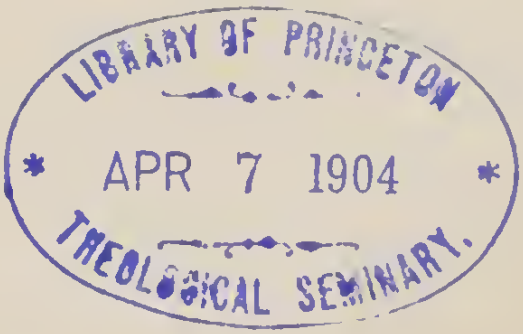

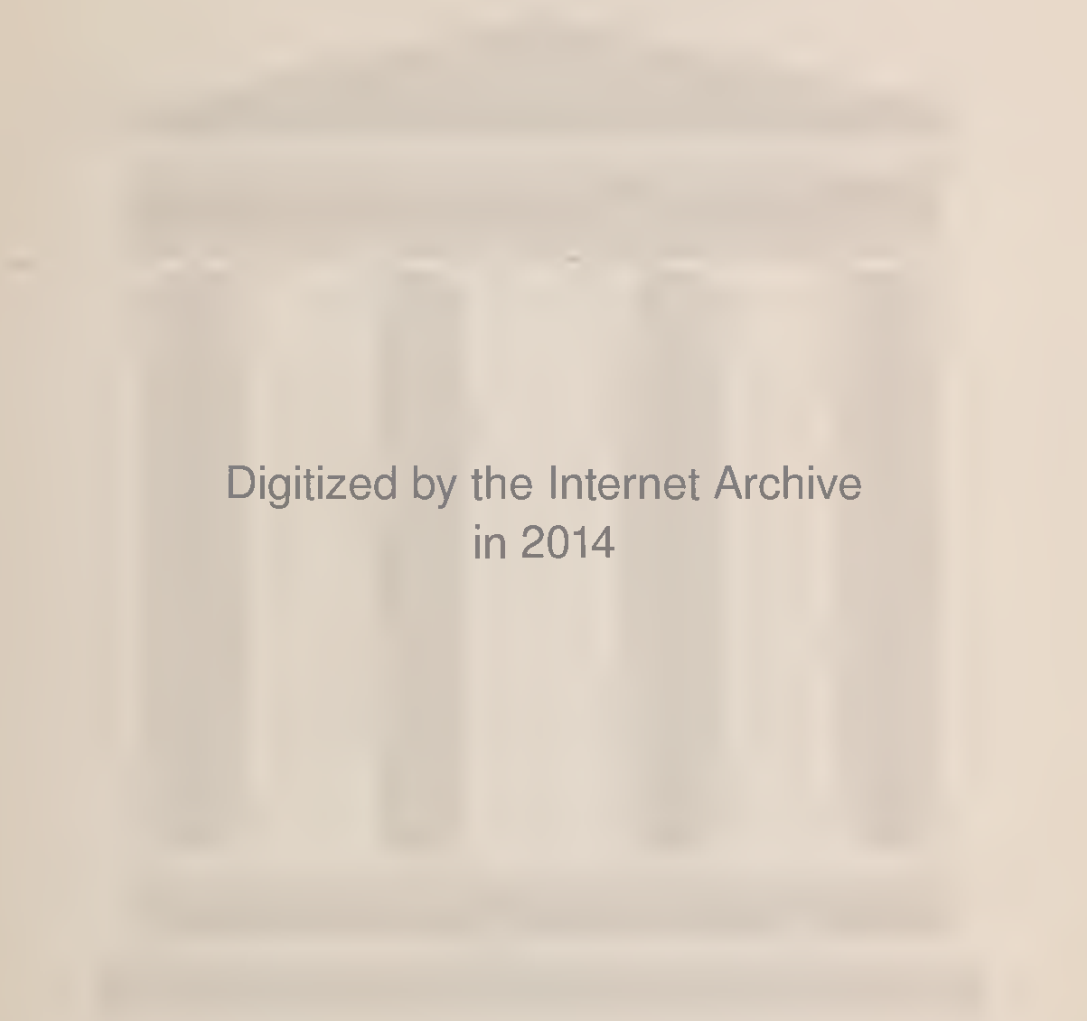

THE JUDICIAL DECISIONS OF THE GENERAL CONFERENCE OF THE METHODIST EPISCOPAL CHURCH

WITH NOTES

BY

R. J. COOKE, D.D.

WITH AN INTRODUCTION

BY THE REV. DR. JAMES M. BUCKLEY

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PREFACE.

