

Charges before PMA-2021 in re Jason R. and New Hope Officers (defs):

Preliminary Investigation Report

I. THRESHOLD ISSUES: Original Jurisdiction, Substantive Jurisdiction

Issues of standing, time bar, and Matthew 18 seem not to complicate the case.

A. ORIGINAL JURISDICTION AND REFERENCES

The Committee, under current circumstances, sees no better alternative than to agree to the proposal (agreeable to all parties) to assume jurisdiction over all the charges brought by William R. *et al*. The ordinary policy (cf. BD III.7a and 8a; FG XII.1,2 N.B. “exclusive” in XII.2) is that a trial judicatory be the judicatory of original jurisdiction. The OPC did away with a BD provision for references early in its history and has resisted hierarchical tendencies due to its experience in the PCUSA. As such, the current situation arising from the multiple charges constitutes a departure from the usual disciplinary cases one encounters in the OPC. In taking this approach we are reverting to older Presbyterian practice. This unusual situation is related to what we may call a substantive jurisdictional question.

B. SUBSTANTIVE OR SPECIAL JURISDICTION

The great majority of the charges are concerned with the corporate acts of a lawful corporate body in which individuals have a part. By lawful “corporate body” we mean the session of New Hope which not merely lawful as an allowable corporate entity, but a properly recognized governing entity within the OPC and subject to the correction of the PMA. From a biblical point of view, such an entity is not infallible or beyond the capacity to sin. However, the Committee is of the opinion that substantively, jurisdiction is lacking to prosecute the individuals charged for their corporate agreement (tacit or explicit) involvement in session actions.

ACCOUNTABILITY AND CORRECTION: ADMINISTRATIVE AND JUDICIAL DISCIPLINE

There is such a thing as corporate responsibility, guilt, and sin in which individuals may bear accountability before God and in the forum of the conscience (Act 7:58-60). That said, there are limits in our church polity regarding how a governing corporate entity is subject to correction. The ordinary formal method of correction is by the administrative disciplinary process of complaint. When the BD defines a complaint in terms of “charging a judicatory with delinquency or error” (BD IX.1), this does not imply the delinquency or error in question is devoid of sin or offense. This language, however, distinguishes this administrative disciplinary tool from judicial discipline which speaks of a “charge of an offense” (BD III.1). There is no provision for charging a judicatory with offense, the common practice and understanding of the OPC is that individuals are properly the subjects of judicial discipline, and BD III.8.a and VI.2 reflects this view that a “person” or “member” (in the usual sense of the word) is the proper subject of judicial discipline.

CORPORATE ACTS

In the case before us, the difficulty of charging a session with an offense (judicial discipline) is partially avoided by bringing individual charges against particular members of the session. It remains the case that a corporate action of the session is at the center of most of the charges regarding each individual. The question, simply put, is whether corporate actions falling under the jurisdiction of administrative discipline are prosecutable by judicial discipline against individuals. In ordinary circumstances this would not seem proper—particularly where a complaint has preceded the bringing of judicial charges. Because there has been a complaint in which there was a finding of error, individuals who were ostensibly involved in the judicatory error had no due process protection or opportunity to challenge the finding with respect to their own culpability by means of the special provisions available to them under judicial discipline (warning accusers, citing witnesses, cross examination, counsel, etc). Though such provisions are arguably available now in a judicial case, the fact remains that a finding has been made that prejudices the case. It is somewhat analogous to allowing a civil suit to take priority over a criminal case where a lower burden of proof exists and fewer protections exist for the defendant.

One can imagine—hypothetically—a dire situation in which a judicatory unanimously endorses Arianism and urgent action is required that would merit judicial disciplinary intervention. If a whole judicatory becomes corrupt, however, the ordinary means of correction are often insufficient and extra-constitutional measures are called for (e.g. 1837 exciding of the New School judicatories; the Constitutional Covenant League and the OPC). It should be noted that administrative discipline (a complaint) was properly pursued in regard to sessional action concerning Mr. Jason R. and relief was afforded by Presbytery. That relief could have been deferred by carrying the complaint to GA on appeal but the session ultimately decided not to take this action. A process—potentially prejudicial to the due process rights of individual session members—has already taken place and the judicatory (session) has not been found contumacious to the corrective processes of the church. In short, no emergent situation exists calling for unusual measures and judicial charges for individual session members based solely on a session's joint action is extraordinary and likely *de novo*.

