

# CHRISTIANITY TODAY



||| A PRESBYTERIAN JOURNAL DEVOTED TO STATING, DEFENDING  
AND FURTHERING THE GOSPEL IN THE MODERN WORLD |||

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## Editorial Notes and Comments

### PUBLISHER'S ANNOUNCEMENT

**I**N OUR February issue we advised our readers that we were considering the advisability of publishing CHRISTIANITY TODAY as a bi-weekly but that this could not be done without doubling the subscription price. Believing that such a step should not be taken without consulting our subscribers we requested them to express their approval or disapproval—a request that was repeated in our March issue. The returns indicate that approximately two-thirds of our subscribers favor such a change. However, so many of the one-third that expressed disapproval of the change did so on the ground that they could not afford the added expense that we have decided to hold the matter under advisement in the hope that conditions may soon be such that the change, if made, may be made with the approval of practically all of our subscribers. In the meantime CHRISTIANITY TODAY will continue to appear monthly and the price will remain \$1.00 per year.

### THE MACHEN VERDICT

**T**HE case of the Presbyterian Church in the U. S. A. vs. J. GRESHAM MACHEN has been adequately reported in this and preceding issues of this paper. On another page may be found in full the Opinion and Judgment of the Special Judicial Commission of the Presbytery of New Brunswick in this case. It may not be superfluous to offer certain comments.

The verdict was almost precisely as we had anticipated in view of the composition of the Court and the attitude it had displayed toward the defendant since its inception. The only question in our mind had to do with the question whether the judgment of the Court would go into effect immediately or whether its execution would be suspended, in whole or in part, until it had been affirmed or dismissed by a higher judicatory. As we understand the matter DR. MACHEN is not forbidden to approach the Lord's table but is forbidden to exercise any ministerial functions such as administering the communion or officiating at a wedding or voting in Presbytery until the appeal is finally decided. Obviously the verdict in the case of DR. MACHEN is not as immediately serious as it would be if he were the pastor of a church. We suspect that the considerations which led the Court to "show him mercy so far as at all possible"—to cite its own words—were not so much the ones mentioned in its Supplementary Statement as (1) its desire to stir up as little sympathy as possible for the defendant and (2) its doubt as to its own jurisdiction over the defendant. It is plain that not only the Court but the Presbytery of New Brunswick

would appear in a particularly ridiculous light if after pronouncing and executing its full judgment, a higher judicatory should decide that New Brunswick Presbytery had no jurisdiction over DR. MACHEN at all. That the Court had at least good reasons for doubting its jurisdiction in the matter is made abundantly clear by DR. O. T. ALLIS on other pages of this paper.

The verdict is based on the assumption that the case of the Presbyterian Church against DR. MACHEN is a purely administrative case. It is true that the case is administrative in form. It is true also that it is an overstatement to say, as some of the less judicious defenders of DR. MACHEN and the Independent Board have said, that DR. MACHEN was arraigned before a Court of the Church *merely* because of his loyalty to the Bible and the Constitution of the Presbyterian Church (including its form of government as well as its system of doctrine). But while the case is administrative in form it involves doctrinal issues to such a degree that in reality it is as much (or rather more) of a doctrinal than it is an administrative case; and hence a case that it is impossible to judge on its merits without taking doctrinal matters into consideration. Is it not a doctrinal question to ask whether the authority of the General Assembly is superior to that of the Word of God? Are doctrinal matters not involved when it is asked whether the Board of Foreign Missions is pursuing a policy friendly to the Modernist Auburn Affirmation? When therefore the Court refused even to consider the doctrinal issues involved it was a foregone conclusion that its judgment would be at least an imperfect judgment. The cry "the issue is administrative not doctrinal" is the same false cry that was raised in the Princeton Seminary case and even more misleading in this instance than in the former.

