

UNITED METHODIST QUESTIONS

ONE: Can an Annual Conference vote to leave The United Methodist Church?

Summary

This question has been raised in a number of forms, in language that ranges from bland and parliamentary to bold and inflammatory. One could ask if a motion at an annual conference session is, like a motion to adjourn, always in order. One could ask if an annual conference can secede from the denomination. Regardless of how the question is formed, the answer is “No.”

If the question and the answer are simple and straightforward, getting to the appropriate answer is neither simple nor straightforward. Moreover, inaccurate or imprecise answers will confuse the church.

First, no Division, Section, or Article in the Constitution of The United Methodist Church has directly established or assigned such authority to the annual conference. So, the answer has to be inferred from constitutional provisions that relate to the question. One important provision in the Constitution helps. It grants the authority for setting the names, numbers, and boundaries of annual conferences to other constitutional entities—not to the annual conference.

Second, there is no paragraph in the laws of the denomination that defines a process by which an annual conference could take such a vote. If one attempted to do so, nothing in *The Book of Discipline* provides guidelines for determining the content of what may be stated in a motion put to such a vote, for defining who may vote, for setting the proportion of a vote needed for approval, or for guiding a bishop’s discernment if asked to make a decision of law about the vote. Petitions to General Conference on these topics have proposed, but none has been enacted.

Third, though there is a Judicial Council Decision that touches the question, that Decision has limited value for providing a sufficient answer. It ignores key constitutional provisions. Also,

since it deals with proposed legislation that the General Conference did not pass, it is actually an opinion about an idea, not a ruling on church law. The Judicial Council has no jurisdiction to rule on an idea and no mandate to register opinions on hypothetical matters.

But the question deserves more than an opinionated reply. Therefore, this paper seeks to describe in detail the elements that are vital for framing an answer. It has four parts.

Part I presents background information, with data from church history and polity that are relevant. Part II examines information from the 2019 General Conference, which dealt with the proposed legislation that the Judicial Council addressed in Decision 1366. Part III reviews some legislation that has been proposed for implementing the so-called “Protocol,” which the Judicial Council in Memorandum 1407 declined jurisdiction to review, though the Council of Bishops had requested it. Part IV notes matters that are in abeyance, either because the Judicial Council has not made a ruling—or possibly cannot make a ruling—at present.

PART I: Background

Section A: Context of the Question

For several years, as conversations developed about a possible separation of The United Methodist Church because of divisions over human sexuality, many questions emerged. Can a local church leave the denomination yet retain its property and other assets? Can an institution, which is owned by the church or is controlled by the church through selecting the institution’s governing board, leave the church? Can clergy members leave the denomination but retain their access to pensions and retirement funds? Can an annual conference secede from the church?

Most of these questions have clear answers. Some were answered with legislation at the General Conference, which met in a special session in February 2019. But the question at issue

in this paper remains unsettled and is still a center of a dispute. To pursue an answer, it helps to look at the context in which the question sits.

The 2019 General Conference received petitions proposing processes for a local church to exit from the denomination while retaining its assets. This had been a topic within Episcopal and Presbyterian denominations amid their divisions involving human sexuality. Some of their situations landed in civil court. The 2019 General Conference enacted a provision of church law, now ¶ 2553 in the *Discipline*, that defines the process in The United Methodist Church. Multiple local churches in a number of annual conferences have already used this procedure to depart.

Questions about clergy members who voluntarily leave The United Methodist Church have also been generally resolved. Any who leave will retain their rights to the retirement and pension benefits that they accumulated during their active service. They will have access to the funds in accordance with the stipulations of the church retirement programs that existed at the time of the individual clergy member's departure.

But the question posed in this paper is clouded with ambiguity and confusion. Some United Methodists think it has been settled. Others insist it has not been resolved at all. "Can an annual conference vote to leave?" Our history and polity will guide us to an accurate answer.

Section B: Historical Overview

What we United Methodists call a "conference" is an entity with a long history. John Wesley considered the "conference" to be a body of persons—not a meeting at which people gathered, but a membership body of people who occasionally gathered for a meeting.

