

REPORT OF THE COMMITTEE ON JUDICIARY

I. REFERRALS

Referrals to this committee were as follows: The Report of the Trademark Committee, The Report of the Permanent Committee on Judiciary, The Report of the Joint Committee on Amendments, and The Report of the PJC Review Committee.

II. PERSONS OF COUNSEL

Appearing before the committee were: Reverend Corey Cummings, member of the General Assembly Judiciary Committee; Dr. Tommy Craig, Trademark Committee, Reverend Kip Rush, Special GA Committee on Judiciary, and Mr Jaime Jordan, Legal Counsel of Office of General Assembly Cumberland Presbyterian Church.

III. CONSIDERATION OF REFERRALS

A. REPORT OF THE PERMANENT COMMITTEE ON JUDICIARY

We reviewed the Report of the Permanent Committee on Judiciary and express our thanks for the committee's diligence. There were no recommendations on this report.

B. REPORT OF THE JOINT COMMITTEE ON AMENDMENTS

RECOMMENDATION 1: That Recommendation 1 of the Report of the Joint Committee on Amendments, "That Rules of Discipline 3.401 which states:

"A complaint of misconduct on the part of a minister should be reported to the stated clerk of the presbytery or a member of the disciplinary commission. The person who receives the complaint shall promptly communicate it to the chair of the disciplinary commission and the stated clerk."

BE AMENDED TO READ:

"A complaint of misconduct on the part of a minister should be reported to the stated clerk of the presbytery or a member of the disciplinary commission. The person who receives the complaint shall promptly communicate it to the chair of the disciplinary commission and the stated clerk. Absent extraordinary circumstances, the disciplinary commission shall complete its work and prepare a report for the judiciary committee within 90 days of the stated clerk receiving the report.," be adopted.

Concern was expressed that the language of "extraordinary circumstances" appears too subjective. It was noted that the language mirrors existing language in the disciplinary process (Rules of Discipline 3.407) and we were reassured by consultation with legal. It was noted that the amendment has recently been approved by the General Assembly of the Cumberland Presbyterian Church in America.

C. REPORT OF THE TRADEMARK COMMITTEE

RECOMMENDATION 2: That Recommendation 1 of the Report of the Trademark Committee, "That the Task Force recommends that the General Assembly end the process for establishing a Trademark and dissolve the Trademark Committee with thanks for their diligent work," be adopted.

The intent of the trademark was to protect the authorized use of the Cumberland Presbyterian name and logo. Concurring with the committee that this work does not achieve the initial objectives of prohibiting existing groups from using its name and logo, this committee feels that the onus of this initiative is on local pastors and presbyteries to educate local members about the authorized organizations and communication channels.

D. THE REPORT OF THE PJC REVIEW COMMITTEE

RECOMMENDATION 3: That Recommendation 1 of the Report of the PJC Review Committee, "That the Permanent Judiciary Committee adopt a standard meeting schedule of at least two (2) meetings per year, one

of which may be virtual, and that meetings occur even if only to confirm no current business. This will ensure predictable access, accountability, and preparation,” be denied.

While recognizing and affirming the importance of effective and timely communication with and from the Permanent Judiciary Committee, the existing GA bylaws require to meet once per year whether they have work or not (GA Bylaw 11.05(03)). Recognizing that the nature of the Permanent Judiciary Committee’s work is determined by the needs that arise from advisories and appeals, this committee determined that it was not helpful to set a regular schedule for the committee. We would encourage the Permanent Judiciary Committee to discuss how to increase its accessibility and approachability.

RECOMMENDATION 4: That Recommendation 2 of the Report of the PJC Review Committee, “That the Stated Clerk and current PJC officers provide or designate formal onboarding/training for all newly elected PJC members, including scope of responsibility, workflow, expectations for advisory opinions, recusal standards, and communication protocols,” be denied.

RECOMMENDATION 5: That the PJC officers in consultation with the Stated Clerk provide or designate formal onboarding/training for all newly elected PJC members, including scope of responsibility, workflow, expectations for advisory opinions, recusal standards, and communication protocols.

The wording change here reflects that the responsibility primarily lies with the elected members of the Permanent Judiciary Committee.

RECOMMENDATION 6: That Recommendation 3 of the Report of the PJC Review Committee, “That PJC communications requiring signature be attested by the Officers as a group, or by the full committee; and that when the Chair has material involvement or prior knowledge necessitating recusal, the Vice-Chair or any other member without such involvement shall sign in their place to preserve trust and transparency,” be denied.

