This is a remedial case which has come before this commission on appeal by John E. Bolton, Jr., from a decision of the Permanent Judicial Commission of the Synod of Mid-Atlantic. This commission finds that it has jurisdiction, that appellant has standing to appeal, that the appeal was properly and timely filed, and that the appeal is in order (see Book of Order, D-13.1200a).

HISTORY

The facts in the case are not in dispute and are as follows: Alamance Presbyterian Church of Greensboro, North Carolina, for many years had engaged an associate pastor. In a written covenant with the pastor, an associate pastor is included as part of the church's ministerial leadership design. Shortly after the resignation and departure of the associate pastor, the session of the church instructed the current officer nominating committee to prepare a slate of nominees for an associate pastor nominating committee to present to the congregation for its consideration. The session recommended that there should be seven members on the committee, including an active elder and deacon.
On January 2, 1992, the pastor contacted the committee on ministry to notify it of the impending election of an associate pastor nominating committee. The committee confirmed this notice in writing on January 2, 1992, naming a committee liaison with the church. A congregational meeting was called for and held on January 5, 1992. At this meeting, the session's recommendations for size and composition were presented to the congregation along with the officer nominating committee's recommended nominees. The floor was also opened for nominations, and two additional individuals were nominated. Of the nine nominees, the congregation selected seven, including the two nominated from the floor. No procedural issues were raised at the congregational meeting about the session's involvement in instructing the officer nominating committee to prepare a slate of recommended nominees. Thereafter, the congregation called an associate pastor, and the presbytery approved the call. The associate pastor began his duties in July, 1993.

Bolton filed a complaint alleging five irregularities and the case was tried by the presbytery permanent judicial commission. He complained about the election of the associate pastor nominating committee and the associate pastor. Bolton requested that the permanent judicial commission require the church to comply with the Book of Order in electing an associate pastor and declare the present relation between the associate pastor and the church null and void. The presbytery permanent judicial commission did not sustain his complaint.

Bolton filed a timely appeal to the synod. The synod permanent judicial commission held a hearing on October 7, 1993, and on October 8, 1993, rendered a unanimous decision on twenty-three specifications of error, affirming the presbytery permanent judicial commission. Bolton then filed a timely notice appealing the synod's decision to the General Assembly Permanent Judicial Commission.
DECISION

It should be stated at the outset that the Book of Order is the part of the Constitution of the Presbyterian Church (U.S.A.) that defines the powers of the various governing bodies of the church and establishes procedures to ensure that all persons and governing bodies are treated fairly within the concept of due process of law. The Book of Order is not a straitjacket which prevents a governing body from exercising its powers in a reasonable way so as to carry out its basic functions and duties with efficiency to avoid a waste of time of its members (Book of Order, G-4.0301i).

Book of Order, G-4.0301i states that "governing bodies possess whatever administrative authority is necessary to give effect to duties and powers assigned by the Constitution of the church." Book of Order, G-4.0401 recognizes that a particular church in "its corporate life will display a rich variety of form, practice, language, program, nurture, and service to suit culture and need."

In this case, Bolton complains of the procedure followed by Alamance Presbyterian Church in its election of its new associate pastor. We have considered each of the objections raised and find them to be without merit. The presbytery permanent judicial commission and the synod permanent judicial commission correctly found that the procedure followed did not violate those provisions of the Book of Order that pertain to the election of an associate pastor. The congregation, with the assistance of the session and its nominating committee, elected an associate pastor nominating committee. Had it wished, the congregation could have refused to approve the election of that committee or to accept the nominees proposed by the church's officer nominating committee. It is clear from the undisputed evidence that the associate pastor nominating committee conferred with the presbytery committee on ministry before proposing a
new associate pastor, that the congregation approved the associate pastor nominating committee's recommendation, and that the presbytery approved the pastoral relationship between the proposed candidate and the church. There was full compliance with the requirements of the Book of Order.

**Specifications of Error**

Due to the repetitious nature of many specifications of error, they have been consolidated to eliminate redundancy (Book of Order, D-13.1300d) and paraphrased in some cases to promote clarity.

1. (Bolton's specifications of error 1, 10, 11, 13, 15, 17, 18)

   Synod permanent judicial commission erred in finding the session of Alamance Church in compliance with the Book of Order when it empowered a "powerless and unconstitutional former" elder-deacon nominating committee to nominate seven persons to be nominees on the associate pastor nominating committee; it further erred in appealing to G-10.0102 and its reference to G-3.0000 to justify the session's action, since "church" in Chapter 3.0000 refers to a local congregation and not its pastor or session.

   These specifications of error are not sustained.

