

An
Introduction
to
Biblical
Apologetics
for the establishment of the
Judiciary Board
of the
Church of God In Christ

Preface

The task of the Judiciary Board of the Church of God in Christ is to be both an ecclesiastical and appellate court, hearing disputes upon appeal from Jurisdictions, the General Board, the Board of Bishops, The Women's Department, the National Pastors and Elders Council, the General Assembly, any authorized person or lower dispute body in the Church and shall serve as the ultimate authority on matters of constitutional interpretation. As an independent branch of church government its overall task is to serve to prevent the intrusion of civil authorities into the affairs of the Church of God in Christ whenever inevitable disputes shall arise.

And, disputes shall arise as long as the Church, on a local, jurisdictional and national level, is composed of people who are traditionalist and innovators. Tension will continue to pulsate between those who want to maintain the status quo, and those who want to branch into something new. Varying viewpoints will also arise naturally from the basic differences between people, whether of age, race, social status, financial, educational, or ecclesiastical standing. And what is more distressing and often disastrous for the Church are the differences stemming from ulterior motives, personality conflicts, and the selfish ambitions from prelates and members alike.

Churches will always find themselves surrounded by controversy even if all arguments arising from one's personal ruffled pride and resentment could be eliminated because churches deal with life and death matters in a cosmic struggle of good and evil. The church is no sedate country club.

Likewise, all conflict in ecclesiastical life is not unhealthy per se. Disagreements, with their accompanying misunderstandings, hurt feelings, personal interpretations and competitiveness do carry the potential of destructive bitterness, but if they are properly handled through peaceable wisdom, fair jurisdictional or state trials and with impartiality on the part of our Judiciary Board, they can be a constructive force for uniting the body of Christ (James 3:13-18).

In addition to settling disputes, the Judiciary Board remains poised to defend the Church against those conservative Christians, referred to as "Fundamentalists", who competes with others to explain to this generation that we, as a church body, are becoming more of a church of Law than of Grace; and other well meaning Christians who are wondering if there are biblical precedents of case "studies" that may serve as an example, a reason or as justification for a constitutionally mandated Judiciary Board

to serve a Holiness Church as an ecclesiastical and appellate court.

We now have the burden to make good the command of the apostle Peter, as seen in I Peter 3:15, "Always be ready to give an answer to every man that asketh you a reason of the hope that is in you with meekness and fear." Our aim is now to discharge the obligation which this verse lays upon us by showing, as documentation, the Mosaic Judicial Code and the often misunderstood "Law of Grace" as it should be understood.

Over and above, and in addition to, these theoretically conceived aims, a practical motive animates our work. We are assured that men are as much in need of Jesus Christ today as, if not more than, ever before in the history of human life, and that the highest act of the Judiciary Board of the Church of God in Christ is that we can engage in making righteous and fair rulings that may have the potentiality of ultimately leading men and women, in this last decade of the twentieth century, and in the next, to a saving knowledge of the Man of Sorrows, Jesus Christ.

Rev. Dr. Cornelius F. Range, III Vice-Chief Justice of the Judiciary Board
Church of God in Christ, Inc., International

Our Constitution In Action

On the fourth day of April, 1990, upon the recommendation and Report of the Committee on Constitution, submitted November, 1989, it was ordered by those certified delegates, present and voting, in the General Assembly, pursuant to the Constitution of the Church of God in Christ, Article VIII - The Judiciary Board, that the Judiciary Board "of the Church of God in Christ, Incorporated, shall be established as an independent third branch of church government to exist in conjunction with the two present branches of government, the, executive branch and the legislative branch.

In compliance to this constitutional mandate nine persons were elected by the 85th April National Worker's Meeting's General Assembly on 4-8-92 to serve on the first Judiciary Board to discharge those duties as ordered and delineated in Article 8, under subtitle, Duties.

A Judicial Code Is Mandated

Article VIII, under subtitle, Organization And Procedure, provision three, mandates that it is the Judiciary Board who shall, with the approval of the General Assembly, prepare and keep in revision a Judicial Code which shall be. an addendum to the Constitution of the Church of God in Christ, and shall include procedures for trials and redress in all related matters. Changes or modification to the Judicial Code shall receive prior approval of the General Assembly.

Non-compliance to this constitutional directive would constitute nonfeasance on the part of all judiciary board members and intrusions, whether directly or indirectly, by any national officer would constitute a conflict of interest or a blatant disregard for the church's constitution, bylaws and amendments.

The Judiciary Board - An Appellate Court How Does It Differ From A Trial Court?

In that the Judiciary Board is to serve the membership of the Church, as both an ecclesiastical and appellate court, we would do well to understand the difference between a trial court, and an appellate court.

Trial Court

It is in the trial court that the matter in dispute is first considered and resolved. Witnesses are presented, exhibits and other evidence are introduced, first by the plaintiff to prove what he or she believes to be the facts -then by the defendant, to disprove them. Trial courts make an initial determination of the facts and attempt to settle the dispute once and for all. If both parties are satisfied with the decision made by the judge and/or jury, the case ends.

Appellate Court

Appellate courts, on the other hand, are reviewing courts. They do not come into the picture until the trial court decision has already been made. The appellate court hears request for reexamination of the lower decisions. The appellant (the loser in the trial court) tries to persuade the court of appeals that the trial court decided the case incorrectly, that the case should be reviewed, or that there should be a new trial. The most common grounds for appeal include judicial errors in admitting evidence that should have been excluded (such as hearsay or privileged communication), or in refusing to admit evidence that should have been heard. Instead of listening to witnesses, as in a trial court, appellate courts study a typewritten record of the trial called a transcript which is prepared from notes taken down verbatim by a court reporter or stenographer during the trial itself. Just as there are no witnesses, there are no juries. Advisors or lawyers alone participate by submitting written arguments called briefs and by arguing orally before the court.

Appellate court decisions are important not only to the parties involved but to the Church of God in Christ's judicial legal system on the "Jurisdictional Level," for these decisions provide precedents for future cases. And it is here in the appellate court procedure that reasoning by example occurs. Many factors such as history and custom enter into this reasoning process. At times, the result desired is an important factor, and judges and justices will decide that certain precedents must be overruled because changing times and increased social pressure demand a new result. Over the years the needs and feelings of the people may change. The law must reflect these changes. We have seen this in many cases of law including civil rights, consumer protection, and environmental law. The Supreme Court case of *Brown v. Board of Education*, 347 U.S. 483, 74 S. Ct. 686, 98 L.Ed.873 (1954), illustrates well the flexibility of our law in responding to the ever-changing demands of our people.

All appellate court decisions are to be preserved in the Judiciary Board's law library and made available to those lawyers or advisors who seek precedents for future cases. Appellate courts follow decisions from the past to decide current ones. "This is the principle that prior decisions provide precedents that should be followed in subsequent cases involving the same question of law. The "use of precedent is important in both the development of common law (a decision given to settle a dispute without a written law to guide the judge or justice) and in the interpretation of written law. Precedents are always established by appellate courts through their written opinions.

The Judiciary Board Serves To Prevent Civil
Authorities From Intruding Into the Affairs Of The Church

I Cor. 6:1-7

Under the spiritual and apostolic leadership of Bishop C. H. Mason (1866 - 1961), the Church of God in Christ has grown from ten congregations, in 1907, to the largest predominantly black Pentecostal or Holiness body in North America, as well as the fastest growing of all classical Pentecostal movements. How large are we or how fast we are growing is difficult to determine because accurate record keeping has never had a high priority for our leaders. However, the Yearbook of American and Canadian Churches,

1986, reports 3,709,661 members, as of 1984, with 9962 churches. Whether or not the numbers given are realistic or inflated our phenomenal growth makes it virtually impossible for one person to be everything to everybody, as our founder, Bishop Charles Harrison Mason, was until his declining years. Today, in 1993, even our beloved and revered founder, who was indeed our Supreme Court, Constitution and By-Laws, until his demise, on November, 17, 1961, would have found it to be not only impractical but impossible to actively resume those ministerial duties he constitutionally performed while he was yet healthy and active. The General Assembly, now under the competent and positive leadership of its chairman, Dr. Frank Ellis, will always be remembered for being not only sagacious enough to recognize the time had come, in our glorious history, to vote for the establishment of a final court of appeals to judge wisely "Between the brethren"(I Cor.6:5), but for being sensitive enough to the deficiencies that arise occasionally in the administration of biblical and constitutional justice, to elect nine persons: of wisdom, integrity, understanding, "the canon law of the church", proven ability, mature judgment, procedural knowledge in Church of God in Christ constitutional matters and honesty with the highest moral standards, who will render decisions without intimidation, coercion, undue influence or partiality.

Exodus, chapter 18 provides us with our first biblical precedent that provides us with adequate documentation of a judicial system of rules that govern God's covenant people. We are told that Moses had taken the judicial functions upon himself, but it was impossible for him to be equal to the task of administering justice to three million people; therefore he proceeded to organize a system of jurisprudence. He appointed judges over thousands, hundreds, fifties and tens - in all there was appointed 78,600 judges. This system was adequate for the occasion, and these courts respectively corresponded practically to our Justices of the Peace, Mayor's Court, District Court, Circuit Court. Finally, there was a Supreme Court under Moses and his successors. These courts though graded, did not afford an opportunity of appeal. The lower courts turned their difficult cases over to the next higher court. If the case was simple, the judge over-tens would take it, but if the question was too intricate for him, he would refer it to the next highest court, and so on, until it finally reached Moses. There were certain kinds of

questions which the tens, fifties and hundreds would not take at all, and the people understood it and would bring them to the higher courts for original jurisdiction. When any court decided it, that was the end of the case, for it could not be appealed (Ex. 18:25-26).

