THE
JUDICIAL DECISIONS
OF THE
GENERAL CONFERENCE
OF THE
METHODIST EPISCOPAL CHURCH

BY

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WITH AN INTRODUCTION
BY THE REV. DR. JAMES M. BUCKLEY

Bassanio: I beseech you wrest once the law to your authority: to do a great right, do a little wrong.
Portia: 'T will be recorded for a precedent. And many an error by the same example will rush into the State. It can not be.—*Merchant of Venice.*

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INTRODUCTION TO THE FIRST EDITION.

To INTRODUCE Dr. R. J. Cooke to the Methodist Episcopal Church was long since rendered an impossibility by his established reputation as an Educator, Professor in Divinity, Preacher, Legislator, and Author. To introduce this, his latest production, to the favorable consideration of all who have to make laws for the Methodist Episcopal Church or administer them, can be fitting only as it emphasizes the aim of the work, its need and the manner of its performance.

The aim is not to furnish the reader with the text of the rules and regulations which govern the Church—the Book of Discipline contains these—nor to describe how and why they were enacted. The Journal of the General Conference is the final authority upon these points. It is to state and, when necessary, to explain the judicial decisions which have been made in the

lengthening history of the Church. If such a work is necessary to the State, it can not be superfluous in any organized ecclesiastical body in which exists a final court of appeal. It is all the more valuable when the powers center in one deliberative assembly meeting but once in four years.

Reports furnish to Supreme Courts all the precedents and their grounds. But unless the administrator of Methodist law carry with him in memory or in print all the Journals, he can not be sure whether he is not inconsistent with some previous decision. Even the Judiciary Committees and the General Conference have been frequently delayed or embarrassed for lack of accessible materials for forming a judgment. This need is so great that certain individuals have made summaries for their own use. The Bishops have also prepared similar compilations for their guidance.

This work will enable all interested to learn in a few minutes what has been decided on every adjudicated question which has originated in or been sent on appeal to the General Con-

ference. It bears marks of care and thoroughness; its comments are lucid and pertinent, and it can but be helpful both to those who know, and those who wish to know but can not pay the price, in time, for original research.

It should be a work of permanent value, and in succeeding editions a few supplementary pages with current decisions will keep it in time and tune with the progress of the Church.

J. M. BUCKLEY.

PREFACE TO THE FIRST EDITION.

THE work herewith presented to the respectful consideration of the administrators of the Discipline must not be accepted in any sense as an intended Treatise on Ecclesiastical Law, nor as an Interpretation of Law, nor as an Exposition of the Jurisprudence of the Methodist Episcopal Church. It makes no pretensions to the importance such works might justly claim, since its only object is to contribute what it may to convenience, consistency, and continuity in the administration of the law of the Church.

It would have been much more agreeable to trace the evolution of our Church Courts from the fractional and irregular Conferences of early Methodism, and, therewith, the development of our Ecclesiastical Law from the period of the personal administration of WESLEY to the ju-

dicial utterances of the Delegated General Conference; but this would have led far away from the primary, and while less ambitious, yet no less useful, purpose of gathering in compact form the decisions of what had legally become the highest judicial body in the Church, and extracting from these decisions the fundamental principles which may serve as precedents in judicial administration.

The Journals of the General Conference are a rich mine for historical investigation, and he who would know the *fons et origo* of Methodist history must devote himself to the study of these documents, for here may be seen the play of those forces which are at once an expression of, and a contribution to, the world-wide expansion and internal development of the Church; the beginnings of institutions, and of far-reaching movements, the foundation and growth of that system of law, itself an illustration of our marvelous history, which, while being strong is yet flexible, while grounded in justice is yet tempered with Christian charity, and which seeks

only the purity of the Church and the protection of the rights and privileges of her members.

In these Journals there are contained decisions on legal questions of the highest importance, which, taken together, constitute a body of precedents as valuable to the administrator of the Discipline as the decisions of a Supreme Court are to the student of civil law. It may be that here and there a decision will be found which has become obsolete by reason of subsequent legislation, as is often the case in civil law, but that decident specimen is still valuable as material for history. The supremely important matter, however, is that consistency in the judicial decisions of the General Conference should be maintained. The importance of this will be readily conceded. Let it once become a justifiable opinion that the decisions of the highest Court of Appeal in the Church are purely arbitrary, and neither based upon nor in any degree influenced by precedent, and at once the authority of that Court is contemned. Now, since each General Conference has a new

Committee on Judiciary, it will not be surprising if opposing judgments on similar cases should be found in cases where the decisions of previous Judiciary Committees have not been consulted. But such a consultation at the General Conference during the trial of a case involves an examination of the Journal of each General Conference from the beginning, a duty which for its careful performance, at such a time and amid such circumstances, is almost, if not wholly, impossible.

The task herein undertaken, therefore, was to assemble these decisions together, to classify them, and to state in unambiguous terms the fundamental principle of each, thus affording a convenient handbook of reference for all administrators of the Discipline to any case upon which there is a recorded decision.

It may possibly occur to some that, since all judicial decisions of the General Conference prior to 1844 are common to both the Methodist Episcopal Church and the Methodist Episcopal Church, South, it would have added to the in-

terest, if not to the importance, of this work if the judicial decisions of the General Conference of the Church South were also included. It is perhaps true that such an inclusion would show the agreements which have been maintained and the differences which have arisen in the judicial economy of the two Churches since that time. But while this might prove to be of some value, it is clear that to have done this would also have been a departure from the original object in view.

Finally, it should be noted that not all the decisions here cited are judicial in a technical sense; *i. e.,* they did not emanate from the Committee on Judiciary in the trial of a case. They are, nevertheless, of a judicial character, since they were adopted by the General Conference in the exercise of its judicial powers. Such exceptions are marked *N J* A few notes have also been added. They are not intended to be, and it is hoped that they will not be understood as being, controversial in any sense. They are simply intended to be helpful to a clearer un-

derstanding of the text or of the principle involved.

It gives me great pleasure to express my thanks to the Rev. Bishop D. A. Goodsell, LL. D., for eminently judicious suggestions, and to the Rev. Bishop Isaac W. Joyce, LL. D., and Mr. Robert T. Miller for the loan of General Conference Journals now becoming very scarce.

In this revised edition the Judicial Decisions of the General Conferences are brought down to date by the addition of the decisions of 1904 and 1908. The rulings of the Bishops on various questions which were approved by the last General Conference are also included.

A few changes have been made. The "Notes" in the first edition are omitted, as are also some decisions which, by reason of a change in the law, have become obsolete.

With the hope that this volume, like its predecessor, may be of value in its special department, it is submitted to the service of the Church.

R. J. Cooke

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THE
JUDICIAL DECISIONS
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CHAPTER I.

GENERAL PRINCIPLES.

Legislative Power.

In the Methodist Episcopal Church supreme authority within prescribed limits to enact all laws necessary for the government of the Church is vested by the Constitution in the General Conference. The granted right is given *en bloc.* Article X of the Constitution reads: "The General Conference shall have full power to make rules and regulations for the Church under the following limitations and restrictions; namely," etc. Full power is supreme power. Supreme power has its limitations; absolute power is superior to and independent of any power, check, or restriction whatsoever, and is vested in the Church, that is, the ministry and laity. This is not the character of the authority vested by the Constitution in the General Conference. Nor is this authority *despotic,* which is a form of power less by little than absolute power, but greater than supreme

power; for this power of the General Conference is limited by Six Restrictive Rules, which can not be altered or annulled without due constitutional process. It will be observed, however, that within the limits of these restrictions the General Conference has the unquestionable right to make any rule or regulation for the welfare of the Church. "Rules and regulations" signifies laws in general, as in the Constitution of the United States, Art. I, Sec. 8, 14, Congress shall have power "To make *rules* for the government and *regulation* of the land and naval forces." "Congress shall have power to dispose of and make all needful *rules* and *regulations* respecting the territory or other property of the United States." Art. IV, Sec. 3, (2). Rev. Jesse Lee, *Short History of the Methodists,* pp. 298, 299, says: "We had several new *regulations* made at this General Conference; one was as follows: 'The Bishops shall allow the Annual Conferences to sit at least a week.' Before this *rule* was established, the Bishop," etc.

"The following *rule* was also formed: 'The Bishop shall not allow any preacher to remain in the same station or circuit more than ten years successively.'

"The following *rule* was formed respecting the President of the Annual Conference.

"The following new *regulation* was also formed: 'The Presiding Elder shall not employ a preacher who has been rejected at the,' etc.

"The above *rules* and *regulations* I have taken from the first part of our Form of Discipline."

An analysis of this authority to make rules and regulations, as described in the Book of Discipline and the Records of the successive General Conferences, shows that it is of a threefold nature—Legislative, Executive, and Judicial. But while this vested power is of this threefold character, it must not be concluded therefrom that there are three separate and distinct divisions, or departments, of government, each intrusted with its appropriate duties and exercising its authority independently of the others. The General Conference is a unit, one body in one place, at one time; and, as such, possesses sovereign authority in all three divisions of power. Nevertheless, the distinction between the Legislative, the Executive, and the Judicial is definite and pronounced. The Book

of Discipline, paragraph 284, provides "The General Conference shall carefully review the decisions of questions of law contained in the records and documents transmitted to it from the Judicial Conferences, and in case of serious error therein shall take such action as justice may require." This provision is essentially judicial, and designates a function already existing and distinct from the legislative power, which has previously enacted the law in accordance with which the decision is to be made. There is no infringing of one function upon the other. Legislative authority determines what the law shall be, the Judicial declares what the law is.

Final Court of Appeal.

Among the restrictions referred to as imposed by the organic law, and which are for the purpose of safeguarding the rights and liberties of the Church, are the following: "The General Conference shall not deprive our Ministers of the right of trial by the Annual Conference or by a select number thereof, nor of an Appeal; nor shall it deprive our Members of the right of trial by a Committee of Members of our Church, nor of an appeal." *(Discipline, Paragraph 46, Section 5.)* In addition to this the General Conference itself is constituted a Court of Ap-

peal, and since litigation must stop somewhere, some time—being the highest authoriy in the Church—it is a final Court of Appeal.

Jurisdiction.

From its organization till the institution of Judicial Conferences in 1872, the General Conference had original jurisdiction in all trials of accused Bishops, who were amenable to the General Conference only, and appellate jurisdiction in the trials of Traveling Preachers. Now it has original jurisdiction only in cases of episcopal maladministration: "Complaint against the administration of a Bishop may be forwarded to the General Conference and entertained there; *provided,* that in its judgment he has had due notice that such complaint would be made. *(Dis. par. 230.)* In all other cases the jurisdiction of the General Conference is appellate.

But just as the Supreme Court of the United States and others Courts of Appeal have jurisdiction only in certain classes of appeals, only three classes of appeals may be entertained, if legally made, by the General Conference.

First. From the decision of a presiding Bishop on a question of law in a trial before a Judicial or an Annual Conference. "A Bishop shall preside in the Judicial Conference, and

shall decide all questions of law arising in its proceedings, subject to an appeal to the General Conference." *(Dis. par. 276.)*

Second. From the findings of a Judicial Conference in the trial of a Bishop. "A Bishop shall have the right of appeal to the ensuing General Conference, if he signify his intention to appeal within three months of the time when he is informed of his conviction." *(Dis. par. 277.)*

Third. From the decision of a Conference outside the United States upon a case tried by said Conference. "Appeals from an Annual or Mission Conference not in the United States may be heard at the discretion of the Bishop in permanent charge thereof (due reference being had to the rights and interests of all concerned), either by a Judicial Conference called by said Bishop from neighboring foreign Conferences, or by a Judicial Conference called by him to meet at or near New York, or by the General Conference through a special Judicial Committee appointed for the purpose." *(Dis. par. 281.)*

Appeals Must be Heard.

The General Conference must entertain and try an appeal within its jurisdiction if perfected and presented in proper form. An ap-

peal is within the jurisdiction of the Conference if it belongs to one of the classes mentioned, and the legal requirements necessary to its validity have been complied with according to the Discipline and ordinary usage. These having been observed, the General Conference is not at liberty to ignore, or to refuse, or to throw any impediment in the way of, or to prevent, in any manner whatever, the hearing of any lawful appeal. To do so would be a violation of the Constitution, of every sense of justice, and an unjustifiable disregard of fundamental rights.

It is not to be deduced from this, however, that the General Conference is compelled to decide upon every question of law referred to its decision. There must be a concrete case. To make decision compulsory, there must be an appeal. Many illustrations of this may be found in the Journals. In 1876, for example, the Bishops submitted to the General Conference the question of the legality of their deciding all questions of law arising in a Judicial Conference, but the General Conference did not take the subject under consideration. It was under no obligation to do so. Of course, the refusal of the General Conference to decide either way

gave tacit consent to the legality of the custom, since the question was so framed that, if erroneous, the custom would be challenged. But in the case of an appeal from the ruling of a presiding Bishop in an Annual or Judicial Conference, the General Conference would have been compelled by the supreme law of the Church to hear the case and deliver its judgment.

Decisions. In the General Conference of 1900 a resolution was adopted that, in reporting their decisions to the body, the Committee on Judiciary should give the reasons for their judgment in each case. The resolution was important and necessary if decisions were to be of any value in ecclesiastical jurisprudence, for the reason that it is the doctrine of law, the legal reason, which determines judgment in a particular case that establishes that principle of law, so that the principle may be applied hereafter to similar cases. Lord Kenyon observes that it is the principle "which we are to extract from cases, and to apply it in other cases." But the reason for the decision is not the decision. Decision alone makes precedent.

Decisions are made upon questions raised in issue, and upon no others. They do not cover questions which are not presented in dispute

and considered by the court, even though such questions are involved in the case, and if presented and argued might have changed the verdict. A decision may be given on one point, or fact, only among many before the court, on the ground that the principle of law applicable to that particular point disposes of all the others in the case. But as in civil law, if a decision goes beyond the facts presented, if the reasoning leading up to the decision is irrelevant, or if it is evident that the case was not clearly apprehended, then the decision is of no value as a precedent. "Just as a trial court acts without jurisdiction if it assumes to go beyond the issues in the case and pass upon matters not submitted by the parties and not connected with the controversy raised by the pleading, or to render a judgment or decree not invited or asked by the litigants, so it is with the decision of an Appellate Court when the opinion does not correlate with the questions actually raised by the record." *(Black, On Interpretation of Laws, p. 338.)*

It would follow from this that the language of judicial opinion must always be construed and interpreted with reference to the exact question decided.

Have the Force of Law.

Just as a large part of the civil law has not been sanctioned by the Legislature, but is embodied in the decisions of the courts, so Church law is found, not only in the express letter of the Discipline, but also in the decisions of the Bishops and of the General Conference which have not been adopted by that body and formulated into enactments. For example, in the case of ——. Counsel for defendant claimed that there was no specific prohibition in the Discipline forbidding an expelled minister from exercising his ministerial functions pending an appeal. This was correct; for, while there were certain prohibitions in cases remanded for a new trial, yet there was no express prohibition of the exercise of ministerial functions pending an appeal. But the Committee on Judiciary, considering this claim, decided that it is the intention of the Church that an expelled minister should not exercise ministerial functions after expulsion and pending an appeal.

This subject is broadly stated by Pomeroy in his Constitutional Law (third ed., p. 67), "The judgments of the United States Courts," he affirms, "expounding a statute, construing the Constitution, or adding a new rule to the

vast body of judicial legislation within their especial jurisdiction, are as much laws of the United States as the formal acts which have been passed by Congress and have received the assent of the President." And all this is consonant with the dictum that nothing is law which is not in the law.

Decisions, then, have the force of law when they are of such a character as to be accepted as precedents. "A solemn decision," says Chancellor Kent, "upon a point of law arising in any given case becomes an authority in a like case; because it is the highest evidence which we can have of the law applicable to the subject; and the judges are bound to follow that decision so long as it stands unreversed, unless it can be shown that the law was misunderstood or misapplied in that particular case." *(1 Kent Comm. 475.)* But not every decision is a precedent, though every precedent must be decision. And among precedents there are varying degrees of value and importance.

Precedents.

What, then, is a precedent? A precedent is a decision which furnishes a permanent rule for the adjudication of similar cases to the one decided, or similar questions of law. Such judicial judgments are not to be lightly regarded.

If they were so esteemed, nothing in law would be certain, and justice would vary with the personal opinion, the learning or ignorance, the fairness or prejudice, of every judge. It is among the unwritten laws of Methodism that one General Conference can not bind another; a popular notion which is subject, like many other notions, to modification; for the law of the Church, adopted by a previous General Conference, is the existing law up to the moment of its repeal, and by this law is the General Conference bound as certainly as it is by any law of its own making. Moreover, one General Conference can not lawfully annul the acts of a previous General Conference which created new rights by constitutional process. So the judicial decisions of the General Conferences in identical or similar cases, or questions of law, can not be held as having no continuous force, or as having no force as precedents. If they are not binding, and are subject to reversal without legal reason, then precedent has no place; it does not exist; and can never be cited in Methodist law. But such is not the case; nor can ever be, since such an arbitrary method of determining litigation

would be so uncertain in its judgments, and so essentially antagonistic to the most elementary principles of justice, that it could not be sustained if attempted, nor command respect for its decisions if practiced. In civil law precedents are of the highest importance, and they can not be of less value in ecclesiastical law which takes cognizance of moral character, of our most sacred rights and privileges and ecclesiastical reputation. "It is," says Blackstone, "an established rule to abide by former precedents when the same points come again in litigation" *(1 Black. Comm., 69),* and in his *Constitutional Limitations, 49,* Judge Cooley observes, "All judgments are supposed to apply existing laws to the facts in the case, and the reasons which are sufficient to influence the court to a particular conclusion in one case ought to be sufficient to bring it or any other court to the same conclusion in all other cases where no modification of the law has intervened."

This principle must also, in the very nature of things, apply equally to the Judicial Decisions of the General Conference; for, although the laws and legal methods and procedures in

Church and State are different, the rational ground, the fundamental principle of rightness and justice which is back of all law, and of which law is the expression, and which gives moral authority, majesty, and force to law, is the same in both. For illustration, the General Conference of 1848 decided that a traveling preacher who has been suspended by an Annual Conference, and appeals from its decision, forfeits his right to prosecute his appeal in the General Conference if he withdraws from the Church prior to the adjudication of his case. In 1872, Judicial Conferences were instituted for the hearing of appeals from Annual Conferences. Now, the establishment of this new court did not, could not, nullify the principle underlying the decision of the General Conference of 1848, which is, that he who legally withdraws from the Church is beyond the jurisdiction of the Church. Of course, it is not to be inferred from this that, if one dies while his perfected appeal is pending, the appeal is vacated or forfeited by his death. It must be heard and passed upon as if he were living; for his cause is not dead, nor has he taken it out of the jurisdiction of the Church by any act of his own.

Value of Precedents.

The value of a precedent depends upon the reputation of the court, or of the judge giving the opinion upon the thoroughness of the discussion of the case decided, and certainly upon the completeness of the report of the case adjudged. For it is evident that, unless there is a clear understanding of the issue and of the questions raised during its trial, and the reasons for the rulings made thereon, it can not be determined whether the decision was conformable to the law, or to rules of reason, or whether it is applicable to any other case or not. The mere statement that a case was decided in a certain way is of no value as a precedent. Such a decision is not a permanent rule. What a precedent is worth is determined by the completeness of the record which evidences the decision and contains the legal or logical reasons for the judgment rendered.

An examination of the General Conference records will reveal the fact that the Reports of the Judiciary Committee are, to a large extent, until comparatively recent years, of no value as precedents, since they contain no further record of the cases tried than a mere statement of the findings, and this without any assigned reason for the conclusions reached.

But there are a sufficient number of Reports which state the issue involved, and the reason for the verdict given, to afford us a body of exceedingly important precedents, which should be in the possession of all who may be called upon to sit in Courts of Appeal for reaching equitable conclusions in all identical or similar cases.

Presumptions.

Finally, it is a well-grounded presumption that, as in civil law, the proceedings of the judicial tribunals of the Church are according to the law of the Church. An Appellate Court presumes, therefore, on the review of a case, that in the trial court all legal requirements were observed, and that the evidence there adduced justified the decision. The burden of proof to the contrary rests on the appellant. This is not at all times an easy task. He can not rebut this presumption with a mere declaration, nor support his contention in general terms. The record of the case is before the court. He must show affirmatively and clearly from this record, and not from anything outside the record, the facts which constitute the error complained of. This must be done also without recourse to doubtful interpretations, or to supposed inconsistencies in the record; for the court will presume, what is certainly a most

rational presumption, that the decision of the lower court was based upon the interpretation of the facts which do sustain it, and not upon those that do not.

The Record.

All the facts, then, upon which the claim of error is based must be in the record. This is the only evidence of the error, as the record, or transcript, is the only evidence that there was any trial. If any fact essential to the establishment of the claim is omitted, the court will presume that such fact would have sustained the decision appealed from if it had been presented. The presumption is, that the record certified to by a lawful person as containing all the proceedings and evidence in the case is correct and inclusive. The court will not presume that other facts affecting the judgment exists; they do not exist, in the mind of the law, if they conflict with the facts in the record. Even "where statements in the record conflict on a material point, the construction which upholds the judgment will be deemed conclusive. And where the omissions of the record raise conflicting presumptions, or its arrangement is capable of different interpretations, or it is unintelligible because of a confused arrangement, the construction maintaining the

judgment will be adopted." *(Ency. Pleading and Practice: W. Kinney. Vol. II, 436.)*

But if the record, or the transcript, which is the copy of it, containing the history of the case from its beginning in the trial court and the judgment thereon, does clearly and affirmatively set forth facts which are inconsistent with the presumption that the formal acts of the inferior tribunal were according to law, then the judgment appealed from will not be sustained by the Court of Appeal, even though it should be shown that the record is incomplete, in that all the facts are not presented; for, obversely to what has already been stated concerning the presumption that other facts if presented would sustain the decision, the court will not presume that omitted facts, if presented, would correct the error complained of.

Reversible Errors.

An error to be reversible must not be merely of technical character. It must involve reason and justice. It must materially affect the judgment rendered; for it is the general opinion of the courts that, unless an error can be shown to be prejudicial to the rights of the appellant, changing or in any degree modifying the result, the decision of the trial court

should not be reversed. It is true, however, that, generally, the opinion is held that an error does give rise to the presumption that it is in itself injurious to the interests of the appellant, though it may not be possible clearly to trace, mark out, and define the extent or degree of its influence on the final decision, and that the appellee is bound to show that it is not injurious. Several cases are cited in the *Ency. of Pleading and Practice* referred to, illustrating this principle. We read: "Error is presumed to be prejudicial. To justify an Appellate Court to affirm a judgment when error has intervened in the trial, the burden is upon the party claiming the benefit of the judgment to satisfy the Appellate Court that the error was not prejudicial.

