Report of the Commission on Judicial Business

The Office of the General Synod received one judicial matter approximately two weeks before the 2018 session of the General Synod and three judicial matters after the 2018 session of the General Synod. The matter received before the 2018 session of the General Synod was a complaint (the “City Classis Complaint”) filed by The City Classis (“City Classis”) against the Regional Synod of the Far West (“RSFW”). Of the three matters received after the 2018 session of the General Synod, one was an appeal by Elder Thomas Kaiser from a decision by the Regional Synod of New York (the “Kaiser Appeal”), another was an appeal by Rev. William Henkel and Elder Elva Robinson from a decision by the Regional Synod of the Mid-Atlantics (the “Henkel and Robinson Appeal”), and the third was an appeal by Phil and Diane Forner from a decision by the Regional Synod of the Great Lakes (the “Forner Appeal”).

Each matter was referred to the Commission on Judicial Business (“CJB”) for review, recommendation, and report to the 2019 General Synod. The Forner Appeal was filed on April 8, 2019. There is insufficient time for the CJB to complete its work on it prior to the 2019 General Synod meeting. Accordingly, the CJB intends to complete its work on the Forner Appeal in time for a written report (and recommendation, if applicable) to be submitted to the 2020 General Synod.

As discussed more fully below, proceedings regarding the City Classis Complaint were suspended and later dismissed as a result of action taken by the 2018 General Synod.

In the Kaiser Appeal and the Henkel and Robinson Appeal, after receiving them, the CJB requested and received from the clerk of the lower judicatory “the original record of all the proceedings in the case, including the notice of intent, the evidence, the arguments, and any other documents bearing on the case” (RCA Book of Church Order [BCO], Chapter 2, Part III, Article 2, Section 3 [2018 edition, p. 94]). Thereafter, the CJB met by conference call on Thursday, September 6, 2018. Commission member Kendra Van Houten (representing the Regional Synod of New York) did not participate in any discussions of the Kaiser Appeal. Commission member Paul Janssen (representing the Regional Synod of the Mid-Atlantics) did not participate in any discussions of the Henkel and Robinson Appeal.

For reasons stated in this report, no hearings were conducted on either the Kaiser Appeal or the Henkel and Robinson Appeal.

Complaint by the City Classis against the Regional Synod of the Far West

A complaint was filed by City Classis against RSFW on May 29, 2018, and forwarded to all members of the commission. Shortly thereafter, a communication was sent by the commission to the clerk of the RSFW asking him to send to the commission “the original record of all the proceedings in the case, including the notice of intent, the evidence, the arguments, and any other documents bearing on the case” as required under BCO Chapter 2, Part III, Article 2, Section 3.

Meanwhile, at the 2018 General Synod, the following item of new business was presented to and received by the General Synod and then referred to the Committee of Reference for further referral or disposition as appropriate:

The City Classis requests the General Synod to transfer City Classis, including its eight organized churches, two church plants, and all ministers and candidates under care from the Regional Synod of the Far West to the Regional Synod of
the Mid-Atlantics by a date suitable to all parties but no later than December 31, 2018 (MGS 2018, p. 15).

Reasons given for submission of the foregoing as new business are available in MGS 2018, p. 16.

The new business was accepted by the Committee of Reference and referred to the Advisory Committee on Overtures and New Business. Thereafter, acting upon advice provided by its Advisory Committee on Overtures and New Business, the 2018 General Synod acted:

To transfer City Classis, including its eight organized churches, two church plants, and all ministers and candidates under care of City Classis from the Regional Synod of the Far West (RSFW) to the Regional Synod of the Mid-Atlantics (RSMAt) by a date suitable to all parties but no later than September 30, 2018 (MGS 2018, OV 18-26, p. 154).

On June 16, 2018, City Classis requested that the commission suspend all proceedings on its complaint against RSFW and that the complaint be dismissed following completion of the transfer of City Classis to the Regional Synod of the Mid-Atlantics (“RSM-At”). The commission granted the request of City Classis to suspend all proceedings, and therefore took no additional action regarding the complaint.

On October 1, 2018, the commission received a copy of letter from RSM-At to City Classis officially welcoming it into the RSM-At, and on October 2, 2018, the commission received a communication from the stated clerk of City Classis confirming that the classis had been transferred to and received by RSM-At and requesting that the classis’s complaint against RSFW be dismissed. Consequently, on October 9, 2018, the commission sent a communication to City Classis and RSFW formally informing them that, in accordance with City Classis’s request, the complaint was dismissed.