On taking possession of Palestine the judges were to be appointed for every city and vicinity (Deut. 16:18), thus giving to all Israel a speedy and inexpensive method of adjudication. Though not so prescribed by statute, the judges were generally chosen from among the Levites, as the learned class. Joshua states plainly that the office was elective, and various passages of the Scriptures express it positively by inference (See Dt. 1:13.) as well as Judges 11:5-11 which clearly sets forth Jephthah's election by the vote of the people.

The acceptance of the judicial code by all of the people proves at least that it was a deeply-seated belief in the nation of Israel and that the great leader Moses had given some formal legal statute and judicial code to his people.

The Sanhedrin Judicial System

The New Testament offers us reliable evidence that, in the days of Christ and the Apostles, the Sanhedrin Counsel exercised, in Palestine, supreme spiritual authority, and in that capacity ultimately, settled all religious questions, as well as questions connected with the Mosaic law. In essence this was Palestine's final court of appeals. As such, the Sanhedrin is frequently mentioned as being the supreme Jewish court of justice (Mt. 5:22; 26:59; Mk. 14:55, 15:1; Luke 22:66; John 11:47; Acts 4:15, 21; 6:12; 22:30; 23:1; 24:20).

It's Composition

The great counsel was formed of high priests and members of the privileged families from which the high priests were taken, elders, and scribes, Pharisees and Sadducees alike. The high priest officiated as president, and all appointments to the council were for life. It is thought that new members were appointed either by the existing members, or by the supreme political authorities. No one but Israelites of pure blood were eligible for the office of judge in a criminal court, and the same requirement was insisted upon in the case of the supreme Sanhedrin. According to Rabbinic testimony, there were three tribunals. In towns numbering less than 120 male inhabitants, there was only the lowest tribunal, consisting of three Judges. Their jurisdiction was limited, and notably did not extend to capital causes. The next tribunal which consisted of twenty three was also limited, although capital causes lay within its competence. The highest tribunal was that of seventy-one.

Laying On Of Hands

The Judges of all these Courts were equally set apart by ordination, that of the laying on of hands. Ordination was conferred by three, of whom at least one of the three, must have been himself ordained, and able to trace up his ordination through Joshua to Moses. The members of the tribunals of twenty three were appointed by the Great Sanhedrin. The members of the tribunals of three were likewise appointed by the Great Sanhedrin, which entrusted to men who were accredited and worthy, the duty of travelling through the towns of Palestine and appointing and ordaining the men best fitted for the office. Their ordination was not a requisite for delivering addresses or the conducting of the liturgy in the Synagogue, but for authoritative teaching and especially for judicial functions.

Judicial Qualifications

Among the Hebrews, the law was held very sacred, for God Himself had given it. Therefore those who administered the laws were God's special representatives, and their person was held correspondingly sacred. These circumstances placed upon them the duty of administering justice without respect of person (Dt. 1:17; 16:18). They were to be guided by the inalienable rights granted to every citizen by the Hebrew constitution.

The first duty of a judge was to execute absolute justice showing the same impartiality to rich and poor, to those, who were native born or to foreigners. He was forbidden to accept bribes or to distort" or misrepresent the judgment of the poor (Ex.23:6-8; Dt. 16:19). The prophets validated this criticism by often complaining bitterly that the purity of justice was corrupted by bribery and false witnesses (Isa. 1:23; 5:23;10:1; Am. 5:12;6:12; Mic. 3:11, 7:3; Prov. 6:19; 12:17, 18:5) and they should not allow themselves to be swayed by popular opinions or unduly favor the poor (Ex 23:2-3).

Judicial Proceedings

The members of the Sanhedrin Court were arranged in a semicircle, so that they could see each other. Facing the semi-circle of Judges, we are told, that there were two shorthand writers who were notaries, to write down respectively, the speeches in favor and against the accused. In front of them sat three rows of learned disciples or students who at one time or another one of them was chosen to be promoted from his inferior tribunal to be appointed to the highest tribunal the Great Sanhedrin. At least twenty three members were required to form a quorum.

The following order was followed in capital cases. First, the accused appeared in court with a humble attitude and dressed in clothes of mourning (Zech. 33) and stood on the left-hand of the accuser (Zech 3:1; Ps. 109:6). Under the presidency of the prince or High Priest and the vice presidency of the father of the Court of Law, arguments would be made in favor of acquittal, then in favor of conviction. If anyone had spoken in, favor of the accused he could not, at a later time, say anything unfavorable, though the reversed was allowed. Student disciples could speak in favor, but not against the accused; sentence of acquittal might be pronounced on the day of trial, but one of condemnation not until the following day. Lastly, all voting began with the youngest, so that juniors might not be influenced by the seniors, although on some rare occasions it began with the most distinguished member. For an acquittal, a simple majority was sufficient; for

condemnation, a majority of two over the acquittal number was required. If twelve of the twenty three judges voted for acquittal, which was necessary for a quorum, and the remaining eleven voted for conviction, the prisoner was discharged; but if twelve were for conviction and eleven for acquittal, then the number of the judges had to be increased by adding two more judges, which was repeated when necessary until either an acquittal was secured or the majority requisite for a conviction was obtained. But, of course, they had to restrict themselves to the maximum number of seventy-one.

From the New Testament we learn that Jesus appeared before the Sanhedrin on a charge of blasphemy (Mt. 26:65; John, 19:7); Peter and John charged with being false prophets and deceivers of the people (Acts, chaps. 4 and 5); Stephen with being a blasphemer (6:13); and Paul with being guilty of transgressing the Mosaic law (ch 23). The Sanhedrin enjoyed a considerable amount of criminal jurisdiction. It had the right of ordering arrest to be made by its own officers (Mt. 26:47; Mk. 14:43; Acts 4:3; 5:17-18); of finally disposing of such cases that did not involve the sentence of death (Acts 4:5:23; 5:21-40). Whenever it pronounced a sentence of death it required the procurator to ratify it (John 18; 31). Such instances as the stoning of Stephen must be regarded as an excess of jurisdiction or as an act of irregular mob justice. As a result, we see that the Sanhedrin had a tolerable extensive jurisdiction, the serious restriction being that the Roman authorities could at any time take the initiative, and proceed independently, as, for example, when Paul was arrested. Further, the procurator, or even the tribune of the cohorts stationed at Jerusalem, might call the Sanhedrin together for the purpose of submitting to it any matter requiring to be investigated from the standpoint of Jewish law (Acts 20:30); (Comp 23:15, 20, 28).

"Are We Becoming A Church More Of Law Than of Grace?"

There are those who believe they have been summonsed of God to be "the prophetic voice" to warn our great church that we are becoming more of a Church of law than of grace. These are also the people who have so sharply contrasted law and grace that they have concluded there can be no specific laws for Christians to live by under today's grace standards. To introduce more laws becomes only to them legalism. In defense of their doctrinal position they cite Paul's answer to the question as to why sin shall not have dominion over the believer. They quote Paul's words, in Romans 6:14 that we "are not under the law but under grace. This is to say that prior to Christ's coming, people were expected to live according to rule of life detailed in the Mosaic law; today, (the code under which God's people live in is called grace because it is the law of Christ who brought grace to the world (John 1:17). Unfortunately this doctrinal confusion sometimes becomes the basis for a loose kind of living which is justified in the name of practicing liberty and a rejection of laws by which to live.

The truth of the matter is that there was grace under the Mosaic law (a truth we cannot develop here) and there is law under grace. Being "in-lawed" to Christ (I Cor. 9:20, 21) does not mean that the Christian is without law, but it does mean, as one redeemed by grace, he has the duty, or rather gracious privilege, of not doing that which is displeasing to God and fully discharging that which is well pleasing to him on the basis of a manifestation of spontaneous gratitude for his salvation in grace (The New Testament speaks of the "perfect law of liberty" (James 1:25), "the royal law" (James 2:8), "the law of Christ" (Gal. 6:2), and "the law of the Spirit of life" (Rom. 8:2) which clues us in to the fact that there is a proper ministry of the Law (I Tim 1:9) that is not contrary to the glorious message of God's grace. Grace has imparted to us all the merit that we could ever need but the moral law of God has not changed. Nine of the Ten Commandments are repeated in the New Testament epistles and commanded to believers as well as precepts that are designed to regulate man's moral conduct and life without, and within. The exception is the Sabbath commandment, which was given as a sign to Israel (see Neh. 9:14).

Precepts That Are Always Right

The New Testament is filled with precepts. These precepts are our written laws, rules or commandments meant to control our moral conduct, as well as to give us direction. They are found in our doctrines, constitution and by-laws and biblical admonitions. Some precepts are always right in the eyes of grace;(2)some are always wrong and contrary to the Law of Grace;(3)and some are rules or laws which could be right or wrong depending upon how it relates to the Law of Grace. It is always right to obey the clear, positive commands of the New Testament which the believer under grace is expected to follow. One need not debate them, nor question them, nor pray about them as to whether he or she should obey them. By yielding to the Holy Spirit and allowing Him to work in our lives (Rom.8:1-3), the Holy Spirit enables us to experience the "righteousness of the law" in daily life. Jesus made it clear that He had come to honor the Law and help God's people to love it, learn it, and live it. What Jesus would not accept was the artificial righteousness of the religious leaders. Their righteousness was only an external masquerade. Their religion was a dead ritual, not a living relationship. It was artificial; it did not reproduce itself in others in a living way. It made them proud not humble; it led to bondage, not liberty.