During his active leadership of the Methodist movement, Wesley decided who formed the "conference." When they met, he decided what the agenda would be, which questions would

be asked, and how those questions should be answered. When Wesley recognized his movement would need someone to succeed him, he decided the conference—not an individual—would be the entity to make decisions for the people called Methodists.

This was not an organizational choice but a theological issue. Wesley believed that one way God’s grace comes to God’s people is through Christian conferencing. So, a “conference” is a body of people who receive and give grace, empowering them to lead the church in mission.

While our denomination certainly is connected to our Methodist roots in John Wesley’s movement, The United Methodist Church is also connected to patterns in American Methodism that formed after the United States became an independent nation and after Methodists formed their own church in the new country. Many elements of denominational governance today were devised by American Methodists.

In 1784, with John Wesley’s endorsement, a new denomination called “The Methodist Episcopal Church in the United States of America” was established. Its preachers formed a “conference” that governed the church and “superintendents” who oversaw it. Two years later, the first two superintendents began calling themselves “bishops.” Their choice of title endures.

In American Methodism after 1784, annual conferences developed in all regions of the country. The annual conference members met yearly. A general gathering of all preachers was scheduled every four years. However, further expansion made that pattern impractical.

In 1808, twenty years after the United States of America adopted a new Constitution, the Methodist Episcopal Church in the United States adopted a constitutional framework for its governance. The gathering of all preachers shifted to a delegated general conference every four years, with elected representatives from annual conferences in attendance. One early dispute involved whether annual conferences would control the selection process for these “delegates.”

The issue was settled with an agreement that each annual conference would choose its delegates in the manner that it determined. In this constitutional framework, annual conferences were recognized as the basic bodies of the church: annual conferences decided whom to accept as preachers to itinerate in appointments; annual conferences decided who would be delegates to a general conference; and general conferences elected bishops.

Thus, in 1808, the connection was ordered as a constitutional system of conferences and bishops. The annual conference was a body where preachers were admitted to membership and to itinerant ministry. A delegated general conference set policy in the polity. Bishops oversaw it.

The annual conferences grew in number, connecting more territory. Each is still a body of members, though United Methodist annual conferences today have both clergy and lay members. Laity have their primary church membership in local churches and are elected by local churches to be members of the annual conferences. Clergy have their primary church membership in an annual conference. Things have changed since Wesley's era. But an annual conference is still a body of members—the only place where clergy have their membership in the church.

At numerous times in the history of Methodism, the church has had separations, schisms, and splits. When those breaks occurred and the denomination divided, the fracturing varied. In some breaks, like one in 1792, individual preachers left the church. In other breaks, like the one over slavery in 1844, the institution severed itself and created separate denominations into which bishops, preachers, and annual conferences moved.

Often, divisions were permanent and irreconcilable. Occasionally, as in 1939, divisions were overcome by institutional reunion. And in 1968, there was another factor.

The United Methodist Church came into existence as a denomination in 1968, not for reuniting separated entities but for merging church bodies that had developed along separate

paths. *Formally*, it was a merger of the Evangelical United Brethren (with a German heritage) and The Methodist Church (with an English heritage). *Morally*, the creation of The United Methodist Church was an effort to overcome divisions built into the 1939 reunion to segregate Black and White members in a Methodist version of the system reflecting American issues. A Supreme Court decision¹ and an array of “Jim Crow” laws for segregating Black and White people were keys to it. Basically, the church in 1939 had created a new kind of conference—the jurisdictional conference—to elect bishops and order the church in a racially segregated manner. “The Methodist Church” put Black preachers, Black bishops, Black local churches, and Black annual conferences into a separate “Central Jurisdiction.” It was an act of White power.

The Constitution of The United Methodist Church in 1968 eliminated the denominational apartheid. It kept a jurisdictional conference system in place; however, it eliminated a “Central” Jurisdiction that segregated Black and White members. All annual conferences were included in their respective geographical jurisdictions, and the annual conferences were to integrate racially. Five jurisdictional conferences would elect bishops and set boundaries of annual conferences.

In some places, resistance from White bishops, preachers, and local churches slowed the desegregation process. Many Black members of The United Methodist Church wondered if there would ever be a Black bishop elected again. But no annual conferences left the church.

