

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

**IN THE MATTER OF THE REQUEST FOR)
A DECLARATORY DECISION ON THE)
MEANING, APPLICATION AND EFFECT OF ¶14) DOCKET 0518-1
IN RELATION TO ¶507 OF)
THE 2016 BOOK OF DISCIPLINE)**

**INTERESTED PARTY BRIEF SUBMITTED BY SCOTT J. JONES
RESIDENT BISHOP, TEXAS ANNUAL CONFERENCE**

STATUS AS AN INTERESTED PARTY

I am an interested party in this matter for two reasons. First, I am an active member of the Council of Bishops and voted in favor of requesting this declaratory decision. Second, I will preside over the regular session of the Texas Annual Conference May 27-30, 2018. I have been informed by the chair of the Texas Conference delegation to General Conference that members of the delegation intend to submit a proposed petition to the 2019 special session of General Conference to be voted on during this session of the Texas Conference.

JURISDICTION OF THE JUDICIAL COUNCIL

The Judicial Council has jurisdiction to make this declaratory decision under ¶2610.1. of *The Book Of Discipline 2016*. The matter is properly before the Council by petition of the Council of Bishops under ¶2610.2(b) *2016 Discipline*.

**RELEVANT PARAGRAPHS OF *THE BOOK OF DISCIPLINE, 2016* AND JUDICIAL
COUNCIL DECISION (JCD)**

Paragraphs 14, 16, 505 and 507 are relevant to this matter. JCDs 227, 689, 917 and 1156 are relevant to this matter.

RELEVANT FACTS

1. On April 24, 2017, The Council of Bishops informed the relevant parties that it has called a special session of the General Conference. The notice said, in part, “The purpose of this special session of the General Conference shall be limited to receiving and acting upon a report from the Council of Bishops based on the recommendations of the Commission on a Way Forward.”

2. The Council of Bishops requested an answer to the following question: “If petitions are in harmony with the restricted purpose stated in the Council of Bishops’ call on April 24, 2017 as determined by a two-thirds vote of the General Conference and if the petitions are postmarked or received by July 8, 2018, may organizations of the United Methodist Church, clergy members, and lay members submit petitions to the special General Conference session called for February 23-26 that are not consistent with the ‘report from the Council of Bishops based on the recommendations of the Commission on a Way Forward’ as stated in the call?”

3. Paragraph 507.5 reads “Petitions must be postmarked by a national postal service no later than 230 days prior to the opening session of the General Conference.” July 8, 2018 is the last date by which a petition submission must be postmarked in order to meet that requirement for the special session to be held in February, 2019.

CONSTITUTIONAL CONSIDERATIONS

1. Paragraph 14 states, “The purpose of such special session shall be stated in the call, and only such business shall be transacted as is in harmony with the purpose stated in such call unless the General Conference by a two-thirds vote shall determine that other business may be transacted.” The plain meaning of the text hinges on the words “in harmony.” The terms of the call are to receive and act upon a report of the Council of Bishops. The Constitution does not

require that all petitions must be in harmony with the proposal sent by the Council of Bishops. Rather, the question of harmony applies to the process of considering the report. Any business that might amend or provide a substitute for any proposals contained in the Council's report would be in harmony with the process of "receiving and acting upon" the report.

2. The wording of the Council of Bishops' question posed to the Judicial Council invites a violation of the separation of powers between the Council and the General Conference in two ways.

First, it presumes that the report of the Council is the only agenda item the Conference may consider unless it votes by a two-thirds margin to declare a petition "in harmony" with the Council's report. Such a presumption belies the explicit language of ¶14. Paragraph 14 does stipulate that a two-thirds vote is necessary to consider additional business not in harmony with the terms of the call. However, a petition that is in harmony with the restricted purpose stated in the call is the business of the special session and is to be considered by General Conference without the necessity of a two-thirds vote. If ¶14 is interpreted to mean that only the Council's report can be considered, then the Council of Bishops will have been given unconstitutional power to limit the freedom of the General Conference to act on important connectional matters. This violates the separation of powers. JCD 1156 stated "The separation of authority and decision making is integral to the United Methodist Constitution and law." "While the boundaries can become hazy in any particular situation, the preservation of the separation of powers must be observed." JCD 689, 917.

Second, the Council of Bishops' question invites the setting of a standard of "consistency" rather than "harmony." Consistency would imply that the Council's report must be adopted and only amendments and substitutes that are consistent with the report could be

offered. Such a standard would mean that a two-thirds vote would be required to consider any major alteration of the Council of Bishops' report, which again grants an unconstitutional power to the Council in limiting the freedom of action by the General Conference.

Paragraph 16 states in part, "The General Conference shall have full legislative power over all matters distinctively connectional . . ." Any requirement placing a two-thirds restriction on amendments, substitutions and other changes to the Council of Bishops' report is an unconstitutional limitation of the General Conference's "full legislative power." The intent of the limitation on the agenda of the special session in ¶14 concerns subject matter and not the specific actions to be considered with regard to the subjects introduced in the Council of Bishops' report.