Jesus Christ fulfilled God's Law in every area of His life. He fulfilled it in his birth because He was "made under the Law" Gal. 4:4). Every prescribed ritual for a Jewish boy was performed on Him by His parents. He certainly fulfilled the Law in His life, for nobody was ever able to accuse Him of sin. While He did not submit to the traditions of the Scribes and Pharisees, He always did what God commanded in the Law.

Jesus also fulfilled the Law in His teaching. It was this that brought Him into conflict with the religious leaders. When He began His ministry, Jesus found the living Word of God encrusted with man-made traditions and interpretations. He broke away this thick crust of "religion" and brought the people back to God's Word. Then, He opened the Word to them in a new and living way they were accustomed to the "letter" of the Law and not the "spirit" of life. The only way one can obey the letter is by being empowered of the Holy Spirit.

Here are some examples of precepts that are always right. It is always right for every soul to be subject to government (Rom. 13:1); it is always right to do everything in the church decently and in order (I Cor.14:40); it is always right to bear one another's burdens (Gal. 6:2); it is always right for wives to submit to their husbands, as unto the Lord (Eph. 5:22); it is always right for husbands to love their wives, even as Christ

loved the church (Eph. 5:25); it is always right for the thoughts of the mind to be controlled (Phil. 4:8) as well as one's speech be always with grace (Col 4:6) ; it is_ always right to pray without ceasing (I Thess. 5:17); sober minded thinking is always appropriate (Titus 2:2,4,6); and the example of the life of Christ is the pattern for the believer's conduct.

Some Precepts Are Always Wrong

It is also true that there are some precepts that are always wrong for the believer to obey. It is always wrong to be conformed to this world (Rom. 12:2), to be an idolater (I Cor. 10:7). to grieve the Holy Spirit (Eph. 4:30), to provoke one's children to wrath (Col 3:21), to quench the Spirit (I Thess. 5:19), to be ashamed of the testimony of the Lord (II Tim. 1:8), to forsake the assembling of ourselves together (Heb. 10:25), to speak evil of one another (James 4:11), to render evil for evil (I Peter 3:9), to receive a teacher of false doctrine into one's house (II John 10). These and many other precepts are never right for the spiritual Christian.

Some Precepts or Rules For Moral Conduct That Could Be Right Or Wrong

There is no problem for most Christian to understand matters that are clearly right or wrong for the believer. While they may be problems in obeying them, at least the precepts are clear. However, many of the rules or laws that_Christians encounter are under some circumstances right and under others wrong. This is because the rule, law or thing involved has no morality of its own, such as, cloth, for it is the way it is used that may result in modest or immodest apparel Tim.2:9). Food, likewise, is a proper and necessary thing, but excess use of it will result in intemperance and gluttony which is sin.

There are other aspects of life, in which a course of action is not always easy to determine, such as football and baseball. These are in themselves healthy activities both for participation and observation. But does the picture change when these sports occur on Sunday; or if one chooses on Sunday to watch TV rather than attend Sunday morning worship (Heb. 10;25; I Cor. 16:2); or if one spends more time caressing the comforts of one's home rather than adoring our Lord's greatness in prayer, worship and witnessing?

Similar problems can be raised with commodities like films or one's stock investments that may be in tobacco, cigarettes, alcohol beverages, or apartheid corporations.

Would you not say the investment becomes wrong for the Christian when his profits are derived from those things that are considered evil or harmful to "the temple of God" (II Cor. 6:16; I Cor. 3:16-17)?

As you can see, there can be many situations which are not regulated by a constitution, a statute or a doctrine. For one cannot make a law for every situation. It's impossible. And this is the reason we have in our legal system common law that is a law based on judicial precedent rather than legislative enactments; it is to be contrasted with civil law; generally derived from principles rather than rules; it does not consist of absolute, fixed, and inflexible rules, but rather of broad and comprehensive principles based on, justice, reason, and common sense. Its principles have been determined by the social needs of the community and have changed with changes]. Let's illustrate this point. If you were to drive through a red light and a policeman stops *you* and gives you a ticket, he can do this because a statute (part of the written law) defines the driving through a red light as a minor crime and gives the policeman authority to enforce the law. The judge knows what to do by looking to the written law. But if you are injured in an automobile accident because someone has very carelessly driven his car into yours, you may not be able to find any written law that assures your successful recovery of damages from a careless driver. Your recovery may be dependent on the judge to make a decision or settle your dispute without a written law to guide him one way or another. Or let us say, someone hits you in the nose, and forces you to enter into an agreement with a doctor or a hospital that will cost you economic loss. There may be nothing in the written law that tells the judge that you have a remedy. Again, this is, where common law applies.

When there are no written guidelines or laws to assist a judge in settling a case, and he has only ambiguous circumstances from which to make his adjudication, the judge must settle the case by looking to the rules of the common law. Common rules can be superseded and modified by statute, and when this is done it effectively eliminates that rule from our legal system.

Some Christian Conduct Is Legislated

It is quite proper in the Christian life for some believers to legislate rules of conduct for others. It is not a violation of grace. It is sometimes scriptural to legislate.

There are two areas in which this is especially true, conduct in the home and proper conduct in the church. The command to children to obey their parents certainly

includes specific commands which are not mentioned in the Bible but which, nevertheless, are necessary, legitimate and binding on the children.

Twice in Hebrews 13 we are reminded that there are rulers in the local church (vs. 7, 17) who in the exercise of their responsibilities will have to set guidelines, exercise authority and discipline, and make rules for the members. The existence of rules and law is an established fact of life. It exists in one form or another and affects every aspect of our lives. How far it may go is not stated, but the principle is clearly established. Without it, there would be anarchy in the church.

Presumably the same principle would apply to our church on an international basis. If a believer is a member of our great church, he or she is expected to give obedience and allegiance to them; if, he or she cannot, then those persons will have to dissociate themselves. Actually, when there is disagreement between those ruled and those ruling there are only three alternatives: obey anyway, try to change the rules or laws whenever procedure allows this, or sever your connections.

"Obey them that have the rule over you, and submit yourselves: for they watch for your souls... 76"Let every soul be subject unto the higher powers... whosoever therefore resisteth the power, resisteth the ordinance of God.... "For rulers are "ministers of God to thee for good" (Rom. 13:1-6).

How Does The system Of Checks And Balances Work?

The presiding bishop shall be the Chief Executive officer of the Church of God in Christ and shall have the power and authority to conduct the executive functions of the Church of God in Christ when neither the General Board nor the General Assembly is in session; all such action shall be subject to the approval by a majority of the members of the General Board and subject to the will of the General Assembly. Check.

The members of the judiciary branch are independent of both branches of government, the executive and legislative. The Judiciary can declare laws passed by the legislative branch or acts of the presiding bishop as unconstitutional -check, check.

The presiding bishop can grant clemency¹ and/or pardon² to a litigant who has been penalized by the judiciary. More checks.

The legislative branch controls the judiciary's budget -double check. And while the judiciary nor the legislative branches possess a police force to enforce laws, it is the Presiding Bishop and the General Board that has the power to execute the decisions made by the judiciary and legislative branches independently of the Presiding Bishop's judgment.

The legislative branch can additionally impeach the president. It can investigate his activities or those of the judiciary; but both the Presiding Bishop with the General Board and the Judiciary can refuse to cooperate if the separation of powers is threatened. The court must resolve these disputes - check, check, check.

And we have more checks. Locally people not only vote for representatives but can also vote to recall them. They can use their powers of initiative and referendum. The Constitution specifically protects the rights of individuals against the government and prevents the majority from oppressing the minority. There are many checks and balances but never a checkmate as in chess. The Supreme power remains with the people and the law continues to apply to all men whatever their positions of power.

¹Executive Clemency - the chief executive officer of the corporation, as President and Presiding Bishop has the constitutional power to lessen or substitute a penalty or punishment from a greater one, such as, having the broad power in his discretion to commute a litigant's probationary period to a shorter one after the litigant's case has been adjudicated by the appellate court -the Judiciary Board.

²Pardon - "An exercise of the sovereign prerogative of mercy on the part of the chief executive officer to relieve the person on whom it is bestowed from further punishment and from legal and/or ecclesiastical disabilities because of the offence named. The Law of Criminal Correction 555 (2d ed.1973). Its effect is that of "relaxing the punishment and blotting out the existence

of guilt, so that in the eyes of the law, the offender is as innocent as if he had never committed the offense.' (17F. 2d 534,335). Most ecclesiastical and membership rights lost due to the conviction that had been adjudicated by the Church's Court of last appeals are, however restored. The only frequent exception to the chief executive power to pardon are when a judgment of impeachment has been ruled by the legislative branch and upheld in the Judiciary Branch and when one has been found guilty of sedition (anyone who is found guilty and unforgiven in stirring up resistance or rebellion against the Church) or treason (an overt act in violation of the allegiance owed to one's Church Body and Constitution and By-Laws; specifically warring against the Church or giving aid or comfort to the doctrinal and spiritual enemies of the Church).

Learning From A Page In Our History

Historians will regard the 60's as a time of great social change. It was full of turmoil with the Berlin Wall, the Cuban Crisis, the Bay of Pigs Affair, the Freedom Marches, the Viet Nam War, and the tragic assassinations of President John F. Kennedy, his brother, Robert and Martin Luther King.

It was also a time, in the history of the Church of God In Christ, that our organization, legal system and Constitution were continually and severely tested. The years were 1961 - 1968. This period was called the "dark period"¹¹ in our history because of broken fellowships, friendships, disfranchised prelates, the polarization of ideas; the withdrawal of churches, jurisdictions and a power struggle between the Executive Board, with Bishop A. B. McEwen, as its Chairman and Bishop Ozro Thurston Jones, Sr., as the elected titular head of the Church with the title "Senior Bishop," given by the General Assembly as an honor for his seniority.