Section C: A Polity Principle

For most Methodist and Wesleyan churches—and certainly for The United Methodist Church today—an enduring principle in our constitutionally structured system is that we have a “connectional” polity. This means that the denomination is neither a single entity nor multiple

¹ *Plessy v. Ferguson*, 1896.

independent entities but connected entities. Each has final authority for some aspect of church life. Our church does not centralize authority in an office, individual, or group. Unlike Baptists (with whom final authority exists in a congregation) and unlike Roman Catholics (with whom final authority resides in the papacy), United Methodists assign different types of authority to different units in church order. This polity principle is critical in our constitutional connection.

As Tom Frank has suggested, there is no necessary reason for a church to establish its systems of operation in a Constitution.² The United Methodist Church, like other Methodist bodies with which it is no longer institutionally linked,³ has a Constitution. That Constitution determines what each entity in United Methodism has authority to do and what it cannot do.

Though a new Constitution was written for The United Methodist Church in 1968, it still includes clauses dating from 1808, when the church established constitutional restrictions on what the General Conference could do. The original provisions are “Restrictive Rules” today.⁴ They prohibit actions by the General Conference that would change our doctrinal standards, eliminate our episcopacy, or deprive clergy and lay members of their rights to trial and appeal.

This polity principle for differentiated final authority exists throughout our Constitution.

- “The General Conference shall have full legislative power over all matters distinctively connectional...”⁵
- “All decisions of the Judicial Council shall be final.”⁶

² Thomas Edward Frank, *Polity, Practice, and the Mission of The United Methodist Church* (Nashville: Abingdon, 2006 revised edition), page 115.

³ For example, the African Methodist Episcopal Church and the African Methodist Episcopal Zion Church have been independent denominations for two centuries with their own constitutional systems.

⁴ The Constitution, Division Two, Section III, Articles I through VI, published as ¶¶ 17-22, *The Book of Discipline of The United Methodist Church 2016*, pages 31-32.

⁵ The Constitution, Division Two, Section II, Article IV, published as ¶ 16, *The Book of Discipline of The United Methodist Church 2016*, pages 29.

⁶ The Constitution, Division Four, Article III, published as ¶ 57, *The Book of Discipline of The United Methodist Church 2016*, page 43.

- “The annual conference is the basic body of the Church and as such shall have reserved to it the right to vote...on all matters relating to the character and conference relations of its clergy members, and on the ordination of clergy...”⁷

Section D: The Constitution and the Annual Conference

Each annual conference is constitutionally assigned final authority for specific matters. The members choose the delegates to the General Conference and to the Jurisdictional or Central Conference. The members cast votes that determine whether an amendment to the Constitution is approved. The clergy members and some designated laity decide who will be received as clergy members, be ordained, and be eligible for appointments to places of ministry in the church.

But does the annual conference have authority for independent self-creation, termination, secession, or departure from the denomination? The constitutional answer is “no.”

The Constitution of The United Methodist Church assigns those forms of authority to other church entities: to central conferences for annual conferences outside of the United States; and to jurisdictional conferences for annual conferences inside the United States.

Division Two, Section VII, Article IV of the Constitution⁸ establishes the following:

The number, names, and boundaries of the annual conferences and episcopal areas shall be determined by the jurisdictional conferences in the United States of America and by the central conferences outside the United States of America according to the provisions under the respective powers and pursuant to the respective structures of the jurisdictional and the central conferences.

The Constitution does not make an annual conference a free agent with authority for any self-determination. Rather, the Constitution grants to jurisdictional and central conferences the

⁷ The Constitution, Division Two, Section VI, Article II, published as ¶ 33, *The Book of Discipline of The United Methodist Church 2016*, page 35.

⁸ Published as ¶ 40 in *The Book of Discipline of The United Methodist Church 2016*, page 38.

authority to determine how many annual conferences will exist in their respective regions, what the boundaries of each annual conference will be, and how they will be named.