As an example, two interpretations being considered might focus on the Council of Bishops' report proposing to amend ¶161(C). If ¶14 were interpreted by the standard of "consistency" no amendments proposing a different understanding of marriage would be considered except by a two-thirds vote. I am advocating that the standard of "in harmony" be applied with regard to the subject matter, so that any and all proposed amendments to ¶161(C) would be considered as a matter of course. The criterion "in harmony" describes the subject matter and not the content of a specific proposal to alter the *Book of Discipline*.

The procedural question here is who decides if a particular petition is "in harmony" with the terms of the call. Once again, it is only the General Conference that has the right and responsibility to make such a determination. It has a Committee on Reference and an Advance Legislative Research Panel (see Exhibit 1 attached), viz., 2016 *Daily Christian Advocate*, pages 1951-1953). The Committee on Reference could meet after July 8 to consider submitted petitions and recommend to the General Conference for majority vote which petitions are "in harmony" with the terms of the call. All received petitions would be printed in the Advance

Daily Christian Advocate, separately listed as those receiving an “in harmony” recommendation and those being recommended as not in harmony. The General Conference must affirm or modify the recommendations of its Committee on Reference. Those deemed not in harmony could become part of the agenda only by two-thirds vote of the Conference.

3. United Methodist organizations, clergy members and lay members are given the right to petition the General Conference so long as their petitions conform to the requirements of ¶507. Such a right cannot be abrogated by the wording of the call so that only petitions “consistent” with the report may be considered. Any petitions that address the same subject matter or matters contained in the Council of Bishops report must be accepted for the normal processing of the General Conference’s decision-making process. This includes printing the petitions in the Advanced Daily Christian Advocate to enable proper consideration by the delegates.

PRECEDENT

Special sessions of the General Conference have only been held twice, in 1966 and 1970. Both of these were called by the previous General Conference and not by the Council of Bishops. Thus, we are in somewhat uncharted territory. However, JCD 227 of the former Methodist Church addresses the matter of petitions to the 1966 special session. It decided as follows:

It is the decision of the Judicial Council that the business of the General Conference session of 1966, by action of the General Conference itself, is restricted to reviewing and acting upon questions of union with the Evangelical United Brethren Church and the receiving of a report of progress in elimination of the Central Jurisdiction. Therefore: 1. The business of the 1966 session of the General Conference must be confined to matters fairly embraced within the two items referred to above unless the General Conference itself, by subsequent action, orders otherwise. 2. Whether legislative committees are to be used in the 1966 session of the General Conference is a matter to be determined by the General Conference Commission on Entertainment and Program. 3. Any Methodist member or group has the Disciplinary right to file a petition to the 1966 General Conference within the areas of business as prescribed by the General

Conference for that session. 4. Arrangements for and the agenda of the 1966 session of the General Conference are the responsibilities of the General Conference Commission on Entertainment and Program. 5. The General Conference itself must determine the length of the 1966 session.

Point 3 in the decision makes it clear that during the 1966 special session the right to submit petitions “within the areas of business” was protected. The relevant language of Paragraph 509 of the *Book of Discipline, 1964* says,

The General Conference by a two-thirds vote of the delegates present, the Council of Bishops by a two-thirds vote of the delegates present, the Council of Bishops by a two-thirds vote, or two thirds of all the Annual Conferences by a majority vote of each conference, shall have the power to call at any time an extra session of the General Conference, to be held at such time as the Council of Bishops may choose and at such place as a committee chosen by the Council of Bishops may fix. The purpose of such extra session shall be stated in the call, and only such business shall be transacted as is in harmony with the purpose stated in the call. The General Conference thus called shall be composed of the delegates elected to the preceding General Conference, except when an Annual Conference shall prefer to have a new election.

The Judicial Council clearly understood the Discipline’s words “in harmony with” as “within the area of business”.

PRACTICAL CONSIDERATIONS

While constitutional considerations must guide the judgment of the Judicial Council, two practical considerations should be considered in how the relief is shaped. First, the special session of the General Conference in 2019 is intended to last only February 23-26. Given the scope of the matters likely to be addressed in the Council of Bishops’ report, delegates must be fully prepared with as much knowledge as possible of the options available to them. If petitions are not accepted, they may well be offered on the floor during the session. Translation into the official languages of the General Conference must then be done and printed, and the amount of time for adequate consideration is significantly reduced.

Second, the special session already has a functioning Committee on Reference which was in place during the regular session of 2016. Asking that group to meet between July 8 and the printing of the *Advanced Daily Christian Advocate* provides a vehicle for the General Conference's structure to take care of its responsibilities under the requirements of *The Book of Discipline, 2016*.

Rule VII.A.7(e) of the Rules of the General Conference (*Daily Christian Advocate, 2016*, p. 1952) says "No petitions shall be assigned by the Committee on Reference to any General Conference committee unless they meet the requirements of the *Book of Discipline*." This gives the Committee the responsibility to recommend to the plenary of the General Conference which petitions are in harmony with the terms of the call and thereby assign them to committees for consideration.

