

PCA Stated Clerk Responds to Some Objections of Dr. Dominic Aquila Regarding the AC Funding Plan

A Funding Plan for the Administrative Committee (AC) was approved by the AC Committee of Commissioners (31-1-1) and by a clear majority of the 38th General Assembly. This includes proposed amendments to *Book of Church Order* 14-1.4 and 14-2, now before the Presbyteries. Some bloggers have expressed disagreements with the Funding Plan. In particular, Dr. Dominic Aquila has raised specific objections on his web site “The Aquila Report.”

Dr. Aquila, as a former Moderator of the General Assembly (2006), is a member of the Cooperative Ministries Committee (CMC) and presided at the first CMC meeting in January, 2007. Members of the committee were given a copy of the proposed *BCO* amendments prior their meeting of January, 2010. Each member had both the right and the responsibility to raise objections or offer a reasoned critique at the meeting. Dr. Aquila, however, did not raise any objections or pose any contrary arguments in the CMC. Moreover, as a commissioner to the 2010 General Assembly he did not raise any objections. Instead, he posted his objections on his web site, “The Aquila Report” in August. It is significant that the objections now being raised by Dr. Aquila involve issues that were thoroughly discussed over a number of years in the CMC, and at no time did he bring forward these concerns before the committee.

Thus far Dr. Aquila has offered a number of arguments in opposition to the Funding Plan and related proposed amendments to the *Book of Church Order* emanating from the 38th General Assembly. In our view, the constitutional argument against the proposed amendments is flawed. Many of the other arguments: 1) are hypothetical – “could,” “might,” “can lead to,” “could eventually lead to”; 2) appeal to fear rather than to reason; 3) are logically inconsistent or; 4) are inaccurate as to statements of fact.

Objection: Dr. Aquila asserts that the proposed amendments to *BCO* are unconstitutional, i.e. in conflict with *BCO* 25-8 and 25-11.

Response:

- The objection offered does not take into account sufficiently the historical circumstances and original intent of *BCO* 25. The historical context of the writing of *BCO* 25-8 and 25-11 was that the PCUS (Southern Presbyterian) was considering a merger with the UPCUSA (Northern Presbyterian).
 - The UPCUSA’s polity had a provision that the property and monies (buildings, furnishings, bank accounts, trust funds, etc.) of local churches were legally held in trust for the denomination.
 - There was debate within the PCUS as to whether the denomination or the local church had title to local church property, and there was concern that in the event of a merger the Northern view would prevail.

- The founders of the PCA wanted to insure that the denomination could not lay claim to the properties of the local church via civil court action.
- *BCO 25* was written in such a way to insure that no higher ecclesiastical court could rightfully make claim to any local church property in any civil court and that any PCA church could withdraw from the PCA easily, taking all its property with it upon withdrawal.
- The assertion that the proposed amendments are in conflict with *BCO 25-8* and *25-11* or, when enacted, would create a conflict with the *BCO* is not the studied collective opinion of the Committee on Constitutional Business (CCB), a group of men elected by the General Assembly because of their knowledge and understanding of our constitution. The CCB voted twice on the issue, and both times there were no negative votes. Moreover, the CCB specifically addressed the issue of *BCO 25*:

In the opinion of the CCB, there is no conflict, as none of the proposed provisions would remove a congregation from the denomination for failure to pay the annual Registration Fee, nor would they force a congregation to surrender its property, however broadly the term “property” is construed. The CCB finds no constitutional difference between the provisions of the proposed amendments and the current practice of requiring a registration fee in order for a commissioner to be seated at the General Assembly.

- The General Assembly heard the opinion of the CCB that the proposed *BCO* amendments are not in conflict with the PCA constitution and gave initial approval to the proposed *BCO* amendments by clear majority.
- The Committee on Constitutional Business did not express its opinion on the constitutionality of the proposed amendments to the *BCO* as advice to the Stated Clerk as was intimated. The CCB gave its advice to the entire General Assembly in fulfillment of its responsibility to the General Assembly as a whole.