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.

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INTRODUCTION.

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.

THE
JUDICIAL DECISIONS
OF THE
GENERAL CONFERENCE

CHAPTER I.

GENERAL PRINCIPLES.

Judicial 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.* An anlysis of this authority, 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 271, 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 do away the privileges of our Ministers or Preachers of trial by a Committee, and of an Appeal; neither shall they do away the privileges of our Members of trial before the Society or by a Committee, and of an Appeal." *(Discipline, Sec. 5.)* In addition to this the General Conference itself is constituted a Court of Appeal, and since litigation must

stop somewhere, some time—being the highest authority 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: "Complaints 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. 221.)* 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. 265.)*

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. 220.)*

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. 269.)*

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 the ignorance, and 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.

But, however, 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 ever can 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 ad-

judged. 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, and these decisions, and all decisions here cited or referred to, have at this present time the force of law, except such are made obsolete by new legislation, or have been repealed by act of General Conference.

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 so 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. To 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 Com-

mittee 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.)*

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 ——.

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 Conference. 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.

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 en-

titled 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 remanded 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 General 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.)*

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 remand, 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.)*

CHAPTER III.

BISHOPS.

A Bishop is constituted de facto by election of the General Conference, and if a member of the General Conference at the time, he ceases to be a member on election to said office.

Resolved, That this General Conference recognizes it as a well-settled principle of the doctrine of the Methodist Episcopal Church concerning our Episcopacy, that *election* to the Episcopal office, not the ceremony of ordination, is that which makes one *de facto* a Bishop; and, therefore, we declare that no one who may be elected Bishop from among the delegates to the General Conference, can, after such election, exercise the functions of a delegate; but that, thereby and therefrom, he ceases to be a member of the General Conference. *(Journal, 1880, 209.)*

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 deacons' 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.)*

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.)*

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 Presiding Elder 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.)*

Bishops may meet in council to arrange plan for Episcopal visitation.

Resolved, That it is highly expedient for the General Superintendents, at every session of the

General Conference, and as far as to them may appear practicable in the intervals of the sessions annually, to meet in council to form their plan of traveling through their charge, whether in a circuit after each other or by dividing the connection into several Episcopal departments, with one Bishop or more in each department, as to them may appear proper and most conducive to the general good, and the better to enable them fully to perform the great work of their administration in the General Superintendency, and to exchange and unite their views upon all affairs connected with the general interests of the Church. Considering the great extent of the work throughout this vast continent, committed to the oversight of their Episcopacy, the Committee deem it inexpedient to require each of our Bishops to travel throughout the whole of their extensive charges during the recess of the General Conference, and therefore recommend to the Episcopacy to make such an apportionment of the work among themselves as shall best suit, in their judgment, most effectually to promote the general good. *(Journal, 1824, 301; and Journal, 1832, 408, N. J.)*

The President of a Conference has the right to adjourn said Conference when, in his judgment, the business is transacted.

The President of an Annual or a Quarterly-meeting Conference has the right to adjourn the Conference over which he presides when, in his judgment, all the business prescribed by the Discipline to such Conference shall have been transacted; provided, that if an exception be taken by the Conference to his so adjourning it, the exception shall be entered upon the Journals of such Conference. *(Journal, 1840, 121.)*

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 Conference, 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 Conference 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.)*

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.)*

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.)*

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.)*

The Conference claimant allowance of a superannuated preacher must be determined by the Conference of which he is a member.

In the case of ——, a superannuated preacher of the —— Conference, made such without his consent, and who complains that no allowance has been made for him, it is the opinion of your Committee that the claim of a superannuated preacher has very properly been committed to the judgment of his Conference, and that it is not proper for us to act in the case. *(Com. on Itinerancy Report: Journal, 1864, 366-7.)*

An Annual Conference has the right, on motion, and without form of trial, to locate a member without his consent.