Perhaps a specific example might illustrate what this constitutional provision means. If the Alabama-West Florida Annual Conference were to take a vote and were to determine that the outcome of the vote was a decision to leave The United Methodist Church, then the action would change the number of annual conferences in the Southeastern Jurisdiction and would also impact or erase boundaries of four other annual conferences: the western boundaries of the Florida and South Georgia Annual Conferences, the eastern boundary of the Mississippi Annual Conference, and the southern boundary of the North Alabama Annual Conference.

But Alabama-West Florida has no such authority. The authority to determine the number of annual conferences in the southeastern United States and their boundaries has been assigned to the Southeastern Jurisdictional Conference. An annual conference cannot usurp the constitutional authority that has been established for another entity of the church. Delegates from all the annual conferences in the Southeastern Jurisdiction have the authority to determine the number and the boundaries of annual conferences within that region. The members of the Alabama-West Florida Annual Conference cannot claim or exercise that authority apart from the connection.

And that is not the only constitutional consideration. The clergy members of an annual conference have, in the Constitution, a right to a trial and to an appeal. The lay members of local churches in an annual conference have, in the Constitution, a right to a trial and to an appeal, as well.⁹ But this is an especially critical matter for the clergy, whose only church membership is in the annual conference. If an annual conference were to vote to leave the denomination, that vote

⁹ The Constitution, Division Two, Section III (Restrictive Rules), Article IV, published as ¶ 20, *The Book of Discipline of The United Methodist Church 2016*, page 31.

would deprive clergy members of their constitutional rights to a trial and to an appeal, and at the same time it would remove them from membership in the church by sending them involuntarily into some other church body—where they may or may not have constitutional rights, and where their interpretations of Wesleyan theology might jeopardize their vocations as clergy.

If an annual conference were to take a vote and were to determine that the outcome of the vote was a decision to leave The United Methodist Church, then its action would remove those clergy members from church membership in the annual conference and would remove those lay members of the local churches in the annual conference from the denomination, in defiance of the rights that they are guaranteed by their conditions of membership.

So, a vote by an annual conference to leave the denomination would be unconstitutional on at least two grounds. It would usurp an authority that the Constitution has established and put into the power of a different church entity. And it would deprive the affected members—clergy and lay—of their rights in the Constitution, including their rights to trial and appeal.

PART II: Matters related to the 2019 General Conference

Section A: Petition Number 90041

Petition Number 90041, as it was submitted to the 2019 General Conference, contained a proposal for a church law to be added to the *Book of Discipline* as a new ¶ 2801. A sub-section of it (¶ 2801.9a) included the following sentence: “Any annual conference may become a self-governing church or join an existing one when that annual conference votes by simple majority to seek this status under the terms of this paragraph.”¹⁰

¹⁰ ADCA, page 186

Months in advance of the 2019 General Conference, which was convened as a “special session”¹¹ to receive a report from the Commission on a Way Forward, the Judicial Council was asked to review the proposed legislation contained in each “Plan” that the Commission offered. Exercising jurisdiction that it has been granted by the General Conference “to determine the constitutionality of any proposed legislation,”¹² the Judicial Council in Decision 1366 says, “...we find that amended ¶ 2801.9 is constitutional.”¹³

Since that statement appears on page 44 of an extremely long Judicial Council Decision, it is possible that many United Methodists have never noticed those words or recognized their significance. Those who advocate or assert the authority of an annual conference to secede from the denomination, however, clearly have noticed.

Nevertheless, when the General Conference met in 2019 and received the Petition 90041 with proposed legislation for a new ¶ 2801.9a, the Standing Committee on Central Conference Matters (to which it was sent) voted overwhelmingly¹⁴ not to support the petition. So, it was not sent to the General Conference plenary. It did not become church law. It died in committee.

Section B: Judicial Council actions involving Petition 90041

Judicial Council Decision 1366 stands. That creates a conundrum. On the one hand, Judicial Council Decision 1366 says an item of proposed legislation, which would have allowed the votes of a simple majority of the clergy and lay members of an annual conference to be the sufficient threshold for approving a motion to leave the denomination, was constitutional.

¹¹ The denomination’s Constitution establishes the terms under which a “special session” of the General Conference “may be called” in Division Two, Section II, Article II, published as ¶ 14 in *The Book of Discipline of The United Methodist Church 2016*, page 28.

