as may be necessary, any number of trustees not exceeding five; and to produce the names of said trustees so elected or appointed, to the county court of the county where the house of worship may be situated; who shall order the said names to be entered on their records; and thereupon, said trustees, so elected or appointed, shall be vested with the legal title of said land, for the use and benefit of said congregation; and shall have power to do any legal act in conducting the same which may be necessary for the uses aforesaid; and to maintain any action or actions of trespass, or other action, for the safe keeping and preservation of said property, which may be necessary for that purpose: *Provided, however*, that if any chism [sic] or division shall take place in said congregation or church, from any other cause than the immorality of its members, nothing in this act shall be so construed as to authorize said trustees to prevent either of the parties so divided, from using the house or houses of worship, for the purposes of devotion, a part of the time, proportioned to the numbers of each party: *Provided*, that the quantity of real estate acquired by any religious society, and vested in trustees and their successors, under this act, shall not exceed four acres of land: *Provided*, that nothing in this act shall be construed to authorize the minority of any church having seceded from, or been expelled, or excommunicated from the church or congregation, from interfering in any manner, in their appointments for preaching or worship, with any appointment for similar purposes, which may have been made by the body or the major part of such church or congregation.⁹⁹

Document 3: Relevant Sections of the “Plan of Separation” adopted at the General Conference of 1844

Whereas a declaration has been presented to this General Conference, with the signatures of *fifty-one* delegates of the body, from thirteen Annual Conferences in the slave-holding states, representing that, for various reasons enumerated, the objects and purposes of the Christian ministry and church organization cannot be successfully accomplished by them under the jurisdiction of this General Conference, as now constituted; and whereas in the event of a separation, (a contingency to which the declaration asks attention as not improbable,) we esteem it the duty of this General Conference to meet the emergency with Christian kindness and the strictest equity; therefore, *Resolved*, by the delegates of the several Annual Conferences in General Conference assembled,

1. That should the Annual Conferences in the slave-holding states, find it necessary to unite in a distinct ecclesiastical connection, the following rule shall be observed with regard to

⁹⁹ *The Statute Law of Kentucky, with notes, praelections, and observations on the public acts* (Frankfort, KY: Butler and Wood, 1819), 131-132, <http://digital.library.louisville.edu/cdm/compoundobject/collection/law/id/2525/rec/8>.

the Northern boundary of such connection;—all the societies, stations, and conferences adhering to the Church in the South, by a vote of a majority of the members of said societies, stations, and conferences, shall remain under the unmolested pastoral care of the Southern Church; and the ministers of the Methodist Episcopal Church shall in no wise attempt to organize churches or societies within the limits of the Church South, nor shall they attempt to exercise any pastoral oversight therein; it being understood that the ministry of the South reciprocally observe the same rule in relation to stations, societies, and conferences adhering by vote of the majority to the Methodist Episcopal Church; provided, also, that this rule shall apply only to societies, stations, and conferences bordering on the line of division, and not to interior charges which shall in all cases be left to the care of the church within whose territory they are situated.

2. That ministers, local and travelling, of every grade and office, in the Methodist Episcopal Church, may as they prefer, remain in that church, or without blame attach themselves to the Church South.

...

9. That all the property of the Methodist Episcopal Church in meeting houses, parsonages, colleges, schools, conference funds, cemeteries, and of every kind within the the [*sic*] limits of the Southern organization, shall be forever free from any claim set up on the part of the Methodist Episcopal Church, so far as this resolution can be of force in the premises.¹⁰⁰

¹⁰⁰ Quoted in *The Methodist Church Case*, 13-15.

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