The Committee on Judiciary has carefully considered the memorial of ——, and the arguments submitted in connection therewith. It appears that ——, in pursuance of paragraph 183 of the Discipline, was requested by the —— Conference, at its session in 1881, to ask a location; and he having failed to comply with this request, a resolution was introduced at the session of 1882 to locate him without his consent. It was objected that the

Conference could not legally take such action, because the fact, required in paragraph 183 of the Discipline, that "he is so unacceptable, inefficient, or secular, as to be no longer effective" in his work, "has not been ascertained by this Conference, by any proper or judicial investigation, and therefore the proceedings now proposed are not in order."

Whereupon Bishop —— ruled: "That the case has a right to proceed now without any form of trial, the Conference having, at its last session, requested him to locate on account of secularity, so answering the requirements of paragraph 183 of the Discipline."

We find that the rulings of the Bishop and the action of the —— Conference in the location of ——, without his consent, are in accordance with the law of the Church, and recommend that they be confirmed. *(Journal, 1884, 378-9.)*

An Annual Conference has the right to determine the relation which a member may sustain to it, with or without his consent.

At the session of the —— Conference, held in 1887, —— was requested to take a supernumerary relation, which he refused to do. Thereupon a motion was made to place

him in this relation, and the motion was entertained by Bishop ——. The said —— then and there claimed that the motion was not in order, as the Discipline, paragraph 186, defines a supernumerary preacher to be "one who, because of impaired health, is temporarily unable to perform effective work," and that his health was not impaired, and that his work was effective.

The Bishop adhered to his decision, and the said —— took an appeal from this decision, which was noted in the Journal. The appeal is against the decision of the Bishop in entertaining the above-named motion, and is based on the claim that the said appellant was not in impaired health, and that he was able to do effective work.

In our opinion the opinion is not well founded. The Annual Conference has the undoubted right to place a member in a supernumerary relation without his consent and against his protest. The Conference is the sole judge as to his health touching the matter, and of his ability to do effective work. It was the right of the Conference, therefore, to pass such a motion as is here complained of, and it was the duty of the Bishop to entertain it and declare

the result. For these reasons we recommend that the appeal be dismissed. *(Journal, 1888, 454-5.)*

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.)*

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.)*

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)*

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 Col-

lege 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 continu-

ously 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.)*

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.)*

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.)*

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 37.

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 Presiding Elder 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.

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.)*

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

During the session of the said —— Con-

ference, 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.)*

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.)*

NOTES.

Page 17. **Supreme authority.** Supreme, but *not absolute.* 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. 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.

Page 17. **Three separate and distinct divisions.** "While the supreme power resides in the aggregate ministry and laity, its exercise is distributed into

three departments in a form analagous to that of the Federal Government,—the legislative, lodged solely in the General Conference; the executive, intrusted to the Bishops; and the judicial, diffused through various Church Courts. Like Congress, the General Conference is the sole lawmaking body. Subordinate bodies can only make rules to regulate their own conduct. In like manner the executive power is exercised by the Episcopacy, whence it operates directly or indirectly through the whole Church. Standing at the head and giving direction to the executive work, the Bishops perform through agents what they are not able to do personally, just as the President of the United States acts through agents when unable to act personally. If not allowed to appoint their agents, the Bishops could not be justly held responsible for the administration of the affairs of the Church any more than the President could be held responsible for agents he is not allowed to appoint. . . . Again, the Courts of the Church resemble in some points those of the Federal Government." (D. Sherman: *Hist. of the Discipline,* 3d edition, p. 11.)

Page 59. **A Bishop is constituted de facto.** This is a decision of the General Conference of 1880. Such a decision apparently eliminates ordination or consecration as essential to the making of a Bishop. If so, then the decision is unconstitutional. The history of the organization of the Church shows that an ordained, or consecrated, Episcopacy was the *kind* of Episcopacy established by the fathers, and the *kind* they imbedded in the Constitution, which *kind* they declared should not be done away.

The ministers who organized the Methodist Epis-

copal Church accepted their first Bishops on the ground that they were "*satisfied with the validity of their Episcopal Orders.*" Bishop Coke was accepted as a Bishop of the Church by virtue of his consecration at the hands of Wesley. Asbury, although performing all the supervisory duties of a Bishop for many years, was not regarded as a Bishop until he was ordained to the Episcopal Office, which was done according to the Forms of the Church of England, revised by Wesley and adopted by the newly-organized Church. Valid Orders, in the judgment of those who organized the Methodist Episcopal Church, is *essential* to Episcopacy. Ordination, or consecration,—for the terms are interchangeable,—is then *essential* to the making of a Bishop of the Methodist Episcopal Church, and this consecration can not be abolished without destroying the kind of Episcopacy imbedded in the Constitution. Moreover, the Discipline of 1900 expressly declares, paragraph 171, "A Bishop is to be constituted by the election of the General Conference and the laying on of the hands of three Bishops, or at least of one Bishop and two elders."