II. FORM ISSUES: Charges, Nexus, Seriousness, etc.

A. CHARGES

1. Mirror Charges

The three charges by William R. *et al.* mirror three of the four charges against Jason R. in most respects. This is interesting on several levels. If one set of charges is valid in form (leaving aside the nexus with specifications issue), then it is hard to argue that the other set is not also valid in form. The reverse is also true.¹ Naturally specifications will vary in the two cases. However, in at least one charge

¹S. Jones believes the “mirror charges” of the current case are generally weak in form as are the original charges now on appeal before the PMA. Normal process for an appeal requires taking up the specifications of error presented and voting on each per BD VII. S. Jones believes that if the charges in both cases mirror the same weaknesses and should not go to trial (or should not have gone to trial in the case of Session v. Jason R.), that Presbytery might do well, on its own motion (*sua sponte*), to frame such additional specifications of error as might be needed to avoid using different weights and measures to assess to the two cases. The session, however, should be apprised of such possible additions before the cases are heard.

against Jason R. (charge 3) there is a partially parallel fact pattern being set forth. Jason R. has some association with Geneva Commons that apparently makes him more responsible to do something about the more objectionable actions of its members and each several session member is associated in the action of the session.

2. General Charges

A charge of offense, *per se*, is more general than a specification of charge just as a genus may include within it various species. Put another way, the charge *per se* is a major premise a syllogism and the specification of fact/charge, is the minor premise. Though a charge *per se* is more general it must not be too general. A charge that X is guilty of sin is too general and defeats the due process protection and/or spiritual restoration function of naming a particular sin to be addressed. This principle is present in the BD III.3.(c) provision that each charge must set forth only one offense. That would imply that a large range of offenses is not in order. This is a problem for Charge 2 against Jason R. and the parallel charge by William R. *et al.* against several session members.

Though it is not unknown in Presbyterianism for charges to utilize an ordination vow, the charge of violating the peace, purity, and unity of the church fails to specify the particular sin which has so injured the church. That this vow points to a of [sic] category offenses and not one particular offense is seen in BD III.3.7.b and III.8.b where one criterion is spelled out for evaluating the seriousness of an offense which may fit a range of offenses (e.g. schism, slander, personal insult, quarreling, lewd jesting). Most of the time this is easily rectified by identifying the specific sinful behavior that applies (fixable technical error). Cf. OPC GA Minutes, 2000, page 241 (an appendix) report regarding form of charge in Pedersen case.

This was not done in the charge against Jason R. so everyone is left draw inferences from the specifications. In general, the first three specifications are about non-responsiveness to concerns and questions. Specifications four and five concern publishing information. Specification six concerns

2

²BD III provides the form in which charges are to be brought which involve the charge proper and specifications of fact (or specifications of charge). Specifications need to be relevant to and supportive of the charge proper to be considered. There are two ways (degrees) in which a specification may be relevant. A single specification, if proven, may be sufficient to prove the charge (i.e. dispositive). A specification might also be probative regarding some essential element of an offense but more than one element is needed to prove the offense. This two-fold way of viewing specifications is set forth by Walter Steuart of Pardovan--an early Presbyterian authority from the Church of Scotland. Pardovan uses the term relevancy more in the sense of dispositive than probative. He describes the relationship of these two parts of a "Libel" (cf. *libellus accusationis*) as a law syllogism (legal syllogism) in which the major premise is the "law" proposition and the minor premise is a statement of fact. In simple form, one specification might be sufficient to constitute a valid proof of offense. However, Pardovan states, "Although one article [i.e. specification] of the Libel *per se* be not relevant [i.e. dispositive], yet if three or four articles *conjunctim* be relevant [i.e. dispositive], the same may be admitted to probation [a trial may proceed]." Walter Steuart [of Pardovan], *Collections and Observations*, Book IV, Title III, 1,3. cf. <https://babel.hathitrust.org/cgi/pt?id=nyp.33433069123424&view=1up&seq=235>. A single specification might satisfy the judicial syllogism (dispositive) or several relevant specifications might conjointly be dispositive (e.g. giving all the elements required). We might add that If each of several specifications are dispositive, then we have several *counts* or instances of the same charge being supported.

attendance. There appears to be three classes of specification here suggesting the same singular offense is not in view. Since this case is completed and now on appeal, it is not clear how this can be fixed.

