The "Ministerial and Declarative" Powers of the Church and *In Thesi* Deliverances

By C. N. Willborn, Ph.D.

American Presbyterianism has a number of ecclesiological issues which have garnered perennial attention. These include the minister/elder and his adoption of the doctrinal standards of the church, the relationship of ruling and teaching elders within the polity of the church, the power of the courts, and, intimately related to the latter issue, the authority of *in thesi* deliverances of the highest judicatory of the church. The subject of this essay is that of *in thesi* deliverances and their authority to bind the consciences of men in the lower courts of the Presbyterian Church and their utility in shaping judicial cases in a lower court. Another way of posing the topic is this: Are *in thesi* deliverances of the General Assembly only "didactic, advisory, and monitory"?

Before entering into our discussion, we should first explain what the term *in thesi* means as used above and throughout this paper. It is a phrase used to refer to an answer given to a particular inquiry although the particular inquiry may concern that which is abstract or general in nature. So, a presbytery or session[1] brings a matter before the General Assembly desiring the highest judicatory of the church to render an opinion concerning their query; the General Assembly responds with an *in thesi* declaration. They have not rendered a judicial decision for there was no judicial case before them. The General Assembly has simply given a good faith response to the request of a lower court, believing themselves to have correctly represented the teaching or intent of their constitution and, by inference, the only rule of faith and practice for a Presbyterian church, the Holy Bible.

The question most certainly follows as to whether the highest court's response to a *non-judicial case* can be said to bind the consciences of men or be used by the lower courts to construct judicial cases in the future? In other words, when the highest court speaks *in thesi,* does it speak with authority; is any one bound by its voice? From American Presbyterian history we wish to explore this question.

Presbyterian Church in the United States (PCUS)

Francis Mullally, one time co-pastor with James Thornwell, had this to say of the church's power:[2]

> But if the church is the organ of Christ, it should always speak with divine authority and expect to be heard with reverence and submission, not only for the agreement of its utterances with the word, "but also for the power whereby they are made as being an ordinance of God, appointed thereunto in his word." The voice of the church should always be the voice of God, and this is never so emphatic and solemn as when it comes through it. It is idle to say that the church may declare

The Author: C. N. Willborn is Associate Professor of Church History at Greenville Presbyterian Theological Seminary and a minister in the Presbyterian Church in America. His Ph.D. dissertation is the first to explore one of the great Southern Presbyterian Theologians: "John L. Girardeau: Pastor to Slaves and Theologian of Causes" (Westminster Theological Seminary [Philadelphia], 2003). His publications include the biographical introduction to R. L. Dabney's *The Sensualistic Philosophy* (Naphtali Press, 2003), essays on the Diaconate and Southern Presbyterianism in *Confessing Our Hope: Essays on Celebrating the Life and Ministry of Morton H. Smith* (Southern Presbyterian Press, 2004), which he co-edited with Joseph A. Pipa, and the doctrine of Adoption in *Sanctification: Growing in Grace* (Southern Presbyterian Press, 2001).

1. While the session of a local church would normally bring an overture through the presbytery to gain presbytery support and then the overture would be sent to the General Assembly by the presbytery, there are occasions when the presbytery does not endorse a sessions overture and the session, feeling strongly about the issue, submits the overture directly to the General Assembly for consideration.

2. Francis Mullally, "The Church's Power to Make Declarations," *The Presbyterian Quarterly,* 9.1.571-583 (October, 1895) 581.

> what it pleases so long as it does not claim to bind the conscience. It always binds the conscience, except when it can be shown that it transgressed its divine rule.

Of particular note is his emphatic declaration that when the church speaks "it always binds the conscience." Mullally believed that the church should only speak as "the voice of God," which meant that the church should only speak consistently with the word of God or else be quiet. So, for Mullally, when overtures came before the highest court of the church, the church should speak according to and consistent with its constitution and the Bible. Thus, she speaks as the voice of God and, according to Mullally, she should "expect to be heard with reverence and submission."

There appears to be in Mullally's view more than a "didactic, advisory, and monitory" opinion of General Assembly pronouncements. It would seem that he draws no distinction between the judicial decisions of the General Assembly and the *in thesi* deliverances of the church's highest court. Why? Because the church should only always speak consistently with God's word. Thus, whether the response is to judicial case or lower court overture, the word of God has been spoken in response. God's word is binding, therefore both judicial decisions and *in thesi* deliverances are binding.

