

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

**BROAD AVE. PRESBYTERIAN CHURCH,
ALTOONA, PA**

**FIRST PRESBYTERIAN CHURCH,
PITTSBURGH, PA**

**BEVERLY HEIGHTS UNITED PRESBYTERIAN CHURCH,
PITTSBURGH, PA**

**EAST MAIN PRESBYTERIAN CHURCH,
GROVE CITY, PA**

**COLLEGE HILL PRESBYTERIAN CHURCH,
CINCINNATI, OH**

**BETHANY COLLEGIATE PRESBYTERIAN CHURCH,
BRIDGETON, NJ**

**BETHANY PRESBYTERIAN CHURCH,
BRIDGETON, NJ**

**FIRST PRESBYTERIAN CHURCH,
OCEAN CITY, NJ**

**FIRST PRESBYTERIAN CHURCH,
OOSTBURG, WI**

**GASHLAND PRESBYTERIAN CHURCH,
KANSAS CITY, MO**

**ROANOKE PRESBYTERIAN CHURCH,
KANSAS CITY, MO**

**FIRST PRESBYTERIAN CHURCH,
OLATHE, KS
Complainants**

v.

Remedial Case 207-7

**THE GENERAL ASSEMBLY COUNCIL
Respondent**

This is a case which has come before this commission on a complaint from the sessions of the twelve named congregations following their request to the General Assembly Council to take certain actions in reference to the controversy surrounding the November 1993 Conference on "Re-Imaging . . . God, Community, the Church . . ." The General Assembly Council took other actions and declined to take the specific actions requested by the complainants.

Subsequently, the General Assembly met after the filing of the complaint, but prior to the trial of the complaint by this commission, and dealt with the issue.

Our Presbyterian system is a government of law subject to the lordship of Jesus Christ. This commission appreciates that Presbyterians understand the imperatives of Christ's lordship in diverse ways among themselves. There is strength in diversity exercised amicably. It cannot be a delinquency under our Book of Order for a governing body or council simply to fail to adopt specific programs suggested by one or more Presbyterians out of their understanding of Christ's lordship. A delinquency arises when a governing body fails to act and is required to act under our Constitution. A delinquency may also arise when a council or entity fails to act and is required to act under our Constitution or the determinations of its governing body.

Further, the actions of the General Assembly supersede those of the General Assembly Council. This is always properly so. Our best remedy is always action by a governing body inspired by the Holy Spirit. Judicial process is inherently limited to specific cases and fact situations. This commission is not a general board of review.

The Executive Committee recommended that the permanent judicial commission dismiss this case for failure to state a claim upon which relief can be granted. After hearing both parties, the commission voted to adopt the recommendation of the Executive Committee.

It is therefore ordered that the preliminary order of the Executive Committee of the General Assembly Permanent Judicial Commission is adopted and the case is dismissed.

Concurring Opinion of Cader Howard, Patricia K. Norris, Judith L. Rehak, Stephen W. Smith, and Ferdinand O. Pharr

In this case, the complainants have filed a complaint against the General Assembly Council (GAC). The complaint alleges that the GAC has failed to enforce G-6.0108b and G-13.0202 over various General Assembly agencies and GAC officers and employees by not disciplining these entities or individuals when, in their official capacities, they have taken positions, participated in events or expressed views which the complainants assert are contrary to established church doctrine or policy. Generally requesting this commission to order the GAC to "properly carry out its constitutional responsibilities found in both G-6.0108 and G-13.0103," the complainants more specifically request this commission to, among other things, require the GAC to "publicly disavow" certain views expressed at the November 1993 "Re-Imagining . . . God " conference, find that certain GAC officers and employees who have "affirmed" the ordination of practicing homosexuals have violated G-6.0108b and, as clarified in certain other pleadings, establish a policy ensuring that GAC officers and employees "conform their official words and their official actions" to authoritative teachings of the church.

