

Report of: Advisory Committee 10-B

Report On: The Kinnaird Appeal (Appeal #2); The Galbraith Complaint (Complaint # 5); The Elliott Complaint (Complaint #6); Communication #12 (from the Presbytery of Philadelphia).

Advisory Committee 10B heard from representatives of the Presbytery of Philadelphia (John Galbraith, Luke Brown), members of the interim Session of Bethany OPC (Joel Kershner, Douglas Watson), the appellant (John Kinnaird) and his counsel (Thomas Tyson), other members of the Presbytery of Philadelphia (Richard Gaffin, John Van Meerbeke), a member of the Bethany Church in Oxford who assisted in the prosecution of the case (Carl Hayes), a member of the Committee on Appeals and Complaints (John Mallin), and a witness for the appellant (G.I. Williamson).

The advisory committee agrees with the Committee on Appeals and Complaints that the Kinnaird Appeal should be given priority over the Galbraith Complaint, the Elliott Complaint, and Communication #12 from the Presbytery of Philadelphia. Therefore, the advisory committee is recommending that the Assembly should act upon the Kinnaird Appeal first.

Nevertheless, the Assembly must deal with the complaints and communication #12 in some way. AC 10-B believes that the Assembly's disposition of the Kinnaird Appeal will be, in effect, the Assembly's response to the complaints and communication #12.

Each of the complaints asks, as one of its amends, that the 70th General Assembly should hear the Kinnaird Appeal. By hearing the appeal, the GA will be granting these amends. AC 10-B believes that by doing this the primary concern of the complaints will have been sufficiently addressed. Therefore, whatever might be the disposition of the appeal, the Assembly should declare the complaints to be moot.

In communication #12, the Presbytery of Philadelphia requests the Assembly "to remit the case of John O. Kinnaird ... to the Presbytery of Philadelphia (with the general assembly retaining jurisdiction)." The only place where the Book of Discipline mentions remitting a case to a lower judicatory is in BD VII.6.

An appellate judicatory which decides not to sustain the judgment of a lower judicatory may remit the case to the trial judicatory for a new trial...

The request of the Presbytery of Philadelphia differs from BD VII:6 in at least three ways:

1) BD VII.6 makes remitting the case dependent on a prior determination of the appellate judicatory (in this case the Assembly) not to sustain the judgment of the lower judicatory (in this case the Presbytery). However the Presbytery requests that the case be remitted without determining whether or not the Presbytery's judgment should be sustained.

2) BD VII.6 calls for remitting the case to the trial judicatory (in this case the Session of Bethany OPC, Oxford, Pennsylvania), while communication #12 requests that the case be

remitted to the Presbytery, the first appellate judicatory in this case.

3) BD VII.6 states that the purpose of remitting a case is for a new trial, while the Presbytery requests that the case be remitted for the purposes of formulating doctrinal statements and reporting findings regarding the specifications of error in the appeal.

Because of these differences between BD VII.6 and the request of Communication #12, AC 10-B believes that the request is extraordinary in that no specific provision is made for it in the Book of Discipline. AC 10-B does not believe that the circumstances surrounding the appeal warrant the adoption of an extraordinary procedure.

Therefore in hearing the Kinnaird Appeal first, the closest that the Assembly could come to granting the request of Communication #12 would be to remit the case to the trial judicatory (the Session of Bethany OPC) for a new trial, which AC 10-B does not recommend. In effect, then, the recommendations of AC 10-B deny the request of the Presbytery, whatever may be the ultimate disposition of the Appeal.

Recommendations:

1) That the appeal be found in order and properly before the Assembly (concurring with the CAC's recommendation).

2) That the Assembly adopt the following procedures for hearing the appeal:

1. Presentation of the report of the Standing Committee on Appeals and Complaints pertaining to the appeals (for up to 10 minutes).

