

relationship of the General Assembly with regard to the courts of the church is stated succinctly in the following paragraph:

"The courts of the PCA have a spiritual/moral relationship with one another with regard to their separate responsibilities, authority, and accountability, but they have no civil authority, responsibility, or accountability toward one another even though each of them does have a civil relationship with the state with regard to their property, charters of incorporation, and other state and/or federal laws. The higher courts may not proceed in such a way that would constitute civil action on behalf of the congregation without a formal vote of the congregation. In order to be effective, any such civil action must be with the consent or approval of the congregation, which consent or approval is given in accordance with the civil laws under which the congregation is organized."

Thus, it would be a mistake to equate the relationship of the General Assembly with the church courts with the relationship of the Assembly with its own committees and agencies.

SUMMARY

The position of the PCA regarding the authority of the General Assembly over committees and agencies and the relationship of those committees and agencies to the General Assembly may be summarized as follows.

1. The General Assembly of the Presbyterian Church in America composed its commissioners are the corporation which legally is identified as Presbyterian Church in America, (A Corporation). The General Assembly at times acts in an ecclesiastical capacity, at times it acts in its civil corporate capacity.
2. At times the General Assembly acts through its board of directors. The civil affairs of the corporation are managed, as authorized by the General Assembly, by board of directors which have powers and duties as set forth in the Charter of the Corporation and the Bylaws.
3. General Assembly has the authority to erect committees or agencies (separate corporations) which are authorized to handle particular matters of business as designated by the General Assembly. Furthermore, when it is necessary for a committee to have the benefit of a civil entity, the General Assembly may authorize one of its committees to incorporate which is then designated an agency. Nevertheless, the relationship of the board of such agency to the Assembly remains as a committee. The provisions of each corporation, charter and bylaws must be in conformity with the constitution of the church.
4. The General Assembly has authority and the responsibility as an ecclesiastical and as a civil entity to require accountability from its committees and agencies. This is evident from the power to review the actions and activities of the

committees and agencies through Committee of Commissioners. This includes a review of their minutes, the approval of budgets, the appointing of financial auditors, the granting or revoking of specific tasks for the committees or agencies, the power to elect committee or board members, etc.

5. The relationship of the committees and agencies to the General Assembly is that they are under the control and authority of the General Assembly in contrast to the relationship of the General Assembly to the courts of the church (presbyteries and sessions) which clearly distinguishes the civil responsibilities of presbyteries and sessions in contradistinction to the ecclesiastical connectionalism of the courts of the church (cf. *MI4GA*, pp. 427-437).

BIBLIOGRAPHY

- "Exhibit A: Defining the Philosophical and Theological Basis for our PCA Structure," *MI4GA*, pp. 427-437, 1986.
- "Attachment K: Plan for General Assembly Reorganization," *MI1GA*, pp. 106-110, 1983.

4. That Minutes of the AC and Board of Directors be approved: *Adopted*
Administration Committee -- June 7, 1993; October 1, 1993; March 18, 1994.
Board of Directors -- June 7, 1993; Oct. 1, 1993; March 18, 1994.
 5. That only recommendations which comply with previous Assembly directives are to be generated by the AC; otherwise, they are not authorized to "revisit the structure" of the PCA, changing the structure of the General Assembly. (Note: Recommendation arising from reading of AC minutes.) *Adopted*
- Steven B. Shuman requested that his negative vote on Recommendation 5 be recorded.
6. **That Overture 40 from Ascension Presbytery be answered in the negative.** *Adopted*

GROUPS:

- a. The Committees of Commissioners for the various Permanent Committees and Agencies are reviewing the sections of the legal audit and the committees and agencies' responses to the issues raised. In addition, the Committee of Commissioners on Administration is reviewing the entire legal audit.
- b. At present, the legal audit is protected by attorney-client privilege and its contents may not be used against the PCA in a court of law. The very reason for having the legal audit conducted in the first place was to determine whether there are areas of civil vulnerability that should be corrected before being discovered by someone wishing to file suit against us.
Publishing or widely circulating the legal audit (to 1300 commissioners or every PCA church) would very likely destroy its protected status under attorney-client privilege and could lead to it falling into hands of someone who might wish to sue the PCA. The legal audit could provide a road map to any weak spots in our civil structure that could be used against us. An example might be a hiring practice,

Minutes of the 14th General Assembly, PCA, page 104. See Attachment 1, "Defining the Philosophical and Theological Basis for our PCA Structure" (*MI4GA*, pp. 427-437).

though perfectly innocent such as asking a prospective employee's age. One or more of our committees or agencies may have had such a practice that was discovered by the legal audit and as a result corrected. Were that fact to be revealed and the legal audit no longer protected by attorney-client privilege, the PCA would be in a severely weakened legal position.