A sharp disagreement, as between Paul and Barnabas, arose in 1964 in the November National Convention as to the authority and powers of the "Senior Bishop" and the Executive Board, of 12 members formally known as a "Special Commission," of seven members, designed to assist Bishop Mason, in his declining years, in resolving disputes within jurisdictions and other related matters. With a National Pastors and Elders Council functioning also as our General Assembly, a 1926 Constitution without guidelines to resolve the division, and the absence of a constitutionally mandated Judiciary Board to function as a final court of appeals, it was no wonder the Church was verged on a major split with factions campaigning for different leaders (Acts 15:36-40; I Cor. 1:11-12) and that the division within our church widened for the next three years with brother going to court against each other (I Cor 6:1-11). It was not until October 10, 1967, the parties to the controversy entered a Consent Decree in the Chancery Court, in Memphis, Shelby County, Tennessee. They finally acknowledged that the ultimate solution and all related ancillary questions should be determined by the General Assembly of the Church of God in Christ in a Constitutional Convention called for that purpose:

The first Constitutional Convention of the Church of God in Christ convened at its Memphis, Tennessee, Headquarters, January 30th through February 2, 1968. This historic Constitutional Convention abolished the Office of Senior Bishop and the Executive Board to form the General Board of twelve, which we have today, as our executive branch of government and voted to confirm the General Assembly to

continue being the only doctrine-expressing and law-making authority in the church.

Arnold Toynbee once said, "The only thing we learn from history is that we don't learn from history." The Article VIII amendment to our Constitution established in a smooth, and peaceful manner our third branch of independent church government. This proved, at least in this instance, the historian did not have us in mind in 1992. With the three branches of independent church government constitutionally in place with each having its powers defined, we have, now, for the first time in our church history, a system of checks and balances and a greater appreciation for an amended Constitution that tells us that we never have to return to the turmoil of the 60's. It is clearer now than ever, that it is the people who hold the power with a republic form of government and that all members should submit to the constitutional powers given to their representatives, the Executive Branch (the General Board), the Legislative Branch (the General Assembly), and the Judiciary Branch (the Judiciary Board).

Written and Submitted By:
Rev. Dr. Cornelius F. Range, III

Before the Judiciary Board of the Church of God in Christ, International, Inc.

In Re: Code of Judicial Conduct: No. 001-1993

Order

And now, this _____ day of April, 1993, upon the recommendation of Committee to Identify Adopt, and Promulgate Judicial and Ethical Rules, it is ordered pursuant to Article VIE of the Constitution of The Church of God In Christ, Organization and Procedure Section two (2), that:

1. The Code of Judicial Conduct is adopted and promulgated in the form attached hereto. Any comment shall not be a part of the Code of Judicial Conduct.

2. This order shall take effect on _____ 19____.

3. The Code of Judicial Conduct as adopted hereby, does not apply to misconduct occurring on or before_____. Such misconduct shall be governed by the rules of the other legislative and executive branches of the Church of God In Christ which is continued in full force and effect as grounds for disciplinary action as if this order had not been adopted.

By the Court

Chief Justice

ORDER

THE JUDICIARY BOARD OF THE CHURCH OF GOD IN CHRIST, INTERNATIONAL, INC

And now, this 4th day of April, 1990, upon the recommendation and report of the Church of God in Christ General Assembly's Committee on Constitution, it was ordered pursuant to the Constitution of the Church of God in Christ, Article VIII Judiciary Board, that;

1. The Judiciary Board of the Church of God in Christ, Incorporated, shall be established as the third branch of church government to exist in conjunction with the two present branches of government, the executive and legislative branches.

2. The Judiciary Board shall be comprised of nine members. Three members shall be jurisdictional bishops (episcopal), three members shall be elders other than bishops (ministerial), and three members shall be from the church at large (general).

3. Each of the nine members shall be at least 45 years of age and an active member of the Church of God in Christ, for not less than twenty years, persons of mature judgment, proven ability, integrity and knowledgeable in Church of God in Christ constitutional matters and doctrine.

4. At the first election, for Judiciary Board members, all nine Judiciary Board member's terms of office shall be staggered in order to avoid the expiration of the terms of all elected board members simultaneously. The chairman, vice chairman, and secretary shall be elected by the constituents of the elected Judiciary Board and shall have tenure of seven years. All other board member's terms shall be staggered accordingly to the number of votes received, Le_n the three candidates, out of the remaining six receiving the highest number of votes shall receive the five-year terms, and the remaining three members receiving the lowest number of votes shall receive the three-year terms. A Judiciary Board member's term of office, with the exception of the initial staggered terms, shall be seven years. A member shall not be elected for more than two terms and may not serve more than fourteen years in office. The approval of the General Assembly delegates shall be required for the Judicial Board member's continuance in office for a second term.

5. The nine members of the Judiciary Board are elected and retained in office by the legislative branch of church government, the General Assembly; and its budget

must be submitted annually to the Board of Trustees who will submit it to the General Board, the executive branch, for review with final approval from the General Assembly. The Judiciary is to receive per diem and related expenses in carrying out its duties, but may not exceed its approved budget without prior approval of the General Assembly or the General Board when the General Assembly is not in session.

6. Only after a decision has been rendered by one of the Church's current forums of dispute resolution (the judiciary committee of the Board of Bishops; the judiciary committee of the Council of Pastors and Elders, and the dispute resolution forum of the Women's Department), that a litigant or one of the above mentioned judiciary committees has the right to appeal to the Judiciary Board.

7. The judicial branch, the Judiciary Board shall balance the legislative and executive branches by being the final authority on questions of constitutionality doctrine and the final appellate forum of the Church for disputes.

8. The Judiciary Board shall have as its highest objective the protection of the rights of every member of the Church of God in Christ, Incorporated as set forth in the Church Constitution, Article VIII, without regard for official position or social status.

9. The Judiciary Board shall serve to prevent the intrusion of civil authorities into the affairs of the Church wherever inevitable disputes shall arise, in accordance with precedent setting resolutions, those reasonable grounds for modifying or overruling previous rulings or resolutions, and in accordance with legitimate interpretation of the Church's constitution and doctrine.

The following members were elected by the 85th April National Worker's Meeting's General Assembly to serve on the first Judiciary Board ever established in die eighty-five years history of the Church of God in Christ, as an ecclesiastical and appellate court:

Elder John Butler
New York - Eastern 2nd
1247 votes

Bishop D. L. Lindsey
Arkansas 2nd
1092 votes

Elder Cornelius F. Range, in
Commonwealth of Pennsylvania
1236 votes

Bishop Herbert Williams
Michigan North Central
1082 votes

Bishop T. L. Westbrook
Washington State
1162 votes

Bishop TJD. Iglehart
Texas Southwest
1073 votes

Bishop C. D. Kinsey
Florida – Central
1113 votes

Bishop Nathaniel Wells
Michigan-Western
1054 votes

Elder Joseph Mayfield
California-Southern 1st
1012 votes

Seal

Chairman of the General Assembly

General Assembly Secretary

PREAMBLE

JUDICIAL CODE OF CONDUCT

A Church of God in Christ Justice's Responsibilities

A justice is a representative to all those who are in good standing as a member in the Church of God in Christ; an officer of the judicial system, and a member of the Church of God in Christ having special responsibility for the quality of justice.

As a representative of the membership of the Church of God in Christ, a justice performs various functions. As advisor, a justice provides an aggrieved person or a dispute resolution body with an informed understanding of their legal rights and obligations and explains their practical implications. As advocate, a justice zealously asserts that it is his or her duty to use all legal procedure for the fullest benefit of the aggrieved person's cause, but also has a duty not to abuse legal procedure to accommodate certain persons. (The law both procedural and substantive establishes the limits within which a justice, as an advocate may proceed. However, the law is not always clear in every situation and never is static. Accordingly, in determining the proper scope of advocacy, account must be taken of ambiguities legislative laws passed by the General Assembly and the laws potential for change.) As intermediary between the plaintiff and defendant, a justice seeks to reconcile their divergent interests. A justice acts as evaluator by examining the petitioners legal affairs determines the constitutionality of any act of the General Assembly, General Board, Jurisdictional Assembly, or a Jurisdictional Bishop upon the appeal of a majority of the pastors of the jurisdiction; decides any election dispute referred to it by the General Assembly.

Competence

In all ecclesiastical judicial functions a justice should be professional, competent, prompt and diligent. A justice should keep in confidence information relating to any authorized body or person who may appear before it's court except as for as disclosure is required or permitted by the Judiciary Board's Article VIII, paragraph no. 14.

Conduct

A justice's conduct should conform to the requirements of the Church of God in Christ ecclesiastical law and doctrine, both in judicial service and in the justice's ecclesiastical, business, and personal affairs. A justice hearing a case should use procedural laws only for legitimate purposes and not to harass or intimidate others. A justice should demonstrate respect

for the ecclesiastical and appellate court's judicial, ethical, procedural and evidential system and those who serve it including advisors, lawyers, prelates, pastors, elders, women in the ministry and lay persons.