"The Appellate Court will not support one presumption by another; it will not presume that error was harmless when the record does not show it to have been so, in order to support the presumption that the judgment was correct."

"While it is true that error will never be presumed, the converse of the proposition is equally true. Where error does affirmatively

appear it will not be presumed that it was rendered harmless or removed."

"Injury will not be presumed from error, unless the record shows affirmatively the contrary."

"The rule is, that every error is *prima facie* an injury to the party against whom it is made, and it rests with the other party to show, not that probably no hurt was done, but that none could have been done."

But, as has been stated, there is a contrary rule, which is that the appellant must not only clearly show error from the record, but also that it does prejudice his case. The mere fact that an error of any kind is in the record is no clear evidence that it is injurious to the appellant. The judgment of the trial court will not be reversed if it is correct on the whole case, and if it can be shown from the record that the error could not have injured the appellant's cause in any degree.

Description or enumeration of errors reversible does not fall within the scope of this general view. For this inquiry special works treating on such questions must be consulted; nor does it come within the limits of this sec-

tion to discuss many other subjects which belong to this important and most difficult branch, or division, of jurisprudence. Our sole aim has been to indicate in a most general way some primal facts which must necessarily be kept in mind. Other fundamental principles will develop themselves in a study of the following decisions.

CHAPTER II.

APPEALS.

An Appeal is not admissible if appellant does not appear in person or by representative.

An appellant from the —— Conference was expelled from the ministry and membership of the Methodist Episcopal Church, by the action of said Conference, on a charge of immorality. The Committee resolved, as he had not appeared in person or by a representative, that this appeal be not admitted. *(General Conf. Journal, 1864, p. 268.)*

An Appeal is not admissible if not made within the time prescribed by the Discipline.

——, of the —— Conference, had made a demand of said Conference for missionary money he claimed as due him. The demand not being granted, he appealed.

The appeal was not admitted, as the appel-

lant did not appeal for between two and three years after the trial, and after he had notice of the Conference action. *(Journal, 1864, p. 268.)*

An Appeal is not admissible if appellant has placed himself beyond the jurisdiction of the Church.

The Committee have considered the second appeal of ——, who appeals from the action of the —— Conference, whereby he was expelled from the ministry of the Church. The representatives of the —— Conference objected to the admission of the appeal on the ground—

1. That ——, subsequently to his trial and condemnation, joined the Methodist Episcopal Church as a probationer, and thus, at least tacitly, confessed the justice of the action of the Conference in his case.

2. That ——, since he was deprived by this expulsion of his ministerial authority and standing, has continued to preach, and has thus rebelled against the authority of the Conference and the Church.

3. That ——, since he declared his intention of appealing to the General Conference, has connected himself with another organization. contemplating Church ends independent

of and hostile to the Church to whose General Conference he now appeals.

The Committee, after hearing the statements and pleadings of the representatives of the parties, resolved that the appeal of —— be not admitted. *(Journal, 1860, p. 253.)*

The Committee took up the case of ——, who appeals from a decision of the —— Conference, whereby he was expelled from the ministry and the Church. The representatives of the —— Conference objected to the admission of the appeal on the ground—

1. That the appellant, since his expulsion, has continued to preach as if still in full possession of ministerial powers.

2. That the appellant, since his expulsion, has allied himself to another organization, independent of the Methodist Episcopal Church and hostile to it.

The Committee, after hearing the statements and pleadings of the representatives of the parties, *Resolved,* That the appeal of —— be not admitted. *(Journal, 1860, p. 253.)*

——, an appellant of the —— Conference, was deposed from the ministry of the Methodist Episcopal Church, by the action of said Conference, on the charge of immorality. The Committee did not admit the appeal, as the appellant

had withdrawn from the Church, and had taken a license and continued to preach in another Church. *(Journal, 1864, 268.)*

Right of Appeal is forfeited if one ceases to be a member of the Church.

The Judiciary Committee has duly considered the appeal of ——— in which he alleges that he is still a member of the ——— Conference, and asks the General Conference to establish his membership in said Conference, and to grant him permission to transfer his membership to an Eastern Conference.

The papers filed in the case by Presiding Elders ———, ———, and ———, of the ——— Conference, show that after the action taken by the Conference of which said ——— complains, he, the said ———, united with the Methodist Protestant Church and entered its ministry, from which he was subsequently expelled.

If any irregularity was committed by the ——— Conference, concerning which it is unnecessary to express an opinion, no right of appeal exists, as the said ———, by formally uniting with the ministry of another Church, thereby ceased to be a minister of the Methodist Episcopal Church.

It is not within the power of the General Conference to reinstate him in the ministry of our Church, or to direct the ——— Conference to reopen the case. *(Journal, 1908.)*

An Appeal from an action of an Annual Conference, and not from a decision, is not admissible.

The Committee, having examined the case of ——, of the —— Conference, who complains that the said Conference caused to be entered on its records a minute to the effect that he had withdrawn from the Conference and the Church under charges of immorality, which minute he claims is incorrect and unjust, *Resolved,* That, in the judgment of this Committee, the complaint of —— against the action of the —— Conference is one over which, as a Committee of Appeals, we have no jurisdiction. *(Journal, 1860, 223.)*

An Appeal to other than the Court of Appeals is not admissible.

The printed "Appeal" of ——, being more properly an appeal to the public than a complaint of the ruling of a bishop, is dismissed. *(Journal, 1860, 427.)*

Want of documentary evidence bars Appeal.

In the matter of the appeal of ——, a respected member of —— Conference, from a decision of Bishop ——, your Committee reports as follows:

When what was known as the Hamilton Amendment to the Second Restrictive Rule was before the —— Conference, a motion was made that the Conference refuse to vote on the proposed amendment. —— objected to the motion as illegal, and appealed to Bishop ——, presiding, to decide the legality of the motion. Bishop —— decided that the motion was in order and legal. From this decision —— appealed to the General Conference. The above statement of the case is gathered from a paper signed and presented by said ——. The appeal is not accompanied by a transcript of the Journal of said Conference relating to the case. We therefore recommend that the subject of the paper be dismissed. *(Journal 1896, 424.)*

Suppression of documentary evidence is no bar to Appeal.

—— [a local elder] was tried on a charge of dishonesty by a Committee of Investigation

in the Church at ——, and, being found guilty, was suspended. Upon trial in the District Conference he was found guilty and expelled. On appeal to the —— Annual Conference, it would appear that the Select Number dismissed the appeal in the absence of the appellant, and without giving him or his counsel any opportunity to appear before them and present the case. It is due to the Select Number to state their action was based partly on the fact that the records of the trial did not show on their face any exceptions taken. It is also due —— to state that he claims that the record before the Select Number was not correct; that the preacher in charge, who was also secretary of the District Conference before whom he was on trial, had possession of the records, and refused to allow him to make a transcript thereof, to the end that he could perfect his appeal to the Annual Conference. It would also appear, from the best evidence obtainable, that the secretary of the Annual Conference did not retain possession of what few papers were before the Select Committee, and that the same can not now be found, thereby rendering it impossible for —— to present his appeal in due form of law. Your

Committee is of the opinion that —— exercised due diligence in trying to get his appeal properly before the Annual Conference, but that he was practically denied this right by a suppression of the papers and records in the case. Your Committee would therefore recommend that the case be referred back to the District Conference, and that the said —— be restored to the rights and privileges of an expelled member seeking appeal. *(Journal, 1896, 425.)*

Material deficiency in the records of a case may be sufficient grounds for a new trial.

On motion, *Resolved,* That we now take up the appeal of ——. —— then came into Conference, and, after stating the grounds of his appeal, the papers were called for, which, it is said, can not be found. The Journals of the —— Conference were then read. On motion of ——, seconded by ——, it was resolved that, Whereas, the Journals of the —— Conference are materially deficient, and do not present the case in tangible form, so that this Conference can act understandingly on the subject; therefore, *Resolved,* That the case of —— be referred back to the —— Conference for a new

investigation and decision. *(Journal, 1832, 420.)*

Resolved, That the decision of the —— Conference in the case of —— be reversed for the want of documentary evidence. *(Journal, 1840, 64.)*

Resolved, by the delegates of the several Annual Conferences in General Conference assembled, That the decision of the —— Conference in the case of ——, by which he was located without his consent, appears, from the Journals of said Conference, to be defective for the want of documentary evidence. *Resolved,* That the decision of the said Conference in the case of said —— be, and the same hereby is, reversed. *(Journal, 1840, 85.)*

Resolved, That in view of informalities in the manner of taking and recording testimony in the case of ——, it be referred back to the —— Conference for a new trial. *(Journal, 1848, 51.)*

Exceptions. Contrary opinion prevailed in a similar case during that same Conference, but the reasons determining the decision of the General Conference are not given. The case is as follows: Counsel for appellant, ——, presented a paper of exceptions to the Journals of the —— Conference, in the trial of ——.

1. Because the secretary of the —— Conference did not keep regular minutes of the trial.

2. Because the charges and specifications on which said —— was arraigned, tried, convicted, and expelled from the Methodist Episcopal Church, by said Conference, do not appear on the record, nor is there any reference to any *minutes* kept by the secretary of said Conference, in which they are recorded.

3. Because of the omissions and irregularities, the evidence if there be any, does not come before the General Conference, in the manner prescribed by the Discipline in such cases. —— moved that the exceptions taken by the counsel are not sufficient to bar the appeal or prevent its being investigated by this Conference. . The Conference affirmed the decision of the —— Conference in the case of ——.

Without sufficient record there can be no Appeal.

Your committee, having carefully considered the petition of ———, now a member of the ——— Conference, purporting to be an appeal from the ruling of Bishop ———, in

the case of charges against ———, of the said Conference, report as follows:

The records on appeal are absolutely deficient and contain no statements, documents, or evidence upon which your committee can act. Said appeal is therefore dismissed. *(Journal, 1908.)*

An expelled member may appeal to an Annual Conference on a complaint of maladministration against a pastor or presiding elder.

——, an expelled member of the Church, presented complaint before the Annual Conference against ——, presiding elder, and ——, pastor, for alleged maladministration in his case. In the hearing of the complaint the following question, answer, and exception were noted.

Question. Is an expelled member entitled to be heard in an Annual Conference on complaint against the administration of the pastor and of the presiding elder in his case?

Answer. Such a complaint is of the nature of an appeal to the Annual Conference on the questions of law concerned in the case, and a hearing can not be denied on the ground that the complainant is not in the Church.

Exception. The following paper was immediately presented by ——: "The Bishop having ruled that an expelled layman can bring charges in his own name against a member of the Conference, I ask that an exception to said ruling be entered in the Minutes."

——.

Stripped of all unnecessary verbiage, the real question is this: "May an expelled member, in *any case,* be heard in the Annual Conference on a complaint against the pastor or presiding elder for maladministration?

We answer that he may be so heard. It is conceded that, while the expelled member labors under the disabilities of his sentence he is denied the religious privileges of membership; nevertheless he still has *legal* rights which can not be denied him until he shall have exhausted all the remedies which the law of the Church accords him. We concede that the trial before the Quarterly Conference on appeal is the *final* trial on the *facts,* but the accused member may be heard further on questions of law.

I. He may prosecute an *appeal,* in the nature of proceedings in error on exceptions to the rulings of the administrator in his case. This appeal is to the president of the Annual Con-

ference. If serious error of law has intervened to the prejudice of the expelled member, the sentence of expulsion will be set aside, and a new trial awarded him in the proper court below.

II. He may also complain of the administrator in his case to the next Annual Conference, and if, upon proper inquiry, the complaint be sustained, a new trial will be awarded the expelled member, and the administrator may be censured. We therefore recommend to *affirm* the rulings of the Bishop. *(Journal, 1880, 355, 356.)* The same rulings and decisions were made in the General Conference of 1864, pp. 358, 363 of the Journal. *(Journal, 1908.)*

Plea of Appellant that he possesses testimony not before the Court, but which, if heard, would, in his opinion, have exculpated him, is sufficient ground for a new trial.

Resolved, That inasmuch as Brother —— alleges that he has in his possession testimony which was not before the —— Conference, and which, in his opinion, would exculpate him from one of the charges upon which he was expelled from the —— Conference, said Conference be, and hereby is, directed to grant him a new trial. *(Journal, 1840, 77.)*

The Committee having taken up the appeal of ——, of the —— Conference, the appellant, through his counsel, stated that new and important evidence has been obtained, and that the case is yet undecided in the Criminal Court, and, in view of these facts, requested that the case might be remanded to the Conference for a new trial. The case was so remanded by the Committee. *(Journal, 1860, 169.)*

An Appeal is not annulled by the death of the appellant if regularly taken and perfected.

In the matter of ——, an elder and member of the —— Annual Conference, your Committee, to whom was referred the above entitled subject matter, beg leave to report, that the only question involved and submitted by your honorable body is whether, in the case of an expelled member of an Annual Conference who dies pending an appeal, said appeal survives to his heirs or legal representatives, or is the appeal determined and ended by the death of the appellant?

The facts disclosed by the records submitted show that this case has been finally determined by the Annual Conference to which the appellant belonged; therefore, leaving the right of appeal to a Judicial Conference.

It further shows that the appeal was regularly taken and perfected by the appellant, and was at his death pending. This appeal could only be disposed of by the appellate tribunal, which alone had jurisdiction.

The legal effect of this appeal was to suspend the judgment or sentence until the case was heard and disposed of upon appeal. *(Ecclesiastical Law, p. 416.)*

We are, therefore, of the opinion that the member's death did not affect the appeal, but that it is now pending and undetermined, and that the matter may be prosecuted by the deceased member's heirs or legal representatives, the same as if the expelled member of the Annual Conference were living. *(Journal, 1884, 375.)*

The right of appeal is forfeited by a minister if he continues to exercise ministerial functions after his expulsion from the ministry. *(See p. 37.)*

In the matter of ——, your Committee finds said —— was tried before a Select Number of the —— Conference upon the charge of defamation of character, and that he was, by said Conference, expelled from the ministry,

but not from the membership of the Church. His appeal from the action of the Conference came before a Judicial Conference, held at ——. Upon hearing, counsel for the Church claim—

1. That said —— had forfeited his right of appeal by continuing to preach after he had been duly expelled from the ministry.

2. Contempt in the publication of sundry defamatory articles named.

Upon motion, duly seconded, the Judicial Conference declined to entertain the appeal of said ——, for reasons above stated. Counsel for accused entered objection.

Afterward, to wit, in ——, said —— was tried before a Committee of —— Church, of which Church he was at the time a member, upon the charge of defamation, and upon the further charge of insubordination; the specification under the charge of insubordination set forth that said —— claims to be an ordained minister, and to have authority as such to marry people, baptize, and administer the sacrament of the Lord's Supper, and that he did, at given times and places, perform such acts as an ordained minister.

The Committee found said —— to be guilty,

and expelled him from the Church. An appeal was taken to the Quarterly Conference, which body, after a careful examination, affirmed the judgment of the Committee. Counsel for the defendant gave notice of an appeal. Both in the trial of —— before the Annual Conference and in the trial before the Committee of —— Church, counsel for defendant claimed that there was no specific prohibition in the Discipline forbidding an expelled minister from exercising his ministerial functions pending an appeal; that the taking of an appeal vacated the judgment pending the appeal.

The above points were submitted to Bishop ——, and he decided the same in terms as follows:

1. The chairman presiding at the appeal of —— ruled properly in admitting all the evidence offered at the trial.

2. A suspended preacher has no right, much less has an expelled preacher any right, to exercise any ministerial functions until his legal disabilities have been removed.

Par. 222, Sec. 3, of the Discipline provides that a minister, suspected of a crime, may be suspended until the meeting of his Conference. Par. 270 also provides that when a case is re-

manded from a Judicial Conference for retrial, the preacher shall not thereby be authorized to resume his ministerial functions. While the Church has been thus careful in the cases named, we think it is evident that it is the intention of the Church that an expelled minister should not exercise ministerial functions after expulsion and pending an appeal.

An appeal does not vacate a judgment in the sense suggested by counsel for defendant.

Your Committee, therefore, recommends that the decision of Bishop —— be affirmed as the law in the case. *(Journal, 1900, 456-458.)*

Right of Appeal is forfeited if one withdraws from the Church or from an Annual Conference while under charges.

When a member of an Annual Conference gives notice to the Conference that he has withdrawn from the Church or Conference, and at the same time there be *charges* ready to be presented to him, and he has knowledge of such *charges* previous to his notice of withdrawal, and he has been marked upon the Journal of the Annual Conference as withdrawn under *charges,* has such member the right to appeal to the Gen-

eral Conference from such record of the Annual Conference?

Answer. He has not.

When an expelled member has, by neglect or otherwise, forfeited his *right* of appeal, may a subsequent Quarterly Conference, if it desire to do so, grant him the *privilege* of an appeal?

Answer. No. *(Journal, 1860, 298.)*

Withdrawal from the Church under charges does not bar notation of the same in Conference records.

In the matter of the memorial of ———, of South America Annual Conference, relative to the case of ———, sent to the Judiciary Committee by action of the General Conference, we respectfully report:

It appears from the memorial and record in the Minutes of said Annual Conference that the said ———, a member of said Annual Conference, was brought before a Committee of Investigation, charged with insubordination. The charges were entertained, a hearing was had, the charges were sustained, and said ——— was suspended from ministerial services and Church privileges until the next annual session

of said Conference. He thereupon sent the Presiding Elder a letter withdrawing from the ministry and membership of the Methodist Episcopal Church. At the ensuing session of said Annual Conference the Presiding Elder moved that said ——— be allowed to withdraw and that the entry in the Minutes of the Conference be: "Withdrawn under charges." The motion prevailed and the entry was so made in the Minutes of said Annual Conference. No charges of immorality were made against the said ———. He now complains that a gross injustice was done him by such entry in the Minutes and asks that the notation, "Withdrawn under charges," be declared null and void, and that the case be remanded to said Conference for rehearing.

Inasmuch as the charges and specifications, the action of the Committee of Investigation, the action of the Annual Conference, and all proceedings appear at length in the Minutes of the Annual Conference, so that there can be no misapprehension concerning the nature of the charge and the facts in the case, your committee are of the opinion that no injustice has been done to said ———, and that the prayer of the memorial be denied. *(Journal, 1908.)*

Change of venue and failure to hear appeal does not deprive appellant of right of appeal.

The papers show that ———, a member within the bounds of —— Charge was regularly tried, convicted, and expelled from the Church. Thereupon he took an appeal, and, fearing that justice could not be secured in the Quarterly Conference of —— Charge, he requested to have it heard by some other Conference.

The presiding elder granted the request, and carried the case to the Quarterly Conference of —— Station. When the time for the hearing arrived, the presiding elder presented the appeal, and, after a statement by the parties had been made, submitted the question, "Shall the appeal be entertained?"

A vote was taken, and the Quarterly Conference refused to entertain the appeal. Thus ended the matter there.

"The presiding elder now holds that he has no further jurisdiction in the case, and that ——'s rights are all exhausted."

We think not. The papers show that the said —— had availed himself of his right to appeal in a regular manner, and had never forfeited the right; that the appeal was before the —— Quarterly Conference in due form;

and, further, there is testimony submitted tending to show that it was not heard, partly, if not chiefly, because the members of that Quarterly Conference "thought they had as much business of their own as they could attend to, and that they could not take up this appeal without neglecting their own business to some extent."

Upon this statement of facts it is the opinion of your Committee that the said —— has never had accorded to him the right of appeal which is guaranteed to every member of the Methodist Episcopal Church. *(Journal, 1888, 455, 456.)*

An appeal based on informality not of serious error in a trial court can not be sustained.

In the matter of the appeal of Rev. ——, of —— Conference, from the decision of a Judicial Conference, the Judiciary Committee report, that while an informality occurred upon the trial before the Conference Committee, it does not appear to have been objected to, and it was not of a nature to give rise to any suspicion of injury to the accused. If objection had been made at the time, the irregularity

could have been avoided; it should, therefore, be regarded as waived.

There does not appear to have been any serious error committed, nor any injustice done to the accused. We therefore recommend that the appeal be not sustained. *(Journal, 1880, 354.)*

Papers used in evidence and the charges and specifications upon which appellant was tried must be specifically referred to and definitely identified by Journal of the Conference.

On proceeding to read the charges, specifications, and findings of the Conference (in the case of ——), it was found that the document containing the charges was not so connected with the Journal as to be certainly identified by the record; whereupon, on motion, the following resolution was adopted, namely:

Resolved, That in consequence of informality in the records of —— Conference, in the case of ——, the case be remanded to the —— Conference for a new trial. *(Journal, 1856, 77.)*

When decision of trial court is affirmed.

Resolved, That it is the sense of this Conference that, when the motions to affirm, to re-

mand, and to reverse have been successively put and lost, the decision of the court below stands as the final adjudication of the case. *(Journal, 1860, 248.)*

New evidence is not admissible in case of appeal.

The Committee on Questions of Law have carefully considered the interrogatories propounded by the Bishops to the Conference, and by the Conference referred to said Committee, and they present their answer in the following resolutions. 8. *Resolved,* That in no case of an appeal can new evidence be admitted. *(Journal, 1848, 126, 127.)*

The failure of a Committee to express penalty is no ground for Appeal.

The paper of ——, complaining of a decision delivered by Bishop —— in the —— Conference, by which he claims to have been wronged, has been before us. We did not see any right to go into the merits of the case, but confined our attention to the single question of law.

The question, as stated in the paper submitted by —— differs from the form found in the Journal of the Conference. The Journal reads thus:

"When a member of the Methodist Episcopal Church is charged with immorality, and brought before a Committee, and found guilty of a crime forbidden by the Word of God, and so make out their verdict, but fail to affix the penalty, can the preacher in charge rightfully expel said member without first having a penalty affixed by the Committee?

This question the chair answered affirmatively.

—— recites two grounds of complaint.

1. The Committee failed to declare him guilty of a crime "sufficient to exclude a person from the kingdom of grace and glory," and that this failure vitiated the verdict.