Prior to Mullally's 1895 article, the *in thesi* topic had a considerable history in the PCUS. Not everyone agreed with Mullally's view; indeed, the General Assembly seems to have had a different opinion altogether when it spoke directly to the issue in 1879. The 1879 decision was precipitated by a series of *in thesi* deliverances against "worldly amusements" in 1865, 1869, and 1877.

In 1869 the General Assembly of the nascent and beleaguered church called all sessions and presbyteries to ply the "discipline provided in our Constitution against offences" and there was no "offence" more directly in the spotlight than that of "worldly amusements." The same *in thesi* deliverance focused on one of those worldly amusements, specifically, dancing.[3] In 1871, the *North Carolina Presbyterian* wrote: "No question perhaps at the present time agitates the public mind more than that of the right and wrong of various amusements, so popular in this progressive age. The amusement oftenest discussed is dancing."[4] R. L. Dabney, Stuart Robinson, and Benjamin M. Palmer were among the leading and respected churchmen who had publicly spoken out against the vices of the world.[5]

In 1878, a lower court took seriously the 1869 *in thesi* deliverance of the General Assembly, which not only urged the lower courts to exercise discipline, but declared that *all* modern dance should be disciplined. Deacon F. E. Block was disciplined by the session of Central Presbyterian Church in Atlanta for holding a social dance in his home. Block promptly appealed the session's decision to the Presbytery of Atlanta on the grounds that the social dance in his home was not the "lascivious dance" forbidden and condemned in the Westminster Larger Catechism 139. The Presbytery upheld the session's previous decision on the basis of the 1869 *in thesi* deliverance against unspecified dance, or dance in general. As can be seen, the Atlanta Presbytery believed *in thesi* deliverances were authoritative in nature. However, when a minority of presbytery appealed the decision to the Synod of Georgia, the Synod overturned the decision of the lower courts and restored Deacon Block to church membership by a vote of thirty-seven to fifteen.[6] The Synod's decision was not appealed to the 1879 General Assembly but it did come before the Assembly through the committee on review of records. The Synod was upheld in its ruling.

The same Assembly received an overture from the Presbytery of Atlanta requesting that the Assembly clarify a number of issues related to worldly amusements and the authority of *in thesi* deliverances. The overture was answered by the Bill and Overtures Committee, through its able chairman, Thomas E. Peck of Union (VA) Seminary. *In thesi* deliverances of prior Assemblies, the Committee answered, are not offered "in a strictly judicial capacity; but were all deliverances *in thesi,* and, therefore, can be considered as only didactic, advisory, and monitory."[7] The Committee's answer, which the Assembly adopted overwhelmingly, was in substance the personal position of Thomas Peck.

Peck argued that *in thesi* deliverances "did *not* oblige

3. *Minutes of the General Assembly PCUS, 1869,* 391.

4. *North Carolina Presbyterian,* September 6, 1871.

5. For an example of the rhetoric of the day see the thought provoking article by R. L. Dabney, "The Dancing Question," *Southern Presbyterian Review* (hereafter *SPR*) 30, no. 2 (April 1879) 302-37.

6. *Minutes of the Synod of Georgia, 1878,* 7-31. For more on this case see E.T. Thompson, *Presbyterians in the South* (Richmond, VA: John Knox Press, 1973) 2:396-97.

7. *Minutes of the General Assembly PCUS, 1869,* 391; R. L. Dabney, "The Dancing Question," *SPR* 30, no. 2 (April 1879) 302-37; John B. Adger, "The General Assembly at Louisville," *SPR* 30, no. 3 (July 1879) 586-87; Thomas Peck, "The Action of the General Assembly of 1879 on Worldly Amusements," *SPR* 31, no. 2 (April 1880) 218-43. The latter article was also published as Thomas Peck, "The Powers of Our Several Church Courts," *Miscellanies of Rev. Thomas E. Peck* (Richmond: The Presbyterian Committee of Publication, 1896) 331-60. Hereafter Peck. All citations from Peck's article will be taken from the latter.

the lower courts." Certainly he would have cautioned the lower courts to take seriously the "deliverance" of the higher court and consider the didactic value of the court's rendering. Peck, however, did not wish to forfeit the check and balance of power, which he believed Presbyterianism offered. The power of the church, Peck reasoned, is in "every part" of the church. That is, session, presbytery, and general assembly—considered severally—are constitutionally endowed with "the power of the whole church." The authority of all church courts is the same. Each court of the church, therefore, has the power to judge within the bounds of its jurisdiction and may not be interfered with unless and except through legal, constitutional process, or judicial process, their judgments are overruled and set aside by a higher court. Unless and until a constitutionally shaped case is processed and adjudicated by the higher court, "the power of judgment in the courts of original jurisdiction, both as to law and fact, remains intact" (Peck, 335).

