

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

Rev. James MacKellar, Complainant,)	
)	DECISION AND ORDER
)	
v.)	Remedial Case 222-05
)	
The Synod of the Northeast, Respondent.)	
)	
)	

ARRIVAL STATEMENT

This remedial case of original jurisdiction came before the General Assembly Permanent Judicial Commission (this Commission or GAPJC) and was filed by the Rev. James MacKellar (Complainant), regarding action taken by the Respondent, the Synod of the Northeast (the Synod) at a meeting on October 25, 2014. The trial was held at the spring meeting of the GAPJC held in Indianapolis, Indiana on May 1, 2015.

JURISDICTIONAL STATEMENT

This Commission has jurisdiction, Complainant has standing to file the Complaint, the Complaint was timely filed, and the Complaint states a claim upon which relief can be granted.

APPEARANCES

Complainant represented himself and appeared by telephone conference call such that he could hear and be heard by all present. The Respondent was represented by Carlos Wilton, Warren McNeill, and Jenne Radak, the Committee of Counsel for the Synod of the Northeast.

HISTORY

The complaint was filed on January 12, 2015 and the Answer was filed on February 20, 2015. This Commission has original jurisdiction (D-6.0202), and the case was accepted on February 27, 2015, for trial

A pre-trial conferences was held pursuant to D-6.0310. By agreement of the parties on April 22, 2015, the facts were stipulated as follows:

For the past several years, the Synod of the Northeast has been engaged in a process of self-study and missional reorganization, resulting in a plan called “A New Way Forward.” The Synod Assembly adopted this plan in October, 2013 and formally implemented it through By-laws and Standing Rules that the Synod Assembly adopted in October, 2014. The members of two different Synod Assemblies concurred, adopting not only A New Way Forward, but also the By-laws and Standing Rules, by a substantial margin.

Those By-Laws and Standing Rules contain provisions that allow presbyteries, seeking to comply with Book of Order mandates for unity in diversity and openness, to elect church members who are neither ruling elders nor teaching elders as commissioners to the Synod Assembly. They also permit the Synod’s Leadership Team to name, from among a group of individuals nominated by the presbyteries, church members who are neither ruling elders nor teaching elders as members of the Synod’s Mission and Ministries Commission (a commission that is responsible for the operations of the Synod between biennial Synod Assembly meetings).

In accordance with G-3.0401, the Synod’s presbyteries are currently voting on those portions of the By-laws and Standing Rules related to participation and representation. The voting results to date are 10 presbyteries in favor and none opposed, with a total of 12 presbyteries required (out of 22) to form the necessary majority.

The appellant, a former Stated Clerk of the Synod, was a commissioner to the Synod Assembly who spoke against this measure and who voted in the minority.

In addition to these stipulations, at the trial held on May 1, 2015, one witness appeared on behalf of the Respondent.

ALLEGED IRREGULARITIES

1. *The Synod of the Northeast erred in constitutional interpretation by adopting Bylaws and Standing Rules that allow presbyteries, seeking to comply with the mandates for unity in diversity and openness, to elect church members who are neither teaching elders nor ruling elders as commissioners to the Synod Assembly.*

This specification of error is sustained.

2. *The Synod of the Northeast erred in constitutional interpretation by adopting Bylaws and Standing Rules that permit the Synod’s Leadership Team to name, from among a group of individuals nominated by the presbyteries, church members who are neither*

ruling elders nor teaching elders as members of the Synod's Mission and Ministries Commission (an administrative commission responsible for operations of the Synod between biennial Synod meetings).

This specification of error is sustained.

DECISION

This Commission commends the Synod's goal to hear the full diverse voice of the church as affirmed in F-1.0403; "The unity of believers in Christ is reflected in the rich diversity of the church's membership. In Christ, by the power of the Spirit, God unites persons through baptism regardless of race, ethnicity, age, sex, disability, geography, or theological conviction." In so doing, the Synod also honors the witness of Scripture "For God shows no partiality." (Romans 2:11).