2. The Committee failed to affix a penalty, and therefore the exclusion was void.

The Bishop presiding holds that when an accused person is declared by the Committee "guilty of a crime expressly forbidden in the Word of God," it is not necessary to afford a basis for the pastor's action to add "sufficient to exclude him from the kingdom of grace and glory," as the immorality is explicitly set forth in the former clause.

As to the second exception, he holds that when a member is tried and found guilty, as

above, "of crime expressly forbidden by the Word of God," the Discipline declares the penalty, and adds, "Let the minister or preacher who has charge of the circuit expel him."

Believing these positions well taken, the Committee recommends the following resolution:

Resolved, That the ruling of Bishop —— in the —— Annual Conference in the case of —— be approved, as in harmony with the law and Discipline of the Church.

We also recommend that the complaint of —— be dismissed. *(Journal, 1864, 358.)*

A Question of Law is not an Appeal.

Your Committee on Judiciary, having carefully considered the petition of several members of the ——— Annual Conference, asking for decisions in certain matters of law relating to the standing of ———, a member of the said Conference, report as follows:

The petition above mentioned asks for rulings on certain questions of law suggested to the petitioners by reason of the judicial proceedings in the said Conference, but which questions, in so far as papers submitted to us show, were not ruled upon in such proceedings, and

the said petition has no appellate features whatever.

For the above reasons, in our opinion, there is no warrant for action by this Conference. *(Journal, 1908.)*

A Bishop may not change hearing of appeal from one district to another. A District Superintendent may refuse to set aside decision of Appellate Court.

By action of the General Conference, your committee has been asked to answer the following questions:

1. The right, in general, of a Bishop to change the hearing of an appeal from the district where the first trial was held to another district.

2. If so, on what grounds?

3. Did the above case have such grounds of appeal?

4. Was the ruling of the Presiding Elder, in refusing to set aside the decision of the Appellate Court, in harmony with the evidence and in harmony with our law?

These questions we answer as follows:

1. We find no provision in the Discipline authorizing the Bishop to change the hearing

of an appeal of a member of the Church from one district to another.

2. In answer to the question as to the right of the Presiding Elder, presiding in an appeal case, under paragraph 273, to deny the motion to set aside the decision of the triers of the appeals of members, we reply that he has such a right.

The rulings of the President of an Annual Conference must be included in the record on appeal.

Your Committee on Judiciary, having carefully reviewed the records on appeal in the case of the Church at ———, ——— Conference, against ———, respectfully report:

The said ———, a member of the said Church, was charged with insubordination and defiance. He was brought to trial before a Committee of Nine, duly appointed by the pastor in charge, and found guilty under all specifications and expelled from the membership of the Church. The said ——— then appealed to the District Triers of Appeals and the decision of the Committee of Nine was reversed. The Church then appealed on points of law to the

next Annual Conference. The rulings of the President of the Annual Conference are not included in the record on appeal and are not before this committee. Therefore, in the opinion of your committee, the appeal should be dismissed. *(Journal, 1908.)*

Agreements, whether oral or written, between Churches may not be annulled.

Your Committee on Judiciary have examined into the appeal of members of the Marie Church, of Rock River Conference, bringing to the consideration of your body a controversy existing between said Church and the Trinity Methodist Episcopal Church of Chicago, concerning the title and right of possession in and to property which for many years was occupied by the Marie Church as a place of worship. This appeal is reinforced by the appeal and memorial of Rev. ——— and eleven other members of said Conference. The appellants also seek a review of certain orders and rulings by Bishops ———, ———, and ——— with relation to said controversy. The material facts, as disclosed by the records and papers presented, are substantially as follows:

In the year 1883, Trinity Methodist Episcopal Church of Chicago had in contemplation the founding of what was then known as the Wentworth Avenue Methodist Episcopal Mission, which mission afterwards developed into the Marie Church. In aid of that enterprise, Mr. ———, a member of the Trinity Official Board, proposed to donate the lot on which the mission building was to be erected. In seeking gifts with which to erect the building, application was made to the First Methodist Episcopal Church of Chicago, whose trustees held certain funds in trust for the building of Methodist Episcopal churches. The application was favorably considered, and the trustees of First Church adopted a written resolution agreeing to donate the sum of $10,000 to said building, on the express condition that Mr. ——— would undertake to convey the title to the property to the First Church within three years from that date, from incumbrance, which title was to be held by First Church in trust and conveyed to the new Church to be organized out of the mission, whenever it should become duly incorporated. On receiving this proposal, the Official Board of Trinity Church, including Mr. ———, held a meeting and formally ac-

cepted it and caused a written record of said offer by First Church, and its own acceptance thereof, to be entered in the books of the Church and signed by its president and secretary. The donation was paid, and applied to its intended purpose. The mission appears to have prospered, and in 1901 was incorporated as the Marie Methodist Episcopal Church. In its report to the Annual Conference, it shows a list of members, 302; probationers, 77; Sunday-school officers and teachers, 38; and Sunday-school scholars, 327. During its last year, under pastoral care, its receipts were over $4,300, and at the close of the business year it was without debt. It had accumulated a Sabbath-school library of liberal proportions, and was reasonably well supplied with furniture and conveniences for the comfortable use and enjoyment of the building as a place of worship. The entire property is represented to be worth about $40,000.

Returning, now, to the history of the disputed title, it appears that Mr. ——— never conveyed it to First Church, according to the terms of said donation, but did, after an interval of a few years, make a conveyance thereof to Trinity Church for a nominal consideration.

The reason prompting this diversion of the title from the First Church to Trinity is not disclosed in the record. When the Marie Church had become incorporated and competent to take the title to itself, it called upon Trinity Church to recognize the trust character of the title which it had received from Mr. ———, and to make conveyance thereof according to the spirit and intent of the agreement under which the donation had been made by the First Church, but this demand was refused. Thereafter, and after unavailing efforts to secure a settlement by amicable methods, Marie Church brought an action in the courts of the State to have the trust established. Unfortunately, at that time the written evidence of the agreement had been lost sight of, and the suit was based upon the oral understanding. Trinity Church appeared to the suit and made objection that under the laws of Illinois the alleged trust agreement could not be enforced by the courts unless it had been reduced to writing. This objection was sustained, and the plaintiff's bill was dismissed. Since that time, the records embodying the agreement have been found, and so far as appears, their verity is denied by no one. Trinity Church continued, however, to deny any

right of ownership in Marie Church, but offered to make to the latter a lease of the property at a nominal rental, but Marie Church refused to accept the position of tenant of property of which it claimed to be the equitable owner. In December, 1905, a commission appointed by the Rock River Conference to negotiate some settlement of compromise of the difficulty reported a plan of compromise, by which the title to the property should be placed in the City Missionary and Church Extension Society. Marie Church promptly signified its readiness to accept the compromise, but Trinity Church refused to concur. Later, another commission was appointed by the Conference to consider the matter, and reported that Trinity Church should make a conveyance of the property to First Church, to be held in trust for the use of Marie Church, but Trinity also declined to comply with this finding. After refusing to accept the finding of the commission, Trinity Church adopted a resolution that if Marie Church did not at once abandon its claim to the property and enter upon cordial relations with Trinity, the Episcopal authorities should be appealed to for an order "to unite Marie Charge with the Trinity Church for the Quarterly Conference

purposes," or "to discontinue Marie Charge as a preaching place." The Marie Church still declining to submit, Trinity took steps to carry out its threat of benevolent assimilation by force of an Episcopal order eliminating so far as possible the separate and independent existence of its opponent. In September, 1906, a short time before the assembling of the Annual Conference, over which Bishop ——— was to preside, Bishop ——— having first urgently advised Marie Church to yield its claim of ownership and accept a lease of the property from Trinity, addressed a letter to the Presiding Elder, ordering that "Marie Chapel be discontinued as a separate charge," and that it be "connected with the Trinity Church of Chicago." Acting presumably upon this authority, but without obtaining the consent or concurrence of the Quarterly Conference, the Presiding Elder caused notice to be given to the effect that Marie Church was discontinued as a preaching place until further notice. Since that date, Presiding Elder has held no Quarterly Conference upon the Marie Charge, and said charge has been without the services of a preacher and without pastoral care, though it has appeared before each Annual Conference and asked to be

placed upon the list of appointments and given a pastor. Soon after the adjournment of the Annual Conference of 1906, Trinity Church, by its officers and agents, took forcible possession of the Marie Church property, and locked and secured it against use by said Church, and thereafter leased it to the Baptist denomination, which is now using this Methodist Church as a place of worship and for the building up of a society of its own faith and order, while the large membership of Methodists, who for twenty-three years had been accustomed to look to it as their religious home, is left homeless and shepherdless. At all times, in season and out of season, in each recurring Annual Conference, and before each Bishop holding or exercising jurisdiction in that territory, Marie Church, its members and friends, have sought for relief, but without avail. Bishop ———, presiding in 1906, appears to have felt bound by the order of Bishop ——— and refused to listen to any application or demand for the appointment of a pastor to said charge. Bishop ———, at the 1907 session of the Conference, also declined to interfere, and when asked to answer certain questions as to the law governing the situation, declined so to do, at that time, but said he would

take them before the next meeting of the Episcopal Board. Thereupon, this appeal was taken, and the matter brought to the attention of this General Conference.

The case calls first for inquiry into the claim of Marie Church to the property in controversy. The facts which we have recited admit of but one possible conclusion by any unprejudiced mind, upon this feature of the appeal. Trinity Church, having obtained the donation from First Church on the express condition that the property should be conveyed to the latter in trust or the new Church thereafter to be organized from the mission could not, upon any sound principle of law or moral, defeat that trust by taking title to itself, and when the mission was organized and incorporated as a Church, it was clearly entitled to demand the execution of said trust according to its terms. The fact that ——— did not personally sign an agreement to make the conveyance is immaterial. He was a member of the Official Board of Trinity Church, which applied to First Church for the donation. He acted with said Official Board in accepting the donation upon the terms proposed, and when, in violation of those terms, he conveyed the title to Trinity, the latter took it,

charged with the trust, and was bound to make the conveyance which it had agreed should be made for the benefit of the newly organized Church. It follows, therefore, that in repudiating the trust, and ejecting Marie Church from the property which it equitably owns, Trinity Church was wrong, and that in refusing a lease and demanding a conveyance of the title, Marie Church was right. Without attempting to pass upon the merely technical legal rights, if any, growing out of the failure of the suit brought by Marie Church in the civil courts, we hold that the claim of Trinity Church to own said property and to exclude Marie Church therefrom, and its assumption of authority to lease the same to a Church of another denomination, is unfounded, inequitable, and contrary to good conscience and the plain teaching of God's Word. Trinity Church should right the wrong by restoring the property to the possession of Marie Church and by executing all papers necessary to perfect its title beyond controversy in the future, and it is so ordered. Turning, now, to the complaints based upon the rulings of the Bishops, we have to say:

1. That in so far as the order of Bishop ——— contemplated a union of Marie Church

with Trinity, he appears subsequently to have withdrawn it, as being based upon a misapprehension of the law, and therefore we need not consider it.

2. The order to discontinue the Church as a preaching place, and the notice of the Presiding Elder to that effect having been made in the interval between Conferences, without the concurrence or consent of the Quarterly Conference, was in excess of authority as limited by the Discipline, paragraph 193, section 32.

3. In view of the withdrawal of the Episcopal order for the union of the two charges, and the strong probability that if our findings with respect to the property are approved by the General Conference and accepted in good faith by the parties, it will put an end to all strife and lead to a prompt restoration of Marie Church to the list of appointments, we are not disposed to enter upon any attempt to define or measure the limits of the Episcopal prerogative to summarily or arbitrarily order the discontinuance of a preaching place, or to refuse a pastor to a self-supporting charge which asks for such appointment, and is able and willing to receive and support such pastor. But we think it proper to say that, in our opinion, the time-

honored rule of the common law of our Church, which assures a preacher to every pulpit and a pulpit for every preacher, is one not to be lightly disregarded. Marie Church has proved its right to live. It is in a neighborhood not otherwise supplied with Methodist preaching places. It has done a valuable work and gathered about it a strong and loyal membership, more than twice the membership of First Church and more than two-thirds of the membership of its parent Church, to which, against its protest, it has been sought to attach it, or be left without pastoral care. Such a Church should not be left to disintegrate and be lost to Methodism for want of a shepherd, nor should it be denied the recognition or the rights which have always been accorded to Methodist Churches in general, unless it forfeits the same by insubordination. Above all, it should not be subjected to a deprivation of such right as a punishment for refusing to submit to what it justly esteemed a wrongful demand for the surrender of its right to the ownership of its own house of worship. *(Journal, 1908.)*

CHAPTER III.

BISHOPS.

Complaints can not be made to the General Conference against the administration of a Bishop unless due notice has been given to him in writing.

WHEREAS, It appears that individuals sometimes forward to the General Conference complaints against the administration of the Bishops without due notice being given them, and

WHEREAS, We consider that our superintendents should be apprised of these proceedings beforehand in writing; therefore,

Resolved, That, in the judgment of this General Conference, it is improper for such complaints to be made without due notice being furnished to the Bishops in writing. *(Journal, 1860, 231.)*

A Bishop may not submit to a vote a question of obedience to a law of the Church.

The following question was submitted to Bishop —— in the —— Conference:

"May the question of electing a brother to local deacon's orders, who has not passed examination in the Course of Study prescribed for local preachers applying for deacon's orders, be submitted to a vote?"

The answer to this question was, "No."

The Committee on Judiciary approve this answer. A Bishop may not submit to the vote of an Annual Conference the question of obedience to a law of the Church, *(Journal, 1884, 376.* See also *Journal 1904, 514.)*

A Superannuated Bishop may preside over a General Conference Committee.

The following resolution was submitted to the Judiciary Committee by the General Conference, upon the request of the ——— Conference, to-wit:

"*Resolved,* That the Committee on Judiciary be requested to consider and report to the Gen-

eral Conference whether a Superannuated Bishop can legally preside over the Committee on Boundaries."

To this resolution we answer, "He can." *(Journal, 1908.)*

A Bishop may consolidate Churches and appoint a pastor to the united charges.

The Committee on the Episcopacy, having carefully considered the question as to the powers of the Bishops to consolidate two or more Churches, declares that the Bishops have full power under the law and usage of the Methodist Episcopal Church to consolidate Churches and appoint one pastor for the united congregation.

In so doing they exercise an authority which, from the beginning of our distinct Church life, has been held to be resident in the Bishop presiding in an Annual Conference by virtue of his power to "fix the appointments of the preachers." *(Journal, 1900, 422, N J.)*

A Bishop has no legal authority to judge of moral or religious character.

Concerning a memorial that Bishops be instructed to transfer no minister from one Con-

ference to another "whose moral and religious character is not absolutely without question," the Committee on the Episcopacy reports that there is no provision constituting a Bishop the authoritative judge of moral and religious character, and, therefore, legislation on this point is inexpedient. *(Journal, 1900, 423, N. J.)*

A Bishop may not forbid the names of candidates who have passed required Disciplinary examinations to be presented for admission on trial.

Your Committee on Episcopacy would respectfully recommend that the characters of the General Superintendents and their administration be approved, with the exception that while the ruling of Bishop —— in declining, in the —— Conference, to allow the names of certain candidates who had passed the preliminary examinations, and had been duly presented for admission on trial, sprang from a regard for the efficiency of the Church, in view of the law in the case, and the danger of justifying a precedent, we are compelled to disapprove the said ruling. *(Journal, 1892, 439, N. J.)*

The Appointing Power is in the Episcopacy.

In the matter of A. B. and C. D., of the ——— Conference, relating to the questions arising out of the administration of Bishop ———, we respectfully submit the following:

On the 22d day of February, 1908, Bishop ——— left ——— for New York, via England, having closed the session of the Conference on that date. On March 3d, Rev. ———, dean of the theological school of the Conference, died. It appears that the Presiding Elder of the ——— District, Rev. A. B., after consulting C. D., who had been appointed Presiding Elder of the ——— District, decided to appoint said C. D. dean of the theological school. It appears that the said C. D. was not to be removed from the presiding eldership of the ——— District, but to assume the duties in the school immediately. On March 9, 1908, it appears that said A. B. wrote to Bishop ———, informing him of his action, and added, "All this, of course, is subject to approval or modification on your part;" whereupon Bishop ——— replied April 18th, in which reply he stated that he had written to the said A. B. immediately upon his first intelligence of the death of the said Mr. ———,

and directed the said A. B. to take general charge of the theological seminary and call to his assistance Mr. ——— and Mr. ———, who were appointed professors; also Dr. ——— and Dr. ———. It appears that Bishop ——— stated that C. D. was absolutely needed in ———, and that the work of the presiding eldership of ——— from ——— would never do, for even there he was more than Presiding Elder. To make sure of this word reaching Mr. A. B., it appears that the Bishop sent a cablegram containing these words: "C. D., ———, does not appear that Bishop ——— interfered in any way with the prerogative of the Presiding Elder, as set forth in paragraph 190, sections 2 and 3. The action of the Bishop is sustained." *(Journal, 1908.)*

A Bishop may appoint a preacher to a Church of another Methodist denomination.

Whereas, The Bethany Independent Methodist Church is closely allied to us in doctrine and usage, and has for years employed Methodist Episcopal ministers as pastors to supply the pulpit, and has taken the regular annual benevolent collections, and during the last five years paid over to the Baltimore Methodist

Episcopal Conference seven thousand one hundred and sixty-five dollars, thereby manifesting its love for the old Methodist Episcopal Church; therefore,

Resolved, 1. That we recognize the expressed wish of Bethany Church, and recommend that the request be granted.

2. That the General Superintendents of the Methodist Episcopal Church, in making the appointments, be granted permission to appoint pastors from our Church to any Methodist Church not under our care, but having the same doctrines and usages, and operating with us in our benevolent work, who may ask of our Church said appointment. *(Journal, 1892, 440, N. J.)*

The President of a Conference may use his own judgment in not submitting to a vote questions not pertaining to the business of a Conference.

The President of an Annual or a Quarterly-meeting Conference has the right to decline putting the question on a motion, resolution, or report, when, in his judgment, such motion, resolution, or report does not relate to the proper business of a Conference; provided, that in all

such cases the President, on being required by the Conference to do so, shall have inserted in the Journals of the Conference his refusal to put the question on such motion, resolution, or report, with his reason for so refusing; and provided, that when an Annual Conference shall differ from the President on a question of law, they shall have a right to record their dissent on the Journals, provided there shall be no discussion on the subject. *(Journal, 1860, 121.)*

The decision on a question of law by a Bishop presiding in an Annual Conference can not be set aside except by a General Conference.

When a question of law has been decided by a Bishop in an Annual Conference, that decision can not be reversed or set aside except by the action of the ensuing General Conference, to which body an appeal may be taken by the Annual Conference or by any member thereof. *(Journal, 1860, 297.)*

On the death of a District Superintendent a Bishop in interim may divide a District and appoint thereto Presiding Officers.

Is it in accordance with the general usage of the Methodist Episcopal Church, with the

spirit of her economy, and with the law of the same given in the Discipline, Part 1, Chap. III, Sec. 1, in answer to Question 3, and in Chap. IV, Sec. 1, that on the decease of a presiding elder in the interim of an Annual Conference, a Bishop may divide the district into two or more sub-districts, and appoint thereto as many presiding officers, having power to perform all the duties of presiding elders in Quarterly Conference, and to represent in the ensuing Annual Conference the preachers in charge of the circuits or stations to which they were personally appointed?

We find among the duties of the Bishops the following: To form the districts according to his judgment. (Discipline, Answer 2, page 92.) The same authority (see Discipline, page 98) declares the presiding elders are to be chosen by the Bishop, thus referring the whole power in determining the size of the district, the number of its charges, and the selection of the presiding elders to the Bishop. We, therefore, answer the question thus:

He has the legal right to arrange the district according to his own judgment. *(Journal, 1864, 140, 141.)*

A Bishop may strike an insubordinate Church from the list of Conference appointments.

Your Committee, having examined the memorial of —— Chapel, —— Conference, complaining of the administration of the Bishops in their case, and also the official correspondence which it occasioned,—they find the facts to be, that in 1861 the minister appointed as pastor of —— Chapel was rejected by the officiary, not because of anything personally objectionable in the appointee, but because the officiary aforesaid had not been consulted in the matter of the appointment, they desiring to retain the services of a man who had already been regularly appointed to them the preceding two years; further, that they not only voted to reject the pastor appointed, but advertised in the daily newspapers that —— Chapel was without a pastor, and locked the doors of the church on Sabbath morning, thus excluding the pastor and presiding elder, claiming for themselves the right so to do because of the peculiarity of their deed. Under these circumstances, Bishop —— released the minister appointed to —— Chapel, and notified the Official Board that he could not consent to the appointment of another preacher to the

charge except upon the following conditions; namely:

"1. That the official and private members should jointly agree that hereafter they would receive and support such ministers of the Methodist Episcopal Church as her regular appointing authority should from time to time appoint to the pastorate of —— Chapel.

"2. That they should receive such presiding elders as should from time to time be appointed to the district, including —— Chapel, and pay their proper proportion of his claim, according to Discipline.

"2. That the trustees of —— Chapel should guarantee to such regular appointees, whether as pastors or presiding elders, the free use of the pulpit."

He further stated to them as follows:

"—— Chapel is in a state of insubordination, and if it remains so till next Conference it will be left off the list of Conference charges, and cease to appear in our official Minutes."

In accordance with this, Bishop —— gave special instruction to the presiding elder to give certificates of membership to all loyal members desiring to remove their relation to some other Church.

At the session of the —— Conference in 1862, these terms, not having been complied with, —— Chapel was stricken by the presiding Bishop from the "list of Conference charges."

In all this, so far from seeing anything to censure, the Committee believe the administration to have been wise and just, and that Bishop —— is to be commended for the firmness with which he maintained the Discipline and order of the Church. *(Journal, 1864, 357, 358.)*

A Missionary Bishop may ordain in a foreign country outside of his jurisdiction if no General Superintendent is accessible and the Disciplinary requirements have been observed.

Concerning the memorial referred to the Committee on Episcopacy to ascertain "whether any Missionary Bishop has ordained any person to the ministry outside his missionary field; and, if so, by what authority?" Also, "whether any Missionary Bishop of our Church has ordained any deaconess or deaconesses; and, if so, by what authority?" we find that Bishop ——— ordained in England a brother, recommended in Africa by the African Con-

ference, and intended for the work in Africa, and, after investigating the facts, we report that it shall not be deemed a breach of order for a Missionary Bishop, while traveling in a foreign country, though outside of his missionary field, to ordain a minister belonging to that field, there being no General Superintendent accessible, and the Disciplinary preliminaries to ordination having been observed. *(Journal, 1892, 440, 441.)*

In the deliberations of the Book Committee, Bishops are present only in order to concur or not, in the action of said Committee filling vacancies.

