

**THE PERMANENT JUDICIAL COMMISSION
OF THE GENERAL ASSEMBLY
OF THE PRESBYTERIAN CHURCH (U.S.A.)**

LORENA SAURBAUGH
Complainant/Appellee

v.

Remedial Case 206-13

PRESBYTERY OF GREAT RIVERS
Respondent/Appellant

This is a remedial case which has come before the commission on appeal by the Presbytery of Great Rivers from a decision by the Permanent Judicial Commission of the Synod of Lincoln Trails.

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

a. History

Approximately ten years ago the Presbytery of Great Rivers established a larger parish, pursuant to a written cooperative working agreement, of the West Prairie Presbyterian Church and three other churches, which three churches later united to form the Scotland Trinity Presbyterian Church. The Cooperative Working Agreement provided in part:

"8. *The responsibilities of the Parish Relations Committee shall be . . .*

d. Recommending dissolution of the Pastoral call or the Cooperative Agreement. The Parish Relations committee should be responsible for discussing these issues prior to any formal action by any of the four sessions/ congregations. Dissolution of Cooperative Agreement shall require three months notice."

The Agreement further provided:

D. Dissolution of Pastoral Services

- 1. How done (51.01) Book of Order*
- 2. Thirty days notice will be required*

The agreement specified the pastor's compensation and did not specifically provide for any compensation subsequent to dissolution of the pastoral relationship.

Later, Donna K. Medlock was called as pastor to this parish.

In meetings in December, 1992, the Cooperative Parish Council voted to recommend dissolution of the pastoral relationship to the congregations based, according to the presbytery, on Ms. Medlock's perceived incompatibility with the congregations and not on any failure to be an otherwise competent minister.

Upon being informed of the Parish Council's decision, Ms. Medlock chose to resign before the recommendations could be considered by the congregations involved. She requested that her pastoral relationship be dissolved as of February 28, 1993.

Representatives of the respondent's committee on ministry (COM) felt that the

resignation was not voluntary and that financial compensation was in order. Representatives of the West Prairie Church now contend that the resignation was voluntary. After deliberation and discussion with members of the COM, the Parish Council decided to propose to the two congregations the following severance compensation to Ms. Medlock:

That the dissolution be effective February 28, 1993, and that the compensation include continuance of salary, use of the manse, and full payment of pension terms through the end of August, 1993.

The congregation of the Scotland Trinity Church overwhelmingly approved the recommendations of the Parish Council at a congregational meeting on the last Sunday of December, 1992.

However, at a congregational meeting on January 3, 1993, the congregation of the West Prairie Presbyterian Church approved the dissolution of the pastoral relationship but not the severance compensation terms. The West Prairie Church approved the dissolution with compensation continuing only until the end of May, 1993, rather than the end of August, 1993, as proposed by the parish council. The vote was reported to be four in favor of the recommendation of the parish council and fourteen against it. The reason presented to the synod's permanent judicial commission (synod PJC) was that the longer period of compensation would seriously detract from the West Prairie Church's financial capability to continue its ministry.

The COM was informed of the actions by the West Prairie Church, and after discussing the issues at meetings on January 5 and February 9, 1993, (with no representatives of West Prairie Church present for consultation), voted to recommend the longer term of compensation to the Presbytery of Great Rivers. The clerks of session of both churches were informed of the COM's recommendation in letters from the stated clerk of presbytery dated February 12, 1993.

Representatives of the West Prairie Church argue they were unable to obtain further consideration of their position prior to consideration and action by the presbytery on February 23, 1993. The presbytery argues that there was further consideration. After discussion, the presbytery voted to approve the COM's recommendation. The COM did include the action of the West Prairie congregation in its presentation to the presbytery.

On March 20, 1993, Lorena Saurbaugh, who was clerk of session and commissioner to presbytery from West Prairie Church, filed a complaint alleging that the action of respondent was irregular in that the terms of dissolution of the pastoral relationship had not been approved by the West Prairie Presbyterian Church. Complainant's brief and testimony at the hearing before the synod PJC stated the complaint was initiated at the request of the Session of the West Prairie Church.