Knowledge of Constitutional and Ecclesiastical Law

As a member, a justice should seek improvement of constitutional law, the administration of justice and the quality of service rendered by all three branches of church government As a member of one of the three prestigious branches of ecclesiastical government, elected by the Church's General Assembly after having met their qualifying criteria: mature judgment, proven ability, integrity, procedural knowledge in Church of God in Christ constitutional matters and doctrine, to judicially serve all the Church's members in good standing, a justice should cultivate knowledge of ecclesiastical law and doctrine beyond its use for the Church of God in Christ membership and employ that knowledge in the reform of ecclesiastical and judicial laws and work to strengthen legal education for all members of the Church of God in Christ A justice should be mindful of deficiencies in the administration of biblical and constitutional justice and of the fact that the poor, the not so poor, the uneducated, the inarticulate, the powerless, the uninformed, those not in the main stream of church politics and of those who are inadequately apprised, or not apprised at all as to their legal rights, procedural methods in obtaining adequate legal assistance and information as to those prerequisites for constitutional procedural redress, and therefore a justice should use his or her professional influence to ensure that the aforementioned persons receive proper representation. A justice should aid the two other branches of government within the Church of God in Christ: Executive (General Board); Legislative (General Assembly); in pursuing these objectives and should help the church-at-large regulate itself in the public and church's interest

Responsibility

Many of a justice's professional responsibilities are prescribed in Code of Conduct, as well as substantive and procedural law. However, a justice is also guided by personal conscience and the approbation (official approval, sanction or commendation) of ecclesiastical peers. A justice should strive to attain the highest level of skill, to improve the ecclesiastical constitutional law, and the judiciary branch and to exemplify the legal ideals of ecclesiastical service to all members of the church.

PREAMBLE RULES FOR COUNSELORS AND ADVISORS CODE OF CONDUCT

The Rules of Professional Conduct are rules of reason. They should be interpreted with reference to the purposes of legal representation and of the Church law itself. Some of the Rules are imperatives; cast in the terms "shall" or "shall not" These define proper conduct for purposes of ecclesiastical discipline. Others, generally cast in the term "may" or "should," are permissive and define areas under the Rules in which the judicial officer has professional discretion. No disciplinary action should be taken when the justice chooses not to act or acts within the bounds of such discretion. Other Rules define the nature of relationships between the justice and others. The Rules are thus partly obligatory and disciplinary and partly constitutive and descriptive in that they define a justice's professional and ecclesiastical role. Many of the comments use the "should." Comments do not add obligations to the Rules but provide guidance for practicing compliance with the Rules.

The Rules presuppose a larger legal context shaping the Counselor's role. That context includes court rules and statutes relating to matters of licensure, laws defining specific obligations of Counselors and substantive and procedural law in general. Compliance with the Rules, as with all law in an open society, depends primarily upon understanding and voluntary compliance, secondarily upon reinforcement by peer, ecclesiastical and public opinion and finally, when necessary upon enforcement through disciplinary proceedings. The Rules do not, however, exhaust the moral and ethical consideration that should inform a Counselor for no worthwhile human activity can be completely defined by legal rules. The rules simply provide a framework for the ethical practice of ecclesiastical law.

Furthermore, for purposes of determining the counselor's authority and responsibility, principles of substantive ecclesiastical law external to these Rules determine whether a litigant-counselor relationship exists. Most of the duties flowing from the litigant counselor's relationship becomes attached only after the litigant has petitioned the ecclesiastical and appellate court of the Church of God in Christ according to procedural rules and the Church's Appellate Court has agreed to adjudicate the dispute. But there are some duties, such as that of confidentiality under Rule #1 that may decide whether a counselor-litigant relationship shall be established. Whether a counselor-litigant relationship exists for any specific purpose can depend on the circumstances and may be a question of fact

Failure to comply with an obligation or prohibition imposed by a Rule is a basis for invoking the disciplinary process. The Rules presuppose that disciplinary assessment of a counselor's conduct will be made on the basis of the facts and circumstances as they existed at the time of the conduct in question and in recognition of the fact that a counselor often has to act upon uncertain or incomplete evidence of the situation. Moreover, the Rules presuppose that whether or not discipline should be imposed for a violation, and the severity of a sanction, depends on all the circumstances, such as the willfulness and seriousness of the violation, extenuating factors and whether there have been previous violations.

Moreover, these Rules are not intended to govern or affect the judicial application of the counselor-litigant and work product privilege. These privileges were developed to promote compliance with our ecclesiastical law and fairness in litigation. In reliance on the counselor-litigant privilege, litigants are entitled to expect that communications within the scope of the privilege will be protected against compelled disclosure. The counselor-litigant privilege is that of the litigant and not of the counselor. The fact that in exceptional situations the counselor under the Rules has a limited discretion to disclose a litigant confidence does not vitiate (to make legally, ineffective or invalidate) the proposition that, as a general matter, the litigant has a reasonable expectation that information relating to the litigant will not be voluntarily disclosed and that disclosure of such information may be judicially compelled only in accordance with recognized exceptions to the counselor-litigant and work product privileges.

The counselor's exercise of discretion not to disclose information under Rule #1 should not be subject to reexamination. Permitting such reexamination would be incompatible with the general policy of promoting compliance with law through assurances that communications will be protected against disclosure.

A justice's responsibilities as a representative of the church's membership, as an officer of the Church of God in Christ's legal system and as a member of the Church, are usually harmonious. Thus, when a litigant is well represented, a judiciary officer can assume that justice is being done. So also, a justice can be sure that in preserving a church member's confidences ordinarily serves the church's interest and image because people are more likely to seek legal advice, redress within the Church's legal system, and heed to the Church's legal, ecclesiastical and biblical obligations, when they know their communications will be private.

Conflicts of Interest

In the nature of ecclesiastical, constitutional and judicatory practice, however, conflicting responsibilities are encountered. Virtually all difficult ethical and ecclesiastical problems arise from conflict between a justice's responsibilities to ensure a fair, sober, objective, and seasoned decision, without regard for official position or social status to litigants, to the Church's judicial system, and to the justice's own interest in remaining a person of Christian and biblical integrity while earning a satisfactory living in other professions or vocations. The Judicial Rules and Ethics prescribe terms for resolving such conflicts. Within the framework of these rules, many difficult issues of professional and ecclesiastical discretion can arise. Such issues must be resolved through the exercise of sensitive ecclesiastical, biblical and moral judgment guided by the basic principles underlying the rules.

The ecclesiastical legal system of the Church of God in Christ is largely self-governing. Although other professions and religious and charitable organizations also have been granted powers of self-government, the ecclesiastical legal officers of the Church of God in Christ is somewhat unique in this respect because of the close relationship between the Executive, Legislative, and Judiciary Branches of Church government and the processes of government in each branch and the enforcement of ecclesiastical law. The connection between the three branches of ecclesiastical government is manifested in the fact that the Judiciary Board balances the legislative and executive branches by being that ultimate authority on questions of constitutionality and the final appellate forum of the Church for disputes.

Self-Government of Judiciary Board

To the extent that all justices meet the obligations of their elected office, the occasion for additional legislative regulation by the General Assembly is (made unnecessary) obviated. Self-regulation also helps

maintain the Judiciary Board's independence from the domination of other branches of ecclesiastical government. An independent Judiciary Board is an important force in preserving the church's rules, regulations, constitutional provisions, doctrinal interpretations, traditions, mores, morals, and spirit, under ecclesiastical law, for abuse of legal authority is more readily challenged by a legal system whose members are not dependent on other branches of ecclesiastical government for the right to assure aggrieved members of the Church of God in Christ, Inc. that fairness will prevail throughout the brotherhood, and that equal protection and due process are and will continue to be the right of every church member.

The Judiciary Board's relative autonomy carries with it special responsibilities of self-government. Each justice has a responsibility to assure that its judicative regulations are conceived in the interest of all Church of God in Christ members and not in furtherance of parochial or self-interested concerns of any one branch of church government. Every judiciary board member is responsible for observance of the Rules and Ethics of the Judiciary Board. A justice should also aid in securing their observance by other ecclesiastical legal officers. Neglect of these responsibilities compromises the independence of the Judiciary Board and the Church's interest which it serves.

Judiciary Board members play a vital role in the preservation of the Church of God in Christ, International. The fulfillment of this role requires an understanding by judicial officers of their relationship to our legal system. The Code of Judicial Conduct, when properly applied, serve to define that relationship.

Violation of a Rule by Counselor or Justice

Violation of a Rule should not give rise to a cause of action nor should it create any presumption that the legal duty has been breached. The Rules are designed to provide guidance to counselors and justices and to provide a structure for regulating conduct through disciplinary agencies. They are not designed to be a basis for civil liability. However, they are a basis for disciplinary action when they are invoked by opposing parties as procedural weapons. The fact that a Rule is a just basis for a counselor or justice's self-assessment, or for sanctioning a counselor or justice under the administration of a disciplinary authority, does not imply that an antagonist in a collateral proceeding or transaction has standing to seek enforcement of the Rule. Accordingly, nothing in the Rules should be deemed to augment any substantive legal duty of counselors or justices or the extra-disciplinary consequences of violating such a duty.

These Rules are a modification of the Model Rules of Professional Conduct adopted by the American Bar Association as amended for the Church of God in Christ's Judiciary Board. These Rules take into account pre-existing constitutional provisions and their amendments, as adopted, ratified and mandated by the General Assembly of the Church of God in Christ, its articles of religion, and all other relevant sections of the official manual of the Church of God in Christ.

The Preambles to the Judicial Code of Conduct and the Counselors and Advisors Code of Conduct are to provide only general orientation. They are intended as guides to interpretation, but the text of each rule is authoritative.

Table of Rules

Rules

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2. Former Justice or Arbitrator or Law Clerk
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Rules

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Rule #1 Confidentiality of Information Code of Conduct for Counselors and Advisors

(a) A counselor shall not reveal information relating to representation of a litigant unless the litigant consents after consultation, except for disclosures that are impliedly authorized in order to carry out the representation, and except as stated in paragraphs (b) and (c).

