



Background and Effect of Legal Defense on Mission and Ministry of Presbytery of Northern New England

For over 18 months in 2006 and 2007, through work of the General Presbyter, Council, COM and Presbytery Officers, attempts were made to reconcile disagreements that the session of the Londonderry congregation (LPC) had with the decisions of the General Assembly, primarily over the issue of ordination of homosexuals, but also including issues of abortion and the Trinity. In addition to working with the session, two town meetings of the congregation were held in which these issues were discussed.

In late summer of 2007, it was clear that there was a schism within the congregation. A mail vote of the congregation was conducted by the session concerning the issue of leaving the denomination. A majority of the votes were to stay in the denomination. Only 29% voted to leave.

Notwithstanding this vote, the session of the LPC voted to recommend leaving the denomination, and began a campaign to reverse the mail vote. It was then apparent that a formal process of dealing with the schism was necessary. The COM decided that the search for a pastor could not proceed until the issue of leaving the denomination had been settled. On September 15, 2007 the PNNE authorized an Administrative Commission to work pastorally with the congregation, to reconcile the schism if possible, and to make decisions of property distribution if reconciliation were not possible.

On September 27, 2007, the session of the Londonderry PC filed suit against the Presbytery. The judge issued an order prohibiting any presbytery member, officer, staff, or person, committee or representative, from:

- working to heal the conflict in the congregation
- participating in the pastoral search
- assuming original jurisdiction of the session
- reviewing the actions of the session or any of its members
- entering onto the church's property

The Presbytery was the defendant. PNNE did not bring the legal action.

The primary issue in the law suit brought by this session of the Presbytery which later became an Evangelical Presbyterian Church congregation, against the Presbytery of Northern New England is whether the trial judge can replace the PCUSA Constitution with civil court procedures and substitute the judge's decision for that of the Presbytery. The pre-schism session brought suit against the Presbytery, which prohibited Presbytery from functioning under the PCUSA Constitution's Book of Order. The trial judge substituted herself in the stead of Presbytery for determining which of the now two congregations in Londonderry, NH is the continuing church entitled to the congregational rolls, minute books, name, and assets. The suit also prohibited anyone from the Presbytery from holding hearings so as to determine whether the session members who joined the Evangelical Presbyterian Church can continue to govern the PCUSA congregation. This court action was brought against the Presbytery which was placed in the position of defending our U.S. Constitutional rights to free exercise of our religion under the PCUSA Constitution. PNNE was put in the position of defending the question whether the constitution of PCUSA has any relevance in any civil court.

We requested financial assistance from the Office of General Assembly and from the Synod, and eventually from the 218th General Assembly, with the costs of this law suit because the issues at stake are much more than property. The connectional nature of the Presbyterian Church (USA) was on trial. If this case had been lost in New Hampshire, it would have provided the Evangelical Presbyterian Church with a strategy for wholesale attack against the denomination. A precedent would have been set whereby a dissident group in any congregation would have the right to ignore denominational policies and our Book of Order. Because the Presbytery has successfully defended this attack, the PCUSA now has a successful strategy for defending any such suits in the future, making such suits much less likely.

The PNNE's lawyers' fees totaled approximately \$650,000 by trial's end.

PNNE has paid approximately \$200,000 and still owes approximately \$300,000.

The General Assembly has contributed \$27, 351 to our 2007 expenses, and arranged *pro bono* assistance from a national law firm to advise our legal team, all of which we greatly appreciate. The Synod of the Northeast through the New England Partnership Group has contributed \$2,000. The 218th General Assembly provided no relief (although it did establish an Extra Commitment Opportunity

Constitutional Legal Defense Fund that is unfunded). The Synod of the Northeast has established an Ecclesiastical Integrity Fund for such situations, which is yet unfunded.

Our lawyers have contributed approximately \$250,000 through *pro bono* service and reduced fees. One lawyer reduced fees by 50%. The other reduced fees by 20%.

The Synod has approved a loan of \$200,000 to be repaid over 15 years at \$18,000 per year or \$1500 per month. The lawyers have agreed to let the Presbytery pay the remaining \$100,000 over the next two years at no interest.

The consequence of the burden of these legal costs has been devastating to the Presbytery's mission and ministry. The printing and mailing of the newsletter has been eliminated. Instead of mailing it to about 2,000 households in Northern New England, it is being emailed to about 200 individuals. Support for training and work-shops for our pastors and church members has been slashed by \$12,000, essentially eliminating this ministry support. Comparing the 2009 Budget to the 2007 Budget, Partnership aid with congregations for ministries in their communities has been reduced by 40% and support for denominational mission has been cut by over 50%. The Evangelism support for congregational programming has been eliminated. Staff consists of one General Presbyter and one secretary and their cost of living salary increases have been eliminated. The stipend for the Stated Clerk was also held steady. Travel expenses throughout the four-state region has been cut by 25%. The Presbytery is saving rent by moving into one of its church's buildings. Ministry expenses of COM and CPM have been cut by 72%.

Drastic cuts have been made. These are temporary, but it will take a couple of years before our normal financial processes will be able to begin to renew mission and ministry support for the Presbytery. The process has been financially hard. But the Presbytery made the right decisions for its congregation in Londonderry, but more importantly, for our denomination. The Presbytery made the commitment alone, but always with the conviction that it acted on the behalf of the denomination. As a part of the connectional church, it could not abandon its responsibilities.

When the process was begun, it was never anticipated that it would cost the Presbytery so dearly. The case law was clear. Everyone anticipated that the legal process would be concluded quickly and relatively inexpensively (\$50,000). The Office of the General Assembly committed to

partner in the legal costs. Our faith tells us that the Lord does not put us to a test that we cannot meet. Had the Presbytery in September of 2007 been presented with the question of spending \$500,000 and 18 months to defend the Book of Order, it might responsibly have answered that there is no way the Presbytery can pay such a sum. It just doesn't have that kind of money. Presbytery might responsibly have said that this is a national issue, and relied on the Office of General Assembly's wisdom and lawyers as to whether and how to make a defense. But that was not the question presented. At each step, challenges were presented and ways forward were discerned. Presbytery has successfully defended our Book of Order and our connectional system and now looks to the future with significant financial handicaps for continuing mission and ministry throughout a four-state area. After championing the good cause for Presbyterianism, the many small churches throughout Northern New England are themselves now struggling to keep their own doors open, the heat on, and their pastors paid. At a time when mission needs are increasing, the Presbytery's ability to participate in meeting those needs has been compromised. Now is the time Presbytery of Northern New England needs special mission gifts from all who are able so that our witness to Christ through mission and ministry in our area and through our many small and rural congregations may continue.