Ultimately and basically, the principle for which Peck argued was this: the church's constitution provides the higher court power over the power of the lower court. The higher court does not have "power *directly* over the part, but over the *power* of the part" (Peck, 335). Simply put, the General Assembly of the Church can *truly* effect change in a Presbytery *only* through judicial decisions which overrule and set aside the judgments of the lower court. When such as this happens, the *power* of the lower court has been altered. The transplanted South Carolinian[8] believed this principle to be of watershed significance. Indeed, he contended, "it lies at the root of all the struggles between the advocates of a constitutional government and the advocates of an 'absolutism'" (Peck, 335-336).

The 1879 Assembly had sided, argued Peck, with the "advocates of a constitutional government." The question before them had been, "Whether the Assembly has the power 'to make law for the church in the matter of "offences," or to give to its deliverances *in thesi* the force of judicial decisions'" (Peck, 334). The Assembly ruled: "that the courts of original jurisdiction cannot be directly interfered with by the General Assembly in their power of judgment as to law or fact." Of further significance, the Assembly declared, "The occasion, the mode, the degree, and the kind of discipline, must be left to the courts of original jurisdiction, under the checks and restraints of the constitution."[9]

Peck's great concern was to preserve the integrity of "grassroots" Presbyterianism. The *power* of the lower courts—session and presbytery—was essential to Peck's thinking. *In thesi* deliverances of the General Assembly did not guarantee *process* and thus should not be used in a manner that would imperil the *power* of the lower courts or the rights of any session or individual. The general deliverances of the church could serve a fine purpose to advise or instruct, but that was all. Otherwise, a deliverance of the higher court could effectively eliminate the ability of a sessional or presbyterial case to be appealed to a higher court. In other words, Peck wished to save the church from virtual elimination of the adjudication process, or authoritative checks and balances. To the question of whether the General Assembly has the power to give to *in thesi* deliverances the force of judicial decisions, Peck answered emphatically, No!

Once the Peck position on *in thesi* declarations had been adopted by the General Assembly, the Columbia Seminary professor of theology, John Girardeau,[10] rallied the Synod of South Carolina to overture the 1880 General Assembly. He was gravely concerned that renderings of higher courts that did not effect a change in the constitutional documents had been devalued and rendered mute. More than this, he believed the view that *in thesi* deliverances were nothing more than "didactic, advisory, and monitory" reduced the General Assembly (or any court) to the status of a congregational association that could *only* advise. In other words, Girardeau believed that the 1879 Assembly action was an unintentional strike at the Presbyterian form of governance.

Girardeau's answer to the question of the authority of *in thesi* deliverances was obviously not "No!" as Peck had concluded, but rather, "Maybe." He regarded *in thesi* deliverances as *interpretations* of the constitution—interpretations reached by good and necessary consequence. As the product of good and necessary consequences derived from the constitution or the Holy

8. Thomas Ephraim Peck was born in Columbia, South Carolina on January 29, 1822. Learning Westminsterian doctrine first at the feet of his beloved mother, at a young age he came under the mentorship of James Thornwell. At age thirty-nine, after serving as pastor in Baltimore, Maryland, Peck was named as professor of church history at Union Seminary (VA) where he served beside R. L. Dabney. He later succeeded Dabney as professor of systematic theology at Union. He died in 1893.

9. *Minutes of the General Assembly, PCUS, 1879,* 23.

10. John Lafayette Girardeau (1825-98) was born on James Island, near Charleston, South Carolina. Of Huguenot descent, Girardeau was a product of the Scottish Presbyterianism prevalent in the Carolina lowcountry. After twenty year's of pastoral labor among the slaves and freedmen of Charleston, he replaced William Swan Plumer as Professor of Didactic and Polemic (Systematic) Theology in 1876. Like Peck, Girardeau was greatly indebted to James Thornwell's person and labors; he was the true successor to Thornwell's chair of systematics at Columbia.