(b) A counselor shall reveal such information if necessary to comply with the duties stated in Rule 3.

(c) A counselor may reveal such information to the extent that the counselor reasonably believes necessary:

(1) to prevent the litigant from a criminal act that the counselor believes is likely to result in death or substantial harm or substantial injury to the financial interest or property of another;

(2) to prevent or to rectify the consequences of a litigant's criminal or fraudulent act in the commission of which the counselor's services are being or had been used; or

(3) to establish a claim or defense on behalf of the counselor in a controversy between the counselor and the litigant, to establish a defense to a criminal charge or civil claim or disciplinary proceeding against the counselor based upon conduct in which the litigant was involved, or to respond to allegations in any proceeding concerning the counselor's representation of the litigant

(d) The duty not to reveal information relating to representation of a litigant continues after the litigant - counselor relationship has terminated.

Rule #2 Former Justice or Arbitrator or Law Clerk

A former justice, arbitrator or law clerk may not act as a counselor or advisor in any proceeding in which he served as a justice or in any other proceeding related thereto.

Rule #3 Declining or Terminating Representation

(a) Except as stated in paragraph (c), a counselor or advisor shall not represent a litigant or where representation has commenced, shall withdraw from the representation of a client if:

(1) the representation will result in violation of the rules of professional conduct or other law;

(2) the counselor's physical or mental condition materially impairs the counselor or advisor's ability to represent the litigant or

(3) the counselor or advisor is discharged.

(b) Except as stated in paragraph (c), a counselor or advisor may withdraw from representing a litigant if withdrawal can be accomplished without material adverse effect on the interests of the litigant, or if:

(1) the litigant persists in a course of action involving the counselor or advisor's services that the counselor or advisor reasonably believes is criminal or fraudulent;

(2) the litigant has used the counselor or advisor's services to perpetrate a fraud;

(3) the litigant insists upon pursuing an objective that the counselor or advisor considers repugnant or imprudent;

(4) the litigant fails substantially to fulfill an obligation to the counselor or advisor regarding the counselor or advisor's services and has been given reasonable warning that the counselor or advisor will withdraw unless the obligation is fulfilled;

(5) the representation will result in an unreasonable financial burden on the counselor or advisor or has been rendered unreasonably difficult by the litigant; or

(6) other good cause for withdrawal exists.

(c) When ordered to do so by a tribunal, a counselor or advisor shall continue representation notwithstanding good cause for terminating the representation.

(d) Upon termination of representation, a counselor or advisor shall take steps to the extent reasonably practicable to protect a litigant's interest, such as giving reasonable notice to the litigant, allowing time for employment of other counsel, surrendering papers and property to which the litigant is entitled and refunding any advance payment of fee that has not been earned. The counselor or advisor may retain papers relating to the litigant to the extent permitted by other law.

Comment:

A counselor or advisor should not accept representation in a matter unless it can be performed

competently, promptly, without improper conflict of interest and to completion.

Rule #4 Counselor or Advisor

In representing a litigant, a counselor or advisor should exercise independent professional judgment and render candid advice. In rendering advice, a counselor or advisor may refer not only to our constitution, by-laws, articles of religion and any other topical matter that is binding on the Church of God in Christ membership to comply with, but to other considerations such as moral, economic, social and political factors, that may be relevant to the litigant's situation. Legal advice often involves unpleasant facts and alternatives that a litigant may be disinclined to confront. In presenting advice, a counselor or advisor endeavors to sustain the litigant's morale and may put advice in as acceptable a form as honesty permits. However, a counselor or advisor should not be deterred from giving candid advice by the prospect that the advice will be unpalatable to the litigant

Advice couched in narrowly legal terms can sometimes be inadequate or of little value to a litigant. It then becomes proper for a counselor or advisor to refer to relevant moral and ethical considerations in giving advice in that moral and ethical considerations impinge upon most legal questions, and may decisively influence how the law will be applied.

Matters that go beyond strictly legal questions may also be in the domain of another profession. Family matters can involve problems within the professional competence of psychiatry, clinical psychology, or social work; business matters can involve problems within the competence of the accounting profession or of financial specialists. Religious matters can involve problems within the competence of theologians as to the interpretation of scripture, questions on morality, and when forgiveness may be in order without punitive measures. Where consultation with a professional in another field is itself something a competent counselor or advisor would recommend, the counselor or advisor should make such a recommendation. At the same time, a counselor or advisor's advice at its best often consists of recommending a course of action in the fact of conflicting recommendations of experts.

Rule #5 Candor Towards the Tribunal

(a) A counselor or advisor shall not knowingly:

(1) make a false statement of material fact of law to the judiciary;

(2) fail to disclose a material fact to the ecclesiastical and appellate court when disclosure is

necessary to avoid assisting a fraudulent act by the litigant;

(3) fail to disclose to the judiciary, information known to him or her to be directly adverse to the position of the litigant and not disclosed by opposing counsel; or

(4) offer evidence that the counselor or advisor knows to be false. If a counselor or advisor has offered material evidence and comes to know of its falsity, the counselor or advisor shall take reasonable remedial measures.

(b) A counselor or advisor may refuse to offer evidence that the counselor or advisor reasonably believes is false.

(c) In an ex parte proceeding, a counselor or advisor shall inform the judiciary of all material facts known to the counselor or advisor which will enable the judiciary decision, whether or not the facts are adverse.

Comment:

The counselor or advisor's task is to present the litigant's case with persuasive force. Performance of that duty while maintaining confidences of the litigant is qualified by the counselor or advisor's duty of candor to the judiciary. However, a counselor or advisor does not vouch for the evidence submitted in a cause; the tribunal is responsible for assessing its probative value.

Representations by a Counselor or Advisor

An advocate is responsible for pleadings and other, documents prepared for litigation, but is usually not required to have personal knowledge of matters asserted therein, for litigation documents ordinarily present assertions by the litigant, or by someone on the litigant's behalf and not assertions by the counselor or advisor. However, an assertion, purporting to be on the counselor or advisor's own knowledge, as in an affidavit by the counselor or advisor or in a statement in open court, may properly be made only when the advocate knows the assertion is true or believes it to be true on the basis of a reasonably diligent inquiry. There are circumstances where failure to make a disclosure is the equivalent of an affirmative misrepresentation.

False Evidence

When evidence that a counselor or advisor knows to be false is provided by a person who is not the litigant, the advocate must refuse to offer it regardless of the litigant's wishes.

When false evidence is offered by the litigant, however, a conflict may arise between the counselor or advisor's duty to keep the litigant's revelations confidential and the duty of candor or to be frank, impartial, fair or unprejudiced in expressing oneself to the court. Upon ascertaining that material evidence is false, the counselor or advisor should seek to persuade the litigant that the evidence should not be offered or, if it has been offered, that its false character should immediately be disclosed. If the persuasion is ineffective, the counselor or advisor must take reasonable remedial measures.

Except in the defense of one who has been accused of committing a felony or misdemeanor that may also involve moral turpitude in a court of law, the rule generally recognized is that, if necessary to rectify the situation, an advocate must disclose the existence of the litigant's deception to the tribunal. Such a disclosure can result in grave consequences to the litigant, including not only a sense of betrayal but also loss of the case and perhaps a more severe penalty enacted, than may have been warranted for perjury. But the alternative is that the advocate cooperate in deceiving the tribunal, thereby subverting the truth-finding process which the adversary system is designed to implement. Furthermore, unless it is clearly understood that the counselor or advisor will act upon the duty to disclose the existence of false evidence, the litigant can simply reject the counselor or advisor's advice to reveal the false evidence and insist that the counselor or advisor keep silent. Thus the litigant could in effect coerce the advocate into being a party to fraud on the court.

Perjury by a Defendant or a Plaintiff

Whether an advocate for a defendant or a plaintiff has the same duty of disclosure has been intensely debated. While it is agreed that the counselor or advisor should seek to persuade the defendant and plaintiff to refrain from perjurious testimony, there has been dispute concerning the counselor or advisor's duty when that persuasion fails. If the confrontation with the plaintiff or defendant occurs before trial, the counselor or advisor ordinarily can withdraw. Withdrawal before trial may not be possible, however, either because trial is imminent, or because the confrontation with the plaintiff or defendant does not take place until the trial or because no other counsel is available.

The most difficult situation, therefore, arises in a case where the accused insists on testifying when the counselor or advisor knows that the testimony is perjurious. The counselor or advisor's effort to rectify the situation can increase the likelihood of the defendant or plaintiff being convicted as well as

opening the possibility of a prosecution for perjury. On the other hand, if the advocate does not exercise control over the proof, the advocate participates, although in a merely passive way, in deception of the court.

Three resolutions of this dilemma have been proposed. One is to permit the defendant to testify by a narrative without guidance through the advocate's questioning. This compromises both contending principles; it exempts the counselor or advisor from the duty to disclose false evidence but subjects the defendant or plaintiff to an implicit disclosure of information imparted to counsel. Another suggested resolution, of relatively recent origin, is that the advocate be entirely excused from the duty to reveal perjury if the perjury is that of the defendant or plaintiff. This is a coherent solution but makes the advocate a knowing instrument of perjury.

The other resolution of the dilemma is that the counselor or advisor's perjury if necessary to rectify the situation. Both plaintiff and defendant has a right to the assistance of an advocate, a right to testify and a right of confidential communication with counsel. However, a plaintiff or defendant should not have a right to assistance of counsel in committing perjury. Furthermore, an advocate has an obligation, not only in professional ethics but under the law as well, to avoid implication in the commission of perjury or other falsification of evidence.