2. Presentation of the report of the advisory committee pertaining to the appeals (for up to 20 minutes).

3. Questions about and discussion on portions of the reports pertaining to the appeals but not related to a recommendation (for up to 15 minutes).

4. Debate and action on the recommendations of the Standing Committee on Appeals and Complaints that each appeal be found in order and properly before the assembly.

5. Placing before the assembly each specification of the Kinnaird Appeal in the form: "Shall the specification of error be sustained?"

6. For each specification:

a. Presentation by the appellant (for up to 30 minutes) followed by presentation of the Presbytery of Philadelphia/Bethany OPC session (for up to 30 minutes).

b. Questions of clarification concerning the presentation of the appellant (up to 15 minutes) followed by questions of clarification concerning the presentation of the presbytery/session (for up to 15 minutes).

c. Final remarks by the presbytery/session (for up to 15 minutes) followed by final remarks by the appellant (for up to 15 minutes).

d. Debate and action on the recommendations of the advisory committee regarding

consideration and disposition of the specification.

3) That the Assembly grant the Rev. Joel Kershner (a ministerial member of the Presbytery of Philadelphia and a member of the Interim Session of Bethany OPC in Oxford, Pennsylvania which tried the Kinnaird case) the privilege of the floor for the Kinnaird Appeal.

4) That the Assembly grant Mr. Carl Hayes (a member of Bethany OPC who assisted in the prosecution of the Kinnaird case) privilege of the floor for the Kinnaird Appeal.

5) That the Assembly consider the specifications of the appeal in the following way, seriatim:

Specification A: (1a, 1b, and 2b as found on p. 59 of the Appeal, combined and stated in the following way) The Session and the Presbytery erred in finding Mr. Kinnaird's teaching to be contrary to the Church's Standards.

Specification B: (2a as found on p. 59 of the Appeal) The Presbytery of Philadelphia erred in defeating a motion that would have allowed both the appellant and presbyters time to analyze and respond to the report of the Interim Session (entitled: "REASONS for verdict of 1/25/03"), which report the Presbytery, as well as the appellant and his counsel, received only minutes before the hearing of the appeal.

Specification C: (3 as found on p. 59 of the Appeal) The Interim Session of Bethany OPC committed numerous procedural errors.

6) If specification A is sustained:

- a. That the Assembly reverse the judgment of the trial judicatory.
- b. That the Assembly declare that specifications B and C have become moot.

7) If specification A is not sustained, that the Assembly consider specification B and C seriatim.

8) If Specification B or C is sustained, that the Assembly determine whether to remit the case to the trial judicatory for a new trial or to modify the judgment.

9) That the Assembly declare the Galbraith complaint and the Elliott Complaint to be moot.

10) That the Assembly inform the Presbytery of Philadelphia that its disposition of the Kinnaird Appeal is its answer to the request of communication #12.

Recommendation regarding the disposition of the Kinnaird Appeal, Specification A:

On a vote of 8/1 the advisory committee recommends that the Assembly sustain Specification A of the Kinnaird Appeal.

Preliminary Observations :

1. Mr. Kinnaird affirms his belief in the doctrine of justification on the ground of the righteousness of Christ alone and received by faith alone. He formally declared his teaching on the doctrine in a statement prepared for his session (Bethany, Oxford, PA), "A Proposal for the Session" (October 25, 2001), the same document from which the first specification of the charge was taken (roughly the first two-thirds of this statement appears on p. 4154 of the Agenda):

JUSTIFICATION

All those whom God calls he freely justifies, not by infusing righteousness into them but by imputing the righteousness of Christ to their account by virtue of the merit of the life and death of Christ. Neither faith, nor the act of believing, nor any other evangelical obedience, is credited to them, only the active and passive obedience of Christ. The Christian receives and rests upon Him and His righteousness alone, by faith alone, which is a gift alone of God and nothing of man. Faith is the alone instrument of justification. Yet faith is never alone in the person justified but is always and ever accompanied with all other saving graces, and is no dead faith, but always works by love. WCF X.I and II, James 2:8-26, Galatians 5:5-6

2. The specifications in the charge are statements that Mr. Kinnaird made regarding sanctification, glorification, and the final judgment. It was incumbent on his accusers to prove that these statements contradict his explicit statement on the doctrine of justification. In defense, it was allowable for Mr. Kinnaird to argue that the statements in the specifications, reasonably construed in context, are in harmony with his statement on justification.