Scriptures, "they are of equal authority with the Word and the Constitution." He concluded that *in thesi* declarations are not merely suggestions or advice. If the Assembly's interpretation (deduced by good and necessary consequence) of the Constitution or word of God is not authoritative, then interpretations would become the prerogative of individuals or sessions or presbyteries, without regard to the larger body of the church. Without a view to the whole, the connected whole, the church was not being Presbyterian but congregational in its view of authority.[11]

The Synod adopted Girardeau's concerns, and when the 1880 General Assembly gathered in Girardeau's backyard of Charleston, the Bills and Overtures Committee was once again dealing with the matter of *in thesi* deliverances. The Synod, through Girardeau's overture, requested a repeal or substantive modification of the 1879 verdict that *in thesi* statements of Assembly are only "didactic, advisory, or monitory."[12] The Assembly's Committee proposed that the body of presbyters answer the overture in the negative. The stage was now set for a significant debate.

"Dr. Girardeau opened this grand debate," wrote John B. Adger, "with a very grand speech, occupying over two hours." (These were the days of a truly deliberative General Assembly.) The speech was further described as eloquent and forceful and, in a term applied in earlier days to Thornwell, as "logic set on fire." As he had argued before the Synod of South Carolina, Girardeau pleaded with the Assembly to recognize that the question before them was "one of great importance, as involving some of the fundamental principles of Presbyterian polity." One of the "fundamental principles" to which he referred was connectionalism and the church's ability to speak with one voice. "Uniformity of opinion and action in regard to offences," argued Girardeau, "can only be effectually secured by authoritative *in thesi* deliverances of the superior courts, especially of the General Assembly as sustaining a broad and catholic relation to the interests of the whole church."[13] He perceived the fragmentizing danger of private interpretation (whether by individuals, sessions, or presbyteries) and the virtue of a confessional and connectional church for the maintenance of peace and purity. A variety of opinions and actions in regard to exact offences could only result in a discordant church and a less than unified witness before the world. Girardeau was alert to the broadening tendencies of the church; the "leveling spirit" that he had identified in Reconstruction was, as he had feared, affecting Presbyterianism.

James Woodrow, a colleague of Girardeau in the Columbia Seminary, replied to Girardeau's logical eloquence.[14] Woodrow contended that *in thesi* deliverances could not be made the basis for judicial prosecutions. Offenders must be shown to violate the constitution of the church, not an interpretation of the constitution. Nevertheless, he approached Girardeau's position on more than one occasion. For example, he confessed that the church acts "in accordance with the 'genius of Presbyterianism' when we learn the exact meaning of our fundamental law and act accordingly."[15] Clearly, the "fundamental law" is the constitution and the "exact meaning" is the interpretation of the courts. Furthermore, Woodrow admitted that a "didactic utterance is one primarily intended to teach Christ's truth" and that it "may, indeed, incidentally aid in reaching a right judicial decision" (Adger, 562). To the ears of those sitting in the assembly of the divines on that Charleston afternoon, Woodrow must have sounded like he was differing little from Girardeau. How, they would have asked themselves, can one "teach Christ's truth" and then say it does not bind the conscience and cannot be used to inform some future judicial process? Woodrow left the question unanswered.

Girardeau ascended the podium once again to respond to his colleague and fellow presbyter. After an-

11. The Overture and abstracts of speeches by Girardeau, James Woodrow, and H. M. Smith were published in John B. Adger, "Deliverances of Church Courts," *SPR* 31, no. 3 (July 1880) 535-603. Hereafter Adger. Girardeau's appeal to the authority of truth deduced by good and necessary consequences is based upon the Westminster Confession of Faith 1:6.

12. Adger, 537-538. Like Peck, Girardeau was not asking the Assembly to address "worldly amusements." He, like Peck, had strong views on matters such as dance, theatre, and the likes. He was opposed to all forms of dance—here he agreed with Dr Dabney. There is also an interesting letter on a related topic, that of "public" activities of young women. A lady's duties, he wrote, "do not require them to appear before the public." Their training, therefore, should not include her being "manipulated on a stage before a crowd." Consistent with this position, he "refused to let [Sally] appear upon the platform [at the Female College], or read a composition before an audience." Sally was his seventh child and wife of Robert A. Webb until her untimely death in 1881. See John Lafayette Girardeau Collection, John L. Girardeau to Rev. James McDowell, January 27, 1883, Microfilm #160, South Caroliniana Library, University of South Carolina (SCL).