It should be noted, also, that this decision, because of its incompleteness, unsettles the basis of representation in the General Conference, in that it does not provide for the vacancy in a delegation caused by the election of a delegate to the Episcopal Office. Certainly a reserve delegate may take the vacated seat, but this decision does not so provide.

Page 60. **A Bishop may not submit to a vote.** This must also apply to a Bishop presiding in a General Conference. Bishop S. M. Merrill, in his very valuable *Digest of Methodist Law*, page 72, revised

edition of 1892, says: "But in presiding in the General Conference the Bishops do not decide questions of law. . . . The Bishop in the chair decides questions of order, subject, of course, to appeal; but he strenuously refrains from any ruling that involves a question of law; and yet if action were proposed which, in his judgment, involved a violation of law without a formal modification of it, or a breach of the limitations of power imposed by the Constitution, it would be his duty to call attention to the supposed infraction, and restrain the action of the Conference, if possible. Indeed, a condition of things is supposable, in which it would be the duty of the Bishop to refuse to entertain a motion, and decline having any part in the transactions of the body. If action should be proposed, which is contrary to the Constitution, or violative of vested rights protected thereby, the Bishop is bound to object, and use all the power of his office to preserve the organic law in its integrity. He has the right to assume that the proposed action has been hastily introduced, and to insist upon a more careful investigation, and finally to protest against it in the interest of law and consistency. If overruled, his right to be heard and have his protest entered on the Journal, could not be denied without the most flagrant departure from justice, such as is not conceivable. Although not a member of the General Conference, technically speaking, the Bishop is its lawful president, with rights superior in that position to a mere acting chairman, and he may not be displaced or deprived of his rights without formal action, suspending him or deposing him from his office. Such a conflict has never occurred, and probably will never occur, and yet it is supposable, and the consideration of its

bearing is not improper in the study of the legal rights and duties of the parties under the Discipline of the Church."

Page 61. **By virtue of his power to fix the appointments.** Is this "power," which is affirmed to be resident in the Episcopacy, a power of ministerial office, or of delegated function? In their *Notes on the Discipline*, prepared by request of the General Conference of 1796, under Section IV, "Of the Election and Consecration of Bishops and of their duty," Bishops Coke and Asbury declare: "In considering the present subject, we must observe that nothing has been introduced into Methodism by the present Episcopal form of government which was not before fully exercised by Mr. Wesley. He presided in the Conferences; fixed the appointments of the preachers for their several circuits; changed, received, or suspended preachers wherever he judged that necessity required it; traveled through the European connection at large; superintended the spiritual and temporal business, and consecrated two bishops, Thomas Coke and Alexander Mather." (See Emory's *Hist. of Dis.*)

From the above it is clear that the power to fix the appointment belongs to the Episcopal Office, and can not be taken from it without changing the kind of Episcopacy derived from Wesley and accepted by the founders of the Church in 1784.

There are some questions which will naturally suggest themselves, however, to a student of our polity, which are not expressly answered by the above, nor by any published work on our Church government. For instance, Can a Bishop, by virtue of his power to fix the appointments, transfer a su-

pernumerary from one Conference to another, and appoint him to a charge other than as a "supply?" We suppose this has been done, and that some argument may be made in favor of its legality. But if the affirmative is held, then it follows that a Bishop, and not an Annual Conference, has the right to determine the relation which a minister may sustain to it, whether a supernumerary, an effective, or a superannuated relation; for once admit the principle that a Bishop has the power by simple transfer to change the Conference relation of a minister, then he may transfer a superannuate or a supernumerary from one Conference, and by act of transfer and appointment make him effective in another without consent of the Conference to which he is transferred, which is absolutism, and not constitutionalism. We do not think that it can be shown from any Discipline ever issued by the Church that the authority to determine Conference relation has ever been taken away from the Annual Conference, or that this power has ever been shared with the Episcopacy.

