Lightner, Jr. v. Pby of Mid. TN.,
Remedial Case No. 194-4,

IRBY C. LIGHTNER, JR.,
Complainant-Appellant

vs.

THE PRESBYTERY OF
MIDDLE TENNESSEE,
Respondent-Appellee

Opinion

This is a remedial case initiated by the complaint filed on July 6, 1982, by Irby C. Lightner, Jr. (Appellant), against the Respondent, Presbytery of Middle Tennessee, arising out of the dissolution of the First Presbyterian Church of Sparta. The complaint alleges irregularities in the action taken by the Presbytery at its adjourned regular meeting on May 2, 1982, wherein the Presbytery approved a series of resolutions dissolving the Sparta Church, as well as in the action of the Presbytery at its regular meeting on June 20, 1982, wherein the Presbytery took certain action with respect to the status of the membership rolls of the Sparta Church.

The Permanent Judicial Commission of the Synod of the South conducted a hearing on the Complaint and rendered its decision on October 12, 1982. Its decision was not to sustain any of the four alleged irregularities set forth in the complaint. Appellant now appeals from that decision.

The Permanent Judicial Commission of the General Assembly has jurisdiction. Appellant, as a duly elected member of the Presbytery at all times material to this case, has standing to complain. The appeal is in order.

In his original complaint, Appellant alleged that the Presbytery:

1. Erroneously assumed jurisdiction over the Sparta Church;
2. Dissolved the Sparta Church without affording the parties involved the right to be heard;
3. Acted irresponsibly by approving the resolutions relating to dissolution on incomplete information; and
4. Transferred Sparta Church members from one church roll to another without complying with Chapter II of the Book of Church Discipline.'

' All references in this decision are to the Book of Order 1981-1982, which was in effect during the period of the alleged irregularities.

In addition to his contention on this appeal that the Synod was mistaken in its decision to not sustain any of the above four alleged irregularities, Appellant further contends that the Synod

accepted improper evidence at its hearing on the Complaint and failed to require the stated clerk of Presbytery to comply with the Book of Order concerning the submission of evidence.

In his brief filed with this Commission, Appellant has listed the last specification of error, regarding the proceedings before the Synod, as Specifications of Error Nos. 2, 3, 4, and 5 respectively. We shall consider each of the specifications in order, as listed in Appellant's brief.

Specification No. 1. Although Appellant seeks to complain of the actions of the Synod by setting forth a written specification of error alleged, his brief contains no arguments, reasons, or citations of authorities in support of this contention as to the alleged error specified. (Book of Church Discipline, Chapter XIII, Section 6 (93.06).) At the hearing on the appeal, Appellant did not present argument on this specification. Nevertheless, we understand the Appellant to be complaining that the Synod received evidence at the hearing on the complaint that did not contain all of the minutes and papers pertaining to the case (Book of Church Discipline, Chapter VI, Section 9 (86.09)), and that some of the records received by the Synod may not have been authenticated by the stated clerk of the Presbytery. We have reviewed the notes of testimony taken at the proceedings before the Synod on October 11, 1982, and the record filed on this appeal and are unable to conclude that the Synod committed any irregularity with regard to its receipt of the record or the evidence.

The Commission finds that Specification No. 1 of the appeal is not sustained.

Specification No. 2. Appellant contends that since the problems relating to the Sparta Church (which arose as early as November 1977) originated while the church was included in the Presbytery of St. Andrews, the Presbytery of Middle Tennessee (formerly Presbytery of Nashville) could not assume any jurisdiction over the church. We note that the Presbytery of St. Andrew and the Presbytery of Nashville (now Presbytery of Middle Tennessee) successfully petitioned the 1981 meetings of the Synod of the South and of the General Assembly of this church to effect the dissolution of the Presbytery of St. Andrew and the transfer of the ministers and congregations to the Presbyteries of Nashville and Union.

The administrative commission that had been established by the Presbytery of St. Andrew in July 1981 and that replaced the Sparta Session in October 1981 was continued in existence by the Presbytery of Nashville at its meeting on December 20, 1981, in anticipation of the transfer of the Sparta Church to the Presbytery of Nashville on January 1, 1982. Inasmuch as both the Synod and the General Assembly had already approved the transfer at the time it took effect, we agree with the Presbytery that Book of Order Discipline, Chapter II, Section 22 (82.22), providing for the jurisdiction over a dissolved presbytery's churches and members, is not applicable to this case.

