

The Book of Discipline

Adopted 2003

INTRODUCTION

Discipline is a vital element in discipleship, and discipleship, in turn, is based upon a call by Jesus involving a personal allegiance to Him in love and obedience. Those who became the original disciples were first taught by Jesus, and only after that were they sent out as His representatives (Mark 3:14-15). In our own day we also have the witness of the Word, the fullness of the Holy Spirit, and sound preaching to draw us to faith in Jesus. Then to bind us together we have the fellowship of His Church as the Bride of Christ and the oversight of the elders into whose hands the leadership of the Church is placed.

The purpose of Christian discipline is to bring about a redemptive change, and a continuing growth toward holiness in the life of a Christian. Although we all fall into sin, as Christians we must still become involved in every process which produces righteousness and leads an individual toward growth in grace. Thus, Christians must set a good example of encouraging each other in love and in good deeds (Heb. 10:24).

Discipline is both positive and negative. Since it is a continuing process in our growth in grace, it becomes the responsibility of every member of the congregation. We must show a concern for every offender and at the same time a love that brings about repentance.

The elders must also exercise leadership by appropriately responding to weaknesses and sin among the members of their congregation. Of course they cannot reach out to members if they do not know them well, pray for them constantly, and visit consistently. We call this preventive discipline, and it is the first step in maintaining strong spiritual health among all members of a congregation. Preventive discipline will certainly avoid some of the need for corrective discipline.

Both teaching and ruling elders must establish full biblical discipline for the sake of order and peace in the congregation. Since it is their duty to mold

and perfect mental and moral character, the elders must begin by disciplining themselves. They then become a good influence upon every member of the congregation. Finally, they should apply discipline impartially upon the membership of the entire congregation. Such discipline should begin with sound preaching and the acceptance on the part of the session of a personal responsibility for the spiritual life of each member of the congregation.

Any book of church discipline must emphasize the more formal, corrective, and often negative aspects of discipline because our leaders must maintain the strong reprimands and judgments that Jesus instructs us to keep. A great problem is that the degeneration of our moral and spiritual world since the Fall leads us to recognize that families can be formed and children may grow up without the example of any Christian principles or teachings. We must pray for the presence of Christ in every thought, attitude, and deed so that we can build both personal and corporate lives that will glorify His name.

The appropriate church court should take notice of behavior that may lead to civil lawsuits. In particular, one member shall not go to law against another member until the case has been referred to the appropriate court (1 Cor. 6:1-8). The court may employ mediation, arbitration, or another alternate dispute resolution process.

This Book of Discipline is purposely in two sections. The first, section I, will be the normal procedure that courts will use. It is less formal, and is especially useful in those common situations when the church member who must undergo discipline has admitted his sin, and neither desires to contest any charges nor any censures. It is by no means a “prejudging the case,” for a member charged with sin may contest the very charge itself and demand a trial for it long before the court has determined any censure that affects his standing or eligibility for the sacraments. The second part is more formal and with more rigorous procedure. Any time a member desires to contest either a charge against him, or the severity of the censure, he may request formal trial done in accord with Section II. This request must be granted.

SECTION I:
DEFINITIONS, PRINCIPLES, AND GENERAL DISCIPLINARY ACTION

CHAPTER 1

***The Scriptural Foundation and Basic Principles
of Church Discipline***

1. God’s people are called to be holy. The sin of any member of the church has an adverse effect on the whole church. This includes communicant and baptized members, both of whom are subject to the discipline of the church.

2. God has established an orderly manner for dealing with sin in His church. This order, as set forth in Matthew 18:15-17, involves loving personal confrontation, using witnesses, and calling upon church leaders for counsel and judgment.

3. Five purposes of church discipline are: primarily, to reclaim a sinning member; then to deter others from similar offenses; to maintain the honor of Christ and the purity and peace of His Church; to maintain the truth of the gospel; and to avoid the wrath of God coming upon the church.

4. A church which does not follow our Lord's commands regarding church discipline will certainly lose His blessing, deteriorating more and more in doctrine and in life.

5. Discipline should be exercised with prudence, discretion, humility, and in full dependence upon the guidance of the Spirit of God, with love for both the Lawgiver and the lawbreaker.