Nonetheless, the Synod erred in the approach it adopted because by definition a synod is "composed of commissioners elected by the presbyteries. ... The commissioners from each presbytery shall be divided equally between ruling elders and teaching elders" (G-3.0104). This definition conforms to F-3.0202, which provides: "This church shall be governed by presbyters, that is, ruling elders and teaching elders." Contrary to the Synod's arguments, the adoption of the New Form of Government reaffirmed rather than diminished these principles. It is not intrinsically discriminatory to require presbytery, synod and General Assembly commissioners to have prior experience in the government of local congregations, the "basic form of the church" (G-1.0101). To the extent the Synod's Bylaws and Standing Rules fail to give proper weight to the requirements of F-3.0202 and G-3.0401 by giving vote to members who are neither ruling elders nor teaching elders, they are unconstitutional.

The issue of broader representation in decision-making is significant to the wider church. For instance, this Commission notes that the 221st General Assembly (2014) encouraged the Committee on the Office of the General Assembly to continue the discussion of how to include young adults in all levels of the life and ministry of the PC(USA), including encouraging sessions to affirm the call of young adults to the office of ruling elder (Minutes, 2014, 12, 170, Item 303). We strongly encourage the wider church to continue this discussion.

ORDER

IT IS THEREFORE ORDERED that those portions of the Synod bylaws allowing presbyteries to elect Synod Commissioners who are not ruling elders or teaching elders, and allowing such commissioners to serve on Synod commissions are declared null and void.

IT IS FURTHER ORDERED that the Stated Clerk of the Synod of the Northeast report this Decision and Order to the Synod at its first stated meeting following the date of this Order, that the Synod enter the full Decision and Order upon its minutes, and that an excerpt from the Synod's minutes showing entry of the Decision and Order be sent to the Stated Clerk of the General Assembly of the Presbyterian Church (U.S.A.).

ABSENCES AND NON-APPEARANCES

Commissioners Patrick Notley, A. Bates Butler, III, and Ruth Goldthwaite did not participate in the hearing or deliberations.

CONCURRENCE

While we concur with the opinion, we have reservations with the larger issue of how the *Book of Order* is interpreted. In the history of this denomination, there are instances in which GA, either through its Assembly or the GAPJC, has favored broad interpretations of certain *Book of Order* provisions that could arguably be construed to be quite specific in their language. It is disheartening to see inconsistency in the application of interpretive lens, depending on the issue being addressed. Whether or not a person agrees with any particular lens (or the product of those decisions), there is something to be said for consistency in the establishment of precedent.

The eyes of PCUSA members are upon the actions of their leadership, more so now than ever before. Predominantly, the actions of the GA have come under the scope of the members due to the authoritative implication inherent in such actions. In times where councils are increasingly seeking guidance on how to face present and upcoming challenges, it is important to provide this guidance in an insightful and consistent manner. While the prayerful and faithful qualities that characterize GAPJC decisions cannot be denied, there are still some elements that get lost in translation. It may be that more global exposure is necessary; perhaps a look around at our neighbors might shed some light on the situations our churches and councils face in their endeavor to procure the peace, unity and purity of the body of Christ. And if those neighbors reflect a homogeneous society, look further away...as far as necessary.

Although never intended, it is an inescapable fact that GA actions can have hurtful results; especially when the actions under review were prayerfully and carefully implemented in an intentional effort to follow Christ. When one party rejoices, another party despairs. What cannot be overlooked, under any circumstance, is that all are part of the Church, all deserve to contribute in building up the Church, and the efforts of brothers and sisters in Christ to bridge gaps, overcome barriers, and build bridges in the interest of unity should not only be commended, but supported.

Flor Vélez Díaz

Kevin L. Nollette

CERTIFICATE

We certify that the foregoing is a true and correct copy of the Decision of the Permanent Judicial Commission of the General Assembly of the Presbyterian Church (U.S.A.) in Remedial Case 2015-01, Rev. James MacKellar (Complainant) the Synod of the Northeast (Respondent), made and announced at Indianapolis, IN this 2nd day of May, 2015.

Dated this 2nd day of May, 2015.