All of the evidence supports the conclusion of the Synod that the Presbytery did not erroneously assume jurisdiction in the problems surrounding the Sparta Church. The Commission finds that Specification No. 2 of the appeal is not sustained.

Specification No. 3. Appellant contends that the Presbytery proceeded "by administrative processes and procedures" to a vote on whether the Sparta Church should be dissolved and thereby denied the parties to the dispute their right to be heard. In his original Complaint, Appellant refers to Chapters VI, VII, VIII, and IX of the Book of Church Discipline as authority for his contention that the proceedings leading up to the dissolution of the Sparta Church were "disciplinary" in nature. However Form of Government, Chapter XI, Section 15 (41.15), provides:

> *15. Whenever...the presbytery...shall determine that the session of a particular church is unable or unwilling to manage wisely the affairs of its church, the presbytery may appoint a commission...with the full power of a*

session. This commission shall take the place of the existing session, if any, which shall cease to act until such time as the presbytery shall otherwise direct.

In this case, the Session of the Sparta Church had requested a meeting with the Presbytery's Committee on Ministerial Relations to consider the difficulties that had arisen (Form of Government, Chapter XXVII, Section 3 (57.033)) as early as November 8, 1977. Throughout the period between 1978 and 1981 the committee had numerous contacts with the church, its members, and its several pastors on the problems of the church, until the removal of the Session by the Presbytery on October 13, 1981. Between October 18, 1981, and April 12, 1982, the administrative commission, acting in the place of the Session, met fifteen times. It met with the pastor regularly, members of the former session who represented both sides of the controversy, as well as other members of the congregation.

On August 23, 1981, the administrative commission met from 2:00 P.M. to 10:30 P.M. at the Sparta Church and interviewed each person who desired to speak on the situation at the church. The notice of May 2, 1982, meeting went to each member of the Sparta congregation. The meeting lasted for five hours and Appellant does not contest that many people spoke on the issue prior to the vote on the resolution. Appellant does not attack the vote of the members of the Presbytery, but rather submits that there was insufficient information for the members to vote intelligently. There is ample evidence in the record to support the Synod's finding that all concerned parties in the matter were given numerous opportunities to be heard and to make known their positions.

The Commission finds that Specification No. 3 of the appeal is not sustained.

Specification No. 4. This specification, imputing irresponsible action to the Presbytery in relying on the reports of its administrative commission, is akin to the prior claim of irregularity. Appellant argues that the information presented to the members of the Presbytery at the May 2, 1982, meeting was brief and incomplete.

An administrative commission of a presbytery has the power to visit particular churches under the jurisdiction of the presbytery reported to be affected with disorder (Form of Government, Chapter XXX, Section 4 (60.04)) and shall keep a full and detailed record of its proceedings, which shall be submitted regularly to the presbytery. Its actions shall be regarded and treated as the action of the presbytery subject to the approval of the presbytery. (Form of Government, Chapter XXX, Section 7, (60.07).) The presbytery may appoint a commission with the full power of a session, which shall take the place of the existing session. (Form of Government, Chapter XI, Section 15 (41.15).) A presbytery may visit churches for the purpose of inquiring into and correcting evils that may have arisen in them, and has power to dissolve a church. (*Ibid.)*

The record satisfies us that the Presbytery of Middle Tennessee, and before it, the Presbytery of St. Andrew, complied with the requirements of receiving reports, both verbal and written, from its administrative commission. We agree with the Presbytery that its administrative commission was making decisions and carrying out its actions on behalf of the Presbytery, which had appointed it by vote of the members.

At the May 2nd meeting, the secretary of the administrative commission did not only distribute the chronology of events leading up to the recommendation to dissolve the Sparta Church but he also responded to questions from the floor. Individual members of the Sparta Church, as well as Appellant, were heard before the whole Presbytery. The meeting consumed five hours and was limited to the subject of the proposed dissolution of the Sparta Church. We agree with Appellant that each member of a presbytery has the responsibility to know and

understand the evidence and information necessary to make a decision on matters placed before the body. Our review of the record persuades us, however, that the administrative commission properly discharged all of its responsibilities and that the Presbytery was adequately informed at the time the voting took place.