6. Not everything displeasing to an individual is ground for formal disciplinary process. Offenses which require discipline are of three kinds: heresy; disregard for or violation of the moral law (refusal to submit in the Lord to the teaching and government of this church as being based upon the Scriptures and described in substance in the Constitution of the Reformed Presbyterian Church of North America); and contempt for the courts of the church (refusal, in case of need of correction in doctrine or life, to respect the authority and discipline of the church).

Scripture: Ex. 23:1; Num. 35:30; Deut. 13:1-11; 17:2-13; 19:15-20; 21:18-21; 22:20-22; Josh. 7:1-26; Matt. 16:19; 18:15-18; John 20:21-23; Acts 5:1-11; 1 Cor. 5:1-13; 2 Cor. 2:5-11; 13:1; Gal. 6:1; 2 Thess. 5:12-15; 2 Thess. 3:6, 14-15; 2 Tim. 5:19-21; Titus 3:10-11; Heb. 12:1-13; 13:17; Rev. 2:2, 20.

CHAPTER 2

Dealing with Sin in the Church— Personal Responsibility

1. If a member sins against another person, or if a member sins and this sin becomes known to another member of the church, the person sinned against or aware of the sin should go privately to the sinner and confront him.

2. If the sinner repents, there must be forgiveness and reconciliation, and the matter shall be closed. You have won your brother.

3. If the sinner does not repent, the member aware of the sin should take one

or two others along as witnesses and seek the sinner's repentance. It is at this point that a plan of mediation or arbitration may be useful. If this is successful, the matter shall be closed. You have won your brother.

4. If the sinner still does not repent, the person aware of the sin shall bring the matter to the session for action.

5. If the sin is known generally, and therefore cannot be solved privately, charges may be taken directly to the appropriate church court.

Scripture: Matt. 18:15-17, 1 Cor. 5:1-2; 1 Tim. 5:19-20.

CHAPTER 3

Dealing with Sin in the Church— Corporate Responsibility

1. If session or a higher court learns of a sinning member, it must not ignore the situation. The court may deal with the situation directly or by a judicial commission. (See section II, chap. 4, par. 1, as well as the *Directory for Church Government*, chap. 6, par. 16 on page D-35.)

2. If there is reasonable evidence that a member is teaching heresy, disregarding or violating the moral law, or showing contempt for the courts of the church, the court shall contact that member in love and with care, and shall investigate the allegations.

3. If the sinner confesses and repents, there must be forgiveness and reconciliation, and the matter shall be closed. You have won your brother. Such closure may include counsel or censure appropriate to the circumstances.

4. If the accused does not contest the charges, regardless of whether or not he acknowledges the truthfulness of the accusation, and does not give evidence of repentance from the alleged sin, the court may proceed, without formal trial, to the imposition of any formal censure in hope of repentance. (See chap. 4 for appropriate censures.)

5. However, if the accused takes steps to contest the charges, the court may not proceed to issue a censure beyond admonition or rebuke without conducting a formal trial. (See section II for the formal trial process.)

Scripture: Matt. 18:17; Deut. 19:15; 2 Cor. 13:1.

CHAPTER 4

The Imposition of Church Censures

1. There are five formal degrees of censure. These are admonition, rebuke, suspension, deposition, and excommunication. These formal censures shall be used if the sin is confirmed, and if censure is appropriate, or the sinner is confronted but does not repent. These formal censures shall be put in writing, with a clear statement of the sin, and, if possible, conveyed to the sinner personally by one or more of the members of the court. Any of these censures may be imposed by the court without first imposing lesser censures. In addition, the court may remove members from the roll without formal censure, as mentioned in paragraph 2 of this chapter.

a. *Admonition*—This is the lightest degree of censure and is commonly used by the court in cases of neglect of duty. It consists of reproof of the offender, warning him of the danger of his course, and charging him to be more faithful in his Christian life. The court may also make the people under its oversight aware publicly of the fact of and reason for the admonition. (See Suggested Form 24.)

b. *Rebuke*—This is a censure for a more aggravated sin and is commonly used by the court in cases of active transgression or of continued neglect of duty in spite of counsel. It consists of authoritative reproof in the name of Christ, and a call for repentance and reformation of life. The court may also make the people under its oversight publicly aware of the fact of and reason for the rebuke. (See Suggested Form 25.)