¹² *The Book of Discipline of The United Methodist Church 2016*, ¶ 2609.2.

¹³ Judicial Council Decision 1366 was issued on October 26, 2018, four months before the General Conference met.

¹⁴ The tally in the Committee was 28 voting not to support the petition, 4 voting to support the petition, and 5 who are identified as not voting. (See Legislation Tracking for the 2019 General Conference.)

On the other hand, the proposed legislation included in Petition 90041 and addressed in Decision 1366 was never enacted as a United Methodist law. Hence, Judicial Council Decision 1366 is a matter of record. But it does not apply to any paragraph in *The Book of Discipline* or to any provision of church law.

The Judicial Council has constitutional authority to make final decisions.¹⁵ It determines the constitutionality of legislation enacted by the General Conference. It may assess the legality of actions taken by church bodies. It reviews decisions of law by bishops. It could have “other duties and powers” if the General Conference confers them.¹⁶ The jurisdiction claimed by the Judicial Council in ¶ 2609.2 to rule on Petition 90041 is one of the conferred powers.

Decision 1366 applies to a legislative proposal as it existed when it was a petition. But it has no broader value. It is not an endorsement of the concept of annual conference autonomy to depart, because the Judicial Council in ¶ 2609.2 does not have jurisdiction to rule on concepts. When the General Conference did not enact Petition 90041 into church law, Decision 1366 became an archival record. But it is not a judicial precedent, for it did not rule on a law.¹⁷

In ruling on Petition 90041, Decision 1366 relies on constitutional silence. It accepts that the Constitution says nothing about the right of an annual conference to leave the denomination. It just infers that an annual conference, as “the basic body in the Church,” could secede.

While the General Conference, under the authority of ¶ 16.3, may regulate the process and set the conditions for an annual conference to leave The United Methodist Church, the annual conference, having “reserved to it...such other rights as have not been delegated to the General Conference under the Constitution,” exercises autonomous control over the agenda, business,

¹⁵ The Constitution, Division Four, Article III, published as ¶ 57, *The Book of Discipline of The United Methodist Church 2016*, page 43

¹⁶ The Constitution, Division Four, Article II, published as ¶ 56, *The Book of Discipline of The United Methodist Church 2016*, page 42-43

¹⁷ The Judicial Council was established as a unit of governance in 1939. The United Methodist Church in 1968 retained it, with authority to review such matters as the constitutionality of General Conference actions and decisions of law by bishops. It is often compared to the Supreme Court of the United States, whose Chief Justice John Roberts (dissenting in *Uzuegbunam v. Preczewski*) said the Court should not turn into “advice columnists.”

discussion, and vote on the question of withdrawal. Consequently, we find that amended ¶ 2801.9 is constitutional.”¹⁸

But this ignores what the Constitution says about the existence of annual conferences. It is a ruling on proposed legislation that now is hypothetical idea. It is a ruling based on inferring an authority to secede from the absence of a clause in the Constitution. It is a ruling that ignores jurisdictional and central conference authority for deciding whether an annual conference exists, based on the constitutional authority for naming, numbering, and setting boundaries.

PART III: Matters related to the proposed “protocol legislation”

Section A: What the proposed “protocol legislation” asserts

On January 3, 2020, a group of United Methodists announced that they had unanimously reached an agreement for separating The United Methodist Church into different denominations as a way to resolve the disputes and dilemmas involving human sexuality. They described their agreement as a “protocol” for the action that they envisioned. Several weeks later, the group and their allies released a package of legislative proposals for implementing the so-called “protocol.” Although it was intended to be a petition to the 2020 General Conference, the package came too late for submission to the General Conference.

¹⁸ Judicial Council Decision 1366, page 44. In 2019, the Judicial Council issued two other rulings that relate to Petition 90041. One is Decision 1377, which the Judicial Council issued while the 2019 session of General Conference was meeting. It deals with a request from a Legislative Committee about the constitutionality of pending legislation. But Decision 1377 does not list a request from the Standing Committee on Central Matters, which had been assigned Petition 90041, and it does not list Petition 90041 as an item on which any judgment of constitutionality was reached. A second is Decision 1378, which the Judicial Council issued on April 25, 2019, in response to a request from the General Conference, which was expressed in a motion adopted by the General Conference near the close of its 2019 session. The motion sought a review of all the “Traditional Plan” legislation that the special session had enacted. Since Petition 90041 had not been enacted into law by the General Conference, it was not included in Judicial Council Decision 1378.