In the counter case (William R. *et al.* vs. several session members) the vow is in view again and the first two specifications delineate a concern with disparagement of Mr. Jason R's good name by two public announcements on two occasions. Apart from the substantive jurisdiction problem, this form of charge could be fixed by making the charge two counts of public disparagement without due process (or something akin to this). The third specification concerns public distribution of a document and though seemingly related to the public disparagement concern—alleges a one-sided account of a conflict. This might be fixed as a third count of public disparagement or as one count of some other offense. Specification four asserts disparagement of other OPC men by individual session members. In this case no corporate act of session qua session is at the root of the charge so the substantive jurisdiction issue is not of concern. The charge, if fixed to address the disparagement of other individuals, would likely meet with difficulty since the matter entailed a variety of exchanges over the internet. In each charge that gets fixed, some more fact-based specification is needed (e.g. paraphrase of a quotation) that does not simply repeat the word "disparage" or its cognates.

A specification unique to charges against Mr. VanD, related to the same vow issue (specification #3 against VanD.) alleges two open session meetings were held where he individually spoke disparagingly of Jason R. (two counts?). This charge seems fixable, requires some more fact-based specification, and does not come within the same substantive jurisdictional objection raised above.

There is an issue of the need for officers to have greater latitude to voice concerns about members when they meet as a session but that might be something that is properly raised as a legal defense after a charge is found in order.

If a number of charges are dismissed in the second case, a mitigating factor to be considered relative to BD III.6 is that non-officers followed a pattern of drafting charges laid out by session.

B. CHARGE AND SPECIFICATIONS RELEVANCY-NEXUS

A relevancy nexus generally obtains in the two cases because charges are generally overbroad. Different fact patterns satisfy the same charges that are mirrored. That said, the charges against the several session members tend to allege mirrored behavior (e.g. publishing one's side of the issue outside formal process). See above. There should also be a relevancy nexus between specifications (which summarize the essential facts) and the evidence or testimony that is proffered to supply facts (see below).

C. SERIOUSNESS

The BD gives criteria for what is an offense serious enough to warrant a trial and though an offense *per se* can be defined without reference to specifications of fact, it gets trickier defining the seriousness of an offense without specifications of fact. The "open letter" faces a hurdle of meeting the seriousness criterion in a context where numerous points are being set forth in a public forum not subject immediately to church authority. Attempts to correct each other in such an environment are likely in vain and where the peace disturbance originated complicates this problem. Some will argue it began with the published views of a woman author. Since that woman by OPC policy cannot be an officer her published views may be harder to challenge in church courts. If she is disturbing the peace, purity,

and/or unity of the church by publishing that is in error however, this is not beyond the reach of charges. It is not enough to charge disturbance the church however. There must be disturbance by some specific sin or error.

Finally, though acquiescence with judicatory error or sin entails a degree of culpability, the degree of individual culpability may vary from individual to individual (Is Nicodemus or Joseph of Arimathea as guilty as Caiaphas?). The charges for the several session members are all essentially identical and the specifications allege no unique fact pattern for each individual (VanD. exception noted above). As such, the offense is given simply as session's action. That session's action may have been serious in its consequences does not imply equal culpability of each member and even if it did, the substantive jurisdiction issue remains. Without unique specifications for each individual, Presbytery is called on to assume the sufficiency of a corporate error (or offense) to be serious enough to charge unique individuals. [NOTE: This same issue seems partially present in implied corporate responsibility re Geneva Commons and Jason R.]

RECOMMENDATIONS

1. Find corporate act charges out of order, i.e.
 - Mr. H. and all similarly charged (per H. enumeration): Charge 1, Specs 1-4; Charge 2: specs 1-3; Charge 3: Spec 1 (publicity)
 - Mr. H. and all similarly charged (per H. enumeration): Charge 1: Spec 6 (remarks at trial)
 - Mr. H. and all similarly charged (per H. enumeration): Charge 3: Spec 2 (remarks at PMA)
2. Find charges re open letter out of order, i.e.
Mr. H. and all similarly charged (per H. enumeration): Charge 1: Spec 5; Charge 2: Spec 4
3. Find Charge 3, specs 3 and 4 out of order (VanD. responses in trial)
4. Vote for one of the options below (a or b) regarding VanD. unique spec ("3a" per chart)
 - a. Find One charge (two counts against Mr. VanD) out of order and not fixable;
 - b. Find charge (two counts) against Mr. VanD. in order but potentially in need of fixing.[BD III.7.b]; adopt fixed form. See below.
5. If Presbytery deems that a charge or charges by the accusers may not go to trial, defer the question of whether censure should be considered (for faulty charge[s]) until the completion of the Jason R. appeal.
6. Agree to assume prosecution if any case(s) remain and appoint prosecutor(s);
7. Set first meeting of trial if any case(s) remains.