Again, the question may arise, Has a Bishop, by virtue of his power to fix the appointments, the right to refuse to appoint a member of an Annual Conference to an office to which he has been elected by the General Conference? Bishop Merrill, in his *Digest of Methodist Law*, p. 19, 1900, says: "The Bishop is the ultimate authority in all the appointments except where the General Conference elects traveling ministers to fill official positions. Every preacher on the roll of an Annual Conference, in full connection or on probation, who is not in office by General Conference election, or on the superannuated or supernumerary list, must receive an appointment from the Bishop, except in cases when

the Conference requests that one be left without appointment for the purpose of attending one of our schools, and the appointment must be a real one," etc.

But the Discipline for that same year, 1900, reads, paragraph 173, section 3: "He may make the following appointments annually, without limitation of time:

"1. The Corresponding Secretaries of our Connectional Benevolent Societies and Board, and the Assistant Corresponding Secretaries of the Board of Church Extension.

"2. The Publishing Agents at New York and Cincinnati," and other General Conference officials.

Many questions arise here which can not be answered in a mere note, such as the one already asked, and is the word "may" in this place mandatory, as the word "shall" is in the preceding sentences? And, If a Bishop refuses to appoint, is the brother not appointed "without an appointment?" Can he legally take possession of the position to which he is elected by the General Conference? These, and other questions that may be asked, are important, and should be authoritatively settled. Without question the appointing power of Episcopacy was first, and General Conference elections must be considered in relation to that inherent power.

Finally: Is it constitutional for an elder presiding in an Annual Conference in the absence of a Bishop, but not appointed by the Bishop in charge of the Conference, but elected to the presidency by the Annual Conference, to fix the appointments? On the face of it, it is not constitutional. But in such a case as may be easily supposed, the higher law of necessity, we think, would compel us to assume that the necessary Episcopal power had reverted back to the

body of elders whence it was derived, and that the appointments made by one of their number, elected by them to the presidency of the Conference, would be legal, the act of the president being for the welfare of the Church, for the benefit of which the Constitution exists.

Page 62. **Legislation on this point is inexpedient.** Such legislation would recognize the General Conference, and not the Annual Conference, as having supervision over the eligibility of a minister to membership in an Annual Conference.

Page 63. **Whereas, The Bethany Independent Methodist Church.** It will doubtless appear strange that the jurisdiction of a Bishop of the Methodist Episcopal Church can be lawfully extended beyond the jurisdiction of the Church, except in missionary work.

Page 64. **Required.** We think the word "requested" should have been used instead, for the reason that if the President of a Conference "has the right to decline putting a motion" he can not be *required* to note his refusal.

Page 70. **The President of a Conference has the right to adjourn said Conference.** This is contrary to the Book of Discipline, which allows a Conference to sit at least one week.

Page 75. **There exists no power in the General Conference.** This decision of the General Conference of 1848, that the General Conference does not possess the power to divide the Church, is opposed by the de-

cision of the Supreme Court of the United States in 1852, Judge Nelson delivering the opinion. The Court declared, "It is insisted, however, that the General Conference of 1844 possessed no power to divide the Methodist Episcopal Church, as then organized, or to consent to such division. . . . But we do not agree that this division was made without the proper authority. . . . The same authority which founded the Church in 1784 has divided it, and established two separate and independent organizations, occupying the place of the old one. . . . The power must necessarily be regarded as inherent in the General Conference. As they might have constructed two ecclesiastical organizations over the territory of the United States originally, if deemed expedient, in the place of one, so they might at any subsequent period, the power remaining unchanged. But it is insisted that this power has been taken away or given up by the action of the General Conference of 1808. In that year the Constitution of this body was changed. . . . At the time of this change, and as part of it, certain limitations were imposed upon the powers of this General Conference, called the Six Restrictive Articles. . . . Subject to these restrictions, the delegated Conference possessed the same powers as when composed of the entire body of preachers. And it will be seen that these relate only to the doctrine of the Church, . . . [and] . . . the Episcopacy. . . . In all other respects, and in everything else that concerns the welfare of the Church, the General Conference represents the sovereign power the same as before." *(Decis. U. S. Supreme Court, 16, 17, Howard.)*

