

JUDICIAL COUNCIL OF THE UNITED METHODIST CHURCH

DECISION 1312

IN RE: Request for a Declaratory Decision from the Northeastern Jurisdiction College of Bishops Regarding the Meaning, Application, and Effect of ¶ 404.2 in Light of ¶¶ 40 and 48 and Regarding the Constitutionality of ¶ 404.2

DIGEST

Paragraph 40 of the Constitution authorizes jurisdictional and central conferences to determine the names, numbers, and boundaries of annual conferences and episcopal areas. Paragraph 48 authorizes each College of Bishops to arrange episcopal supervision within its jurisdiction or within the region of its central conference, but does not authorize bishops to set the names, numbers, or boundaries of episcopal areas. Paragraph 16 of the Constitution authorizes the General Conference to establish both a uniform method for electing bishops in jurisdictions and a connectional method for funding the episcopacy, thereby giving the General Conference authority for setting the number of bishops in each jurisdiction. These provisions in the Constitution address separate, not conflicting, aspects of the connectional pattern in which The United Methodist Church establishes and forms its episcopacy. Paragraph 404.2 is constitutional.

STATEMENT OF FACTS

At its meeting on October 5, 2015, in Hershey, Pennsylvania, the Northeastern Jurisdiction College of Bishops voted to request that the Judicial Council make a declaratory decision on four specific questions:

1. What is the meaning, application, and effect of the new ¶ 40 in relation to ¶ 48 as to where the authority resides for setting the number, names, and boundaries of the annual conferences and episcopal areas?
2. What is the meaning, application, and effect of the new ¶ 40 in relation to ¶ 404.2 as to where the authority resides for setting the number of bishops in a jurisdiction?
3. What is the meaning, application, and effect of the new ¶ 40 in relation to the constitutionality of ¶ 404.2?
4. Do the provisions of ¶ 40 require the General Conference to provide financial support for the number of areas determined by the jurisdictional conference?

The petition from the Northeastern Jurisdiction College of Bishops names other parties with an interest in this matter, as provided in ¶ 2610 of the 2012 *Discipline* and

Judicial Council Decision 437. The parties include the General Council on Finance and Administration, the Committee on Episcopacy of the Northeastern Jurisdiction, and the Inter-Jurisdictional Committee on Episcopacy, to whom the College of Bishops has (in another, separate action) submitted a request in “consideration of its missional need for an exception” as provided through ¶ 404.2b. If granted, the exception would allow the Northeastern Jurisdiction to continue having nine bishops, rather than eight as ¶ 404.2a would require for the 2016-2020 quadrennium.

An Oral Hearing was conducted in Portland, Oregon, on May 6, 2016. Bishop Thomas Bickerton appeared on behalf of the College of Bishops.

JURISDICTION

The Judicial Council has jurisdiction under ¶ 2610 of the *2012 Discipline*.

ANALYSIS AND RATIONALE

The questions that have been posed by the College of Bishops in its request for a declaratory decision raise exceedingly complex issues. But, in essence, these questions from the College identify, and enable us to focus on, the provisions in the Constitution of The United Methodist Church that control the way the episcopacy is established for the mission and ministry of the church:

- the General Conference cannot on its own “do away with episcopacy” in “our plan of government” nor can the General Conference “destroy the plan of our itinerant general superintendency.” (¶ 19 [Article III of the Restrictive Rules]);
- the “full legislative power” of the General Conference includes authority to “fix a uniform basis upon which bishops shall be elected by the jurisdictional conferences and to determine the number of bishops that may be elected by central conferences” (¶ 16.10);
- the General Conference has authority and responsibility “for raising and distributing funds necessary to carry on the work of the Church,” which includes the work of the episcopacy (¶ 16.9);
- the Colleges of Bishops “shall arrange the plan of episcopal supervision of the annual conferences, missionary conferences, and missions in their respective jurisdictions” (¶ 48);
- and “the number, names, and boundaries of the annual conferences and episcopal areas, shall be determined by the jurisdictional conferences in the United States and by the central conferences outside the United States of America in a manner that is not circumscribed or limited by the authority provided to the College of Bishops to arrange a plan of episcopal supervision” (¶ 40).

Embedded within the questions posed by the College of Bishops about provisions in the Constitution is another question that asks about the constitutionality of a legislative act by the General Conference. It asks whether the legislation to provide a mathematical method for determining the number of bishops within each jurisdiction, namely ¶ 404.2, is constitutional.

The system of government, with which The United Methodist Church constitutes itself, is based on an interconnected set of authorities. The system balances and constrains the power exercised by each of the authorities individually and by all connectionally.

There are other ecclesial bodies that choose to vest all authority in one entity. That entity might be a single congregation, a regional synod, an episcopacy, or even an individual pastor. In The United Methodist Church, no single entity has authority for all ecclesial matters. Each authority center is balanced or constrained by other authorities.

In the history of The United Methodist Church and its predecessor bodies, this system has been tested and examined many times.