Chart 1—Charges in re J. R. and New Hope -2021

No:	CHARGE: Accuser Session v. Accused Jason R.	No:	CHARGE: Accuser Wm R. <i>et al.</i> v. Accused “session” severally
1	Violating 9 th commandment by failing to protect the good name of others.	1	Violating 9 th commandment by failing to protect the good name of others.
2	Failure to keep unity and peace of church/aggravated wrt vow.	2	Violate command to keep peace, purity, unity.../aggravated ...
3	Violating 5 th commandment wrt failing to protect the flock of God.		
4	Violating 9 th commandment by doubtful & equivocal expressions, i.e. being disingenuous	3	Violating 9 th commandment by doubtful & equivocal expressions, i.e. being disingenuous.
On appeal before PMA		Several defs	Rev. H. (M), Mr. K. (RE), Mr. C (RE), Mr. M. (RE), Rev. VanD. (M), Mr. W (status?), [not charged: Mr. P]
		Several accusers	(Wm) R., P., B, W

SUMMARY OF SPECIFICATIONS to CHARGE 1: AGAINST “SESSION”

1. Jan 26, 2020 announcement to congregation (H,K,C,M,V,W)
2. Feb 9, 2020 announcement to congregation (H,K,C,M,V,W)
3. Apr 7, 2020 *letter* to congregation and visitors (H,K,M,V[4],W)
4. Apr 30, 2020 email to members and attenders (H,K,C,M,V[5],W)
5. Jun 22, 2020 open letter re Geneva Commons (H,K,___ M,V[6],W)
6. Jan 16, Feb 6 2021 remarks at trial not germane to charges (H,K,C[5],M,V[7],W)
- 3a. Feb 11, 2020 VanD. remarks at an open meeting held by session (V)

One specification is unique to Mr. VanD.; Mr. C. evidently was not specified in what is specification 5 for the majority of session members. Cf. also for charge 2 specifications.

SUMMARY OF SPECIFICATIONS to CHARGE 2: AGAINST “SESSION”

1. Jan 26 announcement (cf. above) adding “making public” etc. (H,K,C,M,V,W)
2. Feb 9 announcement (cf. above) adding public issue, etc. (H,K,C,M,V,W)
3. Apr 7 *document* (cf. above) adding public issue, etc. (H,K,C,M,V[4 variations],W)
4. Jun 22 open letter (cf. above) etc. (H,K,___M,V[5],W)
- 3a. Feb 11 VanD. remarks (cf. above), personal grievance, etc. (V).

SUMMARY OF SPECIFICATIONS to CHARGE 3: AGAINST “SESSION”

1. Apr 21, 2020 email (to congregation?) re handling of complaint (H,K,C,M,V,W)
2. Sep 19, 2020 remark(s) at PMA and later actions (H,K,C,M,V,W)
3. And 4. Feb 6, 2021 - Responses of VanD. to questions during Jason R. trial (V)

CHART 2--Specifications and Evidence in the Case

The “core” of the support for the (charges and) specifications consists of documentary evidence (11 are cited). There are one or two major exceptions that seem to *require* witnesses (VanD. before session and (individual) unattributed remarks before Presbytery). Since it is not the purpose of a preliminary investigation to hold a trial, only facially deficient proffered evidence would disqualify a charge and specification (e.g. viewing the sum of proffered evidence from a perspective most favorable to prosecution).

Charge 1 specifications and related evidence—[2 accusers for doc provenance; witnesses are not generally noted here where the “core” of case is a document.]

Spec 1: doc 1

Spec 2: doc 2

Spec 3: doc 3 [backstory]

Spec 4: doc 4

Spec 5: doc 5 [open letter]

Spec 6: doc 7 [trial trans] [16-18; 155-158]

{VanD. spec 3}: No documents; witnesses include 2 accusers and some session members.*

*If the specification is deemed in need of fixing per above—some more “neutral wording” of a new specification (not simply repeating “disparage” and cognates). This might rely on contact with witnesses to gain a general sense of what specific words were used per proffered testimony. See below proposal.