c. *Suspension*—This is the temporary exclusion from the privileges of church membership, including participation in the sacraments or from the exercise of ordained office or from both. This becomes necessary when members are guilty of gross sin or of persistent neglect. This censure shall be pronounced by the moderator in constituted court, and in the name of Jesus Christ. The court shall also make the people under its oversight aware publicly of the fact of and reason for the suspension. The lifting of suspension depends on evidence of repentance. (See Suggested Forms 26 and 27.)

d. *Deposition*—This is the disciplinary removal of an ordained officer of the church from his office. It may also be accompanied by suspension from church privileges. This censure shall be imposed for serious offenses in doctrine or in conduct that obviously disqualify the person for exercising office. The sentence shall be pronounced by the moderator in constituted court, and in the name of Jesus Christ. The court shall also make the people under its oversight aware publicly of the fact of and reason for the suspension. When a teaching elder is deposed, the court shall promptly (normally within seven days) notify, in writing, the clerks of all

presbyteries of the church and the clerk of Synod. A person suspended or deposed shall, upon his request, be granted a letter of standing, which shall include the grounds upon which the censure was imposed. (See Suggested Form 28.)

e. *Excommunication*—This is the disciplinary exclusion of a member from the visible church. It should be imposed only for such malignant errors or persistent violations of God’s law as are grossly inconsistent with the Christian profession of faith or subversive to the doctrine and order of Christ’s Church. All possible efforts should first be made to bring the sinner to repentance. Before excommunication is pronounced, a valid attempt should be made by the court to inform the offender of the pending action. Excommunication shall be pronounced by the moderator in constituted court and in the name of Jesus Christ. Prayer shall be offered to God for mercy and repentance. The court shall make the people under its oversight aware publicly of the fact of and reason for the excommunication. Members should then relate to the person as one who is outside the visible church and in need of repentance and salvation. (See Suggested Form 29.)

2. Where appropriate, the court may elect to remove members from church membership without formal censure, as follows:
 - a. If a member does not attend or show other signs of interest in the church, his session may, after sufficient attempts to reclaim the person, inform him that his actions have caused the session to remove him from church membership. The session should warn the person that outside the visible church there is no ordinary possibility of salvation. A Certificate of Dismissal shall be sent to the person removed. (See Suggested Form 2-A.)
 - b. If a member requests that he be removed from membership, his request may be granted. If it appears to the session that a member has requested removal merely to avoid church discipline, the request shall not be given effect until the disciplinary process has been properly concluded. If no transfer to another church is planned, the session should warn the person that outside the visible church there is no ordinary possibility of salvation. A Certificate of Dismissal shall be sent to the person removed. (See Suggested Form 2-B.)
 - c. If a member cannot be located or contacted, he may be removed from the membership of the church.
 - d. The session shall inform the people under its oversight of the member’s removal and the reasons for it.

3. The following shall apply as appropriate:
 - a. In giving information to the people under its oversight regarding any censure, the court should use discretion in determining how much to reveal to those under its oversight of the details of the case. Only that which is necessary and proper should be stated, and then normally only to the members. The court shall seek to protect the sinner from undue exposure and those under its oversight must not engage in gossip or improper curiosity.
 - b. The session may discipline a teaching elder as a member of the congregation, but its authority is limited to the censures of admonition and rebuke. Any censures of suspension, deposition, or excommunication shall remain with the presbytery or the court holding his credentials.
 - c. In the case of imposition or removal of discipline of a teaching elder by a presbytery or higher court, the acting court shall advise each presbytery of the action taken. Each presbytery shall then advise its sessions as appropriate.
 - d. In the case of officers or members who have been disciplined, pastoral care should be given to the innocent family members and other parties in the case.
 - e. Because the multiplication of processes tends to weaken the authority of discipline the court shall not use formal processes for slight offenses.

Scripture: 1 Thess. 5:14; Titus 3:10-11; 1 Cor. 5:1-13; 2 Thess. 3:6; Matt. 18:17-18; John 20:23; 1 John 2:19; 2 Tim. 4:10; Matt. 19:22.