The brevity of a note precludes the possibility of extended comment on the above; yet since it has

become necessary to quote this argument of the Supreme Court, and laying aside all ideas of presumption on our part, fidelity to historic truth and justice compels the statement that, with all due respect to this learned and august body, the argument adduced is wholly at variance with the historical facts. It gives so little weight to the inevitable consequences of its own admissions, and seems so completely to misapprehend the avowed intent and purpose of all parties composing the General Conference of 1844, who, it must be presumed, knew what they intended and understood by their own acts and language, that, as an argument in defense of the withdrawal of the Methodist Episcopal Church, South, from the Methodist Episcopal Church, it would never have received the consideration that has been given it had it not proceeded from the Supreme Court of the United States.

The same authority that organized the Church did not divide it, from the simple fact that, while the persons in both instances were ministers, the *authority* of these persons was not the same. There is no resemblance whatever between the body of preachers that established the Church in 1784 and the General Conference of 1844, except in that both bodies were composed of Methodist ministers. Here the likeness begins, and here it ends. The body that met in 1784 was not a General Conference; it was not, in fact, a Conference at all. It was a called meeting, composed of such preachers as could be hastily got together. Bishop Soule, the author of the Constitution, in a speech in the General Conference of 1844, designated it as a "Convention." Abel Stevens, in his *History* so designates it. Dr. J. J. Tigert, of the Church South, calls it a "Mass Convention"

(Constitutional History, etc., page 185), and denies that it had any constitutional authority after its adjournment. "So far was its sovereignty from being constitutionally projected over General Conferences and the entire Church until 1844 and the present day, that the true state of the case is its authority was not so much as projected over the yearly Conferences of 1785 to 1791, until the meeting of its so-called successor." (*The Making of Methodism,* p. 128.) Dr. T. B. Neely says. "It was rather of the nature of a Convention for the purpose of considering the question of organization." (*The Governing Conf. of Methodism,* p. 264.) Dr. D. Sherman, in his *History of the Discipline,* p. 10, refers to it as an "extraordinary assembly, a sort of Constitutional Convention." It was restricted by no legal limitations. Its will was not only supreme; it was absolute. In the exercise of its own absolute will it could have done what it pleased; dissolved immediately on learning the purpose for which it was convened, rejected or modified the Wesleyan Episcopacy, sought Orders from the Church of England, become Presbyterian, or returned in a body to the mother Church.

The Conference of 1844 was of another character. It was a regular General Conference. It was a delegated body, acting under a Constitution. It could not do as it pleased. It was limited by the Six Restrictive Rules, one of which was, "*They shall not do away Episcopacy,*" which meant the *kind* of Episcopacy received from Wesley, accepted by the Church, and existing in the Church at the time the Six Restrictive Rules were adopted as safeguards to the Constitution.

The limitation of the authority of the agents in 1844 by these Restrictive Rules is recognized by the

Court, but it avoids the fatal consequences of its admission by assuming that these rules were not violated in 1844. This can not be accepted. In *dividing* the Church, the Episcopacy was *limited* as to *jurisdiction* over the territory formerly occupied by the undivided Church, and "the general plan of our itinerancy" in the United States *was destroyed.* The General Conference of 1844 had no more constitutional right to limit the *jurisdiction* of the Episcopacy than it had to destroy it altogether. The General Conference of 1844 was fully aware of constitutional prohibitions in the way of division, so much so that when the unconstitutionality of division was suggested, it was at once declared by those who drew up the "Plan" that division of the Church by act of General Conference was not before the Conference, and this statement was not challenged by any member of the Conference. When the Committee of Nine reported the "Plan," the impression was that it provided for division. The *General Conference Journal* for 1844 contains reports of the discussion, but it is better to quote from the *History of the Organization of the Methodist Episcopal Church, South,* compiled and published by the authority of that Church: "Mr. Griffith opposed the measure, and denied the power of the General Conference to divide the Church" (p. 92). "Dr. Bangs explained the composition of the committee, as formed by three from the South, three from the Middle States, and three from the North. They were instructed, by a resolution of the Conference how to act in the premises; that if they could not adjust the difficulties amicably, they were to provide for separation if they could do so constitutionally. Under such instructions the committee went out and proceeded to in-