Objection: Dr. Aquila asserts that an annual Registration Fee “requires a taking of monies by coercion, not by free and voluntary action” and that an Annual Registration Fee as distinguished from a General Assembly Commissioner’s Registration Fee is coercion.

Response:

The PCA has always required a Commissioner’s Registration Fee. The founders of the PCA and all subsequent General Assemblies have never considered a Commissioner’s Registration Fee to be either unconstitutional or coercive. The new Annual Registration Fee is necessary for commissioners to vote at the General Assembly and for the ongoing support of the essential support services of the PCA.

Objection: Dr. Aquila asserts that the funding plan assumes but does not provide empirical data to demonstrate that the current system is broken.

Response:

This assertion is incorrect. The system *is* broken when only 45% of the churches help pay the expenses of connecting the church. The evidence is available in the Funding Plan Model, in the budgets, in the financial reports, and in the audited financials of the last 37 years, all presented to the General Assembly. Our broken system has been discussed in the CMC for the last four years.

Objection: Dr. Aquila states that the Annual Registration Fee is a form of disenfranchisement and a type of poll tax.

Response:

From the First General Assembly, the PCA has required a Commissioner's Registration Fee for voting. The new Annual Registration Fee is in keeping with that longstanding principle. Dr. Aquila uses false fear of the future, yet admits that there is no coercion in the proposed system when he says, "It is conceivable that over time coercion could be used to compel payment"

In his objection Dr. Aquila mentions an "early version" of the funding plan put before the Cooperative Ministry Committee with a "provision to include Registration Fees for voting membership in presbyteries." It should be noted that there was no "early version." There were only suggestions in the brainstorming process of subcommittee-type work which were put forward for consideration, briefly discussed, and quickly dismissed. Many (hundreds of) ideas are put forth in this way and jettisoned in the flow of long-range planning.

Objection: Dr. Aquila maintains that the Funding Plan is "a form of taxation that can lead TEs and churches to become debtors to the PCA" and "provides no guidelines regarding how the AC will negotiate with TEs and churches that are in arrears and debtors to the PCA."

Response:

The AC is interested in encouraging churches and ministers to participate in the Funding Plan and will therefore be gracious in negotiating with them. The AC Funding Model states that "provision should be made for any legitimate hardship cases. For example, presbyteries or others might pay the registration fee for any church or teaching elder." The AC has also provided a more detailed hardship plan on the Question and Answer portion of the AC web site. Out of the hardship plan, the need for third party arbitration was recognized, and details concerning these "third party arbitrators" are being worked out. If an individual or church is in arrears after working with the AC staff and Administrative Committee and desires to appeal the situation to this third party arbitrator, they may do so.

We hope that through our hardship plan and local and presbytery-wide assistance, no churches or TEs would ever find themselves in arrears, but every situation cannot be foreseen.

As for becoming “debtors” to the PCA, ongoing discussions call for a reasonable cap on the number of years a TE or church in arrears would have to back-pay.

Objection: Dr. Aquila protests that the AC Funding Plan “could render TEs and REs who do not pay the Annual Registration Fee ineligible to be nominated, elected or serve on PCA [permanent] committees or agency [boards.]”

Response:

This is a hypothetical situation that is not part of the AC Funding Plan approved by the Assembly. The Assembly’s method of electing members of permanent Committees or Agency boards is not changed by the AC Funding Plan.

Objection: Dr. Aquila asserts that the “funding plan will result in a multi-tiered membership in the various courts of the PCA” because Ruling Elders from churches that do not pay the Annual Registration Fee and Teaching Elders who do not pay the Annual Registration Fee could not be voting commissioners to the General Assembly.

Response:

This criticism ignores the fact that there has been a Commissioners’ Registration Fee in place since the First General Assembly and that only registered commissioners have been able to vote at the Assembly. There have never been allegations of a “multi-tiered membership” based on the Commissioners’ Registration Fee.

Objection: Dr. Aquila claims that the funding plan will produce confusion regarding who will be eligible to vote at the Assembly.