However, under an option in church law that lets annual conferences submit petitions at a later time,¹⁹ at least three annual conferences affirmed the “protocol legislation” and submitted it as a petition. One piece of the package builds upon the assumption that an annual conference has authority to vote to leave the denomination, cites Judicial Council Decision 1366 as justification for this assumption, declares the authority of the General Conference to write legislation for the implementation of this assumption, and displays in legislative language the process for an annual conference to depart from the denomination.

Excerpts from the proposed “protocol legislation” reveal what the General Conference has been petitioned to enact as an addition to *The Book of Discipline of The United Methodist Church*. I have highlighted key elements in the proposed legislation.

¶ 2556 Reconciliation and Grace Through Separation and Restructuring

1. b) Authority - ...

The General Conference’s legislative power extends not only to the subject matters listed in ¶¶ 16.1-15 of the Constitution, but to such other legislation as may be necessary, subject to the limitations and restrictions of the Constitution of the Church. (¶ 16.16). This legislative power includes formalizing all ecumenical relationships, and providing for the organization, promotion, and administrative work of the Church outside the United States (¶ 16.4). In addition, the Judicial Council has already held that annual conferences have the right under ¶ 33 of the Constitution to vote to withdraw from The United Methodist Church, but this right is subject to the General Conference’s authority under ¶ 16.3 and ¶ 33 to regulate the process and set conditions for an annual conference to separate from The United Methodist Church (Judicial Council 1366). A decision by a central conference or annual conference to separate from The United Methodist Church to form or join a New Methodist Denomination shall include all its local churches unless a local church (or an annual conference within a central conference) affirmatively votes to stay. ...

¹⁹ *The Book of Discipline of The United Methodist Church* 2016, ¶ 507.6

4. *Process of alignment in the United States* - The following shall be the process for churches in the United States to separate from The United Methodist Church to align with a New Methodist Denomination. ...

a) *Annual Conferences* - An annual conference may, by a vote of 57 percent of the lay and clergy members present and voting at a regular or called session, choose to separate from The United Methodist Church to form or join a New Methodist Denomination. The annual conference shall consider this decision upon motion from the floor that is supported by one-fifth of its lay and clergy members present and voting or may do so through its normal processes. The annual conference may also call a special session for this purpose upon motion from the floor or through its normal processes. If the annual conference does not vote to separate by July 1, 2021, it shall by default remain part of The United Methodist Church.

6. *Clergy* - Clergy shall by default remain members of their annual conference, unless they choose otherwise. The United Methodist Church will comply with the provisions of the *Book of Discipline* with the understanding that appointments may change during the process of restructuring. Clergy who join a New Methodist Denomination as a result of a vote of their annual conference, or their own decision, will be subject to the rules and procedures of the New Methodist Denomination.

Section B: Difference between the proposed “protocol legislation” and Petition 90041

There are differences between this proposed protocol legislation and Petition 90041 that died at the General Conference in 2019. One salient item is that if one-fifth of the members of an annual conference support a motion to take a vote on seceding from the denomination, the annual conference “shall consider this decision.” In the language of the United Methodist *Discipline*, the word “shall” is synonymous with “must.” So, twenty percent of the annual conference members could force a vote on leaving the denomination. A second salient item of difference is that more than a simple majority of votes would be required to support a motion to secede in order for it to be approved—but not much more. The proposed “protocol legislation” invents a new threshold for a parliamentary majority at fifty-seven percent.

But the crucial detail is that the proposed “protocol legislation” relies on Judicial Council Decision 1366. It assumes that the concept of annual conference authority to leave the church is constitutional. It assumes that a simple majority of voting delegates at General Conference can enact a church law to overturn the constitutional authority granted to jurisdictional and central conferences for determining the number, names, and boundaries of the annual conferences.