Your Committee has considered the matter embraced in the following preamble and resolution, passed by the General Conference, to wit:

"WHEREAS, The right of the Bishops to take part in the deliberations of the Book Committee, pending the election of an editor or agent, has been questioned; and

"WHEREAS, Several members of the Book Committee of the last quadrennium have filed a petition (see page 15 of the report of the Book Committee), asking the General Confer-

ence to define the duties and the rights of our General Superintendents in the election of an editor or agent by the Book Committee; therefore,

"*Resolved,* That this question be referred to the Committee on Judiciary, with instructions to consider it and report their conclusions to this body."

And it respectfully reports: While the language of the Discipline bearing upon the question involved (paragraph 416) is obscure, and its meaning is not easily determined, the Committee is of the opinion that when vacancies are to be filled the General Superintendents are not present as part of a joint committee, nor for the purpose of joint action in any particular with the Book Committee, but they are present as a separate body to hear the action of the Book Committee, and their only function is to concur or refuse to concur in that action. They may take part in any discussion had by the Book Committee only by virtue of its request or permission. *(Journal, 1892, 487, 488.)*

Bishops may not vote in Annual Conferences.

(Journal, 1904, 514.)

Legal decisions of Bishops outside Annual Conferences can not be pleaded as having the force of law.

Whereas, Under the rule which says, "A Bishop shall decide all questions of law in an Annual Conference subject to an appeal to the General Conference," a custom has grown up of evoking Episcopal decisions touching the administration of the Discipline outside of the Annual Conferences; and

Whereas, These decisions and opinions are sometimes in conflict with each other, springing up from questions growing out of peculiar and ever-varying circumstances; and

Whereas, It is the judgment of this Conference that the use made of the rule aforesaid was not intended by the General Conference which established it, that General Conference intending it for the administration of the Conferences, and not of the individual pastors; therefore,

1. *Resolved,* That every administrator of the Discipline is responsible to the proper authorities for his administration of the rules of the Church, and may not plead Episcopal decisions as law.

2. *Resolved,* That while the counsels of our Superintendents are to be highly respected, and to be considered of great value in the administration of Discipline, their decisions are not to be regarded as having the force of *law* outside of the Annual Conferences. *(Journal, 1860, 428.)*

In answer to the memorial of ——, in reference to the usage in Annual Conference of asking for Episcopal decisions when no case requiring them is before the body, the Committee present the following resolution for the adoption of the General Conference:

Resolved, That we deem it inexpedient for a Bishop, presiding at an Annual Conference, to render formal decisions of questions of law presented in fictitious cases, and where the subject is not involved in the proceeding pending, nor should any such decisions be entered upon the Conference Journals. *(Journal, 1868, 495.)*

The ruling of a Bishop on a question of law to be binding must be rendered in open Conference and made a part of its record.

Your committee, having carefully reviewed the records of appeal in the case of the ——— Methodist Episcopal Church, of ———, Kas.,

to the President of the Southwest Kansas Conference, from the decision of the Presiding Elder of the ——— District in said Conference, report as follows, to-wit:

It appears, from the records, that ———, a member of the ——— Methodist Episcopal Church, was tried on a charge of immoral conduct. A verdict of guilty was rendered by the committee and a judgment expelling him from the Church was pronounced by the preacher in charge.

An appeal was taken by the said ——— to the District Triers of Appeals of members. The Presiding Elder of the ——— District, presiding in the said court of appeals, on motion of the counsel for the appellant, remanded the cause for a new trial on the ground that no minutes or records of the evidence taken had been preserved by the trial court, or presented by the said preacher in charge, or otherwise, to the said court of appeals, as required by the Discipline. That from this decision of the District Triers of Appeals the Church appealed on a question of law to the President of the next Annual Conference. The President of said Annual Conference, Bishop ———, did not return his decision upon said appeal in open ses-

sion of said Conference, but did, after the adjournment thereof, render a ruling confirming the decision of the Presiding Elder, which ruling is endorsed on the record in the case, and before us. In this condition the case is before us for review. It does not come to the General Conference by appeal. It can not. Your committee, however, holds that, in view of the condition of the case, as hereinbefore stated, the General Conference can review the case as if before it on writ of error, or *certiorari,* and give adequate relief. In the opinion of your committee, the ruling of a Bishop on such an appeal, to constitute a decision of binding force and effect, must be rendered in open session of Annual Conference, and should be made a part of the records of the same.

Your committee finds no error in the decision of the Presiding Elder remanding such case for a new trial. Section 273 of the Discipline makes it the duty of the preacher in charge to "present exact minutes of the evidence and proceeding in the trial from which the appeal is taken," to the appellate court. That duty is not incumbent upon the accused. The failure of the preacher in charge to present such min-

utes constitutes an error, for which the case should be remanded for a new trial.

Your committee therefore recommends that this case be remanded to the President of the ——— Annual Conference, with directions to cause the decision on such appeal to be rendered in open session of said Conference, in conformity with the views herein expressed.

Upon said case being remanded, the said ——— shall be considered as being reinstated in all the rights and privileges as a member of the Church, under charges, until a new trial is had, or the charges are withdrawn. *(Journal, 1908.)*

A Districted Episcopacy is unconstitutional.

I. Your committee, to whom by resolution of this body was referred the question of the constitutionality "of assigning General Superintendents to particular sections or districts, for periods of four years, with the possibility of continuing said General Superintendents in said districts for a longer period," beg leave to report that they have endeavored to give this subject the serious and deliberate consideration which its importance demands.

The resolution evidently contemplates a ter-

ritorial division of our Church work, for the purposes of episcopal supervision, to each part of which a General Superintendent shall be assigned, and within which, also, his itinerate labors must be confined. The proposition, therefore, upon which we are called upon to pass is whether, under our organic law, such a limitation of their fields of itinerancy, legally, can be imposed upon the Board of Active Bishops.

II. The Methodist Episcopal Church was organized in 1784. An essential feature of its polity was what has been styled a "moderate episcopacy." This took the form and became familiar as a system of itinerant general superintendency, commensurate with the entire territory of the Church. No legislation then prescribed this kind of itinerancy. This was treated as inherent in and belonging to the office of Bishop. By their notes on the Discipline, written by request of the General Conference of 1796, Bishops Coke and Asbury quite clearly bring this out. In discussing our form of episcopacy, and particularly its itinerant features, after showing that Timothy and Titus "were traveling Bishops," they add, "Whatever excellencies other plans may have, this"—the Methodist—"is the primitive apostolic plan."

The principle that the obligation of general itinerancy under our plan attaches to the office of Bishop also is illustrated and made manifest by an enactment of the organizing Conference of 1784. This provided a penalty against any General Superintendent who, "without the consent of the Conference," should "cease from traveling at large among the people." As there was then no Disciplinary law imposing this duty, the only basis of the penal act, evidently, is the proposition that the obligation was inherent in our plan of episcopacy; in which event, so long as this plan is preserved, general itinerancy is a duty of the Bishops.

Moreover, as we think, this "plan" presented an antithesis, deliberately worked out and intended, to the diocesan or district systems included in the episcopates of the English and Roman Catholic Churches. Itinerant general superintendency was a distinctive and characteristic feature of Methodist Episcopacy, as a localized supervision is of theirs.

III. This "plan" continued without essential change down to 1808, although, in virtue of its sovereign power in our ecclesiastical system, the General Conference, at or prior to that time, might have modified or abolished it. By

the session of that year, however, a delegated Conference was created, under the limitations of constitutional government. This then familiar "plan" of itinerant general superintendency, as well as episcopacy, was before the sovereign Conference which framed our Constitution and received the consideration of that body. The members well knew its history and operation, and also the concatenated duties and powers that attached to and by force, both of law and custom, were settled incidents of this plan. Under these circumstances, what was done? Without the slightest alteration in its structure, or the least modification of its practice, the system was made an integral part of our polity by a constitutional provision, still in the organic law, which is as follows: "The General Conference shall not change or alter any part or rule of our government so as to do away episcopacy, nor destroy the plan of our itinerant general superintendency."

IV. In the light of the foregoing history, and for the purposes of the question submitted to our determination, we think this clause from the fundamental law sufficiently defines the "plan" which the General Conference is debarred from destroying. It is and ever has been

the Methodist, as against all other plans of episcopal supervision—as the Constitution states—"our" plan. So, also, it was and is a plan of "itinerant general superintendency"—not local—but ever coextensive with the widening spread and work of the Church. This much, assuredly, is clear and indisputable. Such, then, being the "plan," which the Constitution so far defines and protects, how stands the regulation contemplated by the resolution, with respect to it?

As we have seen, this looks to localizing, by territorial limitation, the itinerant superintendency of the Bishops—confining them for four years or more to districts which the Conference shall mark out. The simple statement of the proposition, in view of what has been shown, renders its conflict with the organic law apparent. By its operation, if put in force, the Bishops would at once be made local superintendents—exercising their powers of supervision over what in other systems is known as a diocese. This seems so clear as to preclude debate, yet it becomes, as we conceive, decisive of the question before us. For, if the Conference thus may individualize and restrict the field of episcopal work during one quadrennium, such action could be repeated session after session. Consequently,

by that process the labors of our General Superintendents might be wholly localized—the character of their itinerancy radically changed, at the will of this body—thus entirely destroying the constitutional plan and the kind of episcopacy established by the fathers. Nor is a limitation upon their itinerant general superintendency for a single quadrennium less repugnant to the organic law. The obvious reason for this is that such a restriction upon their traveling at large among the people would totally destroy the plan during the period named; and argument hardly can be needed to show that this body is invested with no more power to trench upon the protection which the Constitution affords to this plan for four years than for forty.

V. The act of 1874, to which reference was made, implies a duty, inhering in our system of general superintendency, of traveling "at large among the people." For nearly six score years, also, this duty has been recognized and performed by our Bishops. The practice has been uniform, the custom unbroken. This long and settled usage defines and so puts beyond reasonable doubt what is meant in our organic law by "itinerant general superintendency," if that was ever open to question. More-

over, up to this time our Bishops and Conference have been at one upon that subject. By more than a century of practical construction, therefore, the import of this constitutional "plan" has been wrought into our history—written in action of unmistakable character along its whole course. We deem it of importance to bring these circumstances to the attention of the Conference. In the civil realm it is well settled that a long period of practical construction by legislative and executive departments, charged with the duty of administering a constitutional provision, will be adopted by the courts, unless manifestly repugnant to the purposes intended by the framers of the Constitution. On this principle, as seems clear to us, the practical construction applied since the restrictive rule in question was adopted, should be regarded as conclusive against the power of the General Conference to distribute the work of the Bishops by districts, instead of leaving them to travel at large, were the proposition otherwise in doubt.

VI. None will fail to observe, as we trust, that the conclusions reached are grounded upon the wide difference between the powers of the General Conference before and since 1808. As has been stated, up to the close of the session

in that year, the governing body was sovereign and supreme. Hence, in their Notes on the Discipline, written 1796-1800, Bishops Coke and Asbury, with strict accuracy, could say that our Bishops were "entirely dependent on the General Conference." But upon the establishment of a constitutional system of Church government, in 1808, this condition was changed. The "plan" of "our itinerant general superintendency," which previously to that time had been at the mercy of the General Conference, by the Third Restrictive Rule, was put beyond the power of the delegated Conference to destroy. Therefore, so far as respects their duties and right by virtue of that plan, the Episcopal Board, during active service and good behavior, no longer are dependent upon the Conference. In these particulars its members and their office alike are under the ægis of the organic law, which our governing body is powerless to change or override.

VII. Equally, then, by the terms of the Constitution and the cogent force of a practical constructions of its provisions, uniform, and as old as the instrument itself, we feel constrained to say that this body is debarred from taking the action contemplated by the resolution referred to us. In our opinion such a regulation

would necessarily operate to "destroy" the "plan of our itinerant general superintendency," whether the limit be for four years or a longer period. All of which is respectfully submitted. *(Journal, 1904, 514.)*

CHAPTER IV.

CONFERENCES.

The General Conference has no power to divide the Church.

There exists no power in the General Conference of the Methodist Episcopal Church to pass any act which, either directly or indirectly, effectuates, authorizes, or sanctions a division of said Church. *(Journal, 1848, 73.)*

The General Conference may not dispose of, sell, or bargain away Church property.

The following question, submitted by ——, was referred to the Committee:

"Has the General Conference of the Methodist Episcopal Church, either directly or through a commission appointed by said Conference, the legal right to deed, sell, give, or in any way dispose of, or transfer a church house or parsonage, held according to the law of the

State and the Discipline of said Church by trustees properly appointed, to or for the use of members and ministers of another Church or denomination, or for any other use or purpose, without the consent of the trustees and other parties interested in it, under the Discipline of the Methodist Episcopal Church?" This question the Committee answer in the negative. *(Journal, 1880, 380.)*

The General Conference may not deprive members of the Church of their rights except by due process of law.

It is the right of every member of the Methodist Episcopal Church to remain in said Church, unless guilty of the violation of its rules, and there exists no power in the ministry, either individually or collectively, to deprive any member of said right. *(Journal, 1848, 73.)*

An Annual Conference has no jurisdiction over a Local Elder.

A memorial presented by ——, of the —— Conference, submits the record of the action

of that Conference, by which it deprived ——, a local elder, of his credentials, and asks a decision as to the legality of said action. The record shows that a member of the Conference called attention to the fact that the said ——, who lived within the bounds of that Conference, did not then have membership in any Church, and that he had not had such membership for twenty years past, and moved that the Conference demand the return of his parchments. The motion was passed, and the parchments were demanded and returned. Was this action legal?

As local preachers of all grades are thus made amenable to the District or Quarterly Conference, the Annual Conference had no jurisdiction, and, therefore, the action of —— Conference in the above case was not legal. *(Journal, 1888, 455.)*

An Annual Conference may not strike a member's name from the Conference-roll without authority of law.

Your Committee has carefully examined the records and documents in the matter of the appeal of the Rev. ——, of —— Conference, from the action of said Conference in striking

his name from the Conference-roll, and reports as follows:

The records do not disclose any withdrawal from said Conference by said ——, and we are of the opinion that the action of said Conference in striking his name from the Conference-roll was made under a misapprehension of the facts in the case, and without authority of law.

Your Committee, therefore, recommends that his name be restored to the rolls of said Conference, without prejudice, so that he may be required to answer any charge that may be brought against him arising out of the matter in question. *(Journal, 1896, 423.)*

On the memorial of the California Conference respecting the case of Rev. ———, your committee reports:

First—It appears that for more than twenty years the said ——— was a member and elder in the said Conference, during most of which time he was a professor in the ——— College, within the bounds of the said Conference; that, when the said college closed, he was supposed to have been transferred to the Holston Annual Conference, and his name omitted from the roll of the California Conference. This, it has

lately been found, was an error and the omission of his name from the roll unwarranted. After an interval of ten years or more, during which time the said ——— did not report to said Conference, he made application for the restoration of his name to the Conference-roll. At its recent session in September, 1903, said Conference appointed a committee to inquire into his life and character during the interval stated, and to memorialize the General Conference for direction in the case. That committee made the inquiry, as directed, and found that during the time involved the said ——— was teaching in Tennessee, was also employed by the National Government in Washington, D. C., and in the Philippine Islands.

The committee also found and reported that during this interval the life and conduct of the said ——— have been in keeping with his profession as a Christian man and that he has not failed in Christian duty, and finally it unhesitatingly affirms its confidence in him as a Christian minister.

Second—In view of the foregoing facts, this committee finds that the said California Conference was in fault in omitting the name of the said ——— from its roll; that the said

brother also was in fault in not annually reporting to his said Conference, and that during said interval the said ———, in law, remained and so still is a member of the said California Conference. *(Journal, 1904.)*

A Conference may not reflect upon a minister in a report and then deny him a trial.

Your Committee on Judiciary, having carefully reviewed the records on appeal in the case of ———, of the ——— Conference, report as follows, to-wit:

It appears by the records that, in October. 1906, a committee was appointed by the order of said Conference to investigate the case of ——— and to take whatever action they might deem wise.

After said committee was appointed, the relation of said ——— was changed from effective to supernumerary, without making provision to have the investigation conducted according to paragraph 222, section 4, of the Discipline.

The committee proceeded to investigate the doctrinal soundness of said ———, but did not summon him or notify him or his representa-

tives to appear before them. The committee, in reporting to the Conference at the session held in October, 1907, without giving specifications or presenting any evidence, reported that they believed that the said ——— was not in harmony with the doctrine and Discipline of the Methodist Episcopal Church, and at the same time recommended that the Conference do not proceed to the extremity of a trial, but that it make a deliverance protesting against un-Methodistic, destructive, and divisive teachings in any of our theological schools.

The report of this committee was adopted by the Conference, and thereafter the Conference passed the character of said ———, but refused to reconsider the adoption of the report of the committee.

Demand was thereupon made by said ——— for immediate trial, but the Conference deferred action upon his demand for one year. A motion to expunge from the report of the committee all reflection upon the character of said ——— was laid upon the table.

There appears to be no Disciplinary provisions for the report of the committee or the action of the Conference in adopting such a report. The report of the committee was a re-

flection upon the character of said ———. It was the duty of the Conference to grant him a trial upon his demand therefor, or to expunge from the report of the committee all reflections upon his character. The Conference neglected and refused so to do. Your Committee on Judiciary therefore recommend that the action of the committee appointed by the ——— Conference to investigate the case of the said ———, and the action of said Conference in adopting the report of such committee, be declared null and void. *(Journal, 1908.)*

General Conference has power to change boundaries.

The following question was referred to us by the General Conference on May 14th, namely:

"Has the General Conference the power so to change the boundary of an Annual Conference as to either diminish or enlarge the territory of an adjoining mission?"

To this question we answer: Yes. The General Conference has supreme power over Annual Conference boundaries, and may establish or change them at its pleasure, under such rules and regulations as it may itself enact. *(Journal, 1908.)*

Boundaries of a Mission are not protected by the Discipline as are those of an Annual Conference.

The following question was referred to us by the General Conference May 18th, viz:

"Do the conditions and limitations in Paragraph No. 437 of the Discipline protect the boundaries of a Mission as they do the boundaries of an Annual Conference?"

To this we answer, No. The said conditions and limitations apply to organized Annual Conferences only. *(Journal, 1908.)*

Missions in lands foreign to the United States, though under government of the United States, are Foreign Missions.

To your committee has been referred by the General Conference the question whether the Philippine Islands can, in view of their present relation to the United States, be classed as a foreign mission and placed under the jurisdiction of a Missionary Bishop. The answer to this question will turn on the construction to be given to the words "foreign missions," as used in section 3 of article 10 of the Constitution,

familiarly known as the Third Restrictive Rule. As it seems to us, these words must be understood to describe (1) missions in countries foreign to the Government of the United States, or (2) missions in countries foreign to the United States in America. We are of the opinion that the latter is the sense in which they were employed by the framers of this section, and that, therefore, they refer to missions in lands beyond the seas—lands foreign to our shores.

But we are now confronted by new conditions. The Government of the United States has crossed the seas and has taken possession of lands on the other side of the globe. Before such possession was taken, all must agree that missions established there would have been naturally classed as "foreign missions." Now, does the fact that our Government has secured possession and established jurisdiction there so change the situation that a mission there must for this reason cease to be a "foreign mission" and become a home mission? We think not. The power to classify its missions and direct in their administration is in the Methodist Episcopal Church, and not in the Government of the United States. If we hold that the exten-

sion of the jurisdiction of our Government to an island beyond the seas so changes our relation to it as a Church that it can not be made a "foreign mission," then we admit that the Government of the United States has power to change the classification of our missions, overturn the missionary policy therein, and even to unfrock our Missionary Bishops. To such a doctrine we can not assent. In the United States in America it is clear that under the restrictive rule there can be no "foreign missions," but elsewhere the General Conference, exercising for this purpose the sovereign authority of the Church, may classify its missions as it deems best and may administer them at its pleasure. We are, therefore, of the opinion that the General Conference has the power to declare the Philippine Islands a "foreign mission," and to elect therefor a Missionary Bishop. *(Journal, 1904.)*

An Annual Conference may not elect to Ministerial Orders one who is under expulsion by another Conference. Such orders are null and void.

The Committee on Judiciary, to which was referred the memorials in the case of ———, reports:

(1) That the alleged facts are that ———, an elder in the Kansas Conference, in 1895 did "withdraw under complaints" of immorality from the ministry and membership of the Methodist Episcopal Church, by consent of the Kansas Conference, and surrendered thereto his credentials.

(2) That the said ——— did soon after join the Church in Oklahoma and did by successive steps come to the point of being received into full membership in the Oklahoma Conference and of being elected to Deacon's Orders; that the said ——— and the Oklahoma Conference did more than once ask the Kansas Conference to restore the credentials of the said ———, that he might be a member in orders in the Oklahoma Conference, and the Kansas Conference did by unanimous vote refuse the requests. Thereupon the Oklahoma Conference did elect ——— to full membership in said Conference and to Deacon's Orders, and he was ordained by Bishop ——— at the —— session of the Oklahoma Conference.

(3) The questions raised by the memorials are, first, the legality of the election of ——— to membership in the Oklahoma Conference, and hence his ministerial standing; second, the

legality of the election of ——— to Deacon's Orders by the Oklahoma Conference, and of his ordination.

(4) Your committee find that the law covering this case at all points is in paragraphs 234 and 235 of the Discipline, which provide that the relation to the Church of a minister who has "withdrawn under complaint" is the same as that of a minister who has been expelled, viz., that he "shall have no privileges of society or sacraments in our Church without contrition, reformation, and confession satisfactory to the Conference from which he was expelled."

It is plain to your committee that under this law, until the Kansas Conference is satisfied with the contrition, reformation, and confession of ———, he can have no privileges of society or sacraments in our Church; that hence he can not be received legally into any Conference, nor can he be elected to orders. The Bishop presiding should not have entertained the motion in either case. The action of the Oklahoma Conference in each case was illegal; the ordination of ——— was illegal, and the membership in the Oklahoma Conference

and the Deacon's Orders thus obtained by ——— are each null and void. *(Journal, 1904.)*

An Annual Conference is continuous as an organized body.