CHAPTER 5

Rights of Appeal

The Presbyterian form of government provides for a gradation of courts whereby the lower is answerable to the higher. A decision of the lower court is subject to review and correction by a higher court. Any member of the church may carry his case through the lower courts even to the highest court for adjudication. For sufficient reasons the higher court may decline to act. The action of a lower court may be brought under the jurisdiction of a higher court by *Review of the Records, Complaint, Reference, or Appeal*. (See section II, chap. 4, as well as the *Directory for Church Government*, chap. 6, par. 16 on page D-35.)

Scripture: Ex. 18:22; Acts 15:2; Acts 25:10-12; 2 Cor. 13:1.

CHAPTER 6

Repentance, Forgiveness, and Restoration after Censure

1. At any time, a person under censure may approach the church by coming before the censuring court to confess his sin, repent, and ask for forgiveness and for the lifting of censure.
2. When the court sees satisfactory evidence of true repentance, it shall restore the person with the same solemnity and publicity that attended the imposition of the censure, and lead its members in granting its forgiveness. Such repentance would include satisfactory attempts at reconciliation and restitution to any parties sinned against.
3. Restoration of an excommunicated member shall include a renewal of his vows of church membership.
4. In the case of suspension from ordained office, when there is full restoration, the court shall lift the censure and restore the person to the former place on the local deacon board or session. When the court believes it is justified, it may impose a period of probation before there is full restoration to any office. Restoration of a teaching elder from suspension, deposition, or excommunication is under the jurisdiction of presbytery.
5. In the case of deposition from ordained office, a court may lift the censure and, after it has been lifted, must restore ordination by laying on of hands. The ruling elder or deacon is then eligible for reelection to service, or the teaching elder for a call.
6. Restoration of a person under censure should be made only by the court that imposed the sentence or with its advice and consent.
7. The entire disciplinary process should be carried out with reverence, prayer, gentleness, carefulness, love, fairness, humility, and perseverance by those who will someday give an account to God for their work.

Scripture: 2 Cor. 2:5-11; Gal. 6:1-5; 1 Tim. 5:1-2, 19-22; Heb. 13:17; 1 Pet. 5:1-4.

SECTION II: SPECIAL DISCIPLINARY PROCESS OF FORMAL TRIAL

INTRODUCTION

Please read Section I before using Section II.
Section II is only to be used in case of a formal trial.

CHAPTER 1

Parties and Jurisdiction

Parties to the Case

1. The injured party should be the accuser in private or personal offenses. Formal process shall not be instituted unless evidence is presented that the means of reconciliation referred to above (section I, chap. 2) have been tried. Before such process is instituted, it is proper for the court to seek a solution of the case without formal trial.

2. Any member in good standing in the church may press charges against any other member before the court to whose jurisdiction he himself belongs. No person can be compelled to become an accuser. No charge shall be received without investigation from any one who is not of good character, or is mentally deficient, nor shall any be accepted at any time from one who manifests malice. Any accuser may be subject to censure, if the charges prove false or if they prove to have been made through malice.

3. A church court must not permit discipline to fail in its purpose for lack of an accuser. If an offense is public, or if a private offense grows into a public scandal, and an individual is unwilling to act as accuser, the court itself must institute proceedings by appointing a special prosecutor to pursue the case. A special prosecutor may be a member(s) of the court, a lower court, or the congregation.

4. A court may begin process on the ground of public report (fama clamosa) by appointing a special prosecutor. This public report is different from an idle rumor in that it is widespread, persistent, commonly known, and has the appearance of credibility. The charge will be stated in more general terms, but will conform in all other respects to the rule for a specific accusation (see below in chap. 2, par. 1). To avoid any process on the grounds of gossip, a committee may be first appointed to investigate the rumors. A person who considers himself slandered may request an investigation. The court may exercise its discretion in granting or refusing the request.

Jurisdiction

5. The presbytery has original jurisdiction in relation to suspension, deposition, or excommunication of teaching elders; the session in relation to all others. A higher court may direct a lower court to begin process; or the higher court may begin process or appoint a commission to do so, if the lower court has neglected or refused to begin process, or is otherwise incapable of proper action.

6. If a member of a congregation living within the bounds of another congregation is accused of a censurable offense, the session of the congregation where he resides shall refer the case to the session of his own congregation. A presbytery may take similar action in the case of a teaching elder who resides within its bounds, but is a member of another presbytery. Or the court to which a member or teaching elder belongs may request and authorize the court in whose bounds he resides to try the case. When a congregation is disorganized, a case pending before its session comes under the jurisdiction of presbytery. If a presbytery is disorganized, a case pending before it comes under the jurisdiction of Synod.