Response:

This is incorrect. All Ruling Elders representing the sessions of churches that have paid the Annual Registration Fee may vote. All Teaching Elders who are in pastoral relations with churches that have paid the church’s Annual Registration Fee, and have paid the TE’s Annual Registration Fee, may vote. All Teaching Elders who are not in pastoral relations with a church, but who have paid the TE’s Annual Registration Fee, may vote. All Honorably Retired Teaching Elders are exempt from the Annual Registration Fee.

Objection: Dr. Aquila suggests that the funding plan “could eventually lead to other Committees and Agencies desiring financial support from a central treasury.”

Response:

By rule there is no “equalization of funds” among General Assembly ministries (*Rules of Assembly Operations* 4-12). Funds designated for one Committee or Agency may not be given to another. The idea of a unified budget has never gotten traction in the PCA. Though a unified budget was discussed early in the life of the PCA, it was quickly abandoned. In the ten years of the strategic planning process (2000-2010) a unified budget was never seriously advanced. It should be noted that (1) all of the other Committees and Agencies requested to be excluded from the Funding Plan, and (2) all of the other Committees’ and Agencies’ representatives on the CMC recommended that the AC alone be included in the Funding Plan due to the unique nature of the AC. This is another hypothetical argument that appeals to an unfounded fear.

Objection: Dr. Aquila criticizes the funding plan because it “does not address the voting status of elders or churches supporting other PCA committees or agencies, but not the AC through the Registration Fees.”

Response:

The plan focuses by intent and design only on support of the AC, and was so reported to the CMC, the AC, and the General Assembly. The support of the AC is based on the uniqueness of the AC in providing essential support services rather than denominational programs. The omission of the support of other Committees and Agencies in relation to voting status was not an oversight.

Objection: Dr. Aquila asserts that the “funding plan forces TEs and churches to support the whole AC budget even if they are not pleased with portions of the AC’s work reflected in its budget.”

Response:

Dr. Aquila chooses as his example *byFaith* magazine and then proceeds to list several criticisms of *byFaith*. All of the ministries of the AC have been assigned to the AC by the General Assembly, and they all, including *byFaith*, help to connect the PCA. The *byFaith* Oversight Committee has not received complaints concerning an “editorial agenda.” Every General Assembly Committee and Agency has numerous line items in its budget, just as local churches do. One hundred percent agreement with every line item in a budget is not necessary for the support of the overall ministry of a local church or of a General Assembly ministry, otherwise almost nothing would be funded. Even if one objects to a line item in a budget, should not submitting to the will of the brethren be considered?

Objection: Dr. Aquila argues against the General-Assembly-approved Funding Plan because only one plan was presented.

Response:

Funding has been considered over the last ten years of strategic planning, and numerous possibilities and options have been considered. All members of the CMC had the responsibility and opportunity to offer alternatives. The CMC and the AC were, in fact, advised that other options had been considered, as was the AC Committee of Commissioners and General Assembly (see AC report to the General Assembly, “Proposed Funding Plan for the AC,” and “Summary of the AC Funding Plan Proposal”). When a pulpit committee presents its report to the congregation, the committee presents one candidate, not a slate of possible candidates, for the congregation’s vote (*BCO* 20-2). Similarly, though numerous possibilities and options were discussed, the CMC and then the AC presented one plan that had been amended and refined. That is the plan the General Assembly approved.

Objection: Dr. Aquila seeks the defeat of the proposed amendments to the *BCO* because he believes that the “funding plan makes no provision for relief for those whose consciences believe that the funding plan is a violation of church power as expressed in the PCA Standards. There is an appearance of coercion by legislation rather than by persuasion and appeal.”

Response:

There are a number of options for elders who object to an action of a church court, such as entering a dissent or protest (*BCO* 45-2; 45-3; 45-5) if such opinions are “couched in temperate language, and are respectful to the court.” In fact, a protest was entered at the recent General Assembly by several commissioners. Another action would be to speak against and vote against the proposed *BCO* amendments in one’s Presbytery. If the proposed amendments do become part of the constitution, then those who have conscientious objections against paying the new Annual Registration Fee would either submit to the constitution or forego the privilege of voting. In many other circumstances conscientious objection does exempt a person from some privileges. The new Annual Registration Fee is similar in principle to the Commissioner’s Registration Fee. Neither is coercive.