Concerning the question of the continuous character of an Annual Conference, referred to this committee by vote of the General Conference, we would respectfully report that Article 3, Part I, of the Constitution, says:

"The traveling preachers shall be organized by the General Conference into Annual Conferences, the sessions of which they are required to attend."

From this it would appear that an Annual Conference, when properly organized, becomes a legal entity, and continues to exist until it ceases by reason of loss of its membership, or it is lawfully dissolved. Individual members come in as provided by law, and go out under the laws of nature, or of the Church, but the Conference itself continues. It has power to adopt rules for its government and rules of order for its annual sessions, the same to continue at its pleasure, and to be amended or repealed

as it may provide. In short, it is a permanent body and may govern itself accordingly, under the Constitution and laws of the Church. *(Journal, 1904.)*

An Annual Conference, once legally organized, exists until dissolved by General Conference.

"In view of the constitutional provision which requires twenty-five members to organize an Annual Conference, your Committee on Boundaries reports that there are several Annual Conferences with less than this number of members, and suggests that the matter be referred to the Committee on Judiciary for an opinion as to the status of such Conferences under the Constitution."

In reply we express the opinion that the status of a legally-organized Annual Conference is not affected by the fact that its membership falls below the number required by the Constitution for the organization of an Annual Conference. A duly-organized Annual Conference continues to exist as such and retains all the rights and powers thereof until it is dissolved or changed by the General Conference. But the General Conference, in the organization of

new Conferences, or in changing the boundaries of Conferences, may not so change any existing Conference as to reduce its membership below the constitutional numbers. And we venture to suggest that the General Conference should so exercise its undoubted constitutional powers in this matter as to provide that such Annual Conferences as fell below the required number shall be by consolidation, or otherwise, brought up to that number, or that they shall be reduced to the status of Mission Conferences. *(Journal, 1904.)*

If an Annual Conference divides, each part is an Annual Conference.

Your Committee, to whom was referred the following,—"*Resolved,* That the Judiciary Committee be requested to consider the following question, and report on Monday next, 'If so much of an Annual Conference be set apart that the remaining territory contains a less number of ministers than is required to constitute an Annual Conference, should this remaining territory be constituted a Mission, or does it continue to be an Annual Conference?' "—respectfully report that, in our opinion, such territory continues to be an Annual Conference. *(Journal, 1896, 425-6.)*

When an Annual Conference is divided, there should be an equitable division of the property belonging to said Conference.

Resolved, 1. By the delegates of the several Annual Conferences in General Conference assembled, That it is recommended to every Annual Conference contemplating a division, to provide, where it can be done legally, for an equitable division of the property belonging to said Conference, so as to give each of those made out of it, its proportion, according to the number of its members, as nearly as may be.

Resolved, 2. That when a Conference is divided without having made such previous arrangement for a division of property, such arrangement shall be made as soon thereafter as may be; in which case the property should be divided according to the number of members composing each; and if the principal of any property or legacies belonging to said Conference may not be divided, the proceeds thereof should be annually divided between them in the same ratio. *(Journal, 1836, 457-8.)*

An informal withdrawal from membership in an Annual Conference does not place the member withdrawing beyond jurisdiction of the Conference.

In the matter of the appeal of ——, of the —— Conference, the Judiciary Committee respectfully report:

That it appears that, at a session of said Conference, the following question of law was propounded:

"Has a member of a Conference a right to withdraw therefrom, there being no official charges presented against him, in the interim of the sessions of the Conference; and, if he withdraw, does he cease to be a member of the Conference from the time of his withdrawal?"

The presiding Bishop gave the following answers:

"1. It is the right of any member of a Conference to give notice of withdrawal from the Conference, through the proper officer, when there are no charges presented against him.

"2. But the withdrawal is not complete until the Conference with which he was connected takes action upon it."

From this decision the present appeal was taken. Your Committee report that, in their

opinion, the answers given above were correct, and that the appeal should not be sustained. *(Journal, 1880, 380.)*

A member of an Annual Conference may not appeal from the record of his withdrawal under charges from membership in the Conference, such withdrawal being recognized by the Conference and entered on its journal.

"When a member of an Annual Conference gives notice to the Conference that he has withdrawn from the Church or Conference, and at the same time there be charges ready to be presented against him, and he has knowledge of such charges previous to his notice of withdrawal, and he has been marked upon the Journal of the Annual Conference as withdrawn under charges, has such member the right to appeal to the General Conference from such record of the Annual Conference?"

Answer. He has not. *(Journal, 1860, 298.)*

Missionary Committee may not refuse appropriations required by Charter of the Missionary Society.

The Committee on Judiciary, having been instructed by the General Conference to give

an opinion on the question whether the Missionary Committee had a right, in harmony with the letter and spirit of Article XI of the Constitution of the Missionary Society, to leave out of its budget of appropriations the amount specified in said article, for unforeseen emergencies, reports as follows:

It is the opinion of the Committee on Judiciary that the Missionary Committee is required by Article XI of said Constitution to include the amount specified therein for unforeseen emergencies in its annual appropriations.

When Annual Conferences are divided, missionary appropriations must be divided.

The following resolution was moved by ——, and adopted:

Resolved, That where Conferences have been divided, the Bishops are hereby instructed to make a distribution of the missionary money appropriated to the several Conferences affected by such division. *(Journal, 1860, 308.)*

A vote of two-thirds of an Annual Conference is necessary to disallow claims of superannuated or supernumerary preachers.

The ruling of Bishop —— in the —— Conference, in relation to disallowing the claim of

superannuated and supernumerary preachers, referred to the Committee, has been duly considered.

The following extract from the Journal of the Conference presents the whole case:

The stewards, as the Committee on Claims, reported, and when their report was before the Conference, Bishop —— ruled that the rule in the Discipline under the general head of Annual Supplies, part iii, chapter iii, section v, should be construed so as to allow the claims of all the superannuated and supernumerary preachers, and the widows and orphans of deceased preachers, and that to *disallow* their claims, in whole or in part, requires a vote of *two-thirds* of the Conference.

The Committee recommend to the General Conference that the ruling in this case be approved. (*Journal, 1860, 429.*) But see Dis. 1908, ¶ 309.

The recommendation by a Quarterly Conference for a renewal of license to exhort must be granted.

Question. In case a Quarterly Conference recommend the renewal of the license of an exhorter, is the presiding elder under obligation to renew the license?

Answer. He is. *(Journal, 1860, 228-9.)*

The jurisdiction of a Quarterly Conference over a preacher on trial in an Annual Conference does not extend beyond authority to try him if accused of crime.

The Committee on Episcopacy respectfully present the following report to the General Conference:

After considering the paper referred to the Committee, appealing from the decision of the Bishop who presided at the last session of the —— Conference, touching the jurisdiction of a Quarterly Conference over a preacher on trial, the following resolution was adopted:

Resolved, That we approve of the ruling of Bishop —— in the case before us, which is to the effect that the only jurisdiction which a Quarterly Conference has over a preacher on trial for membership in an Annual Conference is to try him when accused of crime. *(Journal, 1872, 253.)*

In relation to the question in paragraph 99, section 1, page 71, of the Discipline, "Are there any complaints?" referred to the Committee on Judiciary for an interpretation, the Committee present the following report:

The question refers only to those persons who are amenable to the Quarterly Conference, and to those offenses of which said Conference has

jurisdiction. It does not refer to members of Annual Conferences who are amenable elsewhere. The Quarterly Conference has jurisdiction over preachers on trial in an Annual Conference who may be accused of crime, and over the official and moral conduct of local preachers, and may hear complaints against them when presented in due form. With these exceptions, the question refers only to official misconduct of members of the Quarterly Conference. For their moral conduct they are accountable to the same tribunals as are private members of the Church. *(Journal, 1884, 376.)*

A Quarterly Conference may remove Trustees at will, subject to State and Disciplinary law.

The Bishops are frequently called upon to explain paragraph 328 of the Discipline, so as to tell when and by what method trustees may or may not be "ejected" from office, and they desire the General Conference to declare whether the Quarterly Conference has power to discontinue the service of trustees at will.

In the opinion of the Committee, it is in the power of the Quarterly Conference to remove trustees at any time for cause where statutes of the State do not prevent; subject, however, to the provisions of paragraph 328 of the Discipline. *(Journal, 1892, 490.)*

CHAPTER V.

ELECTIONS.

Laymen are members of the Church who are not members of the Annual Conferences.

A RESOLUTION submitted to the General Conference by ——, of the —— Conference, and referred to the Committee on the State of the Church, was duly considered, and the following resolution was recommended for adoption by the General Conference:

Resolved, That, in all matters connected with the election of lay delegates, the word "laymen" must be understood to include all the members of the Church who are not members of the Annual Conferences. *(Journal, 1872, 442, N. J.)*

Eligibility of a located minister to election as a lay delegate to the General Conference is conditioned by the time he has been a member of the Church, not by the time he has been a lay member.

Question. Has a Methodist preacher, who has not been located for five full years, such membership as a layman in the Methodist Epis-

copal Church as the Discipline requires in order to eligibility to election as lay delegate to the General Conference?

Answer. Yes; provided he has been a member of the Church for five consecutive years. The Discipline does not require that he should have been a *lay member* for five consecutive years to make him eligible to such election. *(Journal, 1888, 453.)*

An alternate delegate to a seated delegate in General Conference is entitled to the seat vacated by another member of the same delegation.

—— was elected by the Lay Electoral Conference of the —— Conference as an alternate for ——, and —— was elected alternate for ——; and as both —— and —— have been by this General Conference declared ineligible to the seats to which they were elected, can the said —— take the seat in this body thus made vacant?

Answer. "Yes; —— having taken the seat to which he was elected, and there being a vacancy in the seat of the other lay delegates, and —— having been duly elected as an alternate delegate, in our opinion he is entitled to the vacant seat. *(Journal, 1888, 453.)*

Dissent from any Disciplinary mode of voting for delegates to General Conference, adopted at the discretion of an Annual Conference, is without redress.

The memorial of the Rev. ——, of the —— Conference, being equivalent to an appeal on a point of law from the action of the —— Conference, and the ruling of the presiding Bishop whereby such an action was allowed, rejecting the vote of the said —— for delegates to the General Conference, because he voted for more than one delegate on one ballot, the said Conference having ordered the election to proceed for one delegate and one only on each ballot, has been duly considered, and the following report is presented:

1. There is no disagreement as to the facts. A resolution was adopted by the Annual Conference in the following words:

"*Resolved,* That, in the election of delegates to the General Conference, we ballot for one at a time, each ballot to contain but one name; and when one delegate has thus been chosen, successive ballots be taken in the same manner for others until the whole number to which the Conference is entitled shall be selected."

2. —— did protest against the said action, and his protest was recorded in the Journal.

3. The Bishop did decline to rule the action illegal.

4. The ballot of the said ——, not conforming to the resolution above recited, was thrown out, and he was practically disfranchised.

The question turns wholly upon the legality of the action of the —— Conference in deciding to elect but one delegate at a time. If that action was illegal, —— was right in refusing to conform to it, and the Conference, in throwing out his vote, illegally deprived him thereof. But if the action was legal, he, by refusing to conform to it, disfranchised himself. Was, then, the action of the Conference, under which the vote of —— was necessarily thrown out, legal? The Discipline, paragraph 63, says: "The ministerial delegates shall consist of one member for every forty-five members of each Annual Conference, to be appointed either by seniority or choice at the discretion of such Annual Conference." The power to decide whether by "seniority or choice," taken in connection with the words "at the discretion" implies the right to appoint one or more by seniority, and one or more by choice. This priv-

ilege is of such a nature that it carries with it the right to choose in any way.

The usage, it is true, is to vote for all on one ballot; but this usage is not prescriptive.

It is a custom, not a law. The Conference had power to make any rule which admitted of the expression of preference by choice, and gave to all legal voters equal privileges. It did so in this instance, and the memorialist has no legal ground of complaint. *(Journal, 1884, 373-4)*

Members may not be deprived of rights of franchise.

We have carefully considered the memorial from the —— Conference, signed by —— and others, touching the rights of ministers and members in certain specified cases, and beg leave to submit the questions asked, together with our answers:

Question 1. Is it competent or lawful for the Church in any department of administration to deprive a member of any privilege members have been accustomed to enjoy, such as meeting in class and love-feast, communing at the Lord's table, or voting at any election, and having his vote counted, without first proceeding against him in regular form of trial as provided in the

Discipline and convicting him of some violation of the rules?

Answer. It is not competent for the Church to deprive any one of its members who is in good standing of any privilege to which he is entitled under the law, unless he shall insist upon using his privilege in an irregular or unlawful manner.

Question 2. Does the law of the Church giving the Annual Conferences the right to decide whether the delegates to the General Conference shall be appointed by seniority or choice imply the right to compel the voters to limit their ballots to one name when more than one are to be chosen?

Question 3. Is it lawful for the Annual Conference to reject and throw out, without counting, the vote of a member for delegates to the General Conference for any cause?

Question 4. Is it lawful and right for an Annual Conference to annex any penalty of any kind whatever, or so to construe any resolution or rule of action, as to imply a penalty or disability to enjoy any privilege of a member?

Answer. Questions 2, 3, and 4 were in substance submitted to the General Conference of 1884, and by it completely answered (see Journal, page 373), an epitome of which may be

found in Paragraph 514 of the Discipline, as follows: "When an Annual Conference is entitled to more than one ministerial delegate to the General Conference it is not unlawful for the Conference to ballot for one delegate at a time." We therefore deem further decision unnecessary. *(Journal, 1888, 453-4.)*

When a disputed question concerning Disciplinary requirements as to time a lay delegate has been a member of the Church has been passed upon by an Electoral Conference, it is not lawful to go behind the election returns of that body.

The Committee, to whom was referred the inquiry, whether ——, a lay delegate to the General Conference from the —— Conference, had been a member of the Church in full connection for the five consecutive years preceding his election, having had the matter referred to them under consideration, beg leave to report:

That indefinite statements were made before the Committee, of an inconclusive character, tending to raise some doubt whether said delegate had been in full connection with the Church for the five years immediately preceding his election. But it also appeared, from the statement

of the secretary of the ——— Conference, made to the Committee, that the same question had been brought to the notice of the Electoral College who chose said delegate, and that said college did not consider them worthy of consideration, and had chosen said delegate notwithstanding. The said delegate has been seated upon credentials in due form; no one contests his right to his seat in the General Conference; no remonstrance has been filed against his remaining therein.

Under these circumstances, the Committee have not felt warranted in going behind the action of the —— Electoral Conference, and see no sufficient reason for questioning said delegate's right to his seat. They, therefore, ask leave to be discharged from any further consideration of the matter so referred to them. *(Journal, 1880, 266.)*

A ministerial delegate to the General Conference must have traveled four full consecutive calendar years.

Whereas, The Discipline requires that a delegate to the General Conference shall have traveled four full calendar years *from the time* of entering the traveling connection; and

WHEREAS, The words "from the time," in corresponding portions of the Discipline, imply consecutive years of service; and

WHEREAS, —— has not served for four consecutive years as a traveling preacher previous to the session of this Conference; therefore,

Resolved, That, on this ground, he is not entitled to a seat in this General Conference; and

WHEREAS, If the fragmentary terms of service of ——, previous to the time of his leaving his work, be added together, he still had not traveled four full calendar years previous to leaving his work during the current year; therefore,

Resolved, That, on this ground, he is not entitled to his seat; and

WHEREAS, ——has been absent from his work since about August 10, 1879, without the consent of his presiding elder; and

WHEREAS, On account of this absence the interests of an important charge have been greatly damaged; therefore,

Resolved, That his term of service since August 10th should not be added to the previous fragments of his term in order to complete the required four full calendar years; and

Whereas, ——— has unquestioned credentials as a reserve delegate; and

Whereas, He has been in his seat continuously from the opening of the session, attending to all the duties of a delegate; therefore,

Resolved, That ——— be continued in his seat, and authorized to draw the amount of his traveling and other expenses. *(Journal, 1880, 325.)*

Mission Conferences may not elect delegates to General Conference.

The Judiciary Committee, to whom was referred the resolution, offered by Dr. A. B. Leonard, to admit to seats in the General Conference the delegates from the South Japan Mission Conference, respectfully report:

The South Japan Mission Conference is described in Paragraph 440, Section 10, of the Discipline, and it belongs to the class of Mission Conferences included in Paragraph 86.

This Conference now has a membership of twenty-six, one more than the number required for an Annual Conference, and if that Conference had been organized as an Annual Confer-

ence, it would have been entitled to representation in this General Conference.

This Mission Conference elected provisional, ministerial, lay, and reserve delegates to this General Conference, and they now ask to be admitted to seats in the Conference.

By the Constitution of 1900 (Appendix, Paragraph 35, Articles 2 and 3, Part 2), only Annual Conferences and Lay Electoral Conferences connected therewith are entitled to representation in the General Conference. By Paragraph 86 of the Discipline, a Mission Conference is vested with many of the powers possessed by an Annual Conference, but it is there expressly declared that a Mission Conference "shall not elect delegates to the General Conference nor vote on constitutional changes."

It seems clear that until the South Japan Mission Conference is organized as an Annual Conference, it can not be represented in the General Conference.

As the matter now stands, we are of the opinion that the provisional delegates chosen by this Mission Conference can not be admitted as members of this General Conference. *(Journal, 1904.)*

A mis-translation of law is not law.

In the matter of the eligibility of ——— as lay delegate to the General Conference, 1908.

——— was elected lay delegate to the General Conference of 1908 by the Lay Electoral Conference of the ——— Conference, May 31, 1907.

Until two years prior to his election he had been pastor of the Church. He was a member of the Conference more than five years, but a lay member only two years.

Paragraph 39, section 5, of the Discipline, provides that lay members, "having been lay members of the Church five years next preceding," shall be eligible to General Conference.

The German translation of the Discipline, which German translation was followed in this case, omitted the word "lay" from said clause, so that it read that a member shall be eligible who has been "a member of the Church five years next preceding."

Under such provision, ——— would have been eligible.

As a result of the improper translation of this section and paragraph of the Discipline into German, the Conference and ——— have both been made to suffer because of a mistake in their

copy of the Discipline over which they had no control and upon which copy they had good reason to rely and act.

While this is to be very much regretted, nevertheless your committee find that, under the law as set forth in Section 39, Paragraph 5, and under the facts submitted, Brother ——— was not eligible to become a lay delegate to the General Conference of 1908. *(Journal, 1908.)*

Failure to elect full number of delegates to General Conference can not be remedied after adjournment of Annual or Electoral Conference.

On the paper referred to the Committee on Judiciary respecting the admission of a reserve delegate from the Oklahoma Annual Conference, and also a reserve delegate from the Oklahoma Lay Electoral Conference, as delegates to this General Conference, your committee reports:

The presentation of the case shows:

1. That on the day set apart for the election of delegate by the said Annual and Lay Electoral Conferences, respectively, the number of members on the roll of the Oklahoma Annual

Conference entitled each of these said Conferences to two delegates.

2. That two delegates were elected by the Annual Conference, and two reserve delegates.

3. That the Lay Electoral Conference elected two delegates, and then adjourned *sine die*.

4. That, subsequently to said elections, and prior to the final adjournment of the Annual Conference, by readmissions and transfers thereinto, the membership on the roll of said Annual Conference was increased to a number which would have entitled said Conference to three delegates to the General Conference had such transfers and readmissions been made prior to said election.

5. That, in the absence of information respecting the non-counting and non-voting, in the respective Conferences from which they were transferred, of some of the said transferred members, and inasmuch as the said Lay Electoral Conference had then finally adjourned, on the suggestion of the Bishop presiding the said Annual Conference did not order nor hold an election for a third delegate.

The claim is now made that a vacancy exists in the delegations, respectively, of the Oklahoma

Annual and Lay Electoral Conferences, and that the first reserve delegate from each of these Conferences is entitled to a seat in this General Conference.

Your committee is of the opinion that as the said Annual and Lay Electoral Conferences, respectively, failed to elect a third delegate, the said claim is not well founded, and that the said reserve delegates are not entitled to admission to membership in this General Conference.

CHAPTER VI.

MEMBERSHIP

Informal admission to Church membership is no bar to proceedings in case of trial.

"MAY a person who has not been formally received into full connection in the Church, but has for a term of years enjoyed all the privileges of a member, and is supposed, by the preacher in charge and society, to be a member, plead the fact of his non-reception as a bar to proceedings in case of alleged immorality?"

Answer. No. *(Journal, 1860, 298.)*

Properly-authenticated certificate of membership must be accepted.

"Is a preacher in charge obliged to receive a properly-authenticated certificate of a member when he is aware such reception would disturb the peace and quiet of the Church?"

Answer. It is the duty of the preacher to re-

ceive all such certificates. *(Journal, 1860, 298.)*

The only requisite for membership in a Sunday-school Board is Church Membership.

The Committee has had under consideration the matter of the appeal of —— from the decision of Bishop ——, made at the session of the —— Annual Conference in the year 1889, and respectfully reports as follows:

The Bishop held, upon an appeal from the ruling of the presiding elder made at the Quarterly Conference of the —— Methodist Episcopal Church, that it was not necessary that the persons appointed as members of the Sunday-school Committee by the Quarterly Conference, under paragraph 346 of the Discipline (edition of 1888), should, prior to their appointment, be members of the Sunday-school Board, but that the only prerequisite to their appointment was membership in the Church.

It was claimed by the appellant that only such persons as were already members of the Board could be appointed members of the Committee.

It is clear that the Board is made up of the pastor, the officers and teachers, and the Com-

mittee appointed by the Quarterly Conference. The Board can not have an existence until the Committee is appointed, and it would be impossible to appoint a Committee from a Board which did not exist. The provision in paragraph 346, that the members of the Committee shall be members of the Board, is only an unnecessary repetition of the provision in paragraph 345.

The decision of Bishop —— was correct, and it should be affirmed. *(Journal, 1892, 488.)*

Membership illegally obtained is null and void.

In the matter of the appeal of ——— against the ruling and action of Bishop ——— in the Central Illinois Conference, it appears that one, ———, had been regularly tried by the said Conference, convicted, and expelled from the ministry and membership of the Methodist Episcopal Church; that subsequently certain members of the ——— Quarterly Conference petitioned the said Annual Conference to allow the said ——— to again unite with the Church; that when a motion was made in the said Conference to grant this permission, objection was made to its submission on the ground

that it involved a violation of the law of the Church, ——— not having complied with the requirements of Paragraph 234 of the Discipline, which says: "After a minister shall have been regularly tried and expelled, he shall have no privilege of society or sacraments in our Church without contrition, reformation, and confession satisfactory to the Conference from which he was expelled;" that, notwithstanding this objection, the question was submitted to a vote, which resulted in a tie, whereupon the Bishop gave the casting vote in the affirmative and declared the motion carried; that the said ——— has taken advantage of this alleged permission to secure membership in the Church.