On August 27, 1993, the synod PJC heard the case, but did not arrange for a verbatim recording of the testimony. On September 21, 1993, and September 27, 1993, the vice-moderator and the vice-clerk respectively signed the synod PJC's decision, including the following:

The Permanent Judicial Commission finds that the Presbytery of Great Rivers exceeded its authority when it voted to require the West Prairie Presbyterian Church to provide compensation which had been rejected in a congregational meeting. The Book of Order does not give the presbyteries power to require congregations to pay compensation upon dissolution of pastoral relationships. This authority cannot be

inferred from the power to set minimum compensation, approve calls and dissolve relationships.

On October 10, 1993, the Presbytery of Great Rivers filed a notice of appeal.

b. Specifications of Error

The appellant alleges three specifications of error.

(1) An improper interpretation and application of the wrong principles of the *Constitution of the Presbyterian Church (U.S.A.)* led to a mistaken conclusion and decision by the (synod PJC). The appellant holds that a presbytery has the authority to decide financial terms when an involuntary dissolution of pastoral relationship occurs.

This specification is not sustained.

The West Prairie Church was part of a larger parish recognized by the presbytery. *Book of Order*, G-14.0504 has provisions which apply to such situations, among them the following:

When such a call has been issued by a parish council, and approved by the presbytery, each participating church shall be obligated to continue its financial support of the parish for the duration of the pastorate, unless excused by the other participating churches with the approval of the presbytery.

This paragraph makes no reference to an obligation to continue financial support beyond the dissolution of the pastoral relationship.

Nothing in G-14.0602, G-14.0603, or G-11.0103o makes any reference to a power to compel a congregation to pay a former pastor any compensation after a pastoral relationship has been dissolved.

As in the approval of terms of call at the beginning of a pastorate, and as in the approval of changes in those terms from time to time, under the particular facts here, it is the congregation that takes action prior to the concurring approval of the presbytery.

Thus any special terms requiring continuance of salary and benefits after the dissolution of the pastoral relationship in this case required the approval of the congregation.

Appellant asserts: the financial responsibility of a congregation to a pastor continues until released by a presbytery. Appellant's brief cites a particular sentence in this commission's decision in *Donald Garton v. Presbytery of Blackhawk*, (*Minutes*, 1991, Part I, p. 185): "Presbyteries are responsible for requiring churches to comply with the terms of the call until the pastoral relationship is finally dissolved." In the present case, the pastoral relationship was dissolved on February 28, 1993, and the entire period in question was subsequent to that date. Accordingly the presbytery misinterprets the Garton case. A presbytery may require a congregation to fulfill terms of call unfulfilled at the time of dissolution.

(2) The opinion of the (synod PJC) mistakenly states that "the testimony strongly indicates that the committee on ministry failed to adequately exercise the responsibility stated in G-11.0502i . . ."

This specification is not sustained.

In the absence of a verbatim transcript of the testimony heard by the synod PJC, this commission has no basis on which to overturn the lower court's opinion of what that testimony indicated.

(3) The permanent judicial commission of the synod erred in not

providing for "accurately and fully recorded [ing]" (D-9.1100) testimony nor in seeking a waiver in writing of this requirement.

This specification is sustained.

Book of Order, D-8.1800a provides that:

. . . in those remedial cases in which evidence is received, whether at the trial or on appeal, the clerk shall:

a. Arrange in advance for the accurate verbatim recording of all testimony in question and answer form.

It is possible for all parties to a case to waive the verbatim recording. However, in this case there is no record of such a waiver.

Therefore, the synod PJC erred in not providing for an accurate verbatim recording of testimony. However, this error would not have changed the decision in this case.

c. Order

It is therefore ordered that the decision of the Permanent Judicial Commission of the Synod of Lincoln Trails is sustained. The West Prairie Presbyterian Church is not obliged to pay severance compensation beyond the three-month period approved by its congregation. If they have paid more than that, the Presbytery of Great Rivers is ordered to reimburse the West Prairie Church.

It is further ordered that the stated clerk of the Presbytery of Great Rivers, the appellant, report this decision to the presbytery at its first meeting after receipt, that the presbytery enter the full decision upon its minutes, and that an excerpt from those minutes showing entry of the decision be sent to the Stated Clerk of the General Assembly (*Book of Order*, D-8.1900).

The untimely death of Harold Densmore, member of the commission, on October 24, 1993, precluded his participation in the proceedings.