   This commission finds that the session acted within its constitutional authority under G-10.0102 to provide an orderly process for the congregation to exercise its responsibility to elect an associate pastor nominating committee. Requesting members of an existing committee, or any group of individuals, to prepare a slate of nominees for the congregation's consideration is proper and in order. The session's actions in no way denied the congregation opportunity to place additional names in nomination which, in fact, it did.

2. (Bolton's specification of error 9)
The synod permanent judicial commission erred in declaring that the covenant between the pastor and congregation had no bearing upon the congregation's decision to fill the associate pastor position and subsequent call of the associate pastor.

This specification of error is not sustained.

The status of the covenant indicating a staffing design which included an associate pastor is not at issue. This commission finds that by voting to elect an associate pastor nominating committee the congregation gave its consent to call an associate pastor.

(3) (Bolton's specifications of error 3, 5, 19, 20)

The synod permanent judicial commission erred in ruling that the associate pastor nominating committee was representative of the whole congregation when it was, in part, representative of the session and board of deacons based on the session's recommendation that the associate pastor nominating committee include at least one active elder and one active deacon.

These specifications of error are not sustained.

No evidence in the record suggests that the associate pastor nominating committee was not representative of the congregation as required by G-4.0403 (Diversity and Inclusiveness.)

The Book of Order does not implicitly or explicitly prevent an active elder or deacon from serving on a pastor nominating committee.

(4) (Bolton's specifications of error 4, 21)

The synod permanent judicial commission erred in not finding it unconstitutionally restrictive to limit the congregation in nominating other members of the congregation to those nominees who had previously indicated that they would serve if elected.

These specifications of error are not sustained.
Requiring consent of a nominee before election is not unconstitutional. This commission concurs with the synod and presbytery permanent judicial commissions in finding that responsible membership in the ministry of the church, including participation in its governing responsibility (Book of Order, G-5.0102e), does not require serving in an office or elected position such as a pastor nominating committee.

(5) (Bolton's specifications of error 2, 6, 8, 22)

The synod permanent judicial commission erred in not finding that the session denied the congregation guidance and permission of the committee on ministry prior to electing its associate pastor nominating committee. It further erred in failing to grant appellant opportunity to address the committee on ministry's failure to counsel with the congregation regarding the church's ability to support an associate pastor.

These specifications of error are not sustained.

This commission finds that the session acted properly in holding the congregational meeting to elect the associate pastor nominating committee after notifying the committee on ministry of its intention and the committee's appointment of a liaison. The commonly accepted practice of the committee on ministry counseling with churches regarding calls for pastoral relationships through the church's session and/or pastor nominating committee conforms to the requirements of Book of Order, G-11.0502d. The contention that all activity related to the calling process must be done with the congregation as a whole is not supported by the Constitution. No evidence in the record before the synod permanent judicial commission claimed a failure of the committee on ministry to consider the financial ability of Alamance Presbyterian Church to support an associate pastor.

(6) (Bolton's specification of error 7)
The synod permanent judicial commission erred by not declaring the election of the associate pastor to be constitutionally out of order and, therefore, null and void due to the failure to follow proper procedure.

This specification of error is not sustained.

This commission finds that the process followed was constitutionally in order.

(7) (Bolton's specifications of error 12, 16)

The synod permanent judicial commission erred in finding the complainant was not denied procedural safeguards and due process, and that there was no manifestation of prejudice in the conduct of the case, or intent to defame.

These specifications of error are not sustained.

This commission finds that there is no evidence in the record to support the claim that appellant was denied procedural safeguards and due process, or that there was manifestation of prejudice or intent to defame.

(8) (Bolton's specifications of error 14, 23)

The synod permanent judicial commission erred in not permitting evidence to be used that was not before the presbytery permanent judicial commission under the "newly discovered evidence" rule.

This specification of error is not sustained.

This commission concurs with the synod permanent judicial commission ruling regarding "newly discovered evidence." This evidence was not properly received by the appellee's committee of counsel as required by the Book of Order, and did not meet the criteria for being "newly discovered evidence" (see Book of Order, D-13.1200c).
Order

It is therefore ordered that the decision of the synod permanent judicial commission be affirmed.

It is further ordered that the stated clerk of the Presbytery of Salem report this decision to the presbytery at its first meeting after receipt, that the presbytery enter the full decision upon its minutes, and that an excerpt from those minutes showing entry of the decision be sent to the Stated Clerk of the General Assembly (Book of Order, D-8.1900).

Robert Hotchkiss and Owen Panner, members of the Permanent Judicial Commission, were not present and took no part in the proceedings.

1995, White v. Pby of the Redwoods,