RELIEF REQUESTED

The Judicial Council should rule that Paragraphs 14 and 507 are best harmonized by the General Conference accepting all petitions which address the same subject matter addressed by the report of the Council of Bishops and that the General Conference itself, working through its Committee on Reference and by majority vote of its members, has the responsibility to determine which petitions are in harmony with the terms of the call according to that standard.

Respectfully submitted,



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EXHIBIT 1

General Conference Plan of Organization regarding the Committee on Reference and the Advance Legislative Research Panel.

Daily Edition Vol. 4, No. 4

1951

230 regarding the seating of delegates, including reserve delegates. The committee shall

231 report to the General Conference its decisions and recommendations regarding challenges

232 to the seating of any delegates.

233

234 **5) Journal**

235 There shall be a Committee on the Journal of three delegates to approve daily the record of

236 Proceedings of the General Conference prepared by the Secretary of the General Conference

237 and assistant(s). The committee shall be convened by a bishop for the purpose of organization.

238

239 **6) Presiding Officers**

240 There shall be a Committee on Presiding Officers composed of twelve members,

244 one from each central conference and jurisdiction, six of whom shall be

245 clergy and six of whom shall be laypersons. The committee shall be convened by a bishop

246 for the purpose of organization. The committee shall select and notify the
presiding officer(s)
247 of each plenary session at least 24 hours in advance, insofar as possible. The
committee shall be
248 free to select a bishop for more than one session and to change the presiding
officer
249 during the session, whenever it seems advisable (See Section III).

250

251 **7) Reference**

252 There shall be a Committee on Reference composed of twenty-four members,
one

256 clergy and one lay person from each central conference and jurisdiction. The
membership of

257 this committee shall include at least one member from each legislative
committee who will be

258 designated as petition coordinator for their legislative committee. If possible,
petition coordinators

259 should have served previously on a General Conference legislative committee.
These petition

260 coordinators shall serve as advisors to the officers of the legislative committee
of which

261 they are members. Additional members from the Committee on Reference shall
assist the petition

262 coordinator in the legislative committee of which they are members. This
committee shall be

1952

Friday, May 13, 2016

263 convened, for the purpose of organization, by the Secretary of the General
Conference, or

264 designee, the day prior to the opening of the General Conference.

265

266 (a) After reviewing the proposed assignments by the Secretary of the
General Conference of the

267 petitions, resolutions, and similar communications dealing with the
regular business of the

268 Conference to legislative committees, this committee shall refer the same
to the appropriate

269 legislative committees (See Section IV.D). This committee shall also be
responsible for reviewing

270 the assignment, by the Secretary of the General Conference, of all
reports, recommendations,

271 and resolutions from general agencies, standing or special commissions
and committees, and all

272 other communications which are submitted to the Secretary of the
General Conference after the

273 convening of the General Conference, all of which shall be referred
directly to appropriate

274 legislative committees without presentation to a plenary session of the
General Conference.

275 (b) The Committee on Reference may withdraw an item that has been
assigned to a committee,

276 either upon a request or upon its own motion. It may also withhold from
reference or

277 publication any document it shall deem improper.

278 (c) The Secretary of the General Conference, or the Petitions Secretary,
may withhold from

279 publication any petitions deemed defamatory to a private individual or
obscene.

280 The Committee on Reference shall review all such decisions.
281 (d) Where the committee finds two or more substantially identical
petitions, it may group
282 them under one title and number, indicating the total number of petitions.
283 (e) No petitions shall be assigned by the Committee on Reference to any
General
284 Conference committee unless they meet the requirements of the *Book of
Discipline*.

285 **B. Advance Legislative Research Panel**

286 (a) There shall be an Advance Legislative Research Panel chosen by the
287 Executive Committee of the Commission on the General Conference,
288 composed of a number of members equal to the number of legislative
289 committees.

290 (b) Panel members shall be chosen based on their comprehensive
291 knowledge of the *Book of Discipline* as evidenced by their previous
292 participation in the life of the general church through service on the
293 Judicial Council, the Committee on Correlation and Editorial
294 Revision, or as a conference chancellor. Panel members must be
295 willing to volunteer significant hours prior to General Conference.
296 (c) All petitions received, after being compiled by Disciplinary
297 paragraphs, shall be assigned by legislative committee among the
298 panel members. The panel members, in turn, will review all the

299 petitions they have been assigned and locate any other paragraphs of
300 the *Book of Discipline*, including the Constitution, which are closely
301 related to the subject matter of the petition, as well as closely related
302 Judicial Council decisions and memoranda. The panel member shall
303 then record the related paragraph, decision, or memoranda with each
304 petition.

305 (d) No judgment or editorial comment about any petition shall be
306 included.

307 (e) The notation of related paragraphs shall become a permanent
308 attachment to the petition as it goes through the General Conference
309 legislative committee process.

310 (f) The legislative committees will consider how related paragraphs
311 would impact or be impacted by adopting such a petition.

312 (g) The Advance Legislative Research Panel's work shall be coordinated
313 by the Petitions Secretary.

314 (h) A panel member is not precluded from being a delegate to General
315 Conference.

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