The representative of the Permanent Judiciary Committee acknowledged to this committee the problem of optics in communication of the advisory with the Brunswick church, but that the committee was abiding by the GA bylaws 11.05(03).

It is the opinion of this committee, that while the Permanent Judiciary Committee acted in accordance with proper procedure, the situation of perceived impropriety could have been avoided if the committee chair had simply followed parliamentary procedure, temporarily stepping aside from their role, allowing the vice-chair to fulfill the requirements of GA bylaws 11.05(03).

RECOMMENDATION 7: That Recommendation 4 of the Report of the PJC Review Committee, “That the General Assembly adopt a written recusal policy for the PJC, using the following standard:

Option 1 - Any member possessing material knowledge of the facts at hand, or with direct involvement or relational proximity reasonably likely to affect impartiality, shall recuse themselves from discussion and decision.

Option 2 - Any member who has personal knowledge, prior involvement, or relationships that could reasonably affect their ability to be impartial shall recuse themselves from the discussion and decision.

Such recusals shall be recorded in the minutes,” be denied.

This committee affirms the importance of maintaining trust in our judicial process. In consultation with the chair of the Permanent Judiciary Committee and legal counsel, the committee submits the following recommendation to deal with the recusal process.

RECOMMENDATION 8: That the following be inserted to the GA Bylaw 11.05(05):

a. A committee member shall be recused from any appeal if the member:

- (i) has had any personal involvement in facts or circumstances substantially related to the appeal;**
- (ii) shares a close personal, familial, or professional relationship with any party involved;**
- (iii) has a conflict of interest under Rules of Order 12.5 or Rules of Discipline 4.002; or**
- (iv) the member’s participation creates an appearance of impropriety. Holding a particular theological**

or doctrinal belief is not by itself a sufficient basis for recusal.

b. A party to the appeal or a member of the committee may request the recusal of a member in writing to the committee chair or the Stated Clerk at least ten (10) calendar days prior to the scheduled hearing or immediately upon the discovery of circumstances warranting recusal.

If a member declines a voluntary recusal, the remaining committee members may direct a recusal by two-thirds vote taken by secret ballot. The member in question may speak briefly to the question of recusal before being excused from the committee's discussion and vote.

c. A member who is recused shall not participate in any deliberations or votes and shall not discuss the matter with other members of the committee.

d. If, because of recusals or vacancies, fewer than (5) members are available to hear an appeal, the Moderator of the General Assembly shall immediately appoint one or more former Judiciary Committee members who meet the above recusal standards as temporary alternates to restore a five-member quorum solely for the duration of that specific appeal. The Moderator shall consider candidates beginning with those who have most recently served a term of office on the Judiciary Committee. The Stated Clerk shall maintain a list of former Judiciary Committee members whose term of service has ended in the previous (10) years for the use of the Moderator in making these appointments.

RECOMMENDATION 9: That Recommendation 5 of the Report of the PJC Review Committee, "That the final composition of the PJC include:

- Three (3) ordained ministers
- Three (3) licensed attorneys
- Three (3) non-attorney laypersons

And that no more than two (2) members shall come from any one Synod, ensuring broad and equitable representation," be denied.

This committee affirms the importance of a balanced final composition of the Permanent Judiciary Committee. Satisfying a balance of lay person, minister, attorney, and synod is a significant challenge for this committee. Given the nature of its work, we feel that the existing minimums for minister and attorney representation are appropriate. We do believe that a balanced representation of synods is important to avoid the committee being unable to complete its work due to recusals.

RECOMMENDATION 10: That GA Bylaw 11.05.(01) be amended, effective at the beginning of the 196th General Assembly, to include that the committee shall have at least one member (1) from each synod, and a maximum of two (2) from any one synod.

RECOMMENDATION 11: That Recommendation 6 of the Report of the PJC Review Committee, "That when a floor nomination is made, the nominee shall be from the same synod as the Nominating Committee's proposed nominee for that position. This ensures that synodical balance is maintained and that the final composition—three ministers, three attorneys, and three non-attorney laypersons—remains intact," be denied.

If recommendation 9 were adopted, recommendation 10 would be unnecessary.

RECOMMENDATION 12: That the Permanent Judiciary Review Committee be thanked for its work and dissolved.

Respectfully submitted,
The Committee on Judiciary