Special Provisions

7. No one who serves as a party to or counsel or special prosecutor in a case may participate in the judgment of that case.

8. No person who has been tried and acquitted, or convicted, may be subjected to another trial or further disciplinary action for the same offense.*

**chap. 3, par. 13, last sentence.*

9. The court may look to these section II provisions for guidance in handling section I disciplinary actions. However, the foregoing paragraphs 7 and 8 of these Special Provisions shall apply to any disciplinary action finalized under section I.

CHAPTER 2

Instituting Judicial Process

1. In order to institute a formal judicial process, the accuser or the special prosecutor shall sign and submit a charge in writing. It shall name the specific offense, the time, place and circumstances of its commission. It shall also provide a list of the witnesses and of all papers to be offered in evidence.

2. The signers of the charge shall be responsible for prosecuting the case. If the court judges the alleged offense censurable, and the proposed evidence sufficient to warrant a trial, and is satisfied that Christ's rule (Matt. 18:15-16)

has been followed, it shall put the charge or charges with these details into the form of a written accusation.* It is also signed by the moderator and clerk of the issuing court.

**See also section II, chap. 3, par. 5.*

3. At the meeting in which the accusation is issued no further steps shall be taken, except to fix the time and place of the trial and to summon all who are concerned to appear. There shall be no unnecessary delay in hearing a case, but both parties shall have sufficient time for preparation. At least ten days shall pass between the issuing of the accusation and the date of the trial, except by consent of all concerned. If additional witnesses or new evidence are discovered, the accused shall be informed and further time given him or her to prepare a defense.

4. An official copy of the accusation shall be placed in the hands of the accused, left at his residence, or delivered by certified mail, accompanied by a summons, signed by the moderator and clerk, to appear and answer to the accusation. If the first summons is not obeyed, the court shall issue another, allowing such extension of time as it deems proper, and serving notice that if the individual does not appear it will proceed in his absence. Even though the accused declares that he or she will not obey the first summons, the court shall issue a second summons. (See Suggested Form 20.)

5. The summons may be served by any person appointed by the court, who shall certify to the court that he has performed his duty, or it may be sent by certified mail. If the accused does not reply, the court shall proceed to try the case in his absence.

6. The clerk of the court shall issue a summons to appear to each of the witnesses named by either the prosecutor or the accused. Only members of the church can be summoned to appear, and these only by the court to which they are subject.* Other persons may be requested to appear. Members who do not obey summonses to appear are liable to censure for contempt of court. (See Suggested Form 21.)

**See section II, chap. 3, par. 8.*

7. When witnesses important to the case cannot be present, the court may appoint one or more of its members to take their testimony. In this situation, the parties shall have the privilege of being present and cross-questioning the witnesses. A church court is obliged to afford the accused every opportunity to protect his or her good name, and under all circumstances to preserve the right of each individual to meet accusers face to face.

8. On request of the trial court, witnesses subject to coordinate courts may be summoned by their own courts to appear at the trial and give testimony. Witnesses so summoned shall be entitled to receive all necessary expenses incurred in obeying the summons. Where compliance with such summonses is not feasible, the trial court may request another church court to take testimony, including answers to particular questions, and to transmit a certified copy of the same to be read into the record of the trial. In determining the value of such testimony, the court should consider that the witnesses did not face the accused, and that no one had opportunity for cross-examination.

9. The court may require the accused to refrain from the exercise of communicant privileges, or from the exercise of office, or from both, until final action in the case has been taken, provided there is no unnecessary delay in its prosecution.

CHAPTER 3

The Trial of the Case

1. In conducting a trial, a record of all proceedings shall be carefully kept by any accurate and dependable method. It shall include, in particular, the charges and accusations, the plea and the judgment, together with the testimony of the witnesses. A complete, authenticated copy of the entire record shall be available for reference to a higher court, if desired. The parties shall be allowed copies at their own expense.

