

**IN THE SUPREME COURT OF BERMUDA
CIVIL JURISDICTION
2018: No. 99**

**IN THE MATTER OF AN APPLICATION UNDER
THE BERMUDA CONSTITUTION 1968**

AND IN THE MATTER OF THE DOMESTIC PARTNERSHIP ACT 2018

BETWEEN:

OUTBERMUDA

First Plaintiff

-and-

MARYELLEN CLAUDIA LOUISE JACKSON

Second Plaintiff

-v-

THE ATTORNEY GENERAL

Defendant

AFFIDAVIT OF DR GORDON CAMPBELL

I, Dr Gordon Campbell, of "Wedgewood", 132 Harbour Road, Paget PG 05, Bermuda,
MAKE OATH and SAY as follows:

1. I make this affidavit on behalf of the Trustees of Wesley Methodist Church of Bermuda, in support of the application of the Plaintiffs in the above captioned matter.
2. The facts set out herein are true. Where information was provided to me by others, the facts are true to the best of my information and belief.

The Domestic Partnership Act 2018

3. In December of 2017, the Government of Bermuda passed domestic partnership legislation which the Governor gave his assent and signed into law on 7 February 2018. This legislation reversed the 2017 decision by the Bermuda Supreme Court that originally legalized marriage equality in Bermuda.
4. We understand that OUTBermuda and Ms Maryellen Jackson filed a lawsuit in the Supreme Court against the Attorney General, claiming that those provisions of the Domestic Partnership Act 2018 that revoke same-sex marriage are unconstitutional. We also understand that part of their argument is that by banning same-sex marriages, Parliament has enacted a religious belief into law and that this action is inconsistent with freedom of conscience and freedom of religion under the Bermuda Constitution.

Response by Wesley Methodist Church

5. Wesley Methodist Church similarly believe that the revocation of same-sex marriage is unconstitutional.
6. When marriage equality was achieved, every church in Bermuda gained the right to choose for itself whether to perform legally-recognized same-sex marriages or not. Churches that supported same-sex could choose to perform them. And churches that did not support same-sex marriage could choose not to perform them.
7. However, instead of simply choosing not to perform same-sex marriages, several churches and individuals successfully pressured Government into enacting their religious belief against same-sex marriage into law. When that law, the Domestic Partnership Act 2018, comes into effect on 1 June 2018, everyone—whether they hold that belief or not—will be bound by those churches' and individuals' belief. On that date, our congregation will lose the right to choose for itself whether or not to perform legally-recognized same-sex marriages. We will have no choice but to conform to the beliefs of churches and individuals who, for their own religious reasons, oppose same-sex marriage (for whose benefit the ban was enacted). This, we argue, hinders our freedom of conscience and of religion and is unconstitutional.

Our history with respect to social rights

8. This would not be the first time that Methodists have stood up for social rights and found itself in disagreement with the views of other people and churches. Our historical record, of which we are proud, should be noted:

a) Religious freedom

- (i) Rev John Stephenson of the Irish Methodist Conference was appointed in 1799 to “preach the gospel to the black and coloured people of Bermuda.” He preached and held services out of doors as was the practice of Methodists. As a result, many Blacks and Whites committed themselves to Christ. The Bermuda Legislature passed a law to prevent persons not licensed by the established church from preaching in Bermuda and particularly from preaching to Blacks. Stephenson was arrested, found guilty, and imprisoned for 6 months, but he continued to preach from his jail cell in St. George’s.
- (ii) In 1808, Rev. Joshua Marsden arrived and discovered that Blacks were not allowed to marry, receive communion or have their children baptised in the established church. Blacks were not valued in the community except for their labour. Marsden preached in homes and open fields. He organized the first Sunday School. He needed to have a permanent meeting place and while soliciting funds, he received a gift in the way of a plot of land from the Corporation of Hamilton. The Zion Chapel was built in 1810 and was the only church in the city of Hamilton for 40 years. It was also the first to allow Black and Whites to worship under the same roof together.

b) Education

Classes were held in the chapel so that Blacks could learn to read and write. Methodists led the way for schools and Sunday schools and prepared many with the necessary skills once Emancipation Day arrived on August 1, 1824.

c) Union with Larger Church Body

In 1930 The Wesleyan Methodist Church of Bermuda was incorporated and signed an agreement of Union with the United Church of Canada (“UCC”).

