

SUBJECT TO FINAL EDITING

JUDICIAL COUNCIL OF THE UNITED METHODIST CHURCH

DECISION 1436

[Docket No. 1021-3]

IN RE: Review of a Bishop's Ruling on Questions of Law in the Indiana Annual Conference Concerning the Legality of the Conference Rules that Govern the Nomination and Election of General and Jurisdictional Conference delegates.

DIGEST

An annual conference may adopt rules and regulations for the voting process in the district conference that are not in conflict with the *Discipline*. Such policies may specifically require that clergy members vote for clergy candidates and lay members for lay candidates in the district conference. The Bishop's ruling is reversed.

STATEMENT OF FACTS

During the 2020 session of the Indiana Annual Conference, on October 10, the members voted to amend the Indiana Conference Rules and Structure Document [hereinafter Rules]. The first amendment [hereinafter Land Amendment] read: "Other provisions and rules notwithstanding, only laity may vote in district conference ballots to endorse laypeople willing to serve as General Conference delegates." The second amendment [hereinafter jw128] added the underlined language to the Rules: "all clergy shall be eligible to vote in all matters for which clergy are entitled to vote under the Book of Discipline in D.4.b and D.4.c." Following the passage of the amendment, a clergy member rose to make the following request for ruling of law:

Does the action of the Indiana Annual Conference to amend its Rules and Structure to deny clergy the right to vote in district conferences whether to endorse laypeople willing to serve as General Conference delegates violate Paragraphs 329.2 and 334.1 of *The Book of Discipline of The United Methodist Church 2016*?

Subsequently, another clergy person posed the following Question of Law:

Does the amendment we just passed in jw128 that allows clergy to vote on all matters allowed by the Discipline, override the amendment passed in jw127 that restricts clergy voting privileges to be stricter than what the Discipline allows?

On November 9, 2020, Bishop Julius C. Trimble issued his Decision of Law, which reads in relevant part:

Because the initial motion establishes a restriction on clergy voting privileges that is not contained in the Discipline, I therefore rule that the initial motion preceding the request for decision of law by Rev. Dickens violates ¶¶ 334.1 and 329.2, is therefore in conflict with the Discipline, and is invalid. The action established by the initial motion also conflicts with Rules 0.4.b and 0.4.c of the Indiana Conference Rules. These rules allow clergy to vote on all matters where clergy have the right and responsibility to vote under the Discipline.

Since the action established by the original motion is invalid, I rule that the action of the second motion does override and, in effect, supersedes the action of the original motion. The provision of the second motion is consistent with and in compliance with the Discipline.

Jurisdiction

The Judicial Council has jurisdiction pursuant to ¶ 2609.6 of *The Book of Discipline 2016* [hereinafter *Discipline*].

Analysis and Rationale

The Constitution establishes procedures for electing delegates to General, central, and jurisdictional conferences in ¶¶ 34-36 and, in doing so, enshrines the fundamental principle whereby clergy members can vote only for clergy candidates and lay members only for lay candidates in an annual conference.

From the remarkably sketchy episcopal ruling and the equally skeletal official minutes, we were able to identify the two central issues of this case:

(1) Does this fundamental principle apply to district conferences? (2) In the absence of specific General Conference legislation, can an annual conference fill that gap by amending its standing rules to extend this principle to district conferences?

The *Discipline* echoes this principle in ¶ 334.1 by stating:

Elders in full connection shall have the right to vote on all matters in the annual conference except in the election of lay delegates to the General and jurisdictional or central conferences... [emphasis added]

Paragraph 329.2 contains a similar provision for deacons. Taken together, all those constitutional and disciplinary provisions set parameters for clergy and lay members of an annual conference to elect delegates to General, central, and jurisdictional conferences but apply the fundamental principle *only* to the annual conference. Nothing in the *Discipline* would suggest otherwise. In other words, Church law is silent when it comes to voting in *district conferences*.

The Constitution also mandates that district conferences be “composed of such persons and invested with such powers as the General Conference may determine,” thereby leaving this matter to the discretion of the Church’s highest legislature. Const., ¶ 42. 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. In JCD 435, the Judicial Council upheld a similar policy of the Florida Annual Conference on the grounds that, “with no procedure established by the Constitution or the General Conference for the nomination of delegates, the Annual Conference is free to act provided that it violates nothing in the Constitution.” [emphasis added]

In consequence, the Indiana Annual Conference acted within its rights in passing the Land Amendment to apply this fundamental principle to district conferences. Since its language refers to “all matters for which clergy are entitled to vote under the Book of Discipline,” jw128, to be consistent with the foregoing analysis, cannot be reasonably construed to override any previous amendments. The bishop erred both in his rationale and disposition of this matter.