On these admitted facts, we report:

First—That the above question should not have been submitted to the Conference, as it involved a violation of the law of the Church.

Second—That the Bishop erred in voting in the case, as the Bishops are not members of the Annual Conference and have no right to vote therein under any circumstances.

Third—That, as the said ——— had not complied with the requirements of the Discipline touching confession, contrition, and re-

formation; and as the action by which he claimed the right to again seek membership in the Church was illegal, we find that the membership he has thus secured is null and void. *(Journal, 1904.)*

CHAPTER VII.

ORDERS.

The ministerial orders of the Roman Catholic Church can not be recognized by the Methodist Episcopal Church.

At the session of the —— Conference, beginning March 4, 1848, a preacher who had come to our Church from the Roman Catholic Church, and who, while a member of that Church, had been ordained a priest, applied in due form to be recognized as an elder in the Methodist Episcopal Church on the ground of his ordination to the priesthood in the Roman Catholic Church. Pending this application, the question was raised as to his eligibility to recognition under the provision of the Discipline, in paragraph 155, section 2, for the recognition of the orders of ministers of "other Evangelical Churches" who may desire to unite with us; whereupon the president of the Conference held, that this applicant is not legally qualified for recognition under the section of the Discipline,

the Roman Catholic Church not being an "*Evangelical Church*" within the meaning of that term as therein used.

The Committee, after a careful examination of this question, report that the above ruling is correct, and for the reason therein stated. *(Journal, 1884, 373.)*

A minister coming from an Evangelical Church having but one ministerial order, may be received either as deacon or elder.

Your Committee has considered the matter of the appeal of —— from the ruling of Bishop ——, made at the —— Annual Conference at its session in 1890, and respectfully reports:

——, a minister of the "Brethren Church," applied for admission to the ——. Annual Conference. The Brethren Church has but one order of ministers. The question being raised as to *whether said —— should be received as a deacon or elder,* ——, a member of the Conference, and the appellant here, raised the point that he could only be received as an elder.

Bishop ——, presiding, ruled that he could be received *either as deacon or as elder,* in the discretion of the Conference, and thereupon the Conference, by vote, admitted him as a deacon.

The Committee is of the opinion that the ruling of Bishop —— was correct, and it should be affirmed. *(Journal, 1892, 488-9.)*

Women are not eligible to ministerial orders.

In the matter of the appeal of ——, of the —— Conference, in the case of Sister ——, the Judiciary Committee respectfully report: That it appears from the record that Sister —— had been recommended to orders by a Quarterly Conference, and, upon said recommendation coming before the said Annual Conference, Bishop ——, then presiding, gave the following decision, to wit:

"In my judgment the law of the Church does not authorize the ordination of women; I, therefore, am not at liberty to submit to the vote of the Conference the vote to elect women to orders."

Your Committee have come to the conclusion that such ruling was in accordance with the Discipline of the Church as it is, and with the uniform usage of administration under it.

The Committee, therefore, report that said appeal should not be sustained. *(Journal, 1880, 353.)*

Women may not be licensed to preach.

In the matter of the appeal of ——, of the —— Conference, the Judiciary Committee respectfully report that it appears from the record certified to us that, at —— District Conference, held February 27, 1878, Sister —— was licensed as a local preacher, whereupon —— appealed from the action of said Conference.

Bishop ——, presiding at the —— Annual Conference, upon the coming in of said appeal, made the following decision:

"In strictness the appeal should have been made from the decision of the president of the District Conference, in entertaining and putting to vote the motion to grant such license, since the Discipline puts upon him the decision of all questions of law in the District Conference, and provides for appeal therefrom. *(Discipline, par. 163, sec. 6.)* Waiving this informality, I give my judgment that the Discipline of the Church does not provide for nor contemplate the licensing of women as local preachers, and that, therefore, the action of said Conference, and of its president, was without authority of law."

The Committee report that they have come

to the conclusion that such ruling of the presiding Bishop was in accordance with the Discipline of the Church as it is, and with the uniform course of administration under it. We, therefore, report that said appeal should not be sustained. *(Journal, 1880, 353-4.)*

CHAPTER VIII.

PREACHERS

Supernumerary and superannuated preachers have the right to vote in the Quarterly Conference where they reside.

THEY also wish a declaration as to "whether, according to paragraphs 191, 192, superannuated and supernumerary preachers residing out of the bounds of their Conferences are members of the Quarterly Conference where they reside in such sense as to entitle them to vote therein."

In the opinion of the Committee, superannuated and supernumerary preachers residing out of the bounds of their Annual Conferences are members of the Quarterly Conference where they reside in such sense as to entitle them to vote therein. *(Journal, 1892, 490.)*

Substitution of other designation than "superannuate" does not affect legal status of superannuates.

The following question was submitted to us, the Committee on Judiciary, by the General

Conference, upon the request of the Committee on Revision, to-wit:

"Would the substitution of the word 'retired' for the word 'superannuated' affect the legal status of superannuates or societies for the benefit of superannuates named in wills, legacies, etc.?"

To this we answer: "In our opinion, it would not." *(Journal, 1904.)*

A preacher in charge has the right to control the religious services of our Church within his charge.

The following question has been submitted:

"When a superanuated, supernumerary, or local preacher makes an appointment and conducts religious services within the bounds of a station, circuit, or mission, to which a pastor has been appointed, without the consent of the pastor, is the preacher thus obtruding his services guilty of improper conduct, and subject to charges and trial?"

Answer. The appointment of a preacher to the charge of any mission, circuit, or station, implies the right to control the religious services of our Church within its bounds. *(Journal, 1884, 377.)*

A suspended preacher has no claim for salary during his period of suspension.

Your Committee, to whom was referred the following question, namely,—"What claim has a traveling preacher on a congregation or an Annual Conference for his salary, who has been tried and suspended in the interval of Annual Conference sessions, and the Annual Conference, on further investigation, finds him not guilty of the crime for which he has been suspended?"—have carefully considered the same, and report that, while they recognize and are mindful that to deprive a traveling preacher of his salary while suspended on unsustained charges works a hardship, yet your Committee submit that, by the law of the Methodist Episcopal Church, where a traveling preacher is suspended and restored, as in the case stated herein, he has no claim on the congregation or the Annual Conference for his salary during such period of suspension; and to your Committee this law appears to be wise, as well as based upon sound judicial principles. *(Journal, 1884, 380.)*

A suspended preacher has no right to exercise ministerial functions till his ministerial disabilities are removed.

See the case mentioned on page 39.

A transfer made without request of the minister transferred carries with it the right to an appointment.

The Committee on Judiciary have given attention to the following questions, presented by Bishop Andrews for adjudication:

"Can a Bishop, in accordance with the Discipline and usages of the Church, with or without the desire of a preacher holding an effective relation, transfer said preacher, without at the same time giving him an appointment in the Conference to which the transfer is made; and, if so, under what conditions and limitations?"

To this question the Committee give the following answer:

The Episcopacy of the Methodist Episcopal Church is a unit, and our economy assumes harmony of action. But Bishops are many, and in the division of the work into different Conferences presided over by different Bishops, a Bishop can, in accordance with the Discipline

and usages of the Church, transfer an effective preacher, with or without his desire, into a Conference under the jurisdiction of another Bishop without at the same time himself giving him an appointment. But every effective preacher is entitled to an appointment within the Conference of which he is a member. His transfer to another Conference carries with it this right, and should not, therefore, be made without at the same time making adequate provision in a regular manner for its protection. Nevertheless, if a preacher requests such a transfer to a Conference, not to meet for some time after his transfer, he can not complain if he does not receive work till the next ensuing session of the Conference. *(Journal, 1884, 371-2)*

A District Superintendent may not give certificate of withdrawal to a superannuate of another Conference.

The following question and answer are from the Journal of the —— Conference, and were referred to the Committee:

"When a superannuated member of a sister Conference, residing in the bounds of our Conference, concludes to withdraw from the Church,

can the presiding elder give him a certificate of withdrawal?"

Answer. No.

We respectfully recommend concurrence in the decision of the Chair as the correct ruling.

An Elder on Trial may be appointed District Superintendent.

The Committee on Judiciary was instructed to inquire and report whether a Bishop may legally appoint an elder who is on trial in an Annual Conference to the office of Presiding Elder; and we would respectfully report that we find nothing in the law of the Church to forbid such appointment.

Those who are licensed to preach must first be examined according to Discipline. License otherwise obtained is null and void.

In the memorial of ——— and others of the ——— Conference, it appears that one, ———, was regularly tried and expelled from the ministry by that Conference, but not from membership in the Church. The said ——— then transferred his membership to some Church within the ——— District, ——— Conference, while he continued to reside at ———. Later,

the District Conference of that district granted him license to preach in his absence. This action is challenged by the memorialists as being in violation of the law of the Discipline, which requires the candidate for license to preach to be present for examination in doctrine and Discipline. This challenge is hereby sustained, as Paragraph 197, Section 1, of the Discipline, says that those who are licensed to preach must be "examined in the presence of the Conference on the subject of doctrine and Discipline." We find, therefore, that the said license is illegal and void.

Papers not owned by the Church can not be subsidized by the Church.

At a recent session of the General Conference, the following resolution was adopted:

"Whereas, Paragraph 46, section 6, of the Discipline, known as the Sixth Restrictive Rule, says:

" 'The General Conference shall not appropriate the produce of the Book Concern, nor of the Chartered Fund, to any purpose other than the benefit of the traveling, supernumerary, and superannuated preachers, their wives, widows, and children,' and

"WHEREAS, The General Conference, at its session on Saturday, granted certain subsidies of money and paper which appear to be in conflict with said Sixth Restrictive Rule, now, therefore, be it

"*Resolved,* That the Committee on Judiciary be, and is hereby, directed to consider the action taken granting these subsidies, and report to the General Conference at the earliest date practicable, and on Wednesday, if possible, whether or not said action is contrary to the Sixth Restrictive Rule."

Responding to the said resolution, your committee have considered the inquiry so submitted and beg leave to report:

First—We assume the question thus stated has reference to the recent order or resolution adopted by this Conference, providing for an appropriation of money and paper to the ———, owned and published by the Book Concern at New Orleans, La., and for a similar appropriation to the ———, a religious journal owned and published by private parties at ———.

Second—In our opinion, the appropriation to the ——— Advocate, a paper owned by the Book Concern, and for the maintenance and support of which it is legally responsible, is

not prohibited by the Sixth Restrictive Rule of our Constitution.

Third—In our opinion, the appropriation or subsidy in aid of the Advocate ———, which is not owned by the Book Concern, and for the maintenance and support of which said Concern is not legally responsible, is clearly prohibited by the restrictive rule above mentioned. *(Journal, 1908.)*

CHAPTER IX.

TRIALS.

The Chairman of a Select Committee may not dismiss a complaint.

THE Committee on Itinerancy having examined that part of the Journal of the —— Conference which relates to the case of ——, referred to them for consideration, would report that, as it appears, charges and specifications were preferred against the said brother, and referred by the Conference for trial to a Select Number of nine, according to the Discipline, with a chairman appointed by the Bishop. On the assembling of the Select Number, their chairman, without the consent of the Committee, dismissed the case on account of informality and indefiniteness in the charges and specifications. Notice was given that the action in the case would be brought before this

General Conference. Your Committee recommend for adoption the following, namely:

Resolved, That the Select Number appointed to try accused members of an Annual Conference act in the case in the stead and with the powers of the Conference itself, and its chairman is in the place of the Bishop. It is therefore improper for the chairman in such a case to dismiss a complaint. *(Journal, 1864, 360.)*

An accusation of slander can not be received if not signed by the person claiming to be slandered, nor if signed by him immediately after the defect has been pointed out.

In the matter of the appeals from the rulings of Bishop ——, made at the —— Annual Conference in the year 1889: The presiding elder having received charges in writing against ——, a member of the —— Annual Conference, summoned a Committee of Investigation. The Committee having met, upon motion of counsel for the defendant the presiding elder struck out the second charge, which charge was slander. Said charge had not been brought or signed by the person alleged to have been slandered, and upon this ground the charge was stricken out. The pre-

siding elder also held that the Committee must decide only upon the charges made, and that it had no authority to bring in a verdict of a different offense from that charged, unless the same was germane to the original charge. From these rulings an appeal was taken, and the same came before Bishop ——, who presided at the next session of the —— Annual Conference. He sustained the rulings of the presiding elder, except he held that the presiding elder, on receiving charges, may rule out such as are not actionable before he cites the accused to trial or calls a Committee; but having placed charges in the hands of the Committee and furnished the accused with a copy, his right to change the bill of charges is at an end.

Your Committee is of the opinion that the ruling of the Bishop was correct, save that, under the circumstances of this case, it was proper for the presiding elder, upon motion of the accused, to strike out the charge of slander. *(Journal, 1892, 490-1.)*

A Judicial Conference has no authority to formulate a new charge.

The Rev. ——, of the —— Conference, was brought to trial before a Select Number upon

two charges: the first, immorality, with one specification; the other, lying, with three specifications.

The first charge and specification, and the second charge and the second and third specifications, were sustained, and he was sentenced to deposition from the ministry and expulsion from the Church.

Having appealed, the case came before the Judicial Conference held at Columbus in December, 1891. The Judicial Conference reversed the finding upon the specifications of the second charge and the second charge. It reversed the finding upon the first charge, but did not reverse the specification under that charge. Then, to quote the language of the record, the Conference "agreed that the testimony presented to this Judicial Conference in support of the specification under the first charge proves that the Rev. —— has been guilty of imprudent and unchristian conduct," and it thereupon suspended him from the ministry until the next session of the Annual Conference.

The specification not reversed under the first charge is very vague and indefinite, and it is doubtful whether it is sufficient to sustain any charge. The Judicial Conference did not find

it sufficient, but from the testimony it formulated a new charge, of which it then found the accused guilty.

Your Committee is of the opinion that the Judicial Conference in this affirmative action exceeded its authority, and that the sentence of suspension should be vacated, and the accused be restored to all the rights of a traveling preacher. *(Journal, 1892, 491-2.)*

In order to affirm or reverse the decisions of a lower court, the whole of the findings must be considered.

Resolved, by the delegates of the several Annual Conferences, in General Conference assembled, That the decision of the —— Conference, in the case of ——, by which it voted that he had been guilty of violating his pledge, and of contumacious conduct, be, and hereby is, reversed.

The chair decided the above out of order, as not embracing the whole of the action or findings of the —— Conference in this case, stating that the Conference must affirm or reverse the decision, or, for want of formality, refer it back for a new trial.

On motion of ——, an appeal was taken from the decision of the chair.

The decision of the chair was sustained.

—— moved to reconsider the vote sustaining the decision of the chair. Laid on the table.

—— moved the following:

Resolved, by the delegates of the several Annual Conferences in General Conference assembled, That the decision of the —— Conference, in the case of ——, be affirmed.

The call for the yeas and nays was sustained. *(Journal, 1852, 51-2.)*

Evasion of law is violation of law, and acts done under the same are null and void from the beginning.

The Committee on Judiciary has carefully considered the memorial of the Troy Annual Conference in relation to the trial and expulsion of —— from the —— Street Church, in ——, and also the trial of Rev. —— by the "Select Number" appointed by the —— Conference at its last session, wherein the said —— was found guilty of maladministration, and also the memorial and petition of the Rev. ——, in answer to the memorial of said —— Annual Con-

ference, and find that, after the trial and expulsion of said —— from said —— Street Church, in ——, the said Rev. ——, being stationed at ——, and —— Charge, in the —— Conference, did receive the said —— into said society on probation, and at the end of six months thereafter did receive said —— into full membership, without "contrition, confession, and satisfactory reformation" on the part of said ——, the said —— having knowledge of the trial and expulsion of said —— from said Church.

Your Committee are of the opinion that membership in the Methodist Episcopal Church can not be gained in the above manner, under such conditions and circumstances, as the whole proceeding was fraudulent, and evasive of the disciplinary action of the Church at ——, which was well known to said —— and said —— to be in violation and derogation of the Discipline of the Church.

And your Committee are of the opinion that the said —— is not a member of the Church, and has not been such member since his trial and expulsion from the said —— Street Church, ——.

And your Committee recommend that the

following be added to the resolution of the General Conference of 1852, page 73, namely:

"Nevertheless, when a member has been expelled from the Church, and has thereafter gained admission into the Church elsewhere, without 'confession, contrition, and satisfactory reformation,' according to paragraph 238, his membership is null and void, and any certificate of such membership, should not be received." *(Journal, 1884, 378.)*

New trials may not be granted or findings reversed, in whole or in part, on technical grounds.

The following paragraph contained in the Address of the Bishops, has been referred to the Judiciary Committee for their opinion thereon:

"It has been necessary to convene a considerable number of Judicial Conferences during the quadrennium. Our observation leads us to commend to your consideration the question whether these Conferences ought to be longer permitted to reverse the finding of the 'Select Number,' or of an Annual Conference; or to remand a case for a new trial on merely technical grounds, or because of errors in the proceedings of the

Court below, which errors do not materially affect the question of the guilt or innocence of the applicant."

The hearing of the appeals referred to in the above, is regulated by paragraphs 245 and 246 of the Discipline,—the charges and specifications, with the minutes of the trial, and all the documents relating to the case, are to be presented to the Judicial Conference, and upon this record alone is the case to be decided.

(Paragraph 245.) The point suggested by the Bishops, as we understand it, is, whether the judgment of the Court below should be reversed, and a new trial granted for technical errors not affecting the merits.

We think it should not, with certain exceptions, of a special character, not necessary to be noticed here.

Courts of law, as well as of equity, have very generally adopted the rule of deciding appeals according to the very right of the case, disregarding such errors of the lower tribunal as plainly could not have affected the result. Informalities in the mode of proceeding, not prejudicial to the rights of the parties—even erroneous rulings in the admission or rejection

of testimony, where such errors have been corrected at a subsequent stage of the trial, or when it is apparent they have not led to a decision different from what would otherwise have been reached—should not be allowed to vitiate a judgment which stands upon solid grounds, unless the Appellate Court, however, can see clearly that the errors complained of, have not operated to the substantial injury of the appellant, a new trial should be ordered.

This view of the case derives confirmation from paragraph 247, which provides, that "the General Conference shall carefully review the decisions of questions of law contained in the records and documents transmitted to it from the Judicial Conferences, and, in case of *serious error* therein, shall take such action as justice may require."

The general purpose of the code, seems to be to secure substantial right, rather than to concern itself with unimportant errors.

A "serious error," is one affecting a substantial right; any other mistake should not be permitted to interfere with the course of justice.

Our conclusion is likewise in harmony with the report of the Judiciary Committee of the

General Conference of 1880, and the action of the Conference thereon, in a case coming from the —— Conference. *(See Journal of 1880, page 354.)*

But, for greater certainty in this respect, and also to give the Judicial Conferences the right in proper cases to modify the decision appealed from, we propose the following, to be added at the end of paragraph 246: "It may affirm or reverse the findings and decision of the Annual Conference, or affirm in part, and reverse in part; but it shall not reverse the same, or remand the case for a new trial, on account of errors plainly not affecting the result." *(Journal, 1884, 370-1.)*

In the matter of the appeal of ——, of the —— Conference, from the decision of a Judicial Conference, the Judiciary Committee report, that while an informality occurred upon the trial before the Conference Committee, it does not appear to have been objected to, and it was not of a nature to give rise to any suspicion of injury to the accused.

If objection had been made at the time, the irregularity could have been avoided; it should, therefore, be regarded as waived.

There does not appear to have been any

serious error committed, nor any injustice done to the accused. We, therefore, report that said appeal should not be sustained. *(Journal, 1880, 354.)*

Technical errors of slight significance are not sufficient ground for reversal of judgment.

Your Committee on Judiciary, having carefully reviewed the appeal of Rev. ———, a member of the Dakota Conference, respectfully report as follows:

The said Rev. ——— was tried before a Select Number of said Conference, appointed by Bishop ——— at ———, October 12, 1906. The charges against him were:

(1) Immorality, with the specification of extreme and repeated cruelty to his wife.

(2) Unchristian conduct, with the specification of ignoring worship and all public means of grace.

The first charge was sustained under the specification of extreme and repeated cruelty to his wife. The second charge of unchristian conduct was also sustained. The said ——— was deposed from the ministry by the ——— Conference. Thereupon the said Rev. ——— appealed to the Judicial Conference convened by

Bishop ——— at ———, December 12, 1906. The case was heard in due form by Triers of Appeals, and the action of the Annual Conference was sustained. The said ———then appealed to the General Conference from the decision of the Judicial Conference.

A careful examination of all the points raised show them to be without serious force. The facts, in brief, are: In November, 1905, almost a year before the Conference trial, the wife of said ——— obtained a final and absolute divorce from him in the civil court. The case was thoroughly tried; both appearing, and voluminous testimony was heard and weighed, with the result that an absolute divorce was granted to Mrs. ——— on the ground of extreme and repeated cruelty. Copies of this decree and of the main evidence on which it was granted were produced in the Conference trial, and were the basis of the action of the Conference in convicting said ——— of immorality and in deposing him from the ministry.

The records show that the accused had due notice of the charges against him and opportunity to defend himself; that both the Conference trial and the trial by the Judicial Con-

ference were in due and regular form, and that the technical errors alleged are of slight significance and value, and do not affect the main issue or the result of the trial.

Your committee is therefore of the opinion that the decision of the Judicial Conference should be affirmed. *(Journal, 1908.)*

A Judicial Conference may affirm in part and reverse in part the findings of a lower court.

Your Committee has carefully examined the records and documents in the case of ——, a minister of the —— Annual Conference, tried upon certain charges and found guilty, and which case was afterward, upon appeal, heard by a Judicial Conference, and the decision of the Annual Conference affirmed in part and reversed in part. And your Committee reports that it finds no serious error in the proceedings, and that no action is required therein. *(Journal, 1892, 490.)*

A Judicial Conference may modify the sentence of a lower court without any modification of the findings of said court.