Objection: Dr. Aquila asserts that the adoption of the proposed *BCO* amendments that will implement the AC Funding Plan could jeopardize the PCA’s status as a non-hierarchical denomination in the eyes of the civil courts.

Response:

Two facts need to be borne in mind.

First, the proposed *BCO* amendments, including the proposed annual Registration Fees, in no way change the authority structure of the PCA. Because our denominational structure

gives no power to the higher court to act in the place of the lower court, there can be no claim that the PCA has a hierarchal form of government. Moreover, in the related area of employment law, the PCA has successfully argued in civil courts that PCA pastors are not employees of the General Assembly. The relationship of a PCA minister to the denomination is analogous to that of a lawyer to a Bar Association. The Bar Association certifies the acceptable character and legal knowledge of a lawyer. But he is employed by a law firm. If a lawyer embezzles money from a client, the Bar Association may disbar him and the law firm may fire him. But the victimized client would sue the lawyer or the law firm that employed him, not the Bar Association that certified him. Similarly a PCA pastor is examined and approved by a Presbytery. He is *required* to be a member of a Presbytery for a PCA church to employ him. But he is employed by a local church. The issue is an issue of employment law. Further, attorneys, physicians, accountants, and many other professionals are members of associations to which they pay annual registration fees; that reality of registration fees does not jeopardize the legal standing and relationship of the association, and neither will such a practice affect the legal standing of a denomination.

A second fact to be kept in mind is that as part of its due diligence, the AC requested and received a legal opinion from a prestigious and one of the largest law firms in the Southeast on whether the adoption of the proposed amendments to the *Book of Church Order* could jeopardize the PCA's status as a non-hierarchal denomination in the eyes of the civil courts. The AC is also the Board of Directors of the Presbyterian Church in America, a Corporation, and therefore would not recommend to the General Assembly a proposal that would have adverse legal ramifications for the denomination. The expert legal opinion we received was that the proposed amendments to the *BCO* would not jeopardize the PCA's standing as a non-hierarchal denomination. That legal opinion was reported to the AC at its April 8, 2010, meeting and included in the minutes. Those minutes were submitted to the AC Committee of Commissioners for review and then approved by the General Assembly upon the recommendation of the AC Committee of Commissioners.

Objection: Dr. Aquila urges that "We need to defeat this plan and then come together to find a reasonable alternative."

Response:

The entities designated by the General Assembly for **coming together** to weigh alternatives and produce a funding proposal are the Cooperative Ministries Committee and the Administrative Committee (see *Minutes of the 34th General Assembly* [2006], p. 617). The CMC includes as voting members the chairmen and coordinators or presidents of all ten General Assembly Committees and Agencies and the six most recent General Assembly Moderators as advisory members. The AC includes representatives of all ten General Assembly Committees and Agencies and eleven at-large members elected by the General Assembly as voting members. In considering and recommending the AC Funding

Plan to the General Assembly, the CMC and the AC were fulfilling roles assigned to them by the General Assembly. The plan is the **reasonable alternative** to our current funding system.

Conclusion

The General Assembly has approved the AC Funding Plan, a plan that was carefully considered and thoughtfully revised before being presented to the General Assembly. It is constitutional. It is legally sound. It is equitable. No plan of human origin is perfect. If every fear-inducing possibility had to be addressed to the satisfaction of all before moving ahead, no proposal would ever go forward. A clear majority of the General Assembly has approved the funding plan and has given initial approval to the proposed amendments to the *Book of Church Order* that are necessary to implement the plan. The matter is now before the Presbyteries for informed and rational decision.

By God's gracious guidance may we proceed, seeking to be good stewards of the church He has given to us.

L. Roy Taylor, Stated Clerk