Charge 2 specifications

Spec 1: doc 1

Spec 2: doc 2

Spec 3: doc 3 [back story]

Spec 4: doc 5 [open letter]

Charge 3 specifications and evidence

Spec 1: doc 8 [Apr 21, 2020 email]

Spec 2: docs 9,10,11 and witnesses [details re unspecified individuals’** remarks at presbytery, complaint etc.] **Lack of specificity would seem fatal to the specification absent clear evidence.

Specs 3, 4: Unique to VanD. (remarks at trial). ***The charges should be more definite, especially in a trial setting ,e.g. perjury or lying.

COMBINED CHRONOLOGY [Italics for added items*]

New Hope OPC Chronology regarding Charges against Mr. Jason R. TimeLine [Italics for added items*]

1. **Aug 15, 2019:** Geneva Commons (GC) posts by members that they warned churches and called Machen Center, also posting on Facebook and Machen homepage warning that Mrs. B. would be speaking at Machen (Doc 10, 11).
2. **Oct. 2, 2019:** Mrs. B. receives screenshots of critical and unseemly postings from someone in GC. Mrs. B. becomes concerned that Mr. R. has been aware of negative postings related to her and has not let her know.
3. **Oct 9, 2019:** Mrs. and Mr. B. met with Mr. VanD. to lay out their concerns about Mr. R. and determine what should be done.
4. **Nov 2, 2019:** Mr. M. and Mr. VanD. met with Mr. R. to discuss Mrs. B's concerns with him and see where he was with them.
5. **Nov 5, 2019:** First meeting with Mrs. B. and Mr. R., with Mr. B. and Mr. VanD. present, where Mrs. B. confronted (laid out her concerns to) Mr. R.
6. **Nov 19, 2019:** Mr. M. and Mr. VanD. met with Mr. R. to further discuss Mrs. B.'s concerns.
7. **Nov 29, 2019:** Mr. R. met with Mr. VanD. to discuss where he was in preparation for meeting with Mrs. B.
8. **Late 2019:** A call for plans to take offensive and defensive measures against Mrs. B.'s book were posted on GC which Mr. R. saw (Doc 12).
9. **Dec 10, 2019 :** Second meeting with Mrs. B. and Mr. R., with Mr. B., Mr. VanD., and Mr. M. present, for Mr. R. to ask forgiveness and speak to Mrs. B.'s concerns. Mr. R. states he saw warnings about Mrs. B. (Doc 10), offensive and defensive measures (Doc 12), and offensive comments (Doc 11, 13).
10. **Jan 4, 2020:** Mr. M. and Mr. VanD. met with Mr. R. to address what they saw as lacking in Mr. R.'s shepherding, and eldering.
11. **Jan 7, 2020:** Stated Session meeting where Session spent some time expressing concerns to Mr. R. about his character and shepherding.
12. **Jan 14, 2020:** Mr. VanD. met personally with Mr. R. and Mrs. R., to ask forgiveness for not raising concerns earlier, and to ask Mr. R. to take a sabbatical.
13. **Jan 15, 2020:** Called Session meeting where Session spent a significant amount of time expressing concerns about Mr. R.'s character and shepherding directly to him. Session asks Mr. R. to take a sabbatical/step back from all eldering duties.
14. **Jan 25, 2020:** Called Session meeting to hear Mr. R.'s answer to stepping back/sabbatical, to which he agreed; Session spent most of this meeting expressing concerns about Mr. Rundel's character and shepherding directly to him.
15. **Jan 26, 2020 around 8am:** Session receives a notice via text message from Mr. R. that he rescinds his acceptance of the sabbatical, and that he will take a week to consider whether or not he should resign.
16. **Jan 26, 2020:** Mr. R. begins to absent himself from worship services (Doc 8, 9).
17. **Jan 30, 2020:** Mr. VanD. sends a personal letter to Mr. and Mrs. R. which, in part, addresses concerns of shepherding and character.
18. **Feb 4, 2020:** Stated Session meeting where Session agreed to send a letter to Mr. R. detailing their concerns with his shepherding and character, seeking his cooperation with the problems session identified, or recommending him to resign (Doc 4). The letter is sent **Feb 6, 2020** . **Per specifications, allegations made on Feb 11 and 13.*
19. **Feb 12, 2020:** Mr. M., Mr. Dennis C., Mr. Joel P., Mr. VanD. meet with Mr. and Mrs. R. at their home to clarify his willingness to step back, among

other things.

