

2009 General Assembly

of the Church of Scotland



Assembly Update Transcript #6

Rev Douglas Aitken

Saturday 23rd May 2009, 11.30pm

On Saturday evening, the General Assembly sat as a court of law. It has all the authority of the highest courts of the land and is established as such by Act of Parliament. The procedure, however, is somewhat different, since the members of the Assembly are effectively judge and jury.

It sits as a court to hear a case. Cases are usually heard by a Commission of Assembly, a smaller court of less than 50 members. When this case was brought before it, the Commission of Assembly in March this year decided by 42 votes to 41 to refer it to the whole Assembly.

The case concerns the call of the Rev. Scott Rennie from Brechin Cathedral to Queens Cross Church in Aberdeen. In the Church of Scotland, a congregation has the right to call a minister to be its pastor. That call by the congregation has to be sustained, or agreed to, by the Presbytery which has spiritual supervision over the congregation issuing the call. In the current case, the Presbytery of Aberdeen sustained the call to Mr. Rennie by 60 votes to 24. However, because Mr. Rennie is living in a loving relationship with his male partner, a teacher with theological training, a number of the members of the Presbytery dissented and complained against the judgement of the Presbytery and, as is their right, they took leave to appeal to the General Assembly, the highest court of the Church and, indeed, the final Court of Appeal.

In this debate, the two parties to the case are required to argue their case from what is called the bar of the Assembly. What that means is that they are not able to take part in the ensuing debate – and that also applies to any other members of the Presbytery of Aberdeen, who may not participate or vote.

After worship, the case began with a statement by the Procurator of the Church, a Queen's Counsel who is the Church's professional legal advisor. She spoke on the nature of natural justice, which requires those hearing a case to come to it with no preconceived notions, no matter what they have heard from whatever source.

When parties were heard, the Rev Ian Aitken, for the complainers, said that their case was not about the right of call of a congregation to choose their minister, nor indeed about Mr Rennie's sexual orientation, but about the Presbytery making a decision that ran contrary to the current law of the Church and contrary to the commitment to discussion and prayerful dialogue on the issue of sexual orientation agreed by the Assembly in 2007.

For the Presbytery, the Rev. George Cowie, said that the complainers had dissented from the Presbytery's decision and asked it to make a judgement on the life of Mr. Rennie when he was not present. This, he said, was against the spirit of natural justice. He said the

Presbytery has not done anything to make a decision on behalf of the General Assembly and has not prevented future discussion and prayerful dialogue.

After there had been responses from both sides which sought to clarify their positions, the Court moved to questions to both sides. These were all offered in an atmosphere of quiet and serious consideration and sought only to extract from both sides clarification of the reasons for coming to their respective conclusions.

The Moderator called for motions. He emphasised that the Assembly was still a court and that he would not allow prepared speeches because any decision must be only on the evidence given this evening. The Rev Jeremy Middleton moved that the crave of the petitioners be granted and the decision of the Presbytery be “recalled” or overturned. His main argument was that it was not for the Presbytery to establish what the position of the Church should be in such issues. Therefore it was wrong to sustain the call. The motion was seconded.

The Rev Dr George Whyte moved, first, that the Assembly refuse the dissent and complaint and, second, that such a decision does not alter the Church’s standards of ministerial conduct. This motion too was seconded. Another commissioner said that he would support the motion to refuse the dissent, but he could not support the affirmation that it did not change the Church’s standards. Dr John Cairns, a former Moderator, said that he supported both parts of Dr Whyte’s motion, arguing that in the Church of Scotland a decision in a single case does not decide for the whole Church the issue of standards of behaviour. The broader debate would continue, he said, perhaps indefinitely.

A number of speakers raised the issue of whether tonight’s decision would set a precedent for the Church. The Rev Alec Shuttleworth asked the officers of the Court to clarify the matter. The answer from the acting Principal Clerk was that the decision as to whether sustaining the call would be a precedent or not is not a decision for this Court to make. Only a future case can reveal whether or not this case sets a precedent.

Other commissioners disagreed with the advice of the Principal Clerk and the Procurator. There were many contributions supporting one or other of the motions, the debate continuing late into the evening. When the Assembly came to the vote, there voted for Mr Middleton 267 and for Dr Whyte’s countermotion 326. The Presbytery of Aberdeen’s decision was, therefore, upheld and the Rev Scott Rennie will now move to Queen’s Cross Church. The Moderator thanked the Assembly for the respect it had shown and he thanked those who presented both sides of the argument. He led the Assembly in prayer and adjourned with the Benediction.