Decision

An annual conference may adopt rules and regulations for the voting process in the district conference that are not in conflict with the *Discipline*. Such policies may specifically require that clergy members vote for clergy candidates and lay members for lay candidates in the district conference. The Bishop's ruling is reversed.

June 4, 2022

Separate Opinion

Statements contained in the above opinion are not generally predicated upon the precedents contained in the Decisions of former Councils, which is unfortunate given that there are many well-established precedents that have informed the decision-making of former Judicial Councils for decades. Virtually, if not literally, every issue raised by the questions of law have answers that are rooted in the Decisions of our predecessors. There is not sufficient time to set forth herein a full analysis of the majority opinion. However, the precedents and case lines are crucial and as such I feel obligated to highlight some of the critical decisions that show the inconsistencies and problematic analyses within the majority opinion. These are merely some of the Decisions which are relevant to the matter herein and ought to inform the future decision-making.

Decision 622 specifies that the Constitution sets forth the **eligibility requirements for the election of a lay member of an Annual Conference. Those requirements cannot be varied by either the General Conference or the Annual Conference.** The Judicial Council unequivocally holds that additional requirements legislated by General Conference or Annual Conferences are unconstitutional.

The Judicial Council then quoted the constitutional provisions regarding the elections of a lay member of an Annual Conference and issued its holding, which reads in relevant part:

The lay members [of the Annual Conference] shall have been for the two years next preceding their election members of The United Methodist Church and shall have been active participants in The United Methodist Church for at least four years next preceding their election.

We hold the provisions of ¶ 35 as to the **election of lay members are exclusive and controlling. They cannot be added to or subtracted from by the General Conference or the Annual Conference.** See Judicial Council Decision No. 495 (concurring opinion). **Provisions to the contrary in ¶ 251.2 are unconstitutional.**

In **Decision 354** the Judicial Council explained that the **General Conference** is a body of delegated constitutional authority and that the **General Conference's authority** as it pertains to its lay delegates **is limited by the Constitution**.

The authority of the General Conference to determine its own membership. Finally, we are asked by the General Conference to rule on its right to seat the appellants and other similarly situated persons as duly elected delegates. **The only premise for such action would be an asserted right in the General Conference to act as judge of its own membership regardless of constitutional limitations.**

We respectfully advise the **General Conference** that it **does not have this right**. **The powers of the General Conference are delegated to it by the Annual Conferences**, the "fundamental bodies of the Church" (Paragraph 10 of the Constitution). **The limitations based upon those powers** have a similar source. **The constitutional authority** with respect to the seating of delegates **includes the limitations** in Paragraph 40. **Those limitations can only be changed by a constitutional amendment proposed by the General Conference and approved by the Annual Conferences.**

The Judicial Council has been consistent in ensuring that nothing interferes with the Constitutional provisions concerning the eligibility and the elections of lay persons to General Conference. There have also been rulings concerning unconstitutional rules, requirements, and procedures regarding lay members to annual conference which were equally applicable to lay members to elected to General Conference. The following are just some examples.

Decision 469: An annual conference may **not** require delegates to Jurisdictional, Central and General Conference, to fulfill a **tithing covenant**.

In **Decision 592** the Judicial Council explained that delegates to General Conferences are historically and traditionally elected without instruction. **"Delegates to General Conference, just as members of an Annual Conference, are bound to do as their conscience dictates what is good for the Church of Jesus Christ, The United Methodist Church in particular, and that only. ... An Annual Conference may not legislate a requirement that delegates to General and Jurisdictional Conferences submit a record of their voting...."**

Decision 819 (April 1998) set forth the following:

The language of ¶ 253.2 of the 1996 Discipline which reads "...and from the local church from which they are elected..." is in addition to, and more restrictive than, the language of ¶ 30, with regard to the qualifications of persons for eligibility for election as lay members of the Annual Conference is **unconstitutional** under **Decision 622**.

Qualifications enumerated in the United Methodist Constitution, for election to office, are exclusive and the General Conference may not add to those qualifications.

