

General Assembly Permanent Judicial Commission

1992 Minutes of G.A. p. 179

11.050

5. Remedial Case 204-5

SESSION OF CENTRAL PRESBYTERIAN CHURCH
Complainant/Appellant

v.

Remedial Case 204-5

PRESBYTERY OF LONG ISLAND
Respondent/Appellee

This is a remedial case that has come before this commission on appeal by the Session of the Central Presbyterian Church of Huntington, New York, from a decision by the Permanent Judicial Commission of the Synod of the Northeast.

The General Assembly Permanent Judicial Commission finds that it has jurisdiction, that appellants have standing to appeal, that the appeal was properly and timely filed, and that the appeal is in order.

a. *History*

In a letter dated November 16, 1990, the moderator of the Session of the Central Presbyterian Church of Huntington, New York, wrote to the stated clerk of the Presbytery of Long Island, "to inform you of a recent action taken by our Session at their stated meeting of November 6, 1990. At that meeting the Session voted to exercise our authority to refrain from participating in the per capita "system." The letter indicated the reason for the action was, "As a Session, we believe that for years now, the General Assembly, the Synod of the Northeast and our own Presbytery of Long Island, have adopted policies and supported causes which we no longer in good conscience can be a part of supporting." Copies of this letter were sent by the complainant to the clergy of session of all the churches of the presbytery.

At a stated meeting of the presbytery on March 19, 1991, on a motion from the floor, the presbytery "voted to reaffirm its policy that any and all unpaid per capita shall be recorded as an outstanding obligation of the congregations involved." This action shifted the focus of attention from Central Church's protest to the per capita system. On April 12, 1991, on behalf of the session, the moderator and interim clerk of session filed a formal complaint with the stated clerk of the Synod of the Northeast alleging that the action of the presbytery constituted an irregularity, contending that the presbytery had encroached on the constitutional power of session to "determine the distribution of the church's benevolences. ..." (*Book of Order*, G-10.0102h).

On November 19, 1991, the matter came before the Permanent Judicial Commission of the Synod of the Northeast. The synod commission dismissed the complaint on the grounds that the complainant had failed to state a claim upon which relief could be granted.

The bulk of the opinion of the Permanent Judicial Commission of the Synod of the Northeast consists of two sections captioned "Deliberation" and "Judgment" respectively. Confusion arises by the inclusion of conclusions and elements of judgment in the "Deliberation" section.

On January 19, 1992, the case was appealed to the General Assembly's Permanent Judicial Commission, the notice of appeal claiming that the synod erred when it ruled that the complainant failed to state a claim upon

which relief can be granted.

b. *Findings*

This case presents a deceptively simple issue: whether a resolution adopted by the appellee presbytery was within its constitutional power. But underneath the apparently calm surface swirls a maelstrom of issues that demand consideration. These issues go to the heart of our Presbyterian system of church governance.

Our system is unique. It neither imposes decisions from the top down nor allows particular churches to operate in a vacuum. We proclaim and take seriously the notion of “one Church” (G-4.0301a). While our *Book of Order* speaks in terms of “higher governing bodies,” we acknowledge that our system contemplates a partnership of church governance in which each governing body has responsibilities, exercises authority, and carries out mission in particular areas (G-9.0103).

The *Book of Order* (Form of Government, Chapter 11) mandates certain activities to be carried out by a presbytery. Inherent in this mandate is the authority to finance these activities. There are a number of ways this can be accomplished. The appellant conceded that one of those ways is to adopt a per capita system of apportioning the presbytery’s operating costs. As a corollary to this, the presbytery may keep and publish a record of those churches that have not paid their share of the apportionment. As to this particular issue, the decision of the synod’s permanent judicial commission is correct.

Yet presbytery must acknowledge that the session has the responsibility and power to “determine the distribution of the church’s benevolences. ...” (G-10.0102h). Presbytery may not punish, directly or indirectly, a church whose session determines the distribution of the church’s benevolences in a way contrary to the presbytery’s approved policy. This commission perceives that the presbytery’s resolution, by using the word “obligation,” presents the potential for the presbytery to take coercive action such as demanding payment, assessing interest, or otherwise penalizing a church that is behind in making payments. However, a presbytery has the authority to prepare and publish a list of churches whose voluntary per capita or mission funds upon a predetermined schedule or voluntary commitment are in arrears.

Appellant argues that the synod erred in finding that the presbytery’s action “did not inflict any penalty and cannot be seen as substantially harmful or coercive to any sessions or congregations involved, including the complainant [sic].” Appellant contends that the adverse consequences it has suffered amount to the loss of its “good name” within the presbytery. Although there is the potential for penalty, harm, or coercion as noted above, appellant’s argument is unfounded.

Repeatedly, appellant has claimed that its refusal to “Participate in the per capita system is taken as a matter of conscience. Notice of its refusal was first communicated by letter to the presbytery’s stated clerk, dated November 16, 1990. Copies of this letter were circulated to all clerks of session in the presbytery. Any harm to the church’s “good name” is, at least in part, the result of its own action and is a necessary cost of taking its protest.

When one becomes a Presbyterian, one enters into relationships with others that are unique in modern systems of church governance. Individuals and governing bodies become accountable to one another. Decisions made at one level must be made in light of our understanding of the Presbyterian Church (U.S.A.) as being one church (G-4.0301a; G-9.0103).

Our system protects the rights of minority viewpoints, yet affirms the principle of majority rule (G-0400). Means are provided for the expression of these viewpoints and the effecting of change within the system. Yet there is no guarantee that these minority viewpoints will prevail on all issues. While freedom of conscience is preserved, it is to be exercised within certain limits (G-6.0108b), and officers promise to be governed by the polity of the church and to abide by its discipline (G-14.0207e; G-14.0405b.5). Appellant asserts its right to protest as a matter of conscience. While affirming this, this commission believes that there is also a “duty of conscience” to support the ministry and mission of the church. Our system provides mechanisms by which grievances may be addressed that are in harmony with the Historic Principles of Church Government (G-1.0400) and the Principles of Presbyterian Government (G-4.0300). While they are not always the most expedient or may not always produce immediate results, using such processes preserves the integrity of the system and often

effects desirable changes.

c. Specification of Error

The synod erred in its decision of dismissal on the grounds that the complainant failed to state a claim upon which relief can be granted.

The specification of error is sustained.

The synod's decision to dismiss the case is compromised by its other findings and comments. A governing body may adopt a per capita system for financing its operations, and may prepare and publish a list of churches that pay or do not pay according to that system. A church may neither be compelled to pay nor punished for failure to pay any amounts pursuant to such plan.

As Presbyterians we have a unique relationship that obligates us morally to share in the mission enterprise of the church and the processes and structure necessary to fulfill that to which we are called in the name of Christ.

d. Order

The decision of the Permanent Judicial Commission of the Synod of the Northeast is vacated. James MacKellar and Alberta Mercado were not present and took no part in the proceedings.