A counselor shall not counsel a client to engage, or assist a client, in conduct that the counselor knows is criminal or fraudulent, but a counselor may discuss the legal consequences of any proposed course of conduct with a client and may counsel or assist a client to make a good faith effort to determine the validity, scope, meaning or application of the law.

Remedial Measures

If perjured testimony or false evidence has been offered, the advocate's proper course ordinarily is to remonstrate or protest with the litigant or defendant confidentially. If that fails, the advocate should seek to withdraw if that will remedy the situation. If withdrawal will not remedy the situation or is impossible, the advocate should make disclosure to the court. It is for the court then to determine what should be done • making a statement about the matter based on tested fact, ordering a mistrial or perhaps nothing. If the false testimony was that of the litigant or plaintiff, the litigant or plaintiff may controvert, or dispute the advocate's version of their communication when the counselor or advisor discloses the situation to the court. If there is an issue whether the litigant or plaintiff has

committed perjury, the counselor or advisor cannot represent the litigant or plaintiff in resolution of the issue, and a mistrial may be unavoidable. An unscrupulous defendant might in this way attempt to produce a series of mistrials and thus escape prosecution. However, a second such encounter could be construed as a deliberate abuse of the right to counsel and as such a waiver of the right to further representation.

Refusing to Offer Proof Believed to be False

Generally speaking, a counselor or advisor has the authority to refuse to offer testimony or other proof that the counselor or advisor believes is untrustworthy. Offering such proof may reflect adversely on the counselor or advisor's ability to discriminate in the quality of evidence and thus impair the counselor or advisor's effectiveness as an advocate.

Rule 6 Fairness to opposing Party and Counsel

A counselor or advisor shall not:

(a) unlawfully obstruct another party's access to evidence or unlawfully alter, destroy or conceal a document or other material having potential evidentiary value or assist another person to do any such act;

Paragraph (c) as such, prohibits (1) the obstruction of another party's access to evidence, (2) the unlawful alteration, destruction or concealing of a document or other potential evidence, and (3) counseling or assisting another person to do any such act

"Documents and other items of evidence are often essential to establish a claim or defense. Subject to evidentiary privileges, the right of an opposing party to obtain evidence through discovery or subpoena is an important procedural right. The exercise of that right can be frustrated if relevant material is altered, concealed or destroyed."

(b) falsify evidence, counsel or assist a witness to testify falsely, pay, offer to pay, or acquiesce in the payment of compensation to a witness contingent upon the content of the witness' testimony or the outcome of the case; but a counselor or advisor may pay, cause to be paid, guarantee or acquiesce in the payment of:

(1) expenses reasonably incurred by a witness in attending or testifying,

(2) reasonable compensation to a witness for the witness' loss of time in attending or testifying, and

(3) a reasonable fee for the professional services of an expert witness;

(c) When appearing before a tribunal, assert the advocate's personal opinion as to the justness of a cause, as to the credibility of a witness, as to the culpability of a civil litigant, or as to the guilt or innocence of an accused; but the advocate may argue, on the advocate's analysis of the evidence, for any position or conclusion with respect to the matters stated herein, or

(d) request a person other than a litigant to refrain from voluntarily giving relevant information to another party unless:

(1) the person is a relative or an employee or other agent of a litigant; and

(2) the counselor or advisor reasonably believes that the person's interest will not be adversely affected by refraining from giving such information and such conduct is not prohibited by Rule 4, entitled, "Counselor or Advisor." In representing a litigant, a counselor or advisor shall not communicate about the subject of the representation with a party the counselor or advisor knows to be represented by another counselor or advisor in the matter, unless the counselor or advisor has the consent of the other counselor or advisor or is authorized by law to do so.

CODE OF JUDICIAL CONDUCT

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CANON 1. A JUSTICE SHOULD UPHOLD THE INTEGRITY AND INDEPENDENCE OF THE JUDICIARY

An independent and honorable judiciary is indispensable to justice in The Church of God in Christ. A justice should participate in establishing, maintaining, and enforcing, and should himself/herself observe, high standards of conduct so that the integrity and independence of the judiciary may be preserved. The provisions of this Code should be construed and applied to further that objective.

CANON 2. A JUSTICE SHOULD AVOID IMPROPRIETY AND THE APPEARANCE OF IMPROPRIETY IN ALL HIS/HER ACTIVITIES

- A. A justice should respect and comply with the Church's constitution, amendments, by-Laws, and all appendices thereto and should conduct himself/herself at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.
- B. A justice should not allow his/her family, social, or other relationships to influence his/her judicial conduct or judgment. He/she should not lend the prestige of his/her office to advance the private interests of others; nor should he/she convey or knowingly permit others to convey the impression that they are in a special position to influence him/her. He/she should not testify voluntarily as a character witness.

Commentary

Public confidence in the judiciary is eroded by irresponsible or improper conduct by justices. A justice must avoid all impropriety and appearance of impropriety. He/she must expect to be the subject of constant public scrutiny. He/she must therefore accept restrictions on his/her conduct that might be viewed as burdensome by the ordinary citizen and should do so freely and willingly.

The testimony of a justice as a character witness injects the prestige of his/her office into the proceeding in which he/she testifies and may be misunderstood to be an official testimonial. This Canon, however, does not afford him a privilege against testifying in response to an official summons.

CANON 3. A JUSTICE SHOULD PERFORM THE DUTIES OF HIS/HER OFFICE IMPARTIALLY AND DILIGENTLY

The judicial duties of a justice take precedence over all his/her other activities as pastor, district superintendent, district missionary, state supervisor, jurisdictional bishop, and national officers. His/her judicial duties include all the duties of his/her office prescribed by the constitution. In the performance of these duties, the following standards apply.

A. Adjudicative Responsibilities.

- (1) A justice should be faithful to the law and maintain professional competence in it. He/she

should be unswayed by partisan interests, public clamor, or fear of criticism.

(2) A justice should maintain order and decorum in proceedings before him/her.

(3) A justice should be patient, dignified, and courteous to litigants, witnesses, counselors and advisers and others with whom he/she deals in his/her official capacity, and should require similar conduct of his/her staff, and others subject to his/her direction and control

The duty to hear all proceedings fairly and with patience is not inconsistent with the duty to dispose promptly of the business of the court. Courts can be efficient and businesslike while being patient and deliberate.

(4) A justice should accord to every person who is legally interested in a proceeding or his/her counselor, full right to be heard according to law, and, except as authorized by law, must not consider ex parte communications concerning a pending proceeding.

(5) A justice should dispose promptly of the business of the court

Commentary

Prompt disposition of the court's business requires a justice to devote adequate time to his/her duties, to be punctual in attending court and expeditious in determining matters under submission, and to insist that court officials, litigants and their counselors cooperate with him/her to that end.

(6) A justice should abstain from public comment about a pending proceeding in any court, and should require similar abstention on the part of court personnel subject to his/her direction and control. This subsection does not prohibit justices from making public statements in the course of their official duties or from explaining for public information the procedures of the court.

Commentary

"Court personnel" does not include the counselor in a proceeding before a justice. The conduct of counselors or advisors is governed by the Code of Professional Responsibility.

The Judiciary Board shall prohibit broadcasting, televising, recording, or taking photographs in the courtroom and areas immediately adjacent thereto during sessions of court or recesses between sessions.

B. Administrative Responsibilities.

(1) A Justice should diligently discharge his/her administrative responsibilities, maintain professional competence in judicial administration, and facilitate the performance of the administrative responsibilities of other justices and court officials.

(2) A justice should require his/her staff and court officials subject to his/her direction and control to observe the standards of fidelity and diligence that apply to him/her.

(3) A justice should take or initiate appropriate disciplinary measures against a justice or lawyer for unprofessional conduct of which the justice may become aware.

Commentary

Disciplinary measures may include reporting a justice's or lawyer's misconduct to an appropriate disciplinary body.

(4) A justice should not make unnecessary appointments. He/she should exercise his/her power of appointment only on the basis of merit, avoiding favoritism. He/she should not approve compensation of appointees beyond the fair value of services rendered.

Commentary

Appointees of the justice include personnel such as clerks, secretaries, and personal assistants. Consent by the parties to an appointment or an award of compensation does not relieve the justice of the obligation prescribed by this subsection.

C. Disqualification.

(1) A justice should disqualify himself/herself in a proceeding in which his/her impartiality might reasonably be questioned, including but not limited to instances where:

(a) he/she has a personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the proceeding;

(b) he/she served as counselor in the matter in controversy, or a counselor with whom he/she previously practiced law served during such association as a counselor concerning the matter, or the justice or such counselor has been a material witness concerning it;

Commentary

If a justice has served as general counsel to a particular jurisdiction, it is considered a conflict of interest for that justice to preside over a case arising out of that jurisdiction.

(c) he/she knows that he/she, individually or as a fiduciary, or his/her spouse or minor child residing in his/her household, has a substantial financial interest in the subject matter in controversy or in a party to the proceeding, or any other interest that could be substantially affected by the outcome of the proceeding;

(d) he/she or his/her spouse, or a person within the third degree of relationship to either of them, or the spouse of such a person: (See Appendix A)

- (i) is a party to the proceeding, or an officer, director, or trustee of a party,
- (ii) is acting as a lawyer in the proceeding;
- (iii) is known by the justice to have an interest that could be substantially affected by the outcome of the proceeding;
- (iv) is to the justice's knowledge likely to be a material witness in the proceeding.