The verdict is also based on the assumption that the Mandate of the last General Assembly relative to the Independent Board is constitutional. If such is the case DR. MACHEN is unquestionably guilty as he freely admits that he disobeyed that Mandate. It is his contention, however, that that Mandate is unconstitutional and as such null and void. When therefore the Court ruled that it would not even consider any arguments questioning the legality or validity of that Mandate there was necessarily nothing left for it to determine except the nature of the penalty it would mete out to the defendant. A more amazing or less defensible ruling it would be difficult to imagine. This Mandate, be it remembered, is a mere deliverance of a General Assembly and as such no part of the Constitution of the Church (compare what is said in the accompanying editorial entitled *The Authority of the General Assembly*) and yet the Court ruled that it had no right to sit in judgment on its legality or validity. Surely the Court would have a right to do that even if this Mandate had been adopted by the presbyteries and so a part of the Constitution of the Church. Moreover it would be its bounden duty even then to declare it unconstitutional in as far as it might be in any wise in conflict



# Argument Presented to the Presbytery of Philadelphia in Support of a Memorial to the Synod of New Jersey

By the Rev. Professor Oswald T. Allis, Ph.D., D.D.

**T**HE "Book of Discipline" of the Presbyterian Church in the U. S. A. provides in Chapter XIV, Section 1, which deals with "Differences between Judicatories" that: "Any judicatory deeming itself aggrieved by the action of any other judicatory of the same rank, may present a memorial to the judicatory immediately superior to the judicatory charged with the grievance and to which the latter judicatory is subject, after the manner prescribed in the sub-chapter on Complaints (Chapter XII, Sections 8-15, Book of Discipline), save only that with regard to the limitation of time, notice of said memorial shall be lodged with the stated clerks, both of the judicatory charged with the grievance and of its next superior judicatory, within one year from the commission of the said alleged grievance."

This is the warrant for the memorial. Before presenting the arguments that may be advanced in its support, I wish to say that I am not presenting it at the request or suggestion of Dr. Machen or of his trial-counsel Mr. Griffiths. Until a few hours ago, it was my privilege to occupy the honorable and responsible office of Moderator of this Presbytery. It is the duty of the moderator to see that its business is "conducted with order and despatch." Anything which affects the honor, duty and rights of the Presbytery should be his especial concern. I have, therefore, followed the course of the trial at Trenton with great interest. The question that has come to me as Moderator with increasing force and growing insistence is this, What is the duty of this Presbytery, in view of the action of the Presbytery of New Brunswick?

When the question of jurisdiction was first raised, I was considerably in doubt as to the merits of the question. Recently I have come to the definite conclusion that Dr. Machen is a member of the Presbytery of Phil-

adelphia and that this Presbytery has therefore a solemn duty to perform. It is for this reason that I have presented this memorial and moved its adoption. The arguments in its support may be conveniently grouped under six heads:

I. The Reception of Dr. Machen; II. The Complaint Respecting the Reception of Dr. Machen; III. The Question of a Stay; IV. The Question of Jurisdiction; V. The Importance of the Question of Jurisdiction; VI. The Duty of the Presbytery of Philadelphia.

## MEMORIAL TO THE SYNOD OF NEW JERSEY

FROM THE

## PRESBYTERY OF PHILADELPHIA

Recognizing that it is both the right and the duty of a Presbytery to claim and exercise jurisdiction over all of its members, as well for their protection as for their correction, the Presbytery of Philadelphia finds itself obliged to take cognizance of and make solemn protest against the action of the Presbytery of New Brunswick in claiming jurisdiction and exercising discipline over Rev. Dr. J. Gresham Machen, subsequently to his reception by the Presbytery of Philadelphia on March 5, 1934. The Presbytery of Philadelphia holds that the said Dr. Machen, having been received by the Presbytery of Philadelphia, is subject solely to its own immediate jurisdiction. The Presbytery of Philadelphia therefore respectfully memorializes the Synod of New Jersey to reverse the above mentioned actions of the Presbytery of New Brunswick with reference to Dr. Machen and to declare them a nullity for the reason that the Presbytery of New Brunswick is without jurisdiction. (Adopted by the Presbytery of Philadelphia, April 1, 1935, by a vote of 66 to 32.)

### I. THE RECEPTION OF DR. MACHEN

(a) At his request the Presbytery of New Brunswick, on January 23, 1934, granted Dr. Machen a Letter of Dismission to the Presbytery of Philadelphia, the certificate stating him to be a minister in good and regular standing in the dismissing Presbytery.

