

## DECISION 1274

### *IN RE: A Request from the North Alabama Annual Conference Regarding the Constitutionality, Meaning, Application, and Effect of Action Taken by the Commission on the General Conference in Light of ¶511.5e*

#### DIGEST

The Constitution and legislative enactments of the General Conference authorize the Commission on General Conference to remedy the situation if the two factor basis specified in ¶ 15, Article III produces a number of delegates below 600 or above 1,000.

Changes in church law can only be made by the General Conference. Therefore, any guidelines, policies, procedures, or rules in respect of the exercise of the authority granted the Commission on General Conference in ¶ 511.5(e) should be by legislative enactment and not judicial decision.

#### STATEMENT OF FACTS

At the Third Day, June 3, 2014, Afternoon Session of the 145<sup>th</sup> Session of the North Alabama Annual Conference, two clergy members of the Conference made a motion for a declaratory decision. The motion was as follows:

The North Alabama Conference petitions the Judicial council to issue a declaratory decision as to the constitutionality, meaning, application and effect of the action taken by the Commission on General Conference in October 2013 in which they pre-determined a target number of General Conference Delegates prior to applying the current formula for representation to the General and Jurisdictional Conferences under ¶ 511.5(e).

Rationale: It is our understanding of ¶ 511.5(e) that the Commission on General Conference only has authority to adjust the number of delegates after the formula defined in ¶15, Article III is applied and the number falls outside of the parameters set in ¶13, Article I.1. Pre-determining the

number of delegates prior to the application of the formula is not in keeping with the process defined.

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5. The Judicial Council shall hear and determine the legality of any action taken by anybody created or authorized by a General Conference or anybody created or authorized by the jurisdictional or central conference on a matter affecting an annual or a provisional annual conference, upon appeal by two-thirds of the members of the annual or provisional conference present and voting.<sup>5</sup>

¶ 15. Article III.- The General Conference shall affix the ratio of representation in the General, Jurisdictional, and central conferences from annual conferences, missionary conferences,<sup>19</sup> and the provisional annual conferences, computed on a two-factor basis: (1) the number of clergy members of the annual conferences and missionary conference,<sup>20</sup> and (2) the number of professing<sup>21</sup> members in the annual conference and the missionary conference,<sup>22</sup> provided that each annual conference, missionary conference,<sup>23</sup> or provisional annual conference shall be entitled to at least one clergy and one lay delegate in the General Conference and also in the jurisdictional or central conference.<sup>24</sup>

¶ 511.5(e) This formula is designated to comply with the Constitution, Division Two, Section II, Article I (¶ 13), which defines the minimum and maximum number of delegates to a General Conference. Should the computations provided in the paragraph result in a figure below the prescribed minimum or above the prescribed maximum for delegates, the Commission on the General conference shall be authorized to remedy the situation by adjusting up or down the numbers of clergy members and members of local churches of annual conference necessary to entitle an annual conference to elect delegates, any such adjustment to be proportionally the same for the two factors.<sup>4</sup>

¶ 13. Article I.1 The General Conference shall be composed of not less than 600 nor more than 1,000 delegates, one half of whom shall be clergy and one half lay members, to be elected by the annual conferences. The

missionary conferences shall be considered as annual conferences for the purpose of this article.<sup>14</sup> “

Without any discussion, the Conference unanimously approved the motion.

The Secretary of the General Conference filed a brief. A brief was also filed by The Rev. Dale Cohen. The Rev. Cohen subsequently filed an addendum to his brief.

## **JURISDICTION**

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

## **ANALYSIS AND RATIONALE**

Division Two, Section II, Article I (¶ 13) of the Constitution specifies the minimum and maximum number of delegates to a General Conference – not less than 600 nor more than 1,000 delegates and should be half clergy and half lay.

Paragraph 15. Article III grants to the General Conference the authority to fix the ratio of representation in the various conferences, computed on a two-factor basis: (1) the number of clergy members of the annual conference and the missionary conference, and (2) the number of professing members in the annual conference and the missionary conference, provided that each annual conference, missionary conference, or provisional annual conference shall be entitled to at least one clergy and one lay delegate in the General Conference and also in the jurisdictional or central conference.