In the matter of the complaint of —— and ——, touching the decision of the Judicial Con-

ference in the case of the Rev. ——, a member of —— Conference:

During the session of the said —— Conference, held at ——, the said —— was brought to trial before a Select Number under a charge of "gross deception."

The charge was sustained, and the defendant was deposed from the ministry of the Methodist Episcopal Church. The defendant appealed from this decision, and the said appeal was tried, ——, at ——, by a Judicial Conference, composed of Triers of Appeals from the ——, ——, and —— Conferences, Bishop —— presiding. The following verdict was rendered by the said Judicial Conference: "The Judicial Conference, in the case of the Methodist Episcopal Church *vs.* ——, hereby modifies the penalty from expulsion from the ministry, to suspension from the ministry until the ensuing session of his Conference."

Against this decision, —— and ——, of the counsel of the Church, complain, "challenging the action of the Judicial Conference on the ground that it violated the law of the Church in modifying the sentence of the lower court without any modification of the finding."

Your Committee is of the opinion that the

decision of the Judicial Conference was in harmony with the law in the case, and recommends that it be affirmed. *(Journal, 1900, 456.)*

A Judicial Conference can not modify the sentence of an Annual Conference if charges and specifications are sustained and a new trial denied.

Regarding the case of ——, the Committee reports:

At the session of the —— Annual Conference, held in the year 1888, charges were brought against said ——, then a member of that Conference. He was charged, among other things, with *dishonesty,* there being two specifications: First, that he had collected certain moneys for a periodical named, and had converted them to his own use; and, second, that he had received money from the treasurer of his Church for the purpose of paying certain bills of the Church, and had converted it to his own use. He was also charged with *imprudent and unchristian conduct,* the specification referring to certain acts with respect to a young woman, named.

At the trial, the above-mentioned specifications were sustained, and the charges were sustained, and he was deposed from the ministry.

Having been appealed, the matter came before a Judicial Conference, composed of Triers of Appeal from ——, ——, and —— Annual Conferences, Bishop —— presiding.

The Judicial Conference voted to reverse the finding upon the first specification of the first charge, but sustained the finding upon the other specification of the first charge, and sustained the specification of the second charge and the charge, and it voted not to remand the case for a new trial. Thereupon Bishop —— ruled that the Judicial Conference could not then modify the penalty imposed by the Annual Conference.

The Committee is of the opinion that the ruling of Bishop —— was correct, and it should be affirmed. *(Journal, 1892, 489.)*

Signers of charges and witnesses in a case can not be members of a court trying the accused.

Your Committee has had under consideration the matter of the appeal of —— from the decision of Bishop ——, made at the session of the —— Annual Conference in the year 1892, and respectfully reports as follows:

——, a member of the —— Society, —— Circuit, —— Conference, was charged, among

other things, with immoral conduct, to-wit, lying. Upon this charge he was convicted and expelled from the Church. He took an appeal to the Quarterly Conference. Five members of said Conference had signed the charges on which he was tried in the court below, and two members of said Conference were witnesses against him in the court below.

At the trial before the Quarterly Conference (——, presiding elder), Mr. —— made a motion not to allow the five persons who had preferred the charges against him and the two persons who had been witnesses against him in the court below to vote upon the case, and that they be ordered to retire from consideration of the same. This motion the presiding elder overruled, to which ruling —— excepted, and the charge being sustained, appealed to the Bishop of the —— Annual Conference.

Bishop ——, presiding, sustained the ruling of the presiding elder, and held that all members of said Quarterly Conference who had signed said charges had a right to vote on the guilt or innocence of said ——, to which ruling said ——, through his counsel, excepted,

and thereafter perfected an appeal from said decision to the General Conference.

Your Committee is of the opinion that the decision was erroneous, and it recommends that the decision be reversed, and that the case be remanded for a new trial by the Quarterly Conference. *(Journal, 1896, 423.)*

Members of a Judicial Conference, not being present, it is not lawful for those who are present to hear the case or to pass judgment.

In the case of the Judicial Conference, held at ——, to hear the appeal of —— from the action of the —— Conference, it appears that only two of the triers were in attendance; but, by agreement of all parties interested to waive objections and abide the decision of the triers present, the appeal was tried, and the decision of the Conference reversed.

In the judgment of your Committee this procedure was unauthorized by the law in the case, and would therefore be an unsafe precedent to follow. But, inasmuch as the result seems to have been generally satisfactory, and justice does not seem to require further action, we recommend the General Conference to let it pass without further notice.. *(Journal, 1876, 335.)*

Select Committee have power only to hear evidence and determine questions of fact.

The following questions relating to the "Select Number" appointed by the Annual Conference to try cases, as provided in Paragraph 230, Section 3, were submitted to us by the General Conference upon the memorial of the Montana Annual Conference, to-wit:

1. Does the "full power" now conferred upon them to "consider and determine all cases" give them power to determine questions of law and testimony and procedure, or is that power vested in the president appointed in the absence of a Bishop?

2. What number is necessary to constitute a verdict—unanimous, a majority, or a two-thirds vote?

3. What shall constitute proper testimony, without cross-examination?

4. Is it possible to have proper testimony without an opportunity of cross-examination by the accused, either oral or written?

To the first question we answer as follows: The "Select Number" appointed by the Annual Conference have full power to consider the evi-

dence and determine all questions of fact in the cases before them. They have no power to determine questions of law or procedure. The Bishop, or the chairman appointed in the absence of the Bishop, has full power to consider and determine all questions of law and procedure, including questions as to the admissibility of evidence.

To the second question we answer—a majority.

To the third and fourth questions we answer as follows: Reasonable opportunity for cross-examination should be afforded. If the accused fail to avail himself of such opportunity, testimony may be properly taken and used without cross-examination. *(Journal, 1908.)*

An Annual Conference is not obliged to put a member on trial where there has been no previous investigation.

Your committee has also had before it a complaint made by Mrs. ——— against Bishop ——— as president of the ——— Annual Conference in 1906, in that he referred charges brought against a member of that Conference

to a committee of the Conference for preliminary investigation and report, instead of putting the accused on trial before the Conference.

There was no error in the course pursued, and no ground of complaint.

Under Paragraph 222, Section 7, an Annual Conference may put on trial an accused member where there has been no previous investigation, but it is not obliged so to do.

The committee has also considered the complaint made by Mrs. ——— against Bishop ———, as President of the ——— Annual Conference in 1908, in pursuing the same course in reference to charges preferred by her against a member of that Conference. For reasons above stated there was no error in the course pursued.

Your committee therefore recommends that the appeal in these three cases be dismissed. *(Journal, 1908.)*

No serious error in findings of an Annual Conference, the decision of a Judicial Conference will be affirmed.

Your committee, having carefully considered the records on appeal in the case of ———,

a member of the ——— Annual Conference, respectfully report:

That the said ——— was charged with immoral, unchristian, and unministerial conduct. That he was duly tried before a select number at the annual session of said Conference, held in September, 1905. He was found guilty of the charges and was suspended from the ministry and membership of the Methodist Episcopal Church. An appeal was then taken by him from the decision of the Annual Conference, to the Judicial Conference, held December 5, 1905, Bishop ——— presiding. At the Judicial Conference the findings of the Annual Conference Select Number were confirmed. The said ——— then appealed to the General Conference from certain rulings made by Bishop ——— at the Judicial Conference. These rulings and exceptions thereto are specifically set forth in the record on appeal.

In our opinion, no serious errors of law have been committed therein, and the decision of the Judicial Conference should be affirmed and the appeal dismissed. *(Journal, 1908.)*

A Committee of Trial or Select Number can not hold a session after final adjournment of Conference for the trial of a minister.

We have been instructed to consider and report whether a Committee of Trial (or Select Number) may hold a session, after the final adjournment of the Annual Conference, for trial of a minister.

We find no specific law in this case. "The Committee of Trial" or "Select Number" is evidently only the representative of the Annual Conference, and subject to its laws of action. Specific provisions are made for proceeding against an accused minister "in the interval of the Annual Conference," which precludes the method of trial by the Committee of the Annual Conference.

It seems hardly logical to say the Annual Conference can perpetuate its existence after its official adjournment, or that the *Annual* Conference can meet more than once a year.

It is, therefore, the opinion of the Committee that the question referred to them should be answered in the negative. *(Journal, 1864, 355.)*

Questions determining testimony are questions of law.

Resolved, That questions relating to the admissibility of testimony are questions of law. *(Journal, 1848, 127.)*

If a preacher takes an adjudged case from a Select Committee to a Quarterly Conference for trial, it is an application for a new trial.

Resolved, That when a preacher, who differs in judgment from the majority of the society, or the Select Number, concerning the guilt or innocence of an accused person, carries up the trial to the Quarterly Conference, it is an application for a new trial.

Resolved, That in no case of an appeal, can new evidence be admitted. *(Journal, 1848, 127.)*

"Is there in the Discipline anything authorizing a Quarterly-meeting Conference to remand a case for a new trial?"

Answer. When the preacher in charge differs "in judgment from the majority of the society, or the Select Number, concerning the guilt or innocence of the accused person," and refers the case to the Quarterly Conference, that body has "authority to order a new trial." *(Dis-*

cipline, p. 99.) And in other cases, the power to remand for what the Conference may deem sufficient cause, is inherent in that body as an appellate court. *(Journal, 1860, 301.)*

Testimony taken before a Committee, in the case of a member of an Annual Conference, is evidence in the same case before an Annual Conference.

Resolved, That testimony taken before a Committee sitting in the case of an accused member of an Annual Conference, is to be received as evidence on the trial of said minister before the Annual Conference, and that a rule for taking such testimony shall be provided. *(Journal, 1848, 126.)*

A verdict is in the control of the Select Number that tries the case until it is formally presented to the Annual Conference.

A complaint has been made that a sealed verdict in the case of ——, a member of —— Annual Conference, had been lodged with the secretary of the said Conference; that it had been returned by the said secretary to the chairman of the Select Number; and that this action was irregular and illegal.

Your Committee is not in possession of full information as to the circumstances in this matter. That which it has is wholly *ex parte,* and it is, therefore, not able to pronounce any judicial opinion in the case. We are, nevertheless, of the opinion that until a verdict is formally presented to the Annual Conference it is in the control of the Select Number. *(Journal, 1900, 456.)*

A Judge who has formerly acted as counsel in a case is incompetent to try that case.

——, a member of the Methodist Episcopal Church on —— Circuit, —— District, —— Annual Conference, was tried before a Committee on a charge of "immoral conduct," and was found guilty and expelled from the Church. The defendant appealed to the Quarterly Conference; the Quarterly Conference (——, presiding elder, in the chair) sustained the findings of the Committee. The defendant appealed from the rulings of the presiding elder to the Bishop presiding at the next session of the —— Annual Conference. The Bishop sustained the rulings. The defendant appealed from the decision of the Bishop to the General Conference in 1896. The General Conference reversed the decision of the

Bishop and remanded the case to the Quarterly Conference for a new trial. A change of venue was granted. The case was transferred to another Conference for trial. The trial was had, the said ——, presiding elder, in the chair. At this second trial the finding of the Committee was sustained, and the defendant, ——, appealed from certain rulings therein to the Bishop who presided at the next session of the —— Annual Conference. For our purposes, we need only dwell upon the fourth exception and in ruling thereon, which are as follows:

Exception 4. That the said Quarterly Conference, by having the said presiding elder as its presiding officer at the trial—he having once been attorney for the respondent and against the appellant in the case—was an illegal body for the trial of the said —— under the laws of the Church.

The Bishop ruled that the plea of the appellant, that the said ——, presiding elder, was incompetent to sit as president of said Quarterly Conference, by reason of having acted as counsel for the Church in the trial of the case in a previous hearing, was not well taken; for the reason that it does not appear that the said

—— was ever employed as counsel for the Church in the case, or ever acted as counsel, or was ever present at the hearing of the case, when the said —— was tried and the record was made which was passed upon by the Quarterly Conference over which said —— presided. That the allegation that the said —— had acted as counsel in the case was not sustained; as the only sense in which the said —— acted as counsel for the Church was in regularly and lawfully defending his own rulings in the Quarterly Conference, upon the appeal taken therefrom to the Bishop presiding at the Annual Conference next ensuing; that such defense of his ruling was not in any wise the act or function of a counsel, but the regular act of a presiding elder; that it did not tend necessarily to bias the presiding elder's mind as to the rights of the appellant or the merits of the case; inasmuch as the hearing before the former Bishop did not involve the merits, but related solely to the legality of the rulings of the said —— as presiding elder in the Quarterly Conference.

From this ruling of the Bishop, —— appealed to this General Conference.

The Committee has given much consider-

ation to this case because of the great importance involved.

The ruling of the Bishop affirms that ——, presiding elder, who presided at the first trial, before the Quarterly Conference, as a *judge,* and who upon appeal to the Bishop appeared as *counsel* and argued the case for the Church, and against ——, the defendant, was competent to sit as judge and presiding officer of the second Quarterly Conference, in the case when remanded for the trial.

To this proposition we are unable to give our assent. The records of the case show that, on September 29, 1892, before the Bishop, —— appeared and argued the case as counsel for the Church, and signed his name to the record "as attorney for the Church before the Bishop." By the records, which alone we may consider, the said —— appears in the first trial of the defendant for the Quarterly Conference as presiding officer and judge; on the appeal to the Bishop he appears as attorney and counsel for the Church; then when the case was returned he again appears as presiding officer and judge at the second trial before the Quarterly Conference.

It is an elementary principle of law and justice, prevailing in all civilized countries, that the judicial tribunal before which any person is tried shall be impartial, without leaning or bias. If the judge has made himself a party either to the prosecution or defense he is disqualified to sit. That one may act as judge first, next become an attorney or counsel in the same case for one of the parties, either on the side of mere law or on the side of facts merely, and then, when he is reversed in the law, may drop his robe as counsel and sit as judge in the same case again, is at war with all the traditions of our race, and would seem to be a mere travesty of justice. We most emphatically dissent from such a position, and conclude that the ruling was wrong, should be reversed, and the case remanded to the Quarterly Conference for a new trial. *(Journal, 1900, 458-460.)*

An Annual Conference must confirm its sentence or correct its error.

Moved, etc., to take up the appeal of ——. Carried.

Moved that the case of —— be referred to the —— Conference, either to confirm his ex-

pulsion or correct the error in the last Minutes. Carried. *(Journal, 1820, 238.)*

Documentary testimony need not be entered in a Conference Journal, but must be filed by the Secretary.

"'*Ques.* 5. Must all testimony taken before the Conference be spread on the journal, or may it be written down and kept in a form separate from the Journal?'

"*Answer.* Documentary testimony need not be spread upon the Journal, but should be filed and preserved by the Secretary." *(Journal, 1848, 129.)*

If witnesses will not testify in open Conference, the Conference may appoint a Commission to take their testimony, due notice being given the accused.

"'*Question* 4. If living witnesses are present at the seat of the Conference, but refuse to give evidence in open Conference, is the Conference at liberty in such a case to appoint a Committee to take such testimony in the presence of the accused out of the Conference; and, if so taken, must the testimony be written down by the Secretary of the Conference?'

"*Answer.* The Conference has a right to appoint a Commission to take testimony when the witnesses can not be brought before the Conference, the opposite party being notified to appear before such Commission, and having the right to cross-examine the witnesses; in such case the testimony is to be taken by a secretary appointed by the Commission, and when reported to Conference it must be filed and carefully preserved by the secretary of that body." *(Journal, 1848, 129.)*

A Trial Committee may find accused guilty of less offense than that charged.

Your Committee on Judiciary, having carefully reviewed the records in the appeal of Rev. ——— from the decisions of Bishop ———, in the case of Rev. ———, of the ——— and ——— Conference, respectfully report as follows:

In 1904, when the name of Rev. ——— was called, the Presiding Elder, Rev. ——— reported that charges had been preferred against Rev. ———, that a committee of investigation had been called, and that the charges were not established; neither was any specification under the charges sustained.

The Conference passed the character of the accused.

There is evidence that the Presiding Elder who had presided at the preliminary trial, in reporting the verdict in this case, did not read these words, which were a part of the findings of the committee, namely: "But, while the investigating committee finds that ——— is not guilty of the charge preferred against him, nevertheless the committee regard him, according to the evidence, as being guilty of high imprudence and unministerial conduct."

We note that the accused had not been suspended, but the Conference session was near at hand.

At the session of the Conference in 1905, the appellant asked the presiding Bishop, ———, these questions:

"Had the committee authority to declare said Rev. ——— guilty of high imprudence and unministerial conduct?"

"Had the Presiding Elder authority to leave out of the verdict that part relating to high imprudence and unministerial conduct?"

The Bishop gave his decision in the following statement:

"1. When the committee of investigation

found no specification, in their judgment, sustained by the testimony, the function and authority of that committee was ended.

"2. When the committee stated, in framing its report, that it regarded the accused as being guilty of high imprudence and unministerial conduct, such statement was extra-judicial, unauthorized by law, and no proper part of the verdict.

"3. When the Presiding Elder reported that the committee found that the charges were not sustained by the evidence, he reported all that the committee should have placed in their report consistent with their prerogative.

"4. When the Presiding Elder did not report all that the committee had framed as their report, he merely left out what never should have been put in.

"5. If the Conference, or any part of the Conference, wished the omitted portion stated and had then asked for it, doubtless the Presiding Elder would have been explicit, but the main issue would not thereby have been changed.

"6. As no specification was sustained, and as the next ensuing Annual Conference passed the character of the accused, my opinion is that the case should be considered closed."

From this ruling ——— appealed. The Conference again passed the character of Rev. ——— and ordered all reference to the case expunged from the Conference Minutes.

In proceedings under Paragraph 222 of the Discipline, it is our opinion that when the evidence justifies it the committee may find the accused guilty of an offense less than that for which he is charged, as in Paragraph 231. The Presiding Elder erred in withholding a portion of the verdict of the committee in his report to the Annual Conference in the case of ———. However, since the records show: (1) That the members of the committee knew all the facts in the case; (2) that the record was accepted by the Conference without dissent; (3) that the character of ——— was passed and he was assigned to a charge; (4) that one year thereafter his character was again passed; (5) that the Conference instructed the secretary to expunge from the Conference journal all reference to an appeal on questions propounded to Bishop ———; (6) and that the purpose of the questions which were submitted to Bishop ——— was to reopen the case, and that the records clearly show that the Conference would not entertain a motion to reopen the case, we sustain

the decision of Bishop ——— in that he decided the case closed. *(Journal, 1908.)*

A ruling must be a matter of record.

In the matter of the complaint of Rev. ——— against Bishop ———, in the case of Rev. ———, it does not appear that any ruling complained of by the said ——— against Bishop ———, in the case of ——— of the ——— Annual Conference, is a matter of record, and it does not appear from the records in our possession that any appeal was taken from any ruling of the presiding officer of the said Conference.

Therefore we find no warrant for action on this complaint, and the appeal is hereby dismissed. *(Journal, 1908.)*

An order of argument before a committee having been agreed to, failure to obtain benefit therefrom is no ground for appeal. A Select Committee may acquit on one charge, but convict on another.

Your Committee on Judiciary, having carefully reviewed the records on appeal in the case of ———, member of the ——— Conference,

charged with immoral conduct, report as follows, to-wit:

During the intervals between the sessions of the said Annual Conference four charges of immoral conduct were brought against the said ——— by the Rev. ———, under Section 1 of Paragraph No. 222 of the Discipline.

A committee of investigation was appointed, and, after a hearing, found the said ——— guilty of all the said charges and suspended him from all ministerial services and Church privileges until the next Annual Conference.

The Annual Conference met in ———, and appointed a Select Number to hear and determine the case.

The Select Number found that the said ——— was not guilty of immoral conduct under Section 1, Paragraph No. 222, but that he was guilty of high imprudence and unministerial conduct under Paragraph No. 231 of the Discipline, and the said ——— was suspended from his office for one year.

An appeal was taken from the decision of the Select Number to the Judicial Conference, ———, Bishop ——— presiding.

The Judicial Conference entertained the appeal. The appeal was heard and the Judicial

Conference confirmed the findings of the Select Number.

An appeal was taken by the said ——— from the decision of the Judicial Conference to this General Conference. The appellant claims that error has been committed in two particulars: First—That the accused was deprived of an opportunity to answer the arguments of the representatives of the Conference; and, Second—That he was declared guilty of high imprudence and unministerial conduct without any cause, the Select Number not having substantiated a single charge under Section 1, Paragraph No. 222.

Concerning the first alleged error, the said ——— claims that after reading the evidence, charges, and findings, the appellant and his counsel presented their argument to the Select Number of the Conference, and then the representatives of the Conference presented their arguments, and that thereafter the hearing was closed.

The said ——— admits that this order of argument was agreed upon by him, but claims that it so operated in its effect as to deprive him and his counsel of an opportunity to reply to the arguments of his opponent.

Paragraph No. 268 of the Discipline prescribes the order of argument on appeals to Judicial Conferences, but is not, in express terms, made applicable to trials in Annual Conferences. By agreeing to the order of argument above mentioned, the appellant, in our opinion, has waived any and all right to claim error by reason thereof.

Concerning the second alleged error, the action of the Select Number of the Annual Conference in acquitting the said ——— on the charges of immoral conduct under Section 1, Paragraph No. 222, of the Discipline, and in convicting him of high imprudence and unministerial conduct under Paragraph No. 231 of the Discipline seems to be in accordance with the provisions of the last mentioned paragraph.

Your committee is, therefore, of the opinion that all the decisions of questions of law contained in the records and documents transmitted to this General Conference from the said Judicial Conference in this matter are free from serious error prejudicial to the appellant. *(Journal, 1908.)*

A witness in a case can not sit as judge in the case.

Your Committee on Judiciary, having carefully reviewed the records on appeal in the case of A. B., appellant, vs. X. Y., et al., appellees, wherein A. B. was expelled from the First Methodist Episcopal Church of ——— on a charge of immoral conduct, respectfully report as follows:

The appellant brings this case before the General Conference on a specification of errors to the rulings of the presiding officer occurring at the trial, had before the Select Number of the ——— Conference. The appellant was a local preacher. The charge was immoral conduct; the specifications, (1) lying, (2) forgery. The evidence was taken before the required number of local preachers, acting as an investigating committee, Rev. ———, pastor in the Church, presiding.

At the trial before the Quarterly Conference, Dr. ———, Presiding Elder of the District, presided. Numerous errors are assigned, chief among which is the one that Dr. ——— appeared before the Investigating Committee as a witness and testified, and, as trial judge at the Quarterly Conference, he ruled upon the admissibility of his own testimony, admitting the

same over the objection of the appellant, to which an exception was taken.