20. **Feb 15, 2020:** Called Session meeting where Session voted to accept Mr. R.'s response to step back.

21. **Feb 25, 2020:** Session requests Mr. R. to write out his concerns with Session's errors in policy/procedure, and to read a book and respond to it (Doc 5); both requests were unanswered.

22. **Mar 4, 2020:** Mr. VanD., on behalf of Session, asks Mr. R. to meet with Session on March 14th to respond to questions prepared by Session (Doc 7).

23. **Mar 9, 2020:** Mr. R. responds that March 14th does not work. Mr. VanD. asks for a "few Saturdays or Tuesdays that work" but receives no reply (Doc 7).

24. **Mar 15, 2020:** Called Session meeting answering communications, Covid-19, Backstory, preparation of questions to ask Mr. R..

25. **Mar 25, 2020:** Complaint against New Hope Session by Mr. R. received.

26. **Mar 26, 2020:** Called Session meeting to deal with Backstory, Complaint, talk about errors Session may have made.

27. **April 7, 2020:** Stated Session meeting about how to respond to the Complaint.

28. **April 8, 2020:** The Backstory is mailed out via USPS to the congregation (Doc 2).

29. **April 18, 2020:** Called Session meeting to write a response to the Complaint, also voted to begin the process of divestiture against Mr. R..

30. **+/- April 21, 2020:** Mr. R. shares The Backstory and other information with non-New Hope officer who posts it on his website along with his own comments (Doc 3).

31. **April 22, 2020:** Mr. R. sends personal email to members and regular attenders of New Hope defending himself, delineating grievances with Session, explaining concerns with Session's response to his complaint (Doc 1). He invites congregants to write to him with concerns.

32. **May 5, 2020:** At this Stated Session meeting Session heard Mr. R.'s defense to continue in office -and each member asked Mr. R. to resign.

33. **May 5, 2020:** At this Stated Session meeting Mr. R. states that he cannot sit under Mr. VanD.'s preaching or take communion from him.

34. **May 9, 2020:** Called Session meeting where Session requested an ad hoc committee of presbytery to review 5 points of concern related to Mr. R.'s complaint, and to move forward with divestiture.

35. **May 15, 2020:** Mr. Wise, clerk of Session, receives notification from Mr. R. that he will carry forward his complaint on appeal to presbytery.

36. **August 30, 2020:** Mr. R.'s "stepping back" ends.

37. **September 19, 2020:** Presbytery of the Mid-Atlantic takes up Mr. R.'s complaint brought forward on appeal. Mr. R. fails to answer clearly a question about attending New Hope. **The PMA sustains the complaint and grants the first amend.*

38. **Sept 26, Oct 4, 2020:** Mr. R. worships in person again.

39. **Oct 4, 2020:** During worship Session apologizes for its error and owns the consequences of its actions.

40. **November 7, 13, 2020 and Jan 26, 2021, Feb 6 [p. 101]--J. R. Charged and trial held*

41. **March 16, 2021--Appeal of trial finding filed with PMA*

42. **March 22, 2021--Charges filed by W. R., et al.*

43. **April 3, 2021--Ad Hoc Committees of PMA appointed*

A possible REVISED (fixed) CHARGE and Specifications: **The charge proper is underlined**

Mr. VanD. did commit the 9th commandment offense of improperly disparaging Mr. R.'s good name (thereby failing to keep the peace, purity and unity of the church and contrary to his ordination vow).

Specification 1 (count 1): On February 11, 2020, Mr. VanD., in an open session meeting, gave examples of sins Mr. R. was alleged to have committed apart from the filing of formal charges.

Specification 2 (count 2): On February 13, 2020, Mr. VanD., in an open meeting of session, gave examples of sins Mr. R. was alleged to have committed apart from the filing of formal charges.

Witnesses: those in previous (unfixed) charge

Scripture: Ex. 20:16 *inter alia*

Constitution: WLC 145

Seriousness: See parentheses in charge proper and BD III.

Observations: A higher degree of freedom to speak of possible wrong doing by members—apart from prior formal process being invoked-- by session members is no doubt part of sessional oversight. This does not mean such freedom cannot be abused. The question is whether such a preliminary investigation or a trial is the best forum in which to determine if such an abuse has occurred. A preliminary investigation is not a trial. For this reason, a trial—in which some burden to prove abuse of discretion is acknowledged—is arguably the proper forum for such determination.