d) Ordination of Gays

In 1988 the General Council of the UCC voted not to object to the ordination of gay ministers. Not all UCC churches accepted this and were initially allowed to choose whether to employ gay ministers. Following changes in law, congregations now have the choice to become “affirming” congregations and can choose to support the appointment of gay ministers and celebrate the rights of all including the marriage of same-sex couples. There was controversy within the Bermuda Methodist Synod and five congregations and many individuals withdrew from participating in the Bermuda Synod following the 1988 UCC decision because they did not support it. It is important to note, however, it was the choice of each congregation and individual whether they could support the ordination.

e) Blessing of a Same Sex Marriage

Prior to the legalization of same-sex marriages in Bermuda, a member of our congregation asked that his wedding abroad be blessed in our church. Again, this decision was a difficult one. Again, some members chose to leave the church over the decision to bless the union. Social justice is never without discussion, disagreement and choices.

Our beliefs

9. Wesley Methodist Church is affiliated with the UCC. In Canada, same-sex marriage was progressively introduced in several provinces by court decisions, beginning in 2003, before being legally recognized nationwide with the enactment of the Civil Marriage Act in 2005. The UCC has celebrated same-sex marriages since 2003. In both the UCC and Wesley Methodist Church of Bermuda, we see each person as a unique, loved creation of God and welcome all people to the full life of Christian community, including marriage. We believe God intends loving relationships to be faithful, responsible, just, healing, and sustaining of the couple and those around them,

and that such relationships require preparation and nurture. The United Church celebrates the marriage of:

- same-sex couples
- previously divorced people
- couples of different religions
- all people who believe in Jesus Christ and want to live faithful to his way.

10. Congregations of the United Church are free to make their own marriage policies. This reflects the wisdom (which our denomination has followed since its founding in 1925), that some decisions are best made as a denomination—by General Council, the church’s governing body—and others are best made locally. Marriages (and worship services in general) are performed under the responsibility of the local congregation’s church council. This means that while General Council welcomes same-sex marriage, same-sex marriage is not offered in every United Church of Canada or every Methodist church in the union. The point is that our church currently has the choice.

11. The Domestic Partnership Act in Bermuda would remove the right for any Church to choose to perform a gay marriage. Thus Wesley, as a member of the Bermuda Methodist Synod, would be unable to perform the same legally-recognized marriage rite as another congregation in the same denomination (the UCC) whether it wishes to or not. The Act therefore prevents Wesley from functioning as a member of the denomination it became a part of in 1930.

Our disagreement with the new legislation

12. With the new Domestic Partnership Act 2018, our church will have no choice but to conform to the beliefs of those churches and individuals who oppose same-sex marriage. This, we argue, is unconstitutional.

13. Additionally, as a community of faith, we fear that imposing this religious belief on everyone has set a bad precedent, and could lead to other decisions being taken out of our domain. Could we lose the right to marry divorced people? Could we lose the right to have legally-recognized marriages conducted by female ministers? Could we lose the right to have female ministers at all? There are churches that do not share our beliefs in those regards. Where does it stop? In light of the precedent set by the Domestic Partnership Act 2018, these are now real concerns for us.

14. Furthermore, we believe it cannot be constitutional for the Government to actively favour one religious belief over others. Not everyone in Bermuda holds the same religious beliefs. By endorsing, protecting, and promoting one religious belief over others, the Government is declaring those other beliefs to be, in the eyes of the state, inferior and invalid. As a result, people holding “disfavoured” beliefs are left feeling alienated from and unprotected by the state. This cannot be consistent with the Constitution, which is designed to protect all religious beliefs equally, promote religious diversity, and prevent state-imposed religious uniformity.

Our Petition


15. We believe that we have more in common with the churches who disagree with us on this issue, than have things that divide us. We believe that we and they all want to act in the way which we believe is right and consistent with our own religious views. We deeply respect the churches and groups with whom we disagree on this one issue. As such we hope that we can continue to share a love of Christ and respect for one another and all people, as we work through this difficult topic.

16. We ask that the courts consider the right of Wesley Methodist Church and its congregation to make its own choice regarding religious practices, and not impose a single religious belief on everyone that privileges one religious view over others.

SWORN by the said)
 Dr Gordon Campbell)
 In the City of Hamilton)
 In Bermuda)
 On the 11th day of April 2018)



Before me:



 Commissioner of Oaths

Megan Denos
Commissioner for Oaths
 Canon's Court
 22 Victoria Street
 P.O. Box HM 1179
 Hamilton HM EX
 Bermuda
 Date: 11 April 2018

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