2. When the court has been constituted, the moderator shall inquire if the accusation has been served, and the witnesses summoned; if the parties are present or represented by counsel; and if the witnesses or their recorded testimony are present. Before proceeding with the trial, the moderator shall remind the members of the court of the solemn duty in which they are about to engage, and of their responsibilities as judges in the Lord's house, and shall enjoin them to dismiss from their minds all prejudice or personal considerations, and to concern themselves for the spiritual welfare of the accused and of the church. He shall explain the nature and seriousness of the charge, and set forth the ends of discipline. He shall make clear the rights and duties of the accused, and assure him a fair and impartial trial. At any stage of the proceedings the court may decide by a two-thirds vote to exclude observers, often called "executive session."

3. Each of the parties shall be entitled to appear and to be represented by counsel. No person shall be permitted to act as counsel who is not a member of the church and subject to the jurisdiction of its courts. This does not preclude

the parties from seeking legal advice privately. No one who serves as a party to or counsel or special prosecutor in a case may participate in the judgment of that case.

4. The accused may offer objections to proceeding with the trial on the grounds that there have been gross irregularities, that the court has no jurisdiction, or that the offense charged, if proved, is not censurable. The court shall hear his objections, but he shall not be permitted to argue against the principles of the church. If any of these objections prove to be well founded, the court must dismiss the case, or permit amendments to the charge without changing its nature. The accused may challenge the right of any member of the court to sit in judgment of the case. If the challenge is sustained and there is no longer a quorum, the case shall be referred to a higher court.

5. If the objections are overruled, the moderator shall call upon the accused to answer to the charges, “guilty,” or “not guilty.” If he plead “guilty,” the court shall determine the degree of censure to be imposed. If he plead “not guilty,” or declines to answer, the court shall proceed with the trial. In any case, his plea, or failure to answer, shall be entered on the record. If necessary to proceed with trial, the witnesses of the prosecution shall be called, then those of the defense. Each party shall have the right to cross-examine the witnesses of the other party. The witnesses shall be examined in the presence of the accused, unless he has failed to appear. After all the original testimony has been heard, rebuttal testimony may be introduced by either party; but no new evidence shall be admitted except by permission of the court and when the accused has been furnished with the names of witnesses and the purport of the evidence.

6. The examination of the witnesses shall be conducted through the moderator. Either party may object to the course pursued in the examination, or to a particular question. If the moderator overrules the objection, an appeal may be taken to the court; if his ruling be not sustained, this fact, together with the objection, shall be entered in the record. The court itself, or either of the parties, may require the witnesses to be sworn. The oath shall be administered by the moderator. All present shall stand; the witness shall raise his right hand while taking the oath.*

**For the form of oath, see Suggested Form 22.*

7. Either party may question the character or the competency of any witness, and the court must hear his objections, and judge as to their validity. If the objections be sustained, the witness is to be dismissed. Mental deficiency, immaturity, infamy of character, and malice, are grounds upon which the testimony of a witness may be challenged. The degree of any of these disqualifications may

not be sufficient to prevent a witness from testifying, but the members of the court must use their judgment in determining the value of such testimony.

8. A witness is under obligation to tell the truth, the whole truth, and nothing but the truth, so far as it pertains to the case in hand. He may not be compelled to answer if in so doing he would incriminate himself, but he must state his reason. The question, his refusal to answer, and the reason for his refusal shall all be entered on the record. It is the duty of every member of the court to make known to the court as a witness everything he may directly know concerning the case that would help in reaching a righteous decision.

9. A witness may at any time during the progress of the trial amend his testimony by a postscript, duly recorded. Statements of deceased persons, who would have been credible witnesses, and documentary evidence, whether written or printed, must be duly authenticated before being admitted. Ordinarily it should be certified by affidavit, witnessed by a lawfully appointed official. Extracts from the minutes of other judicatories are authenticated by the signature of the clerk. Circumstantial evidence cannot be regarded as conclusive. A husband or wife shall not be compelled, but may be permitted, to bear testimony when the other is on trial.

10. The accused may be permitted to testify in his own behalf. In extreme cases, where proof is wanting, an oath of purgation may be admitted, but not urged.* At the request of either party, witnesses to be afterward examined, unless members of the court, shall be removed during the examination of earlier witnesses.

**Form 31.*

11. After all the evidence has been presented, closing statements shall be heard. The accused shall be heard first and then the prosecutor, but neither shall go beyond the record or introduce new matter. The court shall then decide whether either party shall be further heard.