13. Adger, 555. Girardeau's two speeches before the Charleston General Assembly are preserved only in abstract form by Adger.

14. It should be noted that this predates the famous Evolution Controversy which plagued the Seminary and the Southern Church from 1882-1888. In fact, the two had stood together on a seminary matter which culminated in the resignations of Joseph Ruggles Wilson (Woodrow Wilson's father) and John B. Adger in 1874.

15. Adger, 563. H. M. Smith of New Orleans also spoke against Girardeau's views. His basic concern was the extra-constitutional nature of *in thesi* deliverances. Adger recorded his address also.

swering many of Woodrow's arguments, Girardeau conceded that there was a danger in his own view, the danger of making declarations against practices "which cannot be proved to be offences by the Scriptures." He would have opposed this, but knew the human heart and its propensities to generalize and misapply. Nevertheless, he believed a greater danger existed—worldliness in the church—and so he was willing to live with the dangers (Adger, 597):

> Worldliness is rapidly increasing in the Church. How shall it be checked? If a church member, who has been warned by a faithful Session that he will be disciplined for persistence in an offence, can find refuge in a neighboring Presbyterian church which pronounces him guilty of no offence, discipline is practically at an end. We need harmony of views and of practice among all our churches, and that can only be attained by the firm and decided declarations of our law as to offences, by our church-courts, especially by the General Assembly.

In the end, Girardeau wanted the language of the 1879 Assembly *tempered* so the General Assembly's interpretations of the constitutional documents were not rendered impotent. Similarly, he was concerned that the authoritative role of courts be protected so that discipline could be preserved and administered as needed. He regarded all of this as important because he saw the church on every side suffering from the pervasive influence of the world.

John B. Adger was one of those assembled divines, listening to the debates for two days. He was an adherent to Thornwell's high Presbyterianism and had taught ecclesiology at the seminary in Columbia in the past. His ear was acutely attuned to all the arguments and by the end of Girardeau's second speech in response to Woodrow, he was convinced the differences between the men were minimal. Girardeau's differences with the 1879 Assembly's deliverance on deliverances, Adger suspected, "arose chiefly out of its discriminating so widely and so absolutely between the judicial and the *in thesi* deliverance" (Adger, 603). On the other hand, Woodrow had lamented the previous assembly's exaltation of the "judicial deliverance" as to undermine the Word of God. In other words, Woodrow was of the mind that the courts high estimate of judicial rulings based upon the Church's constitution threatened his belief "that nothing is law but the Word."[16]

By the time Girardeau concluded his final address and descended the platform, Adger had drafted a substitute to the motion before the Assembly:[17]

> 1. Nothing is law to be enforced by judicial prosecution but that which is contained in the Word as interpreted in our standards
>
> 2. The judicial decisions of our courts differ from their *in thesi* deliverances in that the former *determine*, and, when proceeding from our highest court, *conclude* a particular case. But both these kinds of decisions are alike interpretations of the Word by a church court, and both not only deserve high consideration, but both must be submitted to, unless contrary to the Constitution and the Word; of which there is a right of private judgment belonging to every church court, and also every individual church member.

Girardeau read it three times and reserved pronouncement until Woodrow expressed his view of the paper. Woodrow's acceptance of the paper, according to Adger, "was immediate and unhesitating." Upon hearing Woodrow's acceptance of the substance of the Adger paper, Girardeau embraced it completely.[18] From the willing acceptance of the *via media* position by both parties, it would seem that partisanship was minimal.

Woodrow ascended the rostrum and announced that he had no further response to his colleague's statements and that he would introduce a motion he believed satisfactory to all parties. With the original motion withdrawn from consideration, Adger's substitute was placed in consideration. Upon Woodrow's motion and reading of the brief paper, "it was immediately seconded by Dr. Girardeau and adopted by the Assembly." Adger's motion satisfied Girardeau's desire for more moderate language from the previous Assembly and the recognition by the Church that "some *in thesi* deliverances of church courts are authoritative" (Adger, 584). It rightly differentiated between judicial decisions that *determine*

16. Adger, 603. In the end it must be said that Woodrow held something akin to a *nuda scriptura* view rather than a *sola scriptura.* This became even more evident during the evolution controversy when he repeatedly withstood the interpretation of the church courts.