In today's highly litigious society, it is certainly not far-fetched to foresee a situation where someone might very well seek to take one or more statements in the legal audit out of context and use it against the PCA.

At the time of the commissioning of the Legal Audit, the permanent committees and agencies promised, at the request of Gammon and Grange, to limit distribution of the audit to coordinators, senior staff, committee and agency members and trustees, and the appropriate committees of commissioners. Such agreement was required before the firm would undertake the audit. Each person receiving a copy of the audit has agreed to maintain its confidentiality. To make distribution beyond that already made would be a serious breach of our moral obligation.

The legal audit report is copyrighted by the Christian law firm of Gammon & Grange, which has spent years and a significant amount of money developing and refining their proprietary legal audit system. The agreement into which we entered with the law firm prohibits us from making wide spread distribution of the legal audit. To violate this agreement would also breach faith with our brothers in Christ and would inflict substantial financial damage on them.

That the Twenty-Second General Assembly of the Presbyterian Church in America hereby declares its approval of the decision of its Stated Clerk, Dr. Paul Giichrist, in his not sending copies of the Legal Audit to all commissioners in the Commissioners Handbook, and in his not sending copies of the Legal Audit to individuals requesting it prior to the General Assembly; and

That the Twenty-Second General Assembly of the Presbyterian Church in America hereby declares its satisfaction that the Stated Clerk, in so acting, was following the directive of the 21st General Assembly, which had expressly declared that the "entire legal audit and responses be made available to the Committee of Commissioners on AC" (M21GA, p.181); and

That the Twenty-Second General Assembly of the Presbyterian Church in America hereby declares that the characterization by the *Christian Observer* of the Stated Clerk's actions in this matter as "hiding" the audit is erroneous; and

That the Twenty-Second General Assembly of the Presbyterian Church in America respectfully requests the editors of the *Christian Observer* to publish this declaration at its earliest convenience.

OVERTURE 40 From the Presbytery of the Ascension
"Make Legal Audit Public"

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Whereas, the 20th General Assembly directed the conduct of a Legal Audit of its Committees and Agencies and therefore is the true owner of the results of that audit; and

Whereas, it is the duty of the Stated Clerk to grant extracts from the records of the church whenever properly required (BCO 10-4, RAO 3-2-e, Bylaws IV-3); and

Whereas, the civil law of our land requires that the members of the corporation be granted access to such a document upon their request; and

Whereas, the Word of God requires that we conduct ourselves with regard not only to what is honorable before God but also before men (2 Cor. 8:20-21); and

Whereas, the Ninth Commandment requires "the promoting of truth between man and man" (*Westminster Larger Catechism* A. 144); and

Whereas, the ruling of the Church is in the hands of the assembled Elders (Acts 15);

Therefore, we call upon the General Assembly to require the presentation in full of the Legal Audit to the Twenty-Second General Assembly in executive session for its action.

Adopted at the April Stated Meeting of the Presbytery of the Ascension, on April 30, 1994. Attested by: /s/ Frederick R. Neikirk, Stated Clerk

The following commissioners -- Robert Peterson, Carl W. Bogue, Charles L. Wilson, and Bob Burrige -- requested that their negative vote on the amendment (i.e. grounds 5) be recorded on Recommendation 6.

7. That the AC be cautioned against entering into agreements that inhibit the work of future General Assemblies. [vote 200 to 187] Adopted

8. That Overture 45 from South Hills Reformed Presbyterian Church be answered by reference to recommendation 6 above. Adopted

OVERTURE 45 From South Hills RPCA, Upper St. Clair, PA
"Make Legal Audit Public"

Whereas, the 20th General Assembly directed the conduct of a Legal Audit of its Committees and Agencies and therefore is the true owner of the results of that audit, and

Whereas, it is the duty of the Stated Clerk to grant extracts from the records of the church whenever properly required (BCO 10-4, RAO 3-2-e, Bylaws IV-3); and

Whereas, the civil law of our land requires that the members of the corporation be granted access to such a document upon their request, and

Whereas, the Word of God requires that we conduct ourselves with regard not only to what is honorable before God but also before men (2 Cor. 8:20-21); and

Whereas, the Ninth Commandment requires "the promoting of truth between man and man" (*Westminster Larger Catechism* A. 144); and

Whereas, the ruling of the Church is in the hands of the assembly Elders (Acts 15),

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Therefore, we call upon the General Assembly to require the presentation in full of the Legal Audit to the Twenty-Second General Assembly for its action.

NOTE: In view of RAO 10-10, we declare that these overtures were presented to Pittsburgh Presbytery at its Stated Meeting on Saturday, April 30, 1994, and were rejected by the Presbytery.