12. A motion "that the parties be removed" is next in order. By this they are excluded from further participation in the proceedings, unless recalled by the court to clear up some doubtful point in their testimony. The court may withdraw from the room or require the withdrawal of the parties, witnesses, and all other persons not members of the court. If either party objects, no member of the court who has not been present during the whole trial shall be allowed to vote in the final decision. For this reason an accurate record of attendance shall be kept.

13. The court shall begin its deliberation with prayer for Divine guidance in

weighing the evidence and in reaching a just decision. The burden of proof shall rest upon the prosecution. The accusation may contain a number of counts or specifications, and, if so, the vote shall be taken on each count separately. The accused cannot be convicted of any count on the testimony of a single witness. If adjudged guilty on any or all counts, the court shall fix the degree of censure to be administered. If the legal evidence does not warrant conviction, the decision should be “not guilty.” When the court has reached its decision, the parties should be recalled and the result announced. Even after censure has been imposed, if new evidence in behalf of the one adjudged guilty is discovered, which seems to be of sufficient significance, the court of original jurisdiction may reopen the case.

CHAPTER 4

Removal of a Case from a Lower to a Higher Court

1. The Presbyterian form of government provides for a gradation of courts whereby the lower is answerable to the higher. A decision of the lower court is subject to review and correction by a higher court. Any member of the church may carry his or her case through the lower courts even to the highest court for adjudication. For sufficient reasons the higher court may decline to act. The action of an inferior court may be brought under the judgment of a higher court by Review of the Records, Complaint, Reference, or Appeal.

Review of the Records

2. Lower courts shall submit their records once each year for review by the next higher court. If such review reveals a neglect of duty in dealing with censurable offenses, the higher court shall call attention to the neglect, and may direct the lower court to perform its duty. If a review of the minutes reveals any departure from the law and order of the church or any obvious injustice done to any member, the higher court may direct the lower to make the needed correction. The reviewing court may not reverse a judicial decision until the case has been brought before it by complaint or appeal.

Complaint

3. A complaint is a written statement made to a higher court by one or more persons aggrieved by an action of a lower court. It may be made by the parties concerned, by members of the court, or by any interested persons.* The complainant shall give notice to the lower court within 30 days. He shall file his complaint, together with the reasons therefor, with the moderator and

clerk of the lower court. He shall then file the same with the higher court at its next regular meeting or at a time fixed by that court. If the complainant does not appear in person or by counsel to prosecute his case, the action of the lower court shall stand, unless such absence is shown to be unavoidable.

**See Directory for Church Government, chap. 8, par. 11.*

4. The lower court shall transmit to the higher all records and papers pertaining to the case. If this is not attended to, the higher court may reprove the lower for its negligence and postpone the hearing until these documents have been received. The lower court is the defendant in the case, and shall be represented by one or more of its members or other persons appointed for this purpose. Members of the lower court who may also be members of the higher, except those acting as counsel, shall have a voice in the judgment of the case unless the complaint has been substantiated as one of injustice and wrong on the part of the lower court.

5. If a complaint is sustained, the higher court may censure the lower court, and may annul in whole or in part the action complained of, and instruct the lower court as to further proceedings. The sustaining of a complaint, however, does not necessarily reverse the decision. A member of the court disagreeing with any action, but not wishing to make a complaint, may register his dissent and request that it be recorded in the minutes. His request must be complied with, provided it is expressed briefly and in respectful language.

6. A court may prosecute a complaint against a court of equal rank with the next higher court under the same general rules as govern the prosecution of complaints against individuals.

Reference

7. A lower court dealing with a judicial case may either without instituting process or at any stage of the proceedings refer it to the higher court for advice or instructions on any matters that may be involved. Or it may refer the whole case to the higher court for adjudication. All references shall be in writing, and accompanied by the records and papers pertaining to the case. It shall be the duty of the clerk of the lower court to transmit these to the higher court, and to notify the parties of the time and place set for the hearing.

