

IN THE JUDICIAL COUNCIL OF THE UNITED METHODIST CHURCH

IN THE MATTER OF THE)	
CONSTITUTIONALITY AND)	
MEANING, APPLICATION AND)	DOCKET 1019-4
EFFECT OF PARAGRAPH)	
2553 (PETITION 90066 AS AMENDED))	

BRIEF IN SUPPORT OF
REQUEST FOR DECLARATORY DECISION AS TO THE
CONSTITUTIONALITY, MEANING, APPLICATION
AND EFFECT OF PARAGRAPH 2553 (PETITION 90066 AS AMENDED)

The Council of Bishops of the United Methodist Church ("COB") submits this brief in support of its request for declaratory decision as to the constitutionality, meaning, application and effect of Paragraph 2553 (Petition 90066 as amended).

Jurisdiction

The Judicial Council has jurisdiction in this matter pursuant to Paragraphs 2609.1 and 2610.2b. The COB voted to request this declaratory decision on May 7, 2019. A copy of the minutes of the COB meeting authorizing this request was attached to the request as Exhibit A.

Factual Background

As originally submitted, Petition 90066 included the following prefatory language:

Amend, effective as of the close of the 2019 General Conference, Chapter Six, Church Property, by adding a new Section VIII. Disaffiliation of Local Churches Over Issues Related to Human Sexuality, then by adding a new ¶ 2553 as follows:

ADCA, p. 205. On February 26, 2019, the minority report regarding Petition 90066 was substituted for the majority report by a vote of 402-400. *DCA*, p. 521. It is this vote that the Commission on the General Conference has determined was tainted by illegal voting and is therefore null and void.¹

¹ In its request for declaratory decision, the COB noted that there were allegations of voting irregularities at the 2019 General Conference that were being investigated by the Commission on the General Conference ("CGC"). Since the submission of its request, the CGC has received the results of the investigation and determined that the vote to substitute the minority report was tainted and therefore null and void. The determination of the CGC is attached hereto as Exhibit A.
DOCKET 1019-4 OPENING BRIEF OF COUNCIL OF BISHOPS

Thereafter, as substituted and edited, the petition was adopted by a vote of 420-390. *DCA*, p. 523.

Based on developments since its request for declaratory decision was submitted, the COB has moved the Judicial Council to permit amendment to and supplementation of its request to raise the underlying issue of the void vote to substitute the minority report. In the event the motion is granted, the COB addresses that issue in this brief. If the Judicial Council does not address the void vote, the COB notes that the substitution of the minority report did not expressly include or exclude the prefatory language quoted above concerning the effective date of Paragraph 2553. Therefore, there is ambiguity as to when the enactment is effective.

Questions Presented

What is the effect of the CGC's determination that the vote to substitute the minority report related to Petition 90066 is null and void?

What is the effective date of Paragraph 2553 (Petition 90066 as amended)?

The Effect of the CGC Determination that the Vote Was Null & Void

Before a piece of legislation can be enacted, any conditions precedent must be satisfied. *Compare Decision 843* ("In the event that an amendment to the Constitution is passed by a General Conference it must be approved by the required vote of Annual Conferences (§ 57) and the Council of Bishops, operating as a canvasser votes, must announce that the amendment has been passed before enabling legislation can be proposed or adopted.") A vote found to be illegal because it is, for example, in violation of Robert's Rules of Order, is null and void:

The question arises as to whether a vote by ballot is synonymous with a vote cast by some designated person for a District Conference, and in *this realm of parliamentary law we follow Robert's Rules of Order, which says*: "It is out of order to move that one person cast the ballot of the Assembly for a certain person when the By-Laws (Discipline, in this case) require the vote to be by ballot, and no motion is in order that conflicts with the laws of the nation or state, or with the Assembly's Constitution or By-Laws, and if such a motion is adopted even by a unanimous vote, it is null and void." We sincerely sympathize with any persons who have been

put to trouble, but we must hold to the opinion that the action of the Dallas District Conference was illegal.

Decision 34. Further, when an Annual Conference adopts a Standing Rule, it is bound by that rule unless it is suspended or rescinded and some other action is taken. Any action in conflict with the Standing Rule taken without suspending or rescinding the Rule is void. *Decision 119.* *Robert's Rules of Order* were adopted as supplemental authority when the Standing Rules of Order did not provide otherwise. *ADCA*, p. 59; *DCA*, p. 366. Therefore, based on the CGC's report and determination that the vote to substitute the minority vote was null and void due to voting irregularities, all votes that followed that vote were also null and void. Accordingly, Petition 90066 as enacted by amendment and substitution is invalid, illegal, null and void, and the Judicial Council should affirm the CGC's determination.

The Effective date of Paragraph 2553 (Petition 90066 as amended)

Since Petition 90066 as adopted is null and void, the issue of the effective date of the petition is likely moot. However, in the event the Judicial Council decides not to address that issue at this time, the COB will address the issue of the effective date. Paragraph 508 of the *2016 Book of Discipline* provides that legislation shall become effective on January 1 following the session at which it is enacted unless otherwise specified. Therefore, unless the Petition, as amended by substitution, included the prefatory language quoted above about the effective date, Petition 90066 would become effective on January 1, 2020 if it were valid.