The GAC has moved to dismiss the complaint, asserting that it fails to state a claim upon which relief can be granted. (See Book of Order, D-6.1200a(4).) We agree.

Section G-6.0108b pertains to the exercise of freedom of conscience within certain bounds by church candidates and officers. Section G-13.0103 deals generally with the responsibility and the power of the General Assembly as the "bond of union" among the

congregations and governing bodies of the church. Neither section authorizes this commission to enact for or require the GAC to implement discipline or personnel policies or guidelines that is the relief requested by the complainants. See also G-4.0300i that states that governing bodies "possess whatever administrative authority is necessary to give effect to duties and powers assigned by the Constitution of the church."

Indeed, in responding to the GAC's motion to dismiss, the complainants acknowledge that they are seeking the establishment of procedures by the GAC to ensure discipline over GAC officers and employees:

The delinquency that the complaint identifies is that the GAC has no policy or practice whatsoever designed to review the words or actions of its officers and members for conformity to even the most fundamental teachings of the church.

As recognized in G-6.0108b, however, the decision as to whether a church candidate or officer has departed from essentials of Reformed faith and polity is made initially by the individual, but ultimately becomes the responsibility of the governing body in which that person serves. And, as recognized in G-13.0103h and p, it is the responsibility of the General Assembly to "superintend" the agencies and task forces necessary for its work, including the GAC, and to warn or bear witness "against error in doctrine or immorality in practice in or outside the church" (Book of Order, G-13.0103p).

This commission is not a general board of review. Within our system of governance, certain responsibilities, and the power to implement those responsibilities are assigned to governing bodies and councils. See also G-13.0200 (responsibilities of GAC). A delinquency arises when a governing body or council fails to act and is required to act under our Constitution. A governing body or council does not commit a delinquency, however, when it does not exercise

its power to implement its responsibilities as requested by one or more Presbyterians out of their understanding of Christ's lordship.

For the foregoing reasons, we concur in the dismissal of this case.

Dissenting Opinion of Nancy A. Harper, James M. MacKellar, and Ruby Rodriguez

The undersigned respectfully dissent.

The General Assembly Council and all who are employed by it are agents and/or representatives of the General Assembly of the Presbyterian Church (U.S.A.).

It is strange to think that the General Assembly's agents and/or representatives do not have an obligation to speak and act in support of the positions and policies adopted by the General Assembly as they act in carrying out the duties of their respective positions.

The General Assembly Council, through its personnel administration, is the agent of the General Assembly responsible for supervising the work of its employees.

It is responsible "to review the work of General Assembly agencies and bodies in [the] light of General Assembly mission directions, goals, objectives, and priorities" (Book of Order, G-13.0201e).

It is responsible "to act . . . always according to previously enacted General Assembly policies" (Book of Order, G-13.0201k).

Further, D-6.0500g provides that a complaint may be filed against the General Assembly Council or an agency of the General Assembly under certain circumstances. This implies that the General Assembly Permanent Judicial Commission has authority to hear and render a decision on such a complaint.

If it be argued that only the General Assembly itself can properly review the work of the General Assembly Council and the adequacy of its supervision of employees, it should be noted that the rules of the General Assembly bar individual church members and sessions from communicating directly with the General Assembly. If they cannot persuade a presbytery or synod to send an overture on the subject, the only avenue by which individuals or sessions may seek review of an alleged irregularity or delinquency by the General Assembly Council is a complaint to come before this Permanent Judicial Commission.

Therefore, if it appears that the General Assembly Council or the agencies or staff under its supervision have acted contrary to previously enacted General Assembly policies, or failed to act in accord with them, the General Assembly Permanent Judicial Commission may properly consider a complaint filed against the General Assembly Council and grant such relief as may be appropriate in the circumstances.

Therefore, the request of the complainants that the Permanent Judicial Commission provide "any further and other relief that this Judicial Commission may deem appropriate" presents a claim upon which relief may be granted.