terchange their thoughts upon the subject. Great difficulties arose, which were revolved in their minds, and after two days of close labor, after minute inspection and revision of every sentence, they had presented this report, from which the Conference would see that they had at least obeyed their instructions, and had met the constitutional difficulty by sending round to the Annual Conferences that portion of the report which required their concurrence. The speakers who have opposed that report have taken entirely erroneous views of it. It did not speak of division—the word had been carefully avoided through the whole document—it only said, "In the event of a separation taking place," throwing the responsibility from off the shoulders of the General Conference and upon those who should say that such a separation was necessary. (Page 94.) Other members of the committee spoke to the same effect. Dr. Winans said: "They were not sending around to the Annual Conferences any proposition in which the action of the South in reference to the separation was concerned. The only proposition was, that they might have liberty, if necessary, to organize a separate Conference." "Mr. Hamline would state the views of the Committee on the subject. They had carefully avoided presenting any resolution which would embrace the idea of separation or division." (Page 98.)

Thus it will be seen, from the records of the Church South itself, that no resolution to divide the Church was prepared by the Committee of Nine; that the committee, after long and laborious inspection of every sentence, carefully avoided the idea; that the General Conference of 1844 did not, by its own act, vote on a resolution to divide, and that there-

fore that General Conference did not divide the Methodist Episcopal Church.

This note is already much extended, but the importance of the subject will justify a few more remarks on this famous decision. With all due respect, it seems illogical to argue, as the Court does, that *because* the organizers of the Church in 1784 could have constructed two ecclesiastical organizations over the territory of the United States, therefore the power to do so could be exercised at any subsequent time. If this is true of the Conference of 1784, it was equally true of the Conferences up to 1796. They were all of a kind. But such an argument overlooks the altered conditions, the radical change in the government of the Church, the transition from an absolute form of government to a constitutional form. It may not be worth while to deny the *power* of the ministers of 1784 to do as they pleased, but it is both morally and historically certain that they could not have constituted two ecclesiastical organizations over the territory of the United States, and at the same time have obeyed the *will* and carried out the *intention* of Wesley, whom they acknowledged as their head, and whose commands they had promised to obey. Wesley intended and provided for *one* Church, not two, nor three, and if those ministers accepted his provisions, as they did, including the Episcopacy he instituted, they were not at liberty to do otherwise than to carry out his purpose. We need not extend this note further by considering the case of the Church in Canada. The Methodist Episcopal Church can not accept the theory that the General Conference may constitutionally divide the Church into fragments, or fragments of fragments, and thus destroy it wholly, on the ground

that *because* the Convention of 1784 had the *power* not to constitute the Church at all, therefore any General Conference has the inherent right to destroy it.

Assuming that the Revolutionary Congress of 1776 had the *power* to adopt some other form of government than the one they did adopt, shall it be assumed that the Congress of the United States has had the power at any time since then to divide the Government of the United States, and has that power now? It will not do to say there is no analogy between the cases, because all power is vested in the General Conference, and no power not expressed is vested in the Constitution of the United States. The "full power" granted the General Conference by the Constitution is under restrictions, and is granted expressly "for" the welfare of the Church, and not for its destruction, as the Preamble of the original Constitution shows.

Finally, up to the date of the Louisville Convention, May 17, 1845, all the ministers and laity in the Southern Conferences were members of the Methodist Episcopal Church, and were subject to her rules and regulations. This was twelve months after the General Conference of 1844. The Methodist Episcopal Church was still the one, undivided Church in the United States. But on that date, May 17, 1845, by their own voluntary act, and without compulsion from any source, the Southern Conferences severed their connection with the Methodist Episcopal Church; they withdrew from her communion, as any private member had the undoubted right to withdraw, and became a separate and distinct organization. On that date the Louisville Convention, composed of delegates from the Southern Conferences, and not

the General Conference of the Methodist Episcopal Church, adopted the following resolution:

"*Be it resolved by the Delegates of the several Annual Conferences of the Methodist Episcopal Church in the slaveholding States in General Convention assembled,* That it is right, expedient, and necessary to erect the Annual Conferences represented in this Convention into a District Ecclesiastical Connection, separate from the jurisdiction of the General Conference of the Methodist Episcopal Church, as at present constituted; and, accordingly, we, the delegates of said Annual Conferences, acting under the provisional plan of separation, adopted by the General Conference of 1844, do solemnly *declare* the jurisdiction hitherto exercised over said Annual Conferences, by the General Conference of the Methodist Episcopal Church *entirely dissolved*; and that said Annual Conferences shall be, and they hereby *are, constituted* a separate ecclesiastical connection . . . to be known by the style and title of the METHODIST EPISCOPAL CHURCH, SOUTH."*

Thus was the Church divided, *if ever divided at all,* not by the General Conference of 1844, but by the action of the Louisville Convention of 1845.

