Hoover v. Pby of Mecklenburg,
Remedial Case No. 198-1,

DR. THOMAS B. HOOVER
Complainant-Appellant
vs.
THE PRESBYTERY OF MECKLENBURG
Respondent-Appellee

This matter comes before the Permanent Judicial Commission of the General Assembly of the Presbyterian Church (U.S.A.) pursuant to its motion after an interim order has been issued on the 18th day of August, 1985, by the Moderator and Clerk of the Commission.

A careful reading of the record in this appeal leads us to the conclusion that the subject of the complaint is the refusal of the Presbytery of Mecklenburg to receive Dr. Hoover into membership. A vote to this effect was taken on February 28, 1984. If this action was erroneous, it would have constituted an irregularity under our church's Constitution (Rules of Discipline, D-1.0600). The Rules of Discipline specify that a complaint alleging an irregularity shall be filed within thirty days after the irregularity occurs. When a complaint is file after the expiration of the thirty-day limit, no judicial process is commenced because timely filing of an original complaint is a precondition to a governing body's exercise of authority in a judicial proceeding.

The complaint in this case was filed on September 19, 1984. This is outside the thirty day limit. Therefore, we find that the complaint was not timely filed and uphold the ruling of Synod.

Further, the *Book of Order* specifies that a complaint may be filed "by a minister...enrolled as a member of a presbytery concerning an irregularity or a delinquency during that period of enrollment, against the presbytery, with the synod" (D-6.0500b). Dr. Hoover was never received into the Presbytery of Mecklenburg, therefore he was not a member of the presbytery and had no standing to complain against its action.

This order, issued on January 18, 1986, by the Permanent Judicial Commission, confirms the interim order issued August 18, 1985. The appeal is hereby dismissed.

The Reverend Robert L. Craghead and Elder A. Ward McKeithen did not participate in the decision, in compliance with D-4.0400. Elder Frances L. Hollis was absent and did not participate in the decision (D-8.1300).