Where there has been no abuse of the discretion and power lodged in a presbytery, we are not prepared to challenge its action in discharging its responsibility under our Constitution. The evidence fully supports the Synod's finding that a charge of irresponsibility on the part of the Presbytery of Nashville cannot be sustained.

For all the above reasons, The Commission finds that Specification No. 4 of the appeal is not sustained.

Specification No. 5. This specification asserts that the Synod incorrectly sustained the action of the Presbytery of Middle Tennessee on June 20, 1982, in transferring the membership of certain members of the then dissolved First Presbyterian Church of Sparta to an inactive roll.

Upon its dissolution of the Sparta Church, the Presbytery acquired jurisdiction over the members of the former congregation. (Book of Church Discipline, Chapter II, Section 17 (82.17).) In the exercise of that jurisdiction, the Presbytery's stated clerk wrote to each person on the membership roll asking whether they wished their membership to be transferred to the roll of another church. The Presbytery further advised that upon request, the member's name would be deleted. In the event that no response was received, the clerk's letter stated that their name would be placed on an inactive roll as of the Presbytery's meeting on June 20, 1982.

Pursuant to this letter, the Presbytery transferred to the inactive roll the names of those members of the dissolved congregation from whom no response was received. The action was within the Presbytery's authority. Accordingly, we do not sustain this specification, which contends that this action of the Presbytery was erroneous.

Ruling Elder Paul F. Kortepeter was absent and did not participate in the decision. (Rules of Church Discipline, Chapter VIII, Section 13 (88.13).)

Dissenting Opinion of Dell A. Richard, Frances Hollis, Justin M. Johnson, and Roy H. Zuefeldt

We respectfully dissent from the majority decision with respect to its determination that Presbytery acted within its authority in transferring certain members of the dissolved Sparta Church from the church's active roll to the status of inactive membership. The majority has apparently decided that Presbytery has the power to ignore the obligations of a session with respect to pastoral care and waiting periods for members being moved from Active to Inactive Status after a church's dissolution. We believe the majority decision abrogates the constitutional principles of our church without adhering to constitutional principles of fairness.

Authority within the United Presbyterian Church is exercised through judicatories (sessions, presbyteries, synods, and General Assembly) that are each a basic unit of mission with unique constitutional responsibilities. (Form of Government, Chapter V, Section 10(35.10).)

It is undisputed that the "...session has authority over all of the affairs...of the particular church, except,...[those] specifically accorded to ...a higher judicatory." (Form of Government, Chapter XI, Section 8, (41.08).) The session is granted exclusive authority "to decide who shall be members of the church...." (Form of Government, Chapter XI, Section 6 (41.06).) (See also *Minutes,* 1840, p. 11; *Minutes,* 1856, p. 200, "Power...to discipline...belongs to the session in the case of a layman; to the presbytery in the case of a minister"; *Minutes,* 1866, p. 54, O.S.,

"All...power...(affecting the rights of members) is vested in the session"; *Minutes*, 1864, p. 510, N.S., "It is the province of the session to judge the qualifications of candidates for membership in the church.") Regarding membership rolls, Form of Government, Chapter XI, Section 14 (41.14), provides that members' names "...shall be placed upon, removed, or deleted from the rolls...only by order of the session."

The purpose of these provisions and authorities is to ensure that members of our church are treated fairly and not deprived of their membership rights without compliance with certain procedural safeguards. In this context, we agree that when the presbytery assumes jurisdiction over the members of a dissolved church, the presbytery has the power to transfer members from an active roll to an inactive roll even though the particular church to which the member may have formerly belonged has ceased to exist. Our point of departure from the majority rests in how and when that power is to be exercised.

Here, the Presbytery took action dissolving the Sparta Church on May 2, 1982. The Presbytery clearly had the authority to dissolve the Sparta Church. However, only one month later, James A. Mays, acting in his capacity as presbytery executive and stated clerk of the Presbytery of Middle Tennessee, advised the former Sparta Church members in a letter that the Presbytery intended to act in one of the following ways;

(a) Transfer the former Sparta member to another church;

(b) "Erase" the name of the member if the member has "joined a group to whom we cannot give a letter...";

(c) Delete the member's name at the member's request;

(d) Place the member's name on an Inactive Roll as of June 20, 1982, if the member did not affirmatively respond by June 19, 1982.