Judicial Council Decisions 57 and 517 recognized, affirmed, and concurred with the historical assumptions and practices by bishops that under an earlier version of ¶ 40 (previously ¶ 37 of the *1964 Book of Discipline* and ¶ 53 of the *1980 Book of Discipline*) it was their responsibility to determine the boundaries of the respective areas. During the General Conference of 1948, an amendment was proposed to ¶ 440, which if adopted would have required consent of the Jurisdictional Committee on Episcopacy for fixing the boundaries of the episcopal areas. In Decision 57, the Judicial Council declared the proposed amendment unconstitutional "as this power is reserved to the Bishops as a part of Episcopal administration under the Constitution."

The 1968 General Conference adopted legislation in ¶ 624.3, which provided that the Jurisdictional Committee on Episcopacy shall recommend the boundaries of the episcopal areas after consultation with the College of Bishops and the assignment of the bishops to their respective residences for final action by the Jurisdictional Conference.

The provision had remained the law of the church in substantially the same form, although without requiring any consultation with the College of Bishops as can be seen in the *1980 Book of Discipline* as ¶ 622.3(b).

In Decision 517, the Judicial Council declared ¶ 622.3(b) of the *1980 Book of Discipline* to be constitutional.

However, Decision 517 declared ¶ 507.1 of the *1980 Book of Discipline* contrary to ¶ 53 of the Constitution and unconstitutional to the extent that it authorized the

fixing of boundaries of episcopal areas by final action of the Jurisdictional Conference. In its Decision 517, the Judicial Council also held that this power is reserved to the bishops as part of the episcopal administration under the Constitution.

Paragraph 507.1 had stated the following:

Assignment Process-1. Jurisdictional Committee on Episcopacy-The Jurisdictional Committee on Episcopacy, after consultation with the College of Bishops, shall recommend the boundaries of the episcopal areas and the assignment of the bishops to their respective residences for final action by the Jurisdictional Conference ...

Decisions 57 and 517 were affirmed in Decision 735. In the 1992 session, the General Conference approved an amendment to the Constitution as ¶ 43:

Changes in the number, names, and boundaries of the Annual Conferences and Episcopal Areas may be effected 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 Central Conferences.

In Decision 735, the Judicial Council held that ¶ 43 did not address the question of authority to determine those boundaries. It spoke only to effecting any changes those decisions may require. The result was to establish an understanding of the Constitution that, as a matter of legislative and constitutional procedure, has been understood and has been practiced by The United Methodist Church for many quadrennia.

But, an amendment to the Constitution can require significant changes in process.

The specific request from the Northeastern Jurisdiction College of Bishops for a declaratory decision, accompanied by the written and oral presentations that are part of the record, has shown just how complex these connectional balances can be.

Multiple provisions within the Constitution now balance one another in new and different ways. The Constitution has changed. And the bases on which to determine how many bishops are to be elected, where the bishops are to be assigned, and what funding mechanism will support the budgets to sustain the ministries of the bishops are also now changed.

Amendments to the Constitution can do that. A properly adopted amendment, which may seem not merely to alter the balance but to conflict with other provisions in

the Constitution, is still part of the Constitution. By definition, nothing in the Constitution is unconstitutional.

Therefore, with regard to the formation of the episcopacy, the plain meaning of the Constitution is clear from the way the constitutional balances have been established. Regardless of the order in which one lists them, there are elements in the Constitution that both constrain and balance one another:

- the episcopacy exists and functions according to a plan of itinerant general superintendency, which the General Conference cannot alter or destroy (§ 19);
- the collective episcopacy within a jurisdiction, known as a College of Bishops, arranges episcopal supervision of annual conferences, missions, and missionary conferences in that jurisdiction (§ 48);
- the jurisdictional conferences in the United States and the central conferences outside of the United States determine the number of episcopal areas to which bishops will be assigned (§ 40);
- the General Conference, which determines the number of bishops to be elected by the central conferences, fixes a uniform basis for the election of bishops in the jurisdictional conferences and provides for the funding of the bishops so elected, thereby determining how many bishops there will be in each jurisdiction (§ 16);
- and authority to set the number of episcopal areas in a jurisdiction (§ 40) is not the same as authority to determine the number of bishops in a jurisdiction (§ 16).

These balances can create friction or tension.

In theory, a jurisdictional conference could determine a number of episcopal areas that is greater than the number of bishops that can be elected by the uniform plan which the General Conference established. If a circumstance of this kind were to exist, it would be the responsibility of the College of Bishops to arrange episcopal supervision over the episcopal areas in the jurisdiction, since the number of bishops would not be equal to the number of areas. Further, if a jurisdictional conference were to determine a number of episcopal areas that is greater than the number of bishops whose positions the General Conference will fund, an adjustment in funding levels could be sought in the General Conference, which is solely responsible for funding these positions. (See Decision 30) However, in exercising its authority to set the number of episcopal areas in a jurisdiction, a jurisdictional conference cannot compel the General Conference to fund a number of episcopal offices that is equal to the number of episcopal areas, which it has established.