The minority report appeared at page 386 of the *DCA* as follows:

Minority Report

Adopt Petition #90066 (*ADCA*, p. 205) with the following changes:

1. Delete what is printed as section 2553.5 in its entirety
2. In the section listed as section 2553.5, first sentence, replace "the resident bishop" with "the board [*sic*] of trustees"

3. Delete the first sentence section 2553.5g
4. Change the final sentence section 2553.5g, by replacing it with the following:
"Payment shall occur prior to the effective date of departure."
5. Delete the entirety of what is printed as sub-section 2553.5c, and re-number the rest accordingly.

[Names of Sponsors Omitted]

When the minority report was being discussed on the floor of the General Conference (*DCA*, pp. 516-521), there was no mention of the effective date for the legislation. However, the argument can be made that by the reference in the minority report as printed on page 205 of the *ADCA* that the prefatory words "effective as of the close of the 2019 General Conference" were adopted. On the other hand, the argument can be made that prefatory language regarding the effective date of legislation should be adopted expressly and not by implication. The COB takes no position on whether the effective date of the petition, if it were valid, is February 27, 2019 (the close of the General Conference) or January 1, 2020. It simply seeks a declaratory decision by the Judicial Council as to the effective date.



BISHOP MANDE MUYOMBO
SECRETARY
COUNCIL OF BISHOPS

EXHIBIT A



Commission on the General Conference

THE UNITED METHODIST CHURCH

August 14, 2019

Council of Bishops
c/o Bishop Marcus Matthews
110 Maryland Avenue NE, Suite 301
Washington, DC 20002

Bishop Kenneth H. Carter
President
Florida Annual Conference
450 MLK JR Ave
Lakeland, FL 33815

Bishop Cynthia F. Harvey
President-Designate
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Bishop Mande Muyombo
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110 Maryland Avenue NE, Suite 301
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RE: Referral to Council of Bishops Pursuant to the Discipline, Paragraph 56, Section 4

Dear Council of Bishops:

The Commission on the General Conference recently convened a task force to oversee an independent investigation into allegations of voting improprieties at the 2019 Special Session of the General Conference. Following the investigation, the Commission found that there is sufficient probative evidence that there were four invalid votes cast in the vote to substitute the minority report for the legislative committee report (DCA page 521) (hereinafter, the “substitute the minority report vote”) due to improper credentials.

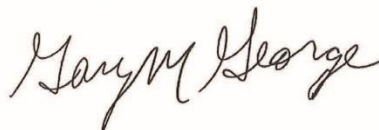
According to rule 43 of the Plan of Organization and Rules of Order for the General Conference, which incorporates Robert’s Rules of Order, including Section 45 thereof, any

possibility that invalid ballots might affect the result of a vote renders the entire ballot null and void. Because the substitute the minority report vote passed by only two votes, there is a possibility that the four votes that were improperly cast would have affected the result. Therefore, under applicable rules, the Commission found that the entire vote is null and void.

The substitute the minority report vote is the action that enabled plenary voting on the disaffiliation petition (DCA page 523). Because the Commission has found the substitute the minority report vote to be void, and that vote formed the basis for the language voted upon in the subsequent disaffiliation petition vote, the Commission voted unanimously to ask the Council of Bishops to consider referring the matter to the Judicial Council to examine the potential legal impact of the Commission's finding on the disaffiliation petition vote.

The Judicial Council has the authority to determine the legality of any action taken by the General Conference, but the Commission on the General Conference may not make such a request on its own pursuant to Paragraph 56, Section 4, of the Discipline. Therefore, the Commission hereby asks the Council of Bishops to consider referring the matter to the Judicial Council.

Sincerely,



Gary George
Secretary, Commission on the General Conference

cc: Mr. Bill Waddell
Mrs. Kim Simpson
Rev. Mujinga Kashala
Rev. Gary Graves
Ms. Sara Hotchkiss
Bishop Thomas Bickerton
Mark Manner
Jeff Gibson



Commission on the General Conference

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Commission on the General Conference

THE UNITED METHODIST CHURCH

RE: Proposed Discussion on Membership

Dear Council of Bishops and GCFA:

The Commission on the General Conference recently completed an independent investigation into allegations of voting improprieties at the 2019 Special Session of the General Conference. During the course of the investigation, the Commission discussed an issue that it believes warrants further consideration. In particular, the Commission believes that the various conferences and constituent churches have not necessarily been consistent with respect to how individuals qualify as and are recorded as professing members. Of course, having accurate membership statistics and records is of paramount importance when it comes to accurate representation of the various conferences in the governance of the Church. As a result, the Commission voted unanimously to propose to the Council of Bishops and the General Council on Finance and Administration that these three bodies engage in a collaborative conversation about membership statistics and the qualifications of, and manner in which people are recorded as, professing members.

We look forward to engaging with you further on this important topic.

Sincerely,

A handwritten signature in black ink that reads "Gary M. George". The signature is written in a cursive, flowing style.

Gary George
Secretary, Commission on the General Conference

cc: Mr. Bill Waddell
Mrs. Kim Simpson
Rev. Mujinga Kashala
Rev. Gary Graves
Ms. Sara Hotchkiss
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