The letter concluded by stating that any member of the former Sparta Church who had "already signed the list for the United Presbyterian Fellowship...need not return the form."

The Appellant, in his Specification No. 5 before this Commission, complains of the action of the Presbytery on June 20, 1982, which purported to transfer certain members of the Sparta Church from the Active Roll as their names had appeared prior to the dissolution of the church to some Inactive Roll maintained or established by the Presbytery. Our understanding of the proper relationship between a church member, the member's church, and the supervising presbytery compels us to agree that Appellant's complaint is well-founded.

While the Synod below and the majority make reference to the breadth of the "Presbytery's authority," we believe the circumstances of transfer under our examination are better understood from the perspective of limitations of authority regarding the status and the rights of each member of our church as guaranteed under our Constitution. The majority would not disagree, we think, with our understanding that a session, by virtue of the Book of Church Discipline, Chapter II, Section 12 (82.12), is prohibited from transferring a member from the Active Roll to the Inactive Roll until (1) a member had failed intentionally to participate in the work and worship of the church (2) for a period of a year, and (3) the session had made a diligent effort to (a) discover the cause of the member's nonparticipation and (b) restore the member to activity in the church's work and worship. Yet the majority would conclude that the presbytery is free to transfer a member from one roll to another without adherence to these safeguards whenever a presbytery, by its own previous actions, has dissolved the member's former church.

The majority cites no authority within the *Book of Order* that extends this grave authority to a presbytery in clear and unambiguous terms. We believe that such a power may not even be implied for several very important reasons.

The purpose behind the restrictions set forth in Book of Church Discipline, Chapter II, Section 12 (82.12), appears clear to us. Our church proudly recognizes the individual rights that accompany membership in the United Presbyterian Church and seeks through this section, as well as other sections, to protect those rights. An active church member is entitled to all the rights and privileges of the church, including the right to participate in the Sacrament of the Lord's Supper, to present children for Baptism, to take part in meetings of the congregation, and to vote and hold office therein. (Book of Church Discipline, Chapter II, Section 4 (82.04).) Of equal importance is that an active church member is entitled to receive a certificate of membership (certificate of transfer under Form of Government, Chapter XI, Section 14 (41.142), of the 1982-83 *Book of Order)* to a particular church setting forth the active or inactive membership status of the person. (Book of Church Discipline, Chapter II, Section 16 (82.16).)

While we acknowledge that the members of our church who were active members of the Sparta Church may have temporarily lost their ability to attend meetings, vote, or hold office in a particular church by reason of the dissolution of the Sparta Church, this acknowledgment in no way detracts from our desire to follow proper procedure affecting those other important rights expressly set forth in our Constitution.

We have no difficulty in joining in that portion of the majority decision that finds that the Presbytery properly assumed jurisdiction over the Sparta Church. We also agree that the Presbytery gave ample opportunity to members of the church to be heard and to make known their position with regard to the question of the dissolution of the church. We believe the Presbytery acted responsibly in receiving the reports of its administrative commission and in voting on the question of dissolution. It is not enough, however, to be able to say that the Presbytery properly discharged its obligation to the Sparta congregation, as a church, in deciding whether the Presbytery satisfied our church's obligations to the individual members of that church during the period following dissolution.

We would find no duty on the part of a member of the Sparta Church to affirmatively respond to the letter from the Presbytery Executive (referred to above) on pain of having their name transferred from the Active Roll to the Inactive Roll. Unlike the majority, we find no authority to permit the Presbytery to ignore the dissolved session's duty to satisfy itself that each individual member of the Sparta Church had intentionally failed to participate in the work and worship of the United Presbyterian Church for a period of one year. For the same reason we also find a duty on the part of the Presbytery to make diligent effort to restore the individual member to activity in the work and worship of our church. Both of these duties, in our view, are a prerequisite to the action attempted by the Presbytery on June 20, 1982. The record before us, which is clear and abundant on the matter of the Presbytery's effort toward preserving the Sparta Church, does not contain facts from which we can conclude that the Presbytery proceeded to relate to the individual members of the congregation, following dissolution, in a manner intended to comply with the duties set forth above.

We would reserve the Synod's decision on Specification 5 and order the Presbytery to restore all formerly active members of the Sparta Church to active status until the constitutional requirements for transfer to inactive status have been met.