(b) The Committee on Candidates and Credentials of the Presbytery of Philadelphia, on March 2, 1934, unanimously adopted the recommendation that Presbytery receive Dr. Machen on the basis of this certificate.

(c) At the meeting of Presbytery on March 5, Dr. Hyndman as Chairman presented the report of the Committee and moved the adoption of the recommendation. The motion was seconded and after debate was carried by a vote of 78 to 48, the

total number of members present, according to the Minutes, being 132. Dr. Machen was welcomed by the Moderator, according to custom; took his seat as a member of Presbytery, deliberated and voted during the remainder of the session.

(d) At the Stated Meeting on April 2, Dr. Machen was present and his name appears on the roll of members present. He was recognized by the Moderator and was permitted to have a statement inserted in the Minutes of



the March meeting. He then, at his own request, was excused by the Moderator.

(e) The Minutes of the Synod of Pennsylvania for 1934 contain in the Statistical Report of the Presbytery of Philadelphia, under the head of "Ministers Received," the following item, "March 5, 1934—Rev. J. Gresham Machen from the Presbytery of New Brunswick" (p. 98). Hence it is undeniable that Dr. Machen was actually received and sat as a member of the Presbytery of Philadelphia.

## II. THE COMPLAINT AGAINST THE RECEPTION OF DR. MACHEN

(a) No oral Notice of Complaint was given to Presbytery during the session of March 5, 1934.<sup>1</sup>

(b) Written Notice of Complaint was filed with the Stated Clerk of Presbytery within ten days, after the action was taken.

(c) The Complaint was lodged with the Stated Clerk of Synod on April 12th.

(d) In notifying the Stated Clerk of Presbytery of the filing of the Complaint, the Stated Clerk of Synod merely speaks of it as "a complaint against the action of the Presbytery of Philadelphia in receiving Rev. J. Gresham Machen, duly signed by 44 members of the Presbytery of Philadelphia who were present when the action was taken." He says nothing of a "stay."

(e) The Complaint itself makes no specific request of Synod. It claims the action of the Presbytery to have been irregular.<sup>2</sup> But it does not ask Synod to reverse, rescind, or nullify the action of Presbytery. Yet it has been claimed and is claimed that 38 or 39<sup>3</sup> days after Dr. Machen was received by the Presbytery of Philadelphia, this action of the Presbytery was stayed by the filing of said complaint.

## III. THE QUESTION OF THE STAY

Two points are to be carefully considered:

The validity of a stay depends in the first place upon the number of signatures attached to it. Unless it bears the names of at least one third of those recorded as present and entitled to vote, no proceeding of Presbytery can be stayed by such a complaint. Forty-four names out of a total of 132 were attached to the Complaint, this being the *minimum* number necessary to constitute one third. Of the 44, one had already at the meeting of March 5, 1934 seconded a motion to make the vote to receive Dr.

<sup>1</sup>This is not stated as though implying that such immediate oral notice of complaint was necessary or required by the Book, but simply to make it clear that during the remainder of the session of March 5, 1934, Dr. Machen sat unchallenged as a *member* of the Presbytery of Philadelphia.

<sup>2</sup>Three reasons are given, all of which are broadly covered by this word: "1. That the Presbytery of Philadelphia was guilty of irregularity in its proceedings. 2. That the Presbytery of Philadelphia refused a reasonable indulgence to a large number of the members of the Presbytery. 3. That the Presbytery violated the constitutional rights of a large number of the members of the Presbytery."

<sup>3</sup>The postal receipt bears date of April 12th. Dr. Shafer's acknowledgment specifies the 13th as the date when the Complaint was received by him.

Machen unanimous, thereby signifying his willingness to acquiesce in the will of the majority. One has subsequently withdrawn his name.<sup>4</sup> A third has died. The complaint now lacks *at the very least* one of the 44 signatures necessary to constitute the indispensable one third; and it is not fully established that it ever had the requisite number of *valid* signatures attached to it.