**Appeal by Elder Thomas Kaiser from Action by the Regional Synod of New York**

The appeal by Thomas Kaiser (“Kaiser”) was received by the Office of the General Secretary on July 3, 2018. The appeal is essentially a continuation of a matter reported on by the CJB to the 2018 General Synod (MGS 2018, pp. 293–294). In that matter, the CJB determined that “[t]here has been no formal judgment with respect to the behavior or misbehavior of [the appellant] by any judicatory of the Reformed Church in America. There being no formal judgment, necessarily there can be no other decision than to dismiss the appeal of [the appellant], and such was the action of this commission” (MGS 2018, p. 293).

Meanwhile, having been informed of the CJB’s dismissal of the appeal without a hearing, a complaint against the Classis of Orange (“Orange Classis”) was filed by Kaiser with the Regional Synod of New York (“RSNY”). On May 24, 2018, the stated clerk of the RSNY notified Kaiser and the stated clerk of Orange Classis that at its meeting on May 5, 2018, the RSNY decided to adopt the recommendation of the RSNY’s Judicial Business Committee. That recommendation was quoted in the RSNY clerk’s May 24 letter as follows: “The Regional Synod of New York confirms the actions of the Reverend Classis of Orange at its Stated Session on February 23, 2017.” It is from this action that Kaiser appealed.

As noted in the introduction to this report, the CJB obtained and reviewed “the original record of all the proceedings in the case, including the notice of intent, the evidence,
the arguments, and any other documents bearing on the case” and discussed it during its September 6, 2018, conference call. More particularly, the commission determined that written notice of intent to appeal was filed with an officer or the clerk of the judicatory which took the action in question not later than 20 days after the appellant received notice of the action taken; the appeal and the reasons therefor were filed with the clerk of the higher judicatory within 20 days after the filing of the notice of intent; the clerk of the lower judicatory filed with the clerk of the higher judicatory, within 20 days after the filing of the notice of intent, the original record of all the proceedings in the case (including the notice of intent, the evidence, the arguments, and any other documents bearing on the case); and the case and its attendant papers are in order (BCO Chapter 2, Part III, Article 2, Sections 1-4 [2018 edition, p. 94]).

Following a discussion of the 77-page appeal and reasons therefor and the 143-page record of the case, the CJB concluded that the appeal was frivolous (in part because serious and substantial questions exist regarding what remedy—if any—the appellant seeks from the General Synod) and clearly without merit (because the appeal and reasons therefor include a number of allegations but offers no substantial support for them). Consequently, and in accordance with BCO Chapter 2, Part III, Article 2, Section 6 (2018 edition, p. 95), the commission voted to dismiss the appeal without a hearing. The commission informed the appellant in writing of the dismissal. Thereafter, the appellant asked the commission to reconsider its action. The commission declined to do so.

**Appeal by Rev. William Henkel and Elder Elva Robinson from Action by the Regional Synod of the Mid-Atlantics**

The appeal by Rev. William Henkel (“Henkel”) and Elder Elva Robinson (“Robinson”) was received by the Office of the General Secretary on June 18, 2018. As in the Kaiser appeal, the CJB obtained and reviewed “the original record of all the proceedings in the case, including the notice of intent, the evidence, the arguments, and any other documents bearing on the case” and discussed it during its September 6, 2018, conference call. The CJB determined that the appeal and reasons therefor from Henkel and Robinson and the record of the case from the stated clerk of the Regional Synod of the Mid-Atlantics (“RSM-At”) contain no evidence that the appellants filed a notice of intent to appeal with the RSM-At as required by BCO Chapter 2, Part III, Article 2, Section 1 (2018 edition, p. 94). The commission also determined that the June 28, 2018, transmittal letter for the record of the case from the stated clerk for the RSM-At specifically states that “a ‘Notice of Intent to Appeal’ was not submitted to me, nor the Regional Synod office … ”

BCO Chapter 2, Part III, Article 2, Section 1 (2018 edition, p. 94) provides that “[w]ritten notice of intent to appeal shall be filed with an officer or with the clerk of the judicatory which took the action in question. This filing shall be completed not later than twenty days after having received official notification of the action taken. In default of this requirement, the appeal shall not be heard.” Consequently, the commission took no action regarding the appeal filed by Henkel and Robinson.

Respectfully submitted,
Russell Paarlberg, moderator