

- overstepped bounds though they were unwise in making the results known to the session. *Adopted*
2. Item #2 was *sustained*. Grounds: The presbytery commission exceeded *BCO 57-5* requirements for membership. *Adopted*
 3. Item #3 was *not sustained*. Grounds: The actions of the presbytery judicial commission were not the *only* contributing factor to the distressful situation. *Adopted*
 4. Item #4 was *not sustained*. Grounds: On June 26, 1982 and July 24, 1982 history records that members and session were restored and the session was not allowed to dissolve any more memberships. The commission erred *JOURNAL 176* in not seeing that its instructions were obeyed regarding *BCO 10-2, 27-5, 32-3, 32-5, 32-6, 46-5*. *Adopted*
 5. Item #5 was *sustained in part*. Refer to Item #2 of this complaint. *Adopted*
 6. Item #6 was *not sustained*. Note: Based on the commissions record of visits from December 16, 1982 - January 6, 1983. *Adopted*
 7. Item #7 was *not sustained*. Grounds: Commission was in process of complying with General Assembly's directives. *Adopted*

CASE 8

Case 8: Complaint of TE Jack Eubanks et al, Against Central Carolina Presbytery

We, the undersigned, complain against the following actions of Central Carolina Presbytery at a called meeting held on January 8, 1983:

1. That the called meeting itself was out of order for reasons as follows:
 - a. *BCO 13-10* states that a called meeting of presbytery may be called in case of an emergency. There was no emergency. There was none stated at the meeting. The next regular stated meeting was scheduled for January 22, 1983.
 - b. The Judicial Commission did not request a called meeting of presbytery.
 - c. The members of the Judicial Commission were not even aware that a called meeting had been called to hear the Judicial Commissions report until after the call had been issued and mailed out and received by the churches.
 - d. The commission was not ready to report. Their chairman was out of state at the time the call was issued and did not return until the day before the meeting on January 8, 1983. The commission then met hastily on the morning of the called meeting to get up a partial report so that there would be a report for the presbytery to hear.
2. That the Judicial Commission was illegally dissolved by the Presbytery by a 14-12 vote.
 - a. Robert's Rules of Orders state that it takes a two-thirds vote to dismiss a committee unless previous notice was given.
 - b. The commission stated that it had not completed its work:
 - 1) They stated that they had made commitments to both sides which they had not yet fulfilled.
 - 2) They stated that they had not completed the work that the 1982 General Assembly had directed Presbytery to do and especially to hear and act on the complaint of the Session and Pastor of First Presbyterian Church, Stanley, NC against the Moderator and Session of New Life Presbyterian Church. The Presbytery had assigned this responsibility to the commission. They stated that they were ready to deal with it and planned to do so before the next stated meeting of presbytery of January 22, 1983.
 - c. There were no reasons given for dissolving the commission even though they stated that they had spent 450-500 man hours over a period of six months, much travel and at much expense.
 - d. Presbytery action was contrary to *BCO 13-10* in that it was business other than that specifically named in the notice giving the purpose of the call. Therefore, the Presbytery was really not prepared to deal with such an important item of business without previous notice.
3. That the moderator ordered the dissolved commission to reassemble and take a new vote with regards to their action previously taken on December 7, 1982. That action had given the Session of New Life Presbyterian Church permission to remove a large number of its members from its rolls.

- a. According to *BCO* 42-4 this action would have had to be taken within 15 days after the December 7, 1982 meeting, and a complaint filed by at least a third of those present. Thirty-one days had transpired as of January 8, 1983 and no complaint had been filed.
 - b. The Commission had not taken the action to dismiss the members of New Life.
 - c. The Presbytery may not undo an action that had already been completed without proper appeal or complaint according to *BCO* 40-3.
 - d. A point of order was made that according to *BCO* 1-5 since the Judicial Commission had been dissolved they would be acting severally and not as a joint power and therefore had no ecclesiastical jurisdiction. The moderator ruled that he would stand by his decision and the Presbytery condoned it. The dissolved commission then met and two of the six men changed their vote of December 7, 1982. After they reported this to the Presbytery an action was taken by Presbytery to suspend the action of the Session of New Life Presbyterian Church of December 10, 1982 and refer the whole matter to the General Assembly.
- 4. That Presbytery is attempting to determine the membership of the lower court (i.e. the membership of New Life Presbyterian Church). A higher court may not determine the membership of a lower court in any case.
 - 5. That the Presbytery received a complaint signed by Rev. David Alexander dated December 18, 1982 against the action of the Session of New Life Presbyterian Church of December 10, 1982.
 - a. Presbytery was told that Mr. Alexander's complaint is out of order according to *BCO* 43-1 because he is not a communing member in good standing of the New Life Presbyterian Church. Therefore, he cannot complain against the action of a lower court to whose jurisdiction he is not subject.
 - b. The complaint did not bear any signature of any member of New Life Presbyterian Church. To be valid the complaint must have the signatures affixed of all complainants.
 - c. Presbytery was told that for a fact Mr. Alexander does not represent *all* those members of New Life Presbyterian Church who received letters of dismissal from the session dated December 10, 1982 or thereafter.
 - d. Without signed requests of those members dismissed Mr. Alexander cannot impose himself as their representative.

Respectfully submitted,
TE JACK EUBANKS
RE MILTON SHELBY

ADJUDICATION OF CASE 8

I. STATEMENT OF FACTS

The facts of the complaint of Jack Eubanks and Milton Shelby of New Life Presbyterian Church against Central Carolina Presbytery involve the questioning of the legality of the called meeting of Presbytery held on January 8, 1983 as well as the legality of actions taken in that meeting.

II. STATEMENT OF ISSUES

The issues are the questions regarding the called meeting, the legality of dissolving and reconstituting the presbytery's judicial commission and the power of the presbytery to determine the membership of the congregation and the propriety of the presbytery entertaining a complaint from David Alexander dated December 18, 1982.

III. JUDGMENTS OF THE CASE

- 1. Item #1 was *not sustained.* *Adopted*
- 2. Item #2 was *sustained.* Grounds: Roberts Rules of Order prevails in this matter and a commission (or a committee with power) can only be dismissed by a two thirds vote of the body it represents. *Adopted*
- 3. Item #3 was *sustained.* *Adopted*
- 4. Item #4 was *not sustained.* Grounds: The membership of the Church is not a court. *Adopted*
- 5. Item #5 was *not sustained.* *Adopted*