Confirming the General Conference’s authority, the Judicial Council ruled in Decision 1128 that “The Secretary of the General Conference has the authority to determine the number of delegates that each annual and missionary conference will elect to the General Conference within the provisions of the Constitution and the legislative enactments of the General Conference.”

Paragraph 511.5(e) of the *Discipline* provides that the formula for the calculation of delegates to be elected by each annual conference as stipulated in ¶ 511.5 (a)(b)(c) and (d) of the Discipline is designed to comply with Division Two, Section II, Article I (¶ 13) of the Constitution which defines the minimum and maximum

number of delegates to a General Conference. Paragraph 511.5(e) of the *Discipline* also further states that "...Should the computations provided in the paragraph result in a figure below the prescribed minimum or above the prescribed maximum for delegates, the Commission on the General Conference shall be authorized to remedy the situation by adjusting up or down the numbers of clergy members and members of local churches of the annual conference necessary to entitle an annual conference to elect delegates, any such adjustment to be proportionally the same for the two factors."

Hence, by virtue of ¶ 511.5(e) it is undisputed that the Commission on General Conference is authorized to adjust the number of delegates to the General Conference when that number falls outside the constitutional parameters – not less than 600 nor more than 1,000 delegates.

Therefore, the specific question before the Judicial Council is whether the method utilized by the Commission on General Conference in remedying the situation created by the number of delegates falling outside the constitutional parameters was constitutional.

The brief of the Secretary of the General Conference states that when the mandated formula in ¶ 511.5(e) was applied, the calculations resulted in a number of 1,296 delegates, a number higher than the constitutional maximum of 1,000 delegates. Therefore, the Commission on the General Conference sought to remedy this by recalculating and adjusting based on a target of 850 delegates. As a result of mathematical errors, the recalculation resulted in a total number of 864 delegates.

Under the *Discipline*, the Commission on General Conference is given the task of remedying the situation of the number of delegates being outside the constitutional limits without any guidelines or set policies other than that such adjustment to be proportionally the same for the two factors specified in ¶ 15. Article III:

(1) the number of clergy members of the annual conference and the missionary conference, and (2) the number of professing members in the annual conference and the missionary conference, provided that each annual conference, missionary conference, or provisional annual

conference shall be entitled to at least one clergy and one lay delegate in the General Conference and also in the jurisdictional or central conference.

The Judicial Council has in several decisions held that there are no guidelines or restrictions on the calculations to be made by the Commission on General Conference other than that the delegates be proportionally the same for the two factors.

In Decision 687, the Judicial Council ruled that “The General Conference has constitutional authority to fix the formula for representation to General and Jurisdictional Conferences. The Constitution gives no guidelines by which to judge the appropriateness of Par. 602 other than that the final result be between 600 and 1000 and be half clergy and half lay.”

The Judicial Council in Decision 1128 held that “Besides the provisions in the Constitution, the legislative enactments of the General Conference, and the precedent of Judicial Council decisions, there are no restrictions on the calculations that the Secretary of the General Conference is authorized to make.”

We note that although Decision 1128 was decided in 2009 and was based upon the language contained in the *2008 Discipline*, the language of ¶ 511.5(e) of the *2012 Discipline* is the same as the corresponding language of ¶ 502.4(e) of the *2008 Discipline*. The language has not changed.

Changes in church law can only be made by the General Conference. Therefore, any guidelines, policies, procedures or rules in respect of the exercise of the authority granted the Commission on General Conference in ¶ 511.5(e) should be by legislative enactment and not judicial decision. It is a long-standing principle that the Judicial Council will not enter into legislative relief. That prerogative falls to the actions of the General Conference. The Judicial Council is not an appropriate body to change Church law. See Memorandum 1217.

The method utilized by the Commission of the General Conference in remedying the situation is constitutional.

## **DECISION**

The Constitution and legislative enactments of the General Conference authorize the Commission on General Conference to remedy the situation if the two factor basis specified in ¶ 15. Article III produces a number of delegates below 600 or above 1,000.

Changes in church law can only be made by the General Conference. Therefore, any guidelines, policies, procedures or rules in respect of the exercise of the authority granted the Commission on General Conference in ¶ 511.5(e) should be by legislative enactment and not judicial decision.

J. Kabamba Kiboko was absent.

Timothy K. Bruster, first clergy alternate, took part in this decision.

William B. Lawrence, President

F. Belton Joyner, Jr., Secretary

October 25, 2014