By relying upon these assumptions, the proposed “protocol legislation” would avoid the process of amending the Constitution, which would require approval from two-thirds of the delegates at the General Conference and two-thirds of the aggregate votes of annual conference members in the entire denomination. In its current form as a petition to the General Conference, it could become law simply by securing one-half of the delegates’ votes plus one. That would put constitutional rights under the rule of political power. Persuading General Conference delegates to examine the constitutional issues at stake and to ponder the risks of litigation in civil courts of multiple nations would swirl in parliamentary politics.

If the advocates of the “protocol” wish to empower an annual conference with authority to leave the denomination, the appropriate step would be to amend the Constitution, grant that authority to the annual conference, and enact enabling legislation to implement it.

The Council of Bishops asked the Judicial Council to review this proposed legislation in advance of the General Conferences. But the Judicial Council, in Memorandum 1407, declined jurisdiction in the matter and ruled that it would “avoid interfering with the legislative process through premature adjudication.”

PART IV: Matters in Abeyance

Section A: The General Conference

In February 2021, the Council of Bishops called the General Conference to meet in a “special session” on May 8, 2021, to deal with twelve legislative items. Those items were, as the bishops noted, actions that had to be taken in order for the church to continue functioning during the ongoing pandemic. Critics in constituencies across the church responded almost immediately to the format of the special session that the Council of Bishops called and to the items that were listed for action by the special session. Some critics were displeased with what was on the list. Other critics were displeased with what was not on the list, including specifically the proposed protocol legislation. On March 22, the Council of Bishops cancelled the special session.

At this point, based on information that is currently available, the next regular session of the General Conference will convene in August 2022. It will be the rescheduled 2020 session. The petitions that have been submitted in keeping with the *Discipline*, including the proposed “protocol legislation,” will be considered. Only the General Conference can enact legislation or approve a possible constitutional amendment regarding any annual conference authority to secede from the denomination.

Section B: Issues for Judicial Council Deliberation

Although the deliberations of the Judicial Council are conducted behind closed doors, the published Decisions of the Judicial Council now include Memorandum 1407, declining to review proposed protocol legislation. But that might not end its role in the matter. The Judicial Council may reconsider Decision 1366, to study the constitutional authority of jurisdictional and central conferences in regard to annual conferences. And, if the General Conference were to enact the

proposed protocol legislation granting the annual conference authority to leave the denomination, the Judicial Council could be asked for a review of the enacted law.

In its current form as a petition, it poses a constitutional challenge. The draft legislation says “the lay and clergy members present and voting at a regular or called session” would vote on a motion to leave the denomination. That would violate what the Constitution establishes as voting rights on anything involving clergy membership.

Division Two, Section VI, Article II of the Constitution establishes that “lay members may not vote on matters of ordination, character, and conference relations of clergy” unless they are also members of the board of ordained ministry and the annual conference committee on investigation.²⁰ Therefore, the proposed “protocol legislation” contains a provision that would violate the Constitution. The petition with the “protocol legislation” proposes to grant voting rights on clergy members to persons who are specifically prohibited by the Constitution from voting on clergy membership.

When Judicial Council Decision 1366 ruled that the piece of proposed legislation for the General Conference in 2019—the item known as Petition 90041—was constitutional, it cited the clause in the Constitution that calls the annual conference “the basic body of the church.” That same part of the Constitution, however, also establishes who has the right to vote in the annual conference regarding clergy membership. The General Conference cannot legislatively grant an authority to some lay members of the annual conference that the Constitution specifically says those lay members do not have.

²⁰ Published as ¶ 33 in *The Book of Discipline 2016*.

Judicial Council Decision 1366 is an important item of historical interest. But it is not a judicial precedent. Nevertheless, the political energy associated with support for the proposed “protocol legislation” has claimed precedential authority for it.

Can an annual conference vote to leave The United Methodist Church? In various ways, arguments are advanced to support an affirmative answer to the question. But United Methodists should not permit legislative actions by the General Conference to overthrow the Constitution in their efforts to install the answer they prefer. Any who want an annual conference to have such authority can try to amend the Constitution and write the implementing legislation to do so. But overthrowing the Constitution is not a tactic that we should adopt.

Can an annual conference vote to leave The United Methodist Church? “No.”

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