The validity of a stay depends in the second place upon the nature of the proceeding complained against. According to Book of Discipline, Chapter XII, Section 8, a "complaint" may be made against "a particular delinquency, action or decision" of the judicatory to which the complainants belong. But Section 15 of said chapter expressly limits a "stay" to "the execution of the decision" of a judicatory. The receiving of a minister by Presbytery is not a decision: it is an action and an action which by its very nature cannot be stayed. Consequently while the presence of the signatures of one third of the members of the judicatory on a complaint might have significance for the higher judicatory as indicative of the extent of the opposition to an act of the lower judicatory it could not stay the action itself, that action having already been performed. If there is no stay, the jurisdiction of the Presbytery of Philadelphia is not open to challenge.

## IV. THE QUESTION OF JURISDICTION

The question "of Jurisdiction in cases of Dismissal" is not a new one. It was carried by an Overture to the Detroit General Assembly in 1872. The decision of that Assembly is set forth in *Moore's Digest* for 1886 (p. 747f.) as follows:

"Overture from the Presbytery of New Castle, asking the General Assembly to determine, whether that Presbytery or the Presbytery of Cleveland has jurisdiction of the Rev. J. F. Severance. The facts in the case, appearing in the Overture, are as follows: Mr. Severance was a member of the Presbytery of Wilmington (which was succeeded by the Presbytery of New Castle), but left the bounds of that Presbytery in 1868. In 1870 he was within the bounds of the Presbytery of Cleveland; and, after the reconstruction, twice sat in the Presbytery of Cleveland as a corresponding member from the Presbytery of New Castle. In September, 1871, he was received a member of the Presbytery of Cleveland, under the operation of Principle 5, adopted by the Assembly for the purpose of reconstruction.

"Before the Presbytery of Cleveland adjourned the sessions at which Mr. Severance was received, that Presbytery obtained information, that rumors affecting the Christian character of Mr. Severance had come to the knowledge of the Presbytery of New Castle, and said Presbytery had appointed a Committee to inquire into the facts and correspond with Mr. Severance in regard to them; and this Committee had not been discharged, when Mr. Severance was received by the Presbytery of Cleveland. After the Presbytery of Cleveland had received this information from the Presbytery of New Castle, they reconsidered their action receiving Mr. Severance, and declared said action null and void. The question is, To which Presbytery does Mr. Severance belong. The Committee recommended the following: . . .

<sup>4</sup>The right of a complainant to withdraw a complaint has been repeatedly recognized by the General Assembly. Whether this name is removed by the stated Clerk of Synod, because the complaint has not actually come before Synod, or removed by action of Synod before acting on the complaint is a matter of indifference. The complaint does not carry 44 *valid* signatures.



"The decision of the Assembly, made in 1816, settles the principle that membership in any church judicatory is an entirety, and is not divisible. The judicatory is the judge of the fitness of an applicant for membership in it. The vote of the judicatory invests the applicant with all the rights of membership, of which he cannot be divested except by due course of discipline according to the Book. Hence Mr. Severance is a member of the Presbytery of Cleveland, and that Presbytery has jurisdiction in his case." (1872, p. 72.)

This statement is to be particularly noted:

"The vote of the judicatory invests the applicant with all the rights of membership, of which he cannot be divested except by due course of discipline according to the Book."

This settles the question of jurisdiction. The Presbytery may act unwisely or rashly and so gain an undesirable member. It may act irregularly and so expose itself to censure by the higher judicatory. It cannot reconsider its action. "The vote of the judicatory invests the applicant with all the rights of membership."

In the light of this clear decision of the Assembly of 1872, based upon a decision of 1816, the course of procedure followed by the Synod of Pennsylvania and by the Presbytery of New Brunswick relative to the reception of Dr. Machen by the Presbytery of Philadelphia is of particular interest, especially since both bodies acted at the advice or direction of the Stated Clerk of the General Assembly.

The Complaint against the action of Presbytery respecting the reception of Dr. Machen was filed with the Stated Clerk of the Synod of Pennsylvania on April 12, 1934, about two months before the meeting of Synod. It was entitled to hearing and disposition by that Synod. Yet, acting in accordance with the *personal* advice given to the Stated Clerk of Synod, at his request, by the Stated Clerk of the General Assembly,<sup>5</sup> Synod neither considered nor acted on the Complaint, but merely "held" it for a year until the next meeting of Synod. A Complaint against this delinquency on the part of Synod, signed by certain members of this presbytery who were Commissioners to Synod, is now on file with the Stated Clerk of the General Assembly. Unless this action of Synod is to be regarded as equivalent to dismissing the Complaint, it can only mean that the Complaint is still pending before the Synod of Pennsylvania. What the Synod will do with this Complaint is yet to be determined. It may vindicate the Presbytery of Philadelphia. It may censure it. It may instruct Presbytery how to deal with its new member. It clearly cannot invalidate that membership. Dr. Machen cannot be divested of his membership in the Presbytery of Philadelphia "except by due course of discipline according to the Book."