(2) A justice should inform himself/herself about his/her personal and fiduciary financial interests, and make a reasonable effort to inform himself/herself about the personal financial interests of his/her spouse and minor children residing in his/her household.

(3) For the purposes of this section:

(a) the degree of relationship is calculated according to the civil law system; (See Appendix A)

Commentary

According to the civil law system, the third degree of relationship test would, for example, disqualify the justice if his/her or his/her spouse's father, grandfather, uncle, brother, or niece's husband were a party or lawyer in the proceeding, but would not

disqualify him if a cousin were a party or lawyer in the proceeding.

(b) "fiduciary" includes such relationships as executor, administrator, trustee, and guardian;

(c) "financial interest" means ownership of a legal or equitable interest, if substantial, or a relationship as director, advisor, or other active participant in the affairs of a party, except that:

(i) ownership in a mutual or common investment fund that holds securities is not a financial interest" in such securities unless the justice participates in the management of the fund;

(ii) an office in an educational, religious, charitable, fraternal, or civic organization is not a "financial interest" in securities held by the organization;

(iii) the proprietary interest of a policy holder in a mutual insurance company, of a depositor in a mutual savings association, or a similar proprietary interest, is a substantial financial interest" in the organization only if the outcome of the proceeding before the ecclesiastical court could substantially affect the value of the interest;

(iv) ownership of securities is a "financial interest" in the issuer only if the outcome of the proceeding could substantially affect the value of securities.

CANON 4. A JUSTICE MAY ENGAGE IN ACTIVITIES TO IMPROVE THE LAW, THE LEGAL SYSTEM, AND THE ADMINISTRATION OF JUSTICE

A justice, subject to the proper performance of his/her judicial duties, may engage in the following quasi-judicial activities, if in doing so he/she does not cast doubt on his/her capacity to decide impartially any issue that may come before him:

A. He/she may speak, write, lecture, teach, and participate in other activities concerning the law, the legal system, and the administration of justice.

B. He/she may appear at a public hearing before an executive or legislative body or official on matters concerning the law, the legal system, and the administration of justice, and he/she may otherwise

consult with an executive or legislative body or official, but only on matters concerning the administration of justice.

C. He/she may serve as a member, officer, or director of an organization or governmental agency developed to the improvement of the law, the legal system, or the administration of justice. He/she may assist such an organization in raising funds and may participate in their management and investment, but should not personally participate in public fund raising activities. He/she may make recommendations to public and private fund-granting agencies on projects and programs concerning the law, the legal system, and the administration of justice.

Commentary

As a judicial officer and person specially learned in ecclesiastical law and biblical doctrine, a justice is in a unique position to contribute to the improvement of ecclesiastical law and biblical doctrine, the legal system, and the administration of justice. To the extent that his/her time permits, he/she is encouraged to do so, either independently or through a bar association, judicial conference, or other organization dedicated to the improvement of ecclesiastical law and biblical doctrine.

Extra-judicial activities are governed by Canon 5.

CANON 5. A JUSTICE SHOULD REGULATE HIS/HER EXTRA-JUDICIAL ACTIVITIES TO MINIMIZE THE RISK OF CONFLICT WITH HIS/HER JUDICIAL DUTIES

A. Avocational Activities. A justice may write, lecture, teach, and speak on non-legal subjects, and engage in the arts, sports, and other social and recreational activities, if such avocational activities do not detract from the dignity of his/her office or interfere with the performance of his/her judicial duties.

Commentary

Complete separation of a justice from extra-judicial activities is neither possible nor wise; he/she should not become isolated from the Church in which he/she is a member.

B. Civic and Charitable Activities. A justice may participate in civic and charitable activities that do not reflect adversely upon his/her impartiality or interfere with the performance of his/her judicial duties. A justice may serve as an officer, director, trustee, or non-legal advisor of an educational, religious, charitable, fraternal, or civic organization not conducted for the economic or political advantage of its members, subject to the following

A justice should not serve if it is likely that the organization will be engaged in proceedings that would ordinarily come before him or will be regularly engage in adversary proceedings in any court

Commentary

The changing nature of some organizations and of their relationship to the law makes it necessary for a justice regularly to reexamine the activities of each organization with which he/she is affiliated to determine if it is proper for him to continue his/her relationship with it. For example, in many jurisdictions charitable hospitals are now more frequently in court than in the past. Similarly, the boards of some legal aid organizations now make policy decisions that may have political significance or imply commitment to causes that may come before the courts for adjudication.

C Financial Activities

(1) A justice should refrain from financial and business dealings that tend to reflect adversely on his/her impartiality, interfere with the proper performance of his/her judicial duties, exploit his/her judicial position, or involve him in frequent transactions with counselors, advisors, or persons likely to come before the judiciary board of the Church of God in Christ

(2) Subject to the requirement of subsection (1), a justice may hold and manage investments, including real estate, and engage in other remunerative activity including the operation of a family business.

Commentary

The effective Date of Compliance provision of this Code qualifies this subsection with regard to a justice engaged in a family business at the time this Code becomes effective.

(3) A justice should manage his/her investments and other financial interests to minimize the number of cases in which he/she is disqualified. As soon as he/she can do so without serious financial detriment, he/she should divest himself/herself of investments and other financial interests that might require frequent disqualification.

(4) Information acquired by a justice in his/her judicial capacity should not be used or disclosed by him/her in financial dealings or for any other purpose not related to his/her judicial duties.

D. Fiduciary Activities. A justice should not serve as the executor, administrator, trustee, guardian, or other fiduciary, except for the estate, trust, or person of a "member of his/her family,*" and then only if such service will not interfere with the proper performance of his/her judicial duties. "Member of his/her family*" includes a spouse, child, grandchild, parent, grandparent, or other relative or person with whom the justice maintain^ a close familial relationship. As a family fiduciary a justice is subject to the following restrictions:

(1) He/she should not serve if it is likely that as a confidant or fiduciary he/she will be engaged in proceedings that would ordinarily come before him, or if the confiding party becomes involved in adversary proceedings in the ecclesiastical court

(2) While acting as a fiduciary a justice is subject to the same restrictions on financial activities that apply to him on his/her personal capacity.

Commentary

A justice's obligation under this Canon and his/her obligation as a fiduciary may come into conflict. For example, a justice should resign as trustee if it would result in detriment to the trust to divest it of holdings whose retention would place the justice in violation of Canon 5C(3).

E. Arbitration. A justice should not act as an arbitrator or mediator.

F. Practice of Law. A justice should not act as General legal Counsel for any Church body while he is a member of the Judiciary Board of the Church of God in Christ

G. Extra-judicial Appointments. A justice should not accept appointment to a committee, commission, or any other national position within the Church of God in Christ which may conflict with his or her Judiciary responsibilities or where a conflict of interest may exist

Commentary

Valuable services have been rendered in the past to CO.GJ.C jurisdictions by those who have been elected to the judiciary board by the General Assembly to prevent the intrusion of civil authorities into the affairs of the Church where inevitable disputes have arisen. However, it is now deemed inappropriate to confer upon a justice any "jurisdictional court" assignments so as to protect the judiciary board from involvement in extrajudicial matters that may prove to be controversial

CANON 6. A JUSTICE SHOULD REFRAIN FROM POLITICAL ACTIVITY INAPPROPRIATE TO HIS/HER JUDICIAL OFFICE

A. Political Conduct in General.

(1) A justice should not:

(a) be engaged in any unauthorized speeches or promotions which might bring disgrace upon the integrity of the court.

(b) act as a leader or hold any office in a political organization;

(c) make speeches for a political organization or candidate for state or national position within the church, or publicly endorse a candidate for state or national position within the church.

(d) solicit funds for or pay an assessment or make a contribution to a candidate for state or national position within the Church of God in Christ

(2) A justice should resign his/her nationally appointed position when he/she has been elected to serve as a justice on the Church of God in Christ judiciary board.

B. Campaign Conduct

(1) A candidate, including an incumbent justice for a judicial office, that is filled either by public election between competing candidates or on the basis of a merit system election:

(a) should maintain the dignity appropriate to judicial office, and should encourage members of his/her family to adhere to the same standards of ecclesiastical conduct that apply to him;

(2) A candidate, including an incumbent justice, for judicial office that is filled by public election between competing candidates should not himself/herself solicit or accept campaign funds, or solicit publicly stated support, but he/she may establish committees of responsible persons to secure and manage the expenditure of funds for his/her campaign and to obtain public statements of support for his/her candidacy. Such committees are not prohibited from soliciting campaign contributions and public support. A candidate's committees may solicit funds for his/her campaign no earlier than thirty days prior to the first day for filing nominating petitions or the last day for filing a declaration of intention to seek reelection on a retention basis. A candidate should not use or permit the use of campaign contributions for the private benefit of himself/herself or members of his/her family.

(3) An incumbent justice who is a candidate for retention in or reelection to office without a competing candidate may campaign and may obtain publicly stated support and campaign funds in the manner provided in subsection B(2).

COMPLIANCE WITH THE CODE OF JUDICIAL CONDUCT

All justices should comply with the Code except as provided below.

Retired Justices will be bound by the Judicial Code of Conduct as is set forth in Canon 3 only.

EFFECTIVE DATE OF COMPLIANCE

A person to whom this Code becomes applicable should arrange his/her affairs as soon as reasonably possible to comply with it. If, however, the demands of his/her time and the possibility of conflicts of interests are not substantial, a person who holds judicial office on the date this Code becomes effective may:

(a) continue to act as an officer, director, or nonlegal advisor of a family business:

(b) continue to act as an executor, administrator, trustee, or other fiduciary for the estate or person of one who is not a member of his/her family.