17. Adger, 602. The final deliverance of the 1880 Assembly may also be found in *A Digest of the Acts and Proceedings of the General Assembly of the Presbyterian Church in the United States, 1861-1965* (Atlanta, GA: Office of the General Assembly, 1966) 71.

18. Adger, 602-03. At this date, there certainly appeared to have been no antagonism between these two men. This seems to prove that there was no personal animosity between Woodrow and Girardeau that carried over from this controversy into the evolution controversy, as some Woodrow scholars have tried to argue. See Robert Gustafson, *James Woodrow (1828-1907): Scientist, Theologian, Intellectual Leader* (Lewiston, NY: Edwin Mellen Press, 1995) 129-30.

and *conclude* cases and *in thesi* declarations which instruct lower courts, and thus *inform* future discipline of cases. Both judicial and *in thesi* declarations "are alike interpretations of the Word by a church court" and both "must be submitted to, unless contrary to the Constitution and the Word."[19] Some asserted that this was a compromise of positions. Woodrow and Girardeau saw it as no compromise. Adger's handiwork was, according to Girardeau, the "axis" that brought both "poles" into union (Adger, 584).

The *Central Presbyterian* reported "the explicit declaration of the Assembly of 1880, which is to the following effect, namely, that the deliverances of the General Assembly have the authority of a decision of the Supreme Court of the Church—whose function it is to expound and declare what is the law."[20] Girardeau and Woodrow agreed on this summary.

Historical Perspective

The Westminster Confession of Faith addresses the ministerial and declarative power of synods and councils.[21]

> It belongeth to synods and councils, ministerially to determine controversies of faith, and cases of conscience; to set down rules and directions for the better ordering of the public worship of God, and government of His Church; to receive complaints in cases of maladministration, and authoritatively to determine the same: which decrees and determinations, if consonant to the Word of God, are to be received with reverence and submission; not only for their agreement with the Word, but also for the power whereby they are made, as being an ordinance of God appointed thereunto in His Word.

The Confession apparently recognizes three categories to which ecclesiastical office bearers speak ministerially: first, doctrinal and ethical controversies; second, the establishment and ordering of public worship and the government of the Church; and, third, appellate cases brought before a higher court.

William Cunningham, the outstanding Scottish theologian and churchman, sheds light on the meaning of the Confession, which serves to assist our view of court deliverances:[22]

> Now this statement of the powers and functions of Church courts includes the whole subject of discipline and censures, though it comprehends also a great deal more, and the principles which directly or by plain implication it lays down in regard to *all* the judgments and decisions of ecclesiastical office-bearers are these: First, That unless they are consonant with the word of God, they are of no force or validity whatever … and are entitled to no reverence or submission whatever from men;…. secondly, That such judgments and decisions, when professedly regulated by the word of God, and pronounced by competent parties,—that is, by ecclesiastical office-bearers,—are entitled to a careful and respectful examination; and, thirdly, That when accordant with the word of God, men, in dealing with and submitting to them, and in their whole views and feelings with respect to them, ought to be influenced not only by a regard to their actual accordance with the word … but also, in addition, by a recognition of God's arrangement in establishing the ordinance of church government, and of its right and efficient working as a divine ordinance in the particular cases under consideration.

Here it appears that Cunningham gives the General Assembly power to speak authoritatively not only to "discipline and censures" but "a great deal more," which he further iterates when he says the power of the court includes "the principles which directly or by plain implication it lays down in regard to *all* the judgments and

19. Adger, 584. When Girardeau returned to Columbia after the 1880 Assembly, he became concerned that some might construe a portion of the Assembly's pronouncement on *in thesi* declarations as denying the authority of good and necessary consequences. Thus, the Synod of South Carolina overtured the 1881 Assembly, meeting in Staunton, Virginia, as to the authority of good and necessary consequences drawn from the law of the church. The Assembly affirmed Girardeau's position (argued before the 1880 Charleston Assembly) "That all just and necessary consequences from the law of the church are a part of the same, in the logical sense of being implicitly contained therein…. The consequences deduced from it cannot, therefore, be equal in authority with the law itself, unless they be necessarily contained in it as shown by their agreement also with the Divine word." In other words, as long as inferences from the constitution of the church are in agreement with the Holy Scriptures, they are of equal authority with the constitution, according to the 1881 Assembly. Girardeau was satisfied. For the latter discussion see *Minutes of the Synod of South Carolina, 1881,* 19.