Page 75. **The General Conference may not dispose of.** There seems to be a contradiction between this decision and the action of this same General Con-

*History of the Organization of the Methodist Episcopal Church, South, comprehending all the official proceedings of the General Conference, the Southern General Conferences, and the General Convention, with such other matters as are necessary to a Right Understanding of the Case. Nashville, compiled and published by the editors and publishers of the *Southwestern Christian Advocate*, for the Methodist Episcopal Church, South. By order of the Louisville Convention. William Cameron, printer, 1845.

ference in adopting the Report of the Commission on Federation, which contains adjustments of property claims as a finality. The history of the subject is as follows: The General Conference of 1876 adopted a resolution, to-wit:

"*Resolved*, That, in order to remove all obstacles to formal fraternity between the two Churches, our Board of Bishops are directed to appoint a Commission, consisting of three ministers and two laymen to meet a similar Commission authorized by the General Conference of the Methodist Episcopal Church, South, to adjust all existing difficulties."

The Commission was appointed. The Church South appointed its Commission. The Joint Commission met at Cape May City, N. J., August 17, 1876. Among the "obstacles" to be removed were the contentions arising over disputed claims to Church property. On the second day the Joint Commission adopted certain rules for the settlement of these difficulties. By these rules much Church property passed from the Methodist Episcopal Church to the Methodist Episcopal Church, South, producing no small discontent among members of the Methodist Episcopal Church, which discontent voiced itself in the resolution presented by E. P. Phelps, of Virginia, in the General Conference of 1880, and adopted by that body. To that same body the Commission on Fraternity made its report. Here the contradictory action begins. The General Conference had already decided that it had no power to dispose of Church property. But by action of the Commission, Church property had been transferred. On May 8, 1880, the report of the Commission comes before the Conference.

John P. Newman moved to take up the order of

the day; namely, the report of the Commission on Fraternity, appointed by the last General Conference; and the motion prevailed.

Clinton B. Fisk presented the report, which was read.

E. P. Phelps called up the resolution presented by him on yesterday [a resolution referring to the action of the Commission in the cases of a church and a parsonage].

G. S. Hall moved to refer it to the Committee on the State of the Church, which motion was laid on the table.

E. P. Phelps moved to reconsider so much of the report as relates to Harmony Church, and the Hillsborough parsonage, both in the State of Virginia.

Clinton B. Fisk raised a point of order as to the powers of the Commission.

Bishop Simpson presented the following decision as to the point of order:

It is the judgment of the Chair that, while he believes the action was designed to be final, yet he thinks the General Conference must decide the question for itself.

William Brush moved to refer the report and the whole subject to a Committee of seven, which, on motion, was laid on the table.

George S. Hare moved the adoption of the following resolution:

Resolved, That, without expressing any opinion of the wisdom or unwisdom of the action of the Commission on Fraternity, we regard the action in good faith and as a finality.

James M. Buckley moved the adoption of the following amendment, so that the resolution shall read:

Resolved, That we regard the action of the Commission on Fraternity, appointed by the last General Conference, as final.

The previous question was ordered, and the amendment of J. M. Buckley was adopted, and the resolution of G. S. Hare, as amended, was adopted.

Ammi S. Ladd moved that all reference to the subject be expunged from the Journal, which motion was laid on the table. (*Gen. Conf. Journal*, 1880, 159, 160.)

Page 89. **Laymen are members of the Church, etc.** If this ruling is to be taken literally, and nothing is to be read into it that may not be strictly inferred from it, then the Bishops of the Methodist Episcopal Church are laymen; for, while they are members of the Church, they are not members of an Annual Conference.

It can not be said that the ruling relates to Church members who are not ministers, and does not, therefore, place Bishops in the category of laymen. The ruling does not make such explanation, nor would it avail anything if it were made, since ordained local preachers are ministers, and they are laymen in that they are not members of an Annual Conference.

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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