The language of ¶ 253.2 of the 1996 Discipline, which adds to, and is more restrictive than, the language of ¶ 30, relating to the qualifications for election as lay members of Annual Conference is **unconstitutional** and is, therefore, null and void, and unenforceable.

Annual Conference lay members and the alternates shall have been members in good standing of The United Methodist Church and of the local church from which they are elected for at least two years and shall have been active participants for at least four years next preceding their election.

The General Conference cannot add to or otherwise alter the language of the Constitution. Changes in the language of the Constitution must be by constitutional amendment, not by legislative enactment

JCD 842 (1998):: A **\$25 fee from each nominee** for delegate to General and Jurisdictional Conferences would be **unconstitutionally adding to the qualifications** outlined in ¶34 of the *1996 Discipline* is affirmed. The part of the ruling that states that such fee paid by the district or agency does not add to the qualification of the individual nominee is not affirmed. Regardless of the source of payment of the fee, such a required fee would add to the qualifications in ¶ 34.

JCD 883 (2000): The *Discipline* and the Constitution provide that the actual process for the election of clergy and lay delegates to the General Conference and the central conference be determined by the annual conference as **long as the constitutionally mandated criteria for such delegates are met.**

Hence, any attempt within the official structure of the annual conference (including its sub-divisions) to nominate, designate, limit, select, or endorse nominees prior to the convening of the lay member at the Session of Annual Conference is an **unconstitutional breach of the authority that is vested by the Constitution in the Annual Conference lay members.**

JCD 1083: Survey to compel GC candidates to disclose their views on issues held **unconstitutiona**

In **Decision 1173** the Judicial Council noted that candidates' official biographical statements submitted to the Annual Conference Secretary for reproduction and distribution, may be subject to a maximum length without violating the Constitution, particularly given that candidates are not precluded or prohibited from providing more extensive information about themselves through other venues, methods, etc., and are not precluded from personally handing out a flyer outside of the Annual Conference arena/building/hall, and using other methods of communication to provide more extensive information about themselves (which can help the lay members of the annual conference to make more informed decisions concerning who they want to support as their delegates to General Conference)

In this current matter now before the Judicial Council there is a dramatic deviation from the Constitution.

The Constitution is explicit on the issue of General Conference lay delegates. The Constitution limits the participation and involvement of those electing the General Conference lay delegates to the **Annual Conference lay members**. It is the Constitution which limits and controls this process, despite whatever provisions may be set forth elsewhere in the Discipline. Neither the Annual Conference nor the General Conference may usurp nor delegate the authority vested exclusively in the Lay Members by the Constitution in ¶ 36.

Any official process which has any influence or effect upon the sole and exclusive Constitutional authority vested exclusively in the lay members of Annual Conference is unconstitutional.

As explained in multiple Decisions, the Constitution prevails and supersedes whatever other provisions may exist in the Discipline. Hence, although there may be provisions in the Discipline which permit the Annual Conference to create its own procedures for elections, those provisions are specifically subject to, and limited by, the Constitution. Thus, no other committee, board, or agency may engage in any activity related to the selection and election of General Conference lay delegates because the ultimate outcome of the elections must not be within the exclusive control and determination of the Annual Conference Lay Members.

It is a violation of the Constitution when the Annual Conference is convened and Annual Conference Lay Members are informed that the nomination process has already occurred. It is also a violation of the Constitution when the Annual Conference Lay Members are provided with an official slate of eligible candidates that have been categorized in any manner whatsoever, including indications of endorsement by Districts or other Boards or Committees.

The nomination and election process is entirely and exclusively reserved and vested in the laity. The laity are permitted to present such biographical information as may be provided by their rules, but no limits can be placed on the access or submission of those bios prior to the convening of the Annual Conference. This includes any attempt to limit the number of nominees per district. The Annual Conference lay members that are present and voting during the annual conference session are the only persons authorized by the Constitution to determine those who will compose the lay delegation to the General Conference. Any Conference rules or procedures which effect the unfettered rights of the Annual Conference lay members to elect their lay delegation to General Conference is unconstitutional.

See Judicial Council Decisions 76, 109, 124, 125, 162, 170, 173, 174, 195, 221, 226, 238, 254, 308, 333, 346, 352, 354, 403, 435, 495, 592, 622, 658, 819, 842, 867, 875, 883, 887, 989, 1005, 1083, 1173, 1181

Beth Capen

June 4, 2022