Grounds:

1. In the Larger Catechism proof texts approved by the 68th (2001) General Assembly, one of the proof texts for the phrase "there openly acknowledged and acquitted" in LC 90 is Romans 2:6,7,13,16 (footnote 401). This is strong evidence that it is allowable in the OPC to interpret Romans 2:13 (as Mr. Kinnaird does) as a description of something that will be done to the righteous at the day of judgment.

2. The charge accused Mr. Kinnaird of "teaching a doctrine of justification by faith and works" implying that he teaches that works have the same relationship to justification as faith does. But Mr. Kinnaird states that "Faith is the alone instrument of justification" (see preliminary observation #1) whereas of works he says, "God `will give to each person [at the final judgment at the last day] according to what he has done.' *According to not on the ground of — this point must be, and always has been, stressed.*" (Agenda, p .72, emphasis original)

This distinction is well established in the history of Reformed theology. For example, John Owen says:

This proposition — that God pardons men their sins, gives them the adoption of children, with a right unto the heavenly inheritance, according to their works — is not only foreign to the gospel, but contradictory to it, and destructive of it, as contrary unto all express testimonies of the Scripture, both in the Old Testament and the New, where these things are spoken of; but that God judgeth all men, and rendereth unto all men, at the last judgment, according unto their works, is true, and affirmed in the Scripture.

(The Works of John Owen, Volume V, *The Doctrine of Justification by Faith*, ed. by William H. Goold, Banner of Truth Trust, 1965, p. 161 emphasis original)

Concluding Observations

1. While Mr. Kinnaird's teaching should not be judged to be out of accord with the Church's Standards, his teaching has not been as clear as should be expected from an elder (cf. Titus 1:9).

2. Our standards typically use the word *righteousness* to refer to what is imputed in justification and the word *holiness* to refer to the fruit of the Spirit's work in sanctification. While Scriptural usage does not invariably observe this distinction, and we are free to follow Scripture usage, it is well ordinarily to observe this distinction for pedagogical reasons and in deference to our Church's doctrinal formulations. Mr. Kinnaird frequently uses the term *righteousness* to refer to the fruit of sanctification. While a careful reading of Mr. Kinnaird's words leads to the conclusion that he is *not* combining justification and sanctification, his words are not as clear and helpful as they should be.

3. Our standards use the word *justification* to refer to the imputation of Christ's righteousness that occurs when a sinner first believes, while it uses the words *openly acknowledged and acquitted* to refer to the result of the judgment at the last day for the righteous. Mr. Kinnaird occasionally uses the word justified to refer to what happens to the righteous at the last judgment. While it is true that both concepts are forensic; and that some orthodox theologians use the word justification to refer to what happens at the last day; and that if Roman 2:13 speaks of the judgment of the righteous at the last day, it provides Scriptural precedent for using the word justification to refer to the last judgment; nevertheless it is highly desirable ordinarily to use the words of our Standards in speaking of these matters. Clarity in the defense of the essential Protestant doctrine of justification by faith alone requires that we use different words for different things.

4. In speaking of matters requiring precise definition, special care in teaching is required. A helpful pedagogical device is to state clearly what one does *not* mean in close juxtaposition to stating what one *does* mean. While officers of the Church have pedagogical freedom, and while no exact rules can be given regarding how close together mutually clarifying statements must be in a sermon or a theological essay, Mr. Kinnaird's teaching taken as a whole is less clear in this respect than is desirable for effective instruction.