In the judgment of your committee, this was error. (See General Conference Journal, 1896, page 423.)

We recommend that the cause be reversed, and be remanded for a new trial. *(Journal, 1908.)*

RULINGS OF THE BISHOPS.

(See Journal, 1908, page ——)

The Rulings of the Bishops as submitted to the Committee on Judiciary by the secretary of the Board of Bishops and hereto appended, are approved, with the exception of the one numbered 42, which we find to be in error.

To the Judiciary Committee:

BRETHREN: The following are Rulings on matters connected with the administration of the Bishops, and approved by the Board of Bishops in its sessions during the quadrennium, and referred to in the Episcopal Address.

JOHN M. WALDEN, *Secretary.*

Validity of Certificate.

1. May, 1906. A member of our Church who takes a certificate and unites with a Church of another denomination, thereby exhausts that certificate, hence can not re-enter our Church on that Certificate. (Discipline, ¶ 49, § 2.)

Christian Science Society.

2. May, 1906. A pastor is not at liberty to give a letter of dismissal to a member who announces the purpose to join a Christian Science Society.

Boundary Commissions must meet.

3. May, 1906. It would not be legal for commissions appointed to determine the boundaries of Annual Conferences to reach a conclusion by correspondence and without a formal meeting.

Admission of Probationers.

4. May, 1906. An Annual Conference may not admit into full membership a member on trial "left without appointment to attend one of our schools," even though the time thus spent be four years and the studies of the entire course be passed; Discipline, ¶ 175, expressly stating "that the time thus spent in school shall not count on that required for trial in the Annual Conference."

Bishop in charge of a Conference.

5. May, 1906. When for any reason a Conference is turned over *ad interim* to another

Bishop, he has the entire administration thereof until a successor is appointed at the next Bishops' Conference. The Bishop who makes the appointments must have the right to superintend the work.

Locating a Preacher.

6. May, 1906. The only law in the Discipline providing a method of locating a preacher without his consent is contained in ¶ 228.

Amenability of Deaconesses.

7. May, 1906. Every deaconess is in the jurisdiction of the Annual Conference where she labors, even though she be a member of a Home within the bounds of another Conference. (Discipline, ¶ 209.)

Suspension may not be arrested.

8. May, 1906. When a member of Conference whose case was referred to the Presiding Elder for investigation is suspended from the ministry by a duly appointed committee until the next session of the Annual Conference, a withdrawal thereafter of the charges by the complainant does not make it legal for the Presid-

ing Elder to reopen the case. The suspension must hold until the Annual Conference convenes.

No second trial on same charges.

9. May, 1906. A member of the Church who has been tried on charges which were not sustained, can not be tried a second time on the same charges.

Pastor as Suday-school Superintendent.

10. May, 1906. We are of opinion that there is no Disciplinary objection to the election of a pastor as Sunday-school superintendent.

Renomination of Sunday-school Superintendent.

11. May, 1906. A person duly nominated by the Sunday-school Board as superintendent and refused confirmation by the Quarterly Conference, is eligible to nomination at any subsequent meeting of the Sunday-school Board, and to confirmation by the next Quarterly Conference thereafter.

Trine Baptism.

12. May, 1906. There is no law in our Discipline on the subject of trine baptism; but

because of its association with high ritualistic practices, we advise that it be not practiced among us, especially where the form used is immersion.

Quarterly Conference relation of preacher in detached service.

13. October, 1906. The Quarterly Conference relation of a preacher in detached service, such as chaplain, etc., may be changed, without his consent, only by the presiding Bishop of his Annual Conference. (Discipline, ¶ 173, § 4.)

Deaconess Work in a Mission.

14. October, 1906. "The foregoing," in Discipline, ¶ 212, refers to the whole chapter, hence a mission may elect a Deaconess Board which will have the authority given in Discipline, ¶ 207, which authority should be recognized.

Trial necessary to location.

15. October, 1906: After a Conference has, under ¶ 228 of the Discipline, requested one of its members to locate, whether he be present or absent at the next session he can only be located by a formal trial and conviction.

Legality of judiciary proceedings.

16. October, 1906. When an appeal has been taken to a Judicial Conference, it is for that Judicial Conference to pronounce upon the questions both of law and fact arising from the Minutes and documents coming to it from the Annual Conference.

Probationers not Conference Claimants.

17. October, 1906. The Conference stewards are not authorized to grant help from the Conference Claimant Fund to preachers on trial, nor to the widows of preachers on trial.

Collections of Woman's Missionary Societies.

18. October, 1906. Each pastor must decide for himself what are the regular services of the Church, referred to in Discipline, ¶ 375, § 4, and what are the meetings properly convened under § 5 of same paragraph.

The Professor Mitchell case.

19. October, 1905. To a request for a copy of the complaints made to the Bishops against Professor H. G. Mitchell for use in an investigation ordered by his Annual Conference, the following answer was given:

"The Board of Bishops has no information to give concerning the case, and under the limitations of their authority can not be participants, directly or indirectly, in any formal investigation ordered by an Annual Conference. There is no objection to the answer already returned by our secretary."

Removal of class leader.

20. October, 1906. There is no power lodged in the local Church to prevent the removal of a class leader by the pastor. (Discipline, ¶ 59.)

Relation of Bishop or Superintendent to Woman's Home Missionary Work.

21. October, 1906. (1) Under the provisions of the Discipline there is no direct relation of the workers or the work of the Woman's Home Missionary Society to a mission, its superintendent, or presiding Bishop. The only restriction in the administration of such workers or work is that stated in Discipline, ¶ 375, § 1.

(2) The above is modified by the provision of the Discipline respecting deaconesses

and deaconess work as specifically stated in the chapter relating to that subject, particularly ¶ 207.

Fraternity.

22. May, 1906. At the Bishops' Conference, held in Evanston, Illinois, the following resolution from the Commission on Federation was presented:

"*Resolved,* That where there are Churches of the two branches of Episcopal Methodism here represented, and recommendations shall have been made by joint committees from the Conference of the Methodist Episcopal Church and the Conference of the Methodist Episcopal Church, South, covering said territory, and a majority of the membership of each of said Churches shall have expressed a desire for union, such union may be consummated by the approval of the Bishop of the Methodist Episcopal Church and the Bishop of the Methodist Episcopal Church, South, having episcopal supervision of said Conferences."

This was referred to the Committee on General Reference, composed of seven Bishops, for consideration, which reported as follows:

"The foregoing matter having been pre-

sented to the Committee of General Reference, that Committee begs to recommend a favorable expression of opinion concerning the principle herein presented."

This report was received and adopted by the Board of Bishops.

Joint occupation of cities.

23. May, 1907. We are, as ever, desirous of maintaining cordial relations with our brethren of the Methodist Episcopal Church, South, wherever our works intermingle, as well as elsewhere. In order to do this, we recommend:

First, that in smaller places, where both denominations are struggling to maintain themselves, and where one Methodist Church would be sufficient, effort should be made to reach an amicable arrangement by which one of the denominations shall retire.

Second, that in the larger places and cities, which we deem it necessary to enter, where the Church South is operating, we will seek to locate in sections not already provided for, and, so far as in us lies, work in Christian harmony with all who serve the Lord.

Certificate in lieu of examination.

24. May, 1907. It is the judgment of the Bishops that the phrase, "all Biblical and theological studies," which occurs in Appendix, ¶ 63, § 4, of the Discipline, includes Butler's "Analogy of Religion" and Fisher's "Grounds of Theistic and Christian Belief."

Re-examinations.

25. May, 1907. It being the province of the Annual Conference to determine whether the examinations of undergraduates are satisfactory, it may authorize the re-examination of any who have failed to pass at a previous examination during the year.

Quarterly Conference on pastoral supply.

26. May, 1907. The Bishops think that it is not desirable that the Quarterly Conference take formal action on the question of pastoral supply at the ensuing Annual Conference, but we know of nothing, either in the law or usage of the Church, which forbids a Presiding Elder to entertain a motion on this subject.

Bishop's consent to transfer.

27. May, 1907. (1) We will call the attention of our Presiding Elders to the fact that

the employment, as a pastoral supply, of an effective member of an Annual Conference by the Presiding Elder of another Conference is absolutely illegal, and the Presiding Elder so offending is open to the charge of maladministration. Such an illegal supply can not exercise any pastoral functions, such as receiving or giving Church letters or presiding at any official meetings, and he remains amenable for desertion of his work to his own Conference, under the provisions of the Discipline, ¶¶ 162, 227.

(2) No Presiding Elder may excuse a pastor from the work to which he has been assigned by the Bishop, except by changing him to another charge, within the same district, under the provisions and limitations of ¶ 190, § 3, of the Discipline.

(3) The consent of the Bishops concerned, to a change of a pastor to work within another Conference, is *de facto* a transfer, and the certificate of transfer should be promptly issued.

(4) Until his own Conference, after due examination, has passed the character of the effective member who has left his work to serve

as a supply within another Conference, the Bishops are not at liberty to transfer him.

(5) The consent of elders, in cases above mentioned, is not sufficient to justify a man's leaving the work to which he has been appointed. He must await information from his Bishop.

Joint agreement of Bishops.

28. November, 1892. (1) In all cases, transfers will only be made by joint agreement of the Bishops having charge of both Conferences.

May, 1907. (2) We are not at liberty to transfer a preacher to any Conference without having first obtained the direct consent, either oral or written, of the Bishop having charge of the Conference to which the proposed transfer is to be made.

Separation of pastoral charges after being united.

29. May, 1907. Where a Bishop has united two or more pastoral charges, the Bishop in charge has authority to separate, as he had authority to unite, the original constituents.

Sunday-school Board.

30. May, 1907. (1) By the form for the organization of the Sunday-school Board, found in Appendix, ¶ 58 of the Discipline, the superintendent of the Sunday-school is authorized to call a special meeting of the Board.

(2) The pastor is *ex officio* chairman, and is to preside at all meetings of the Board at which he is present. If the pastor is absent, and no person has been appointed by him to preside, the Board may elect a temporary chairman.

(3) No teacher can be dismissed, except by a two-thirds vote of the Board. (Discipline, ¶ 347, § 4.)

(4) The Quarterly Conference has authority to supervise the Sunday-school, and to hear and adjudge complaints against its management and against the action of the Sunday-school Board, or any of its officers.

Bishops' relation to Memorials.

31. May, 1907. We would advise that, except when changes of the Constitution are proposed in specific terms, it is not customary for the Bishops to present memorials adopted by

one Conference for the consideration and action of other Conferences. We request the secretary of our Board to suggest to the secretary of any Conference taking such action that the memorial be transmitted directly to the secretaries of the other Conferences.

General Committee of Board of Education, etc.

32. May, 1907 It is the opinion of the Bishops that no legal provision exists for a General Committee on "Education, Freedmen's Aid, and Sunday-schools," and that no meeting of a General Committee of this Board should be planned or held this year.

Ladies' Aid Societies.

33. May, 1907. Only Ladies' Aid Societies, organized under ¶ 350 of the Discipline, are entitled to representation in the Quarterly Conference.

Eligibility of located preacher.

34. November, 1907 In our judgment a member of an Annual Conference who has received a location relation is not eligible to election as a lay delegate to the General Conference

until he has been five years in this located relation; but the decision of this question is with the General Conference.

Bishops and examinations.

35. November, 1907. The Bishops, as a body, have no jurisdiction over the action of an Annual Conference in the matter of examinations.

Effect of a transfer.

36. November, 1907. When a preacher has been lawfully transferred from an Annual Conference before charges are preferred against him in that Conference, he is beyond its jurisdiction, and any judicial action taken by it in the case thereafter is null and void.

Parsonage property, trustees, etc.

37. November, 1907 (1) The Discipline does not specifically provide for a separate Board of Trustees for parsonage property, but where on a circuit the different Churches have a property right in the parsonage, the intimations of the Discipline are that a distinct Board of Trustees should be constituted from the Trus-

tees in the circuit in order that the rights of all the Churches which have contributed to the parsonage shall be conserved.

(2) The Trustees of parsonage property are members of the Quarterly Conference only by virtue of their being Trustees of the Church property.

Sale of parsonage property.

38. November, 1907. A trust clause in a deed to property requiring it to be maintained as a parsonage for the use of Methodist preachers would be no Disciplinary bar to its sale and conveyance, provided that the proceeds of the sale shall be duly reinvested in parsonage property for the benefit of the same society.

Conveyance of parsonage property.

39. November, 1907. Apart from special or corporate provisions, it is expedient that the regularly chosen Trustees of the Church property execute the conveyance of the parsonage property, or at least join in the transfer thereof, since the Discipline does not provide for separate Boards of Trustees for parsonage property.

Jurisdiction of Joint Commission.

40. November, 1907. A Joint Commission on Federation appointed by an Annual Conference has no jurisdiction within a Mission, or Mission Conference, although the territory be adjoining.

Vacancies in Book Committee.

41. November, 1907. A person elected to fill a vacancy in a hold-over term in the Book Committee is elected to serve the remainder of the entire term.

President of Ladies' Aid Society.

42. November, 1907. A person not a member of the Methodist Episcopal Church may be elected president of the Ladies' Aid Society and confirmed as such by the Quarterly Conference; but she can not be "approved by it for membership therein." (Discipline, ¶ 350, § 2.)

Moneys of Ladies' Aid Societies.

43. November, 1907. A Ladies' Aid Society has no right, without the sanction of the Quarterly Conference, to withhold money received for the support of the Church.

APPENDIX.

ORGANIC LAW AS ADOPTED BY THE GENERAL CONFERENCE.

PREAMBLE.

IN order the better to preserve our historic heritage, and the more effectually to co-operate with other branches of the one Church of Jesus Christ, in advancing the kingdom of God among men, we, the ministers and laymen of the Methodist Episcopal Church, in accordance with the methods of constitutional legislation in force among us, hereby ordain, establish, and set forth as the fundamental law or Constitution of the Methodist Episcopal Church the Articles of Religion, the General Rules, and the Articles of Organization and Government, here following, to-wit:

DIVISION I.

Articles of Religion.

DIVISION II.

The General Rules.

DIVISION III.

Articles of Organization and Government.

PART I.

Pastoral Charges, Quarterly and Annual Conferences.

ARTICLE I.—*Pastoral Charges.*

Members of the Church shall be divided into local societies, one or more of which shall constitute a pastoral charge.

ARTICLE II.—*Quarterly Conferences.*

A Quarterly Conference shall be organized in each pastoral charge, and be composed of such persons and have such powers as the General Conference may direct.

ARTICLE III.—*Annual Conferences.*

The traveling preachers shall be organized by the General Conference into Annual Conferences, the sessions of which they are required to attend.

PART II.

The General Conference.

ARTICLE I.—*How Composed.*

The General Conference shall be composed of ministerial and lay delegates, to be chosen as hereinafter provided.

ARTICLE II.—*Ministerial Delegates.*

§ 1. Each Annual Conference shall be entitled to at least one ministerial delegate. The General Conference shall not allow more than one ministerial delegate for every fourteen members of an Annual Conference, nor less than one for every forty-five; but for a fraction of two-thirds or more of the number fixed by the General Conference as the ratio of representation an Annual Conference shall be entitled to an additional delegate.

§ 2. The ministerial delegates shall be elected by ballot by the members of the Annual Conference, at its session immediately preceding the General

Conference. Such delegates shall be elders, at least twenty-five years of age, and shall have been members of an Annual Conference four successive years, and at the time of their election and at the time of the session of the General Conference shall be members of the Annual Conference which elected them. An Annual Conference may elect reserve delegates, not exceeding three in number, and not exceeding the number of its delegates.

§ 3. No minister shall be counted twice in the same year in the basis for the election of delegates to the General Conference, nor vote in such election where he is not counted, nor vote in two Conferences in the same year on a constitutional question.

ARTICLE III.—*Lay Delegates.*

§ 1. A Lay Electoral Conference shall be constituted quadrennially, or whenever duly called by the General Conference, within the bounds of each Annual Conference, for the purpose of electing lay delegates to the General Conference, and for the purpose of voting on constitutional changes. It shall be composed of lay members, one from each pastoral charge within its bounds, chosen by the lay members of the charge over twenty-one years of age, in such manner as the General Conference may determine. Each pastoral charge shall also elect in the same manner one reserve delegate. Members not less than twenty-one years of age, and holding membership in the pastoral charges electing them, are eligible to membership in the Lay Electoral Conference.

§ 2. The Lay Electoral Conference shall assemble at the seat of the Annual Conference on the

first Friday of the session immediately preceding the General Conference, unless the General Conference shall provide otherwise.

§ 3. The Lay Electoral Conference shall organize by electing a president and secretary, shall adopt its own rules of order, and shall be the judge of the election returns and qualifications of its own members.

§ 4. Each Lay Electoral Conference shall be entitled to elect as many delegates to the General Conference as there are ministerial delegates from the Annual Conference. A Lay Electoral Conference may elect reserve delegates, not exceeding three in number, and not exceeding the number of its delegates. These elections shall be by ballot.

§ 5. Lay members twenty-five years of age or over, holding membership in pastoral charges within the bounds of the Lay Electoral Conference, and having been lay members of the Church five years next preceding, shall be eligible to election to the General Conference. Delegates-elect who cease to be members of the Church within the bounds of the Lay Electoral Conference by which they were elected shall not be entitled to seats in the General Conference.

ARTICLE IV.—*Credentials.*

The secretaries of the several Annual and Lay Electoral Conferences shall furnish certificates of election to the delegates severally, and send a certificate of such election to the secretary of the preceding General Conference immediately after the adjournment of said Annual or Lay Electoral Conference.

ARTICLE V.—*Sessions.*

§ 1. The General Conference shall meet at ten o'clock on the morning of the first Wednesday in the month of May, in every fourth year from the date of the first Delegated General Conference—namely, the year of our Lord 1812—and at such place in the United States of America as shall have been determined by the preceding General Conference, or by a Commission to be appointed quadrennially by the General Conference, and acting under its authority; which Commission shall have power also in case of emergency to change the place for the meeting of the General Conference, a majority of the General Superintendents concurring in such change.

§ 2. The General Superintendents, or a majority of them, by and with the advice of two-thirds of all the Annual Conferences, shall have the power to call an extra session of the General Conference at any time, constituted in the usual way; such session to be held at such time and place as a majority of the General Superintendents, and also of the above Commission, shall designate.

§ 3. In case of a great emergency two-thirds of the General Superintendents may call special sessions of the Annual Conferences, at such time and place as they may think wise, to determine the question of an extra session of the General Conference, or to elect delegates thereto. They may also, in such cases, call extra sessions of the Lay Electoral Conferences for the purpose of electing lay delegates to the General Conference.

ARTICLE VI.—*Presiding Officers.*

§ 1. The General Conference shall elect by ballot from among the traveling elders as many General Superintendents as it may deem necessary.

§ 2. The General Superintendents shall preside in the General Conference in such order as they may determine; but if no General Superintendent be present, the General Conference shall elect one of its members to preside *pro tempore.*

§ 3. The presiding officer of the General Conference shall decide questions of order, subject to an appeal to the General Conference; but questions of law shall be decided by the General Conference.

ARTICLE VII.—*Organization.*

When the time for opening the General Conference arrives the presiding officer shall take the chair, and direct the secretary of the preceding General Conference, or in his absence one of his assistants, to call the roll of the delegates-elect. Those who have been duly returned shall be recognized as members, their certificates of election being *prima facie* evidence of their right to membership; *provided,* however, that in case of a challenge of any person thus enrolled, such challenge being signed by at least six delegates from the territory of as many different Annual Conferences, three such delegates being ministers, and three laymen, the person so challenged shall not participate in the proceedings of the General Conference, except to speak on his own case, until the question of his right shall have been decided. The General Conference shall be the judge of the election returns and qualifications of its own members.

ARTICLE VIII.—*Quorum.*

When the General Conference is in session it shall require the presence of two-thirds of the whole number of delegates to constitute a quorum for the transaction of business; but a less number may take a recess or adjourn from day to day in order to secure a quorum, and at the final session may approve the Journal, order the record of the roll-call, and adjourn *sine die.*

ARTICLE IX.—*Voting.*

The ministerial and lay delegates shall deliberate together as one body. They shall also vote together as one body with the following exception: A separate vote shall be taken on any question when requested by one-third of either order of delegates present and voting. In all cases of separate voting it shall require the concurrence of the two orders to adopt the proposed measure; except that for changes of the Constitution a vote of two-thirds of the General Conference shall be sufficient, as provided in Article XI.

ARTICLE X.—*Powers and Restrictions.*

The General Conference shall have full power to make rules and regulations for the Church under the following limitations and restrictions, namely:

§ 1. The General Conference shall not revoke, alter, nor change our Articles of Religion, nor establish any new standards or rules of doctrine contrary to our present existing and established standards of doctrine.

§ 2. The General Conference shall not organize

nor authorize the organization of an Annual Conference with less than twenty-five members.

§3. The General Conference shall not change nor alter any part or rule of our government so as to do away Episcopacy, nor destroy the plan of our itinerant General Superintendency; but may elect a Missionary Bishop or Superintendent for any of our foreign missions, limiting his Episcopal jurisdiction to the same respectively

§ 4. The General Conference shall not revoke nor change the General Rules of our Church.

§ 5. The General Conference shall not deprive our ministers of the right of trial bv the Annual Conference, or by a Select Number thereof, nor of an appeal; nor shall it deprive our members of the right of trial by a Committee of members of our Church, nor of an appeal.

§ 6. The General Conference shall not appropriate the produce of the Book Concern, nor of the Chartered Fund, to any purpose other than for the benefit of the traveling, supernumerary, and superannuated preachers, their wives, widows, and children.

ARTICLE XI.—*Amendments.*

The concurrent recommendation of two-thirds of all the members of the several Annual Conferences present and voting, and of two-thirds of all the members of the Lay Electoral Conferences present and voting, shall suffice to authorize the next ensuing General Conference by a two-thirds vote to alter or amend any of the provisions of this Constitution excepting § 1, Article X; and also, whenever such alteration or amendment shall have been first recommended by the General Conference by a

two-thirds vote, then so soon as two-thirds of all the members of the several Annual Conferences present and voting, and two-thirds of all the members of the Lay Electoral Conferences present and voting, shall have concurred therein, such alteration or amendment shall take effect; and the result of the vote shall be announced by the General Superintendents.

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