

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

Thomas B HOOVER)
Complainant-Appellant)
)
v.)
)
The Presbytery of CHARLOTTE)
Respondent-Appellee)

REMEDIAL CASE 209-6

This Case comes before the General Assembly Permanent Judicial Commission (Commission) on appeal by Thomas B. Hoover, a minister, from the judgment made by the Permanent Judicial Commission of the Synod of the Mid-Atlantic (Synod).

In adopting amendments to the Form of Government and Rules of Discipline, the 208th General Assembly (1996) affirmed this Commission's request that all cases filed before the adoption of the amendments be adjudicated in accordance with the Rules of Discipline then in effect. Therefore, we consider this case in accordance with the 1995-1996 version of the Rules of Discipline. All references in this decision shall be to the 1995-1996 Rules of Discipline.

Pursuant to D-13.1200a, this Commission finds that it has jurisdiction, that the Appellant has standing to appeal, the appeal is properly and timely filed, and that the appeal is in order.

Although Mr. Hoover requested a continuance, we do not find his reasons persuasive. Therefore the Commission proceeded to consider the appeal on the written record.

The history of Mr. Hoover's judicial concerns is well summarized in the decision on Case 206-10.

HISTORY

On February 2, 1993, this Commission remanded to the Presbytery of Charlotte (Presbytery) Mr. Hoover's request for vindication and ordered a Special Disciplinary Committee (SDC) be formed (per D-7.0500). Further, the Commission remanded a complaint by Mr. Hoover and recommended the appointment of a special Stated Clerk "to handle matters" in order that the complaint would be most fairly adjudicated.

At its meeting on May 18, 1993, the Presbytery considered at its opening, within the motions made by the Stated Clerk, an omnibus motion. Any member of the presbytery may rise to remove any action from the motion for debate at the appropriate time in the docket.

The omnibus motion at that meeting contained a matter dealing with the SDC's the Presbytery was appointing or had appointed in response to the remand of this Commission.

Mr. Hoover rose, at his word to a point-of-order, and proceeded to offer debate on those matters. According to sworn testimony, the Moderator made repeated attempts to remind Mr. Hoover that if he would request that the matters be removed from the omnibus motion he would be given time on the docket of that meeting to debate these particular actions before they went forward. Mr. Hoover continued to offer debate. In transcript testimony before the Synod it is apparent he still did not comprehend the function of an omnibus motion. He was declared out of order and the motion passed including all actions related to the remand.

Mr. Hoover complained against the Presbytery action to the Synod. The Synod, in a pre-trial agreement, stipulated by both parties, focused on two questions. (1) Did the Moderator follow the proper parliamentary procedure in dealing with the omnibus motion? (2) Did the SDC established by that action act properly in examining the complaint filed by Mr. Hoover against a member of the Presbytery?

The Synod PJC ruled that the procedure followed by the Moderator in the omnibus motion was correct, that the SDC followed correct procedure and therefore the complaint not be sustained.

Mr. Hoover has complained against that judgment.

SPECIFICATIONS OF ERROR

The Commission finds it necessary to paraphrase the specifications since they are presented in a confusing manner. The Commission finds as follows:

Specification of Error No. 1:

The Synod decision should be reversed because it failed to find that the Presbytery of Charlotte had violated the Book of Order when it refused the Appellant the right to speak to the motion when it appeared as part of the omnibus motion.

The specification is not sustained.

No evidence, law, nor parliamentary interpretation has been presented to suggest that the Moderator of the Presbytery was out of order or improperly ruled Mr. Hoover out of order. The Moderator correctly instructed the speaker. There is no reason to reverse the correct decision of the Synod PJC. However, wise use of parliamentary power would suggest those who make up an omnibus motion should exclude any matter on which debate could be anticipated.

Specification of Error No. 2:

The Synod decision should be reversed because it failed to find that the Presbytery has improperly constituted and implemented its investigation of the complaint of Mr. Hoover against a member of the Presbytery.

The specification is not sustained

The Synod investigated the issue named in the complaint and found that the Presbytery decision was reasonable and not flawed. The complaint was based on a particular document. There was no reason to seek further evidence. Opinion about the meaning of the document is not subject to judicial review if it is reasonable on its face.

Specification of Error No. 3:

The Synod decision should be reversed because the Synod PJC permitted witnesses to testify that had not been properly sworn.

The specification is not sustained

The transcript clearly stated that each witness was duly sworn.

ORDER

IT IS THEREFORE ORDERED that the decision of the Permanent Judicial Commission of the Synod of the Mid-Atlantic is affirmed.

IT IS FURTHER ORDERED that the Stated Clerk of the Synod of Mid-Atlantic report this decision to the Synod at its first meeting after receipt, that the Synod 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.

IT IS FURTHER ORDERED that the Stated Clerk of the Presbytery of Charlotte report this action to the Presbytery at its first meeting after receipt, and that the Presbytery enter the full decision upon its minutes, and that an excerpt of those minutes showing that entry will be sent to the Stated Clerk of the General Assembly (Bk of Order, D-8.1900)

Dated this 9th day of February, 1997.