8. A lower court must not take advantage of the privilege of reference to relieve itself of a disagreeable responsibility. Under ordinary circumstances it should handle all cases that come properly under its jurisdiction. But it may feel itself incompetent to deal with an important case because of the fewness of its members, or because of its inability to reach a decided opinion, or because

members of the court are related to the parties involved, or because the nature of the case makes it unwise to conduct it in the local community, or because the law in the case is indefinite, or because the decision would tend to establish a precedent which would affect the church at large. Any one of these reasons, if established, would justify the lower court in referring a case.

9. The members of the lower court who are members of the higher may participate in the hearing and decision of a case sent up by reference. It is within the province of the higher court to give or refuse advice, to take over the trial of the case, or to return it to the lower court with or without instructions.

Appeal

10. An appeal is the removal to a higher court of a case already decided by a lower court. None but parties can appeal. They may appeal on the following grounds: irregularity in the proceedings; injustice or undue severity in the censure imposed; manifest prejudice or unfairness to the party on trial; admission of improper testimony or refusal to hear testimony that is important; or undue haste in reaching a decision before all the testimony has been heard.

11. Written notice of an intent to appeal and a summary statement of the reasons must be filed with the clerk of the court appealed from within thirty (30) days after the accused is informed of the action, and the clerk shall transmit the same, with the necessary records and papers, to the clerk of the higher court. The higher court, upon receiving notice of the intent to appeal, shall make available an appropriate advisor from among the members of the court for the appellant. At least sixty (60) days shall be given for preparing the appeal and transmitting it to the clerk of the higher court, along with a full statement of reasons for the appeal and all relevant documents. In order for members of the higher court to have time to read and process the appeal, a period of at least thirty (30) days must elapse between the court's receiving the appeal and the meeting where it is to be adjudicated. Parties are entitled to such extracts from the minutes as may be necessary in preparing an appeal. The clerk of the court shall furnish such extracts, but, if they are large, the court may request the party demanding them to pay the necessary expense.

12. The notice of appeal shall serve to restrain the lower court from administering the censures of admonition or rebuke until the case has been determined by the higher court, unless the appellant shall fail to prosecute the appeal. A sentence of suspension from the privileges of the church, or of deposition from office, or of excommunication, shall be in force until the appeal has been decided. The members of the lower court, if also members of the appellate

court, unless parties to the case or counsel for the same, shall be entitled to participate in the decision.

13. An appeal shall be prosecuted by the appellant in person, unless, for reasons satisfactory to the court, he cannot be present. In this case he may request his advisor to act on his behalf. If an appellant fails to prosecute his appeal at the next meeting of the higher court, or at such time as the court may designate, the decision of the lower court shall stand. He may, however, appear at a later meeting, due notice having been given to the court from which he appealed, and present proof that his failure to appear was due to unavoidable circumstances. If the court is satisfied, it may proceed at once to hear the appeal, or appoint a later date for the hearing.

14. A higher court, when considering an appeal, shall inquire whether due notice has been given the lower court, and whether the records and papers pertaining to the case are present. If these requirements are met, the court shall proceed as follows:

- a. The clerk shall read the sentence appealed from.
- b. He shall read the appeal and the reasons assigned by the appellant, which must be the same as those presented to the lower court.
- c. The records and papers in the case shall be read. If the members of the court judge that they have had sufficient opportunity to review the record and papers, the court may waive the reading of the record. Either party may request the reading of specific portions of the record important to the case if the reading of the full record is waived.
- d. The answer of the lower court to the reasons of appeal shall be read, if such have been submitted.
- e. The parties shall be heard, the appellant having the opening and closing speeches. He shall not be permitted to introduce any new arguments in his closing speech, but confine himself to a summary of his appeal and a rebuttal of the argument presented by the other side.
- f. Opportunity shall be given for discussion of the case by the members of the court.
- g. The vote shall be taken on sustaining or not sustaining the appeal, each specification of error being voted on separately.

15. The decision of the higher court must be based solely on the records of the lower court. The higher court may confirm, or reverse, in whole or in part, the decision of the lower court. If the appeal is sustained, the judgment of the lower court is reversed. If an appeal is not sustained, the judgment of the lower court is affirmed. If the lower court has not followed the prescribed order in the conduct of the case, the higher court may, at its discretion, return the whole case to the lower for a new trial. If the decision of the lower court

appears unjust and unwarranted, the higher court may itself try the case. A full record shall be kept of all the proceedings with the reasons for each decision.