The action followed by the Presbytery of New Brunswick is still more noteworthy. Acting in his *official* capacity the Stated Clerk of the General Assembly, on July 13, 1934 addressed a communication to the Stated Clerk of the Presbytery of New Brunswick, calling upon the Presbytery of New Brunswick to carry out the terms of

the "Action" of the General Assembly regarding the Independent Board for Presbyterian Foreign Missions. And in the same official letter to the Stated Clerk of that Presbytery he further declared that "to the best of his information and belief" Dr. J. Gresham Machen "is within the jurisdiction of your Presbytery." Thus, the same high official of the Church, himself a member of this Presbytery, on the one hand advised the Synod of Pennsylvania not to act upon the Complaint of a *minority* of Philadelphia Presbytery and on the other hand advised the Presbytery of New Brunswick that, despite the action of a *majority* of Philadelphia Presbytery, Dr. Machen was "to the best of his information and belief" within the jurisdiction of the Presbytery of New Brunswick. In doing this the Stated Clerk of the General Assembly clearly exceeded his authority. It is not his function to decide questions of jurisdiction, whether they concern Presbyteries or Synods. He not only exceeded his authority. He erred. His "information and belief" were both in conflict with decisions of the Assembly which have stood unchallenged for more than a century. I repeat, *unchallenged for more than a century*. This very decision of the Detroit Assembly is reported word for word in the *Supplement to the 1930 Edition of The Presbyterian Digest*, which bears the date of 1934.<sup>6</sup>

## V. THE IMPORTANCE OF THE QUESTION OF JURISDICTION

The question of jurisdiction is of primary importance in every judicial process. If a court is without jurisdiction, all of its proceedings in a given case are a nullity. In the case under consideration the question of jurisdiction was prior not only in importance, but also prior in time. Dr. Machen was dismissed by the Presbytery of New Brunswick, he was received by the Presbytery of Philadelphia, complaint against the manner of his reception was lodged with the Stated Clerk of Synod—all a month and more before the General Assembly adopted its "Action" relative to the Independent Board. This Action required Presbyteries to deal with members of the Independent Board subject to their jurisdiction. Even should it be granted that the Action is constitutional, it did not and could not determine the question of jurisdiction. Hence for the Stated Clerk of the General Assembly at one and the same time to advise the Synod of Pennsylvania to hold the Complaint of the minority in Philadelphia Presbytery and so leave the complaint undecided for a year, and at the same time instruct the Presbytery of New Brunswick to carry out the Action of the General Assembly regarding members of the Independent Board, on the ground that according to his best, but clearly mistaken, "information and belief" the Presbytery of New Brunswick had jurisdiction, can only mean that the Actions of the Assembly are of such urgency that they must take precedence over all

<sup>5</sup> This letter will be found in full in the issue of CHRISTIANITY TODAY for August 1934, p. 62.

<sup>6</sup> Of this Supplement Dr. Lewis Seymour Mudge was the editor and Dr. William Parker Finney the associate editor.