20. *Central Presbyterian,* July 14, 1880; Thompson, *Presbyterians in the South,* 2:399; Webb, "The Presbyter," *The Life Work of John L. Girardeau, D.D., LL.D.,* 223-29.

21. Westminster Confession of Faith 31.3. The edition used is that adopted by the Presbyterian Church in America and the Orthodox Presbyterian Church. In the section of chapter 31 no difference is found with the original Confession as adopted by the Church of Scotland in 1647.

22. William Cunningham, *Discussions on Church Principles* (1863; reprint, Edmonton, Canada: Still Waters Revival Books, 1991) 246.

decisions of ecclesiastical office-bearers." The principles to which he refers are laid out above as: faithfulness to God's word, declared by church officers, and the recognition on the receptor's part of the authority of God's ordinance of church government.

Cunningham's position is consistent with that of Robert Shaw in his commentary on the Confession. He explains that Confession 31.3 "is evidently intended as a decision upon another important principle in the controversy with Independents." The Independents admitted that a congregation might consult with a synod of ministers and find great advantage for themselves. However, Independents denied to these synods authority over the congregation. The position of the Confession of Faith then, according to Shaw, was that Christ alone is the lawgiver of the church and the church "is only to apply and enforce the laws which he [Christ] has enacted." So, the power and function of the officers of the church is ministerial and declarative. Shaw points out that the declarations of the ecclesiastical office bearer "are to be considered, not as merely consultative [as the Independents avow], but authoritative." Furthermore, so far as the declarations of courts agree with the Holy Scriptures, "they must be binding upon the conscience."[23]

In the end, Cunningham, Shaw, and the 1880 PCUS are clear in saying that judicial renderings and *in thesi* deliverances of the General Assembly "not only deserve high consideration, but both must be submitted to, unless contrary to the Constitution and the Word." Therefore, the difference between the two is not found in the authoritative *nature* since both declarations of the church are ministerial and declarative; declarative of the law of the church, the Holy Scriptures. The church should speak to every matter before it according to Scripture or it should remain silent.

The Presbyterian Church in America (PCA), as the ecclesiastical successor to the PCUS, has engaged this question on several occasions. The PCA has experienced the same problem which Girardeau addressed—the lower courts' failure to take seriously Assembly deliverances. In an effort to address the problem, the PCA added the following paragraph to her Constitution:[24]

> Actions of the General Assembly pursuant to the provision of *BCO* 14-6 such as deliverances, resolutions, overtures, and judicial decisions are to be given due and serious consideration by the Church and its lower courts when deliberating matters related to such action. Judicial decisions shall be binding and conclusive on the parties who are directly involved in the matter being adjudicated, and may be appealed to in subsequent similar cases as to any principle which may have been decided. (See *BCO* 3-5 and 6, and *WCF* 31:3.)

According to this constitutional provision, all sorts of deliverances are "to be given due and serious consideration by the Church and its lower courts when deliberating matters related to such action." While deliverances are not to be taken lightly and are to be considered by lower courts when considering similar cases, there is no authoritative or binding nature attributed to them. Judicial decisions, on the other hand, are "binding and conclusive on the parties … directly involved … and may be appealed to in subsequent similar cases." Thus, the PCA makes the general response of the General Assembly to overtures of *some* authority, enough that they demand "due and serious consideration." To judicial decisions, the PCA makes the specific application of Church law to a specific case of *absolute* authority, so that they are "binding and conclusive."

Conclusion

The concern John Girardeau and others had in the nineteenth century for the Presbyterian Church to act like Presbyterians is still a concern. As the nascent PCA has felt its way through issues like the extraordinary gifts of the apostles, the novelty of pædo-communion, and confessional subscription, she has often left the impression that her unity hinges upon diversity and that she cannot speak definitively and univocally. Some have wondered just how many confessions of faith actually exist within the church. Yet, we declare to and publish for the world *one* Confession of Faith. Which is it—The Confession as approved by the General Assembly or the one approved by *this* presbytery or *that* presbytery? May pædocommunionists preach, teach, and practice their novel, contra-confessional views in her churches? What of extraordinary gifts in the church? Is a pastoral letter, issued *in thesi* by a General Assembly authoritative and binding so as to permit multiple, and often contradictory views, to exists in a denomination? What does that say about a