Attested by: /s/ Arnold L. Frank
Moderator and Pastor

South Hills Reformed Presbyterian Church, Upper St. Clair, PA

That the following be adopted as a prefatory statement to the portion of this Committee's report dealing with the Legal Audit:

In making the following recommendations, this Committee of Commissioners would like to inform the General Assembly that the Legal Audit contained no less than twenty-eight commendations. The Legal Audit identified as exemplary such things as the PCA's meticulous minutes, our thorough and thoughtful adjudicative procedures, our prudent litigation management procedures, our practice of annual financial audits, our comprehensive budget process, our attention to tax-exempt activities and the diligent service of our Committee heads and members.

No action necessary

That each PCA Committee and Agency respond in writing to the Legal Audit, Sections A:3.3.1-11, entitled "Relational Opportunities for Growth," and that these responses be reported to the 23rd General Assembly through the Committee of Commissioners AC.

Adopted

That Recommendations 3, 4, 5, 6 and 7 of the Legal Audit, having to do with foreign legal matters, be referred to MTW for their substantive comments and that these comments be reported to the 23rd General Assembly through the Committee of Commissioners MTW.

Adopted

That the AC prepare a report concerning the disposition of Recommendation 21 of the Legal Audit, regarding the internal audit of out-of-state activities of the Committees and Agencies of the PCA and that this report come to the 23rd General Assembly through the Committee of Commissioners AC.

Adopted

That CE&P and MNA respond to Recommendation 45 of the Legal Audit, concerning the verification of local records requirements in other states, and that these responses come to the 23rd General Assembly through the appropriate Committees of Commissioners.

Adopted

That Ridge Haven (RH) Board respond to Recommendations 97-107 (11 total) addressed to them in the Legal Audit and report on these in writing to the 23rd General Assembly.

Adopted

That all committees of commissioners that have been directed by the 22nd GA to respond to the 23rd GA regarding Legal Audit recommendations be provided with copies of the entire Legal Audit upon their signing the standard non-disclosure agreement.

Adopted

That the GA respond to Overture 38 from the Presbytery of Northern Illinois by referring it to the Committee of Commissioners Report of the Administrative Committee of the 23rd GA which shall reconsider Overture 38 in light of the effectiveness of the "Conflict of Interests" policy by the 21st GA.

Adopted

OVERTURE 38 From the Presbytery of Northern Illinois

"Investigate Potential Conflict of Interest of Individuals on non-PCA Corporations Using the PCA Office Building Address"

Whereas, one of the duties of the General Assembly is to see that the affairs of the church of the Assembly level are conducted in such a manner as to glorify God and to promote the peace, purity, and unity of the Body of Christ; and

Whereas, the 21st General Assembly adopted strict guidelines about "conflict of interest" in order to help avoid even the appearance of evil; and

Whereas, Annual Reports filed in 1992 with the Secretary of State for the State of Georgia revealed that 20 corporations involving individuals associated with the PCA have mailing addresses at the PCA headquarters at 1852 Century Place, and

Whereas, it is the intention of the Presbytery of Northern Illinois to communicate its concern to the General Assembly without accusing or impugning the integrity of those involved, for the sake of a fair and peaceful resolution of this concern, therefore,

Be it Resolved that the Presbytery of Northern Illinois hereby overtures the General Assembly to investigate fully all of these corporations to determine the following:

- what activities these corporations have that relate to the PCA,
- the identity and role of each of the officers connected to each of the corporations referred to above,
- what connection each of these persons has with the PCA,
- who authorized them to do business in the PCA building,
- whether they use PCA assets and whether they pay rent for the use of PCA facilities.

Adopted at the April 22-23, 1994, meeting of the Presbytery of Northern Illinois.

Attested by: /s/ Robert Smallman, Stated Clerk

17. That the 22nd General Assembly express its heartfelt thanks and gratitude to the Quarryville Presbyterian Retirement Community for its loan for the PCA Office Building without which the PCA might not have been able to acquire its own building.

Adopted

18. That the 22nd GA approve June 18-21, 1996, as the dates for the 24th GA in Ft. Lauderdale, Florida.

Adopted

19. That the 22nd GA accept the invitation of Rocky Mountain Presbytery for the 25th GA to meet in Colorado Springs, CO, in the third week of June 1997.

Adopted

20. That the Registration fee for the 23rd GA in 1995 be set at \$100.

Adopted

21. Approve Robins, Eskew & Farmer as auditors for the AC, CE&P, and MNA for the calendar year ending December 31, 1994.

Adopted

22. Approve of Capin, Crouse & Co. as auditors for the Committee on MTW for the calendar year ending December 31, 1994.

Adopted

23. Approve MTW's proposal that the ASKINGS for Mission to the World (MTW) be restricted to Administrative Costs only, effective upon approval and with the subsequent re-issue of the revised ASKINGS sheet for 1994.

Adopted