ordinary judicial procedure. The clear implication is that the all-important thing is that the alleged offender be tried and speedily. What judicatory tries him and whether said judicatory has jurisdiction or not is a matter, it would seem, of secondary importance. This is dangerous doctrine to say the least. Such procedure exposes the courts and officials of the Church to the charge of unfairness and prejudice. It is ominously significant that the very first Presbytery to place a member of the Independent Board on trial is the only one of eight Presbyteries claiming jurisdiction over ministerial members of the Independent Board whose jurisdiction is open to challenge. In the case of Olympia, Chicago, Philadelphia,<sup>7</sup> Chester, St. Lawrence, Newcastle, West Jersey, where no question of jurisdiction can be raised, no member of the Independent Board has as yet been actually placed on trial. The only Presbytery that has both tried and sentenced a member of the Independent Board is the one Presbytery of them all whose right of jurisdiction is challenged. This fact cannot but cast suspicion upon the whole course of procedure that has led up to the now historic trial at Trenton. It cannot but raise the question in the mind of every lover of justice and fair play, whether there were not special reasons for the course that has been pursued. There *is* no question of jurisdiction. But even if there were, the orderly procedure would obviously have been to settle the question of jurisdiction first, even if it involved some delay. To depart from such orderly procedure is not calculated to restore peace in the Church by impressing all concerned with the fairness, deliberation, and justice of every step that has been taken in the course of this judicial process. It is rather calculated to further disturb the peace of the Church by casting suspicion upon the whole course of it. Unless justice miscarries, might does not make right in civil procedure. It certainly should not do so in ecclesiastical.

## VI. THE DUTY OF THE PRESBYTERY OF PHILADELPHIA

Under the circumstances briefly set forth above the Presbytery of Philadelphia has a solemn and imperative duty to perform. This duty is to make earnest and vigorous protest against the action of the Presbytery of New Brunswick in claiming jurisdiction over Dr. Machen and in proceeding to try him and discipline him as one subject to its jurisdiction. Even if the claim of this Presbytery to jurisdiction were a somewhat doubtful one, it would be the duty of Presbytery to safeguard its interests and maintain its honor and its rights. Should the Synod or the General Assembly sustain the action of the *majority* of the Presbytery in receiving Dr. Machen and dismiss the Complaint, —certainly every member of Presbytery who voted with

that majority should and must hope and expect that such will be the outcome—the Presbytery would be faced with this situation: one of its own members, subject solely to its immediate jurisdiction, claimed, tried, condemned, by a Presbytery having no jurisdiction. No member of Presbytery to whom the honor of this Presbytery is dear, can contemplate such a possibility without a feeling of apprehension and of shame. *But* the claim of this Presbytery to jurisdiction is *not* a doubtful one. Dr. Machen was received by this Presbytery. "The vote of the judicatory invested him with all the rights of membership," the right to protection no less than the liability to correction. He cannot be divested of any of these rights "except by due course of discipline according to the Book." Let there be no mistake. The question before the Presbytery is not the question of Dr. Machen. The question concerns the honor and the duty of the Presbytery of Philadelphia. Dr. Machen has been on trial, under protest, before the Presbytery of New Brunswick. The Presbytery of Philadelphia, which received him into its membership, is on trial before the church and before the world. Thinking people all over the country are looking to this great Presbytery wondering what it will do when faced with so humiliating and dishonoring a situation.

Fellow-members of the Presbytery of Philadelphia, this Presbytery to which we belong is an old and a historic Presbytery. It has a long and honorable history. It is identified with American Presbyterianism from its beginning. Here if anywhere in this land the honor of the Presbytery and the rights of Presbyterians should be held sacred. Let us today add a worthy page to the long history of this Presbytery by adopting this Memorial.

## EDITORIAL NOTES AND COMMENTS—Concluded

(Concluded from Page 280)

reverence and submission" (Confession of Faith, Chap. XXXI, Sec. II). It should be remembered also, however, that according to our Form of Government the General Assembly should be a truly representative body and as such one that embodies and that gives expression to the wisdom of the Church as a whole. It can hardly be said, however, that the General Assembly is any longer a truly representative body. A large proportion of its members are chosen merely because it is their turn to go, irrespective of their qualifications as commissioners. As a consequence the General Assembly is largely composed of commissioners who have not only had no previous experience but who have little ability to deliberate and vote wisely, and who as such become little more than rubber stamps for what is proposed to them by the platform. The result is that its acts and deliverances reflect not so much the wisdom of the whole Church as the wisdom of the small group in control of the machinery of the Church. Hence its acts and deliverances, in many instances at least, are entitled only to that degree of reverence and submission that attaches to the opinion of the "hierarchy" of the Church. The circumstances being what they are, it is not strange that the deliverances of the General Assembly often command little respect.

<sup>7</sup>The Presbytery of Philadelphia has, not counting Dr. Machen, five members who are connected with the Independent Board and whose membership in the Presbytery is unchallenged.