Judicial Council Decision 735 in 1995 addressed potential or perceived conflicts between two of the provisions in the Constitution, one of which was a recently adopted amendment. In its Decision, the Judicial Council ruled that the constitutional language as amended had authorized one body to “effect” or implement changes that were

controlled by decisions made elsewhere in the Church. The Judicial Council found in Decision 735 that there was not any conflict within the Constitution.

The difference between the circumstances addressed in Decision 735 and the case now before the Judicial Council is that ¶ 40 newly confers constitutional authority on the jurisdictional conference to determine “the number, names, and boundaries of the annual conferences and episcopal areas.” Hence, the Constitution now says that the jurisdictional conference will not merely effect a decision made elsewhere but will itself decide on “the number” of episcopal areas. Nevertheless, the constitutional change that confers upon the jurisdictional conferences the authority to decide how many episcopal areas will exist in its jurisdiction does not confer upon the jurisdictional conference—or compel any other constitutional authorities—to concede any constitutional authority to the jurisdictional conference.

In an effort to be precise, we will try to illustrate the balancing of connectional authorities under the Constitution as it now exists.

- The Northeastern Jurisdictional Conference has the constitutional authority to declare that there are **ten** (or, indeed, any number of) episcopal areas in its jurisdiction. Further, the jurisdictional conference can give names to those episcopal areas and define their boundaries.
- The General Conference has the constitutional authority to determine, through the uniform plan that it has adopted, that the Northeastern Jurisdiction is entitled to elect only **eight** bishops. The General Conference also has the constitutional authority to determine, through its responsibility for raising and distributing connectional funds, that the Church will fund **eight** bishops for the jurisdiction.
- The College of Bishops in the Northeastern Jurisdiction has the constitutional authority to arrange episcopal supervision for the annual conferences in the jurisdiction. If the number of episcopal areas established constitutionally by the jurisdictional conference is larger than the number of bishops established constitutionally by the General Conference, then the College of Bishops has the sole constitutional authority and responsibility to arrange episcopal supervision, even if that means one or more bishops will be arranged to offer episcopal leadership for more than one episcopal area.

When the Constitution changes by the method of amendment, the balances among and between authorities in the Church will experience changes. In the extreme, some of the constitutional changes could create the possibility of a constitutional crisis. What is going to occur if a jurisdictional conference, by its constitutional authority, numbers and names more episcopal areas than the General Conference, under its constitutional power, authorizes for election? What is going to occur if that jurisdictional

conference says it can find funding for the other episcopal areas—and hence episcopal offices—that are not to be funded by the General Conference? Will the additionally elected bishops be viewed as connectionally elected and assigned? Will they be members of the College of Bishops? Will they be viewed as members of the Council of Bishops?

Some constitutional changes may compel modifications of church law, lest some church laws be newly found unconstitutional.

Yet, such determinations should not be made hastily.

A legislative act of the General Conference that has its basis in one provision of the Constitution is constitutional. It cannot be found unconstitutional simply because it does not appear to have a basis in some other provision or provisions of the Constitution. Entities that are established by the Constitution for the governance of the Church have powers that, by design, balance one another. Actions taken by those entities under the authority granted to them by the Constitution also can balance one another.

Paragraph 404.2 in the 2012 *Discipline* is the expression of a legislative action by the General Conference. It offers “a uniform basis upon which bishops shall be elected by the jurisdictional conferences.” (See ¶ 16.10) Paragraph 40 does not change the authority or responsibility of the General Conference to “fix a uniform basis” for electing bishops.

Under ¶ 16 of the Constitution, the General Conference has “full legislative power over all matters distinctively connectional.” In The United Methodist Church, episcopacy is “distinctively connectional.”

Paragraph 404.2, which legislates the “uniform plan” for electing bishops in the jurisdiction, is constitutional. It is a legislative enactment, which the General Conference adopted under the authority of ¶ 16. Therefore, its constitutionality remains intact.

DECISION

Paragraph 40 of the Constitution authorizes jurisdictional and central conferences to determine the names, numbers, and boundaries of annual conferences and episcopal areas. Paragraph 48 authorizes each College of Bishops to arrange episcopal supervision within its jurisdiction or within the region of its central conference, but does not authorize bishops to set the names, numbers, or boundaries of episcopal areas. Paragraph 16 of the Constitution authorizes the General Conference to establish both a uniform method for electing bishops in jurisdictions and a connectional method for funding the episcopacy, thereby giving the General Conference authority for

setting the number of bishops in each jurisdiction. These provisions in the Constitution address separate, not conflicting, aspects of the connectional pattern in which The United Methodist Church establishes and forms its episcopacy. Paragraph 404.2 is constitutional.

F. Belton Joyner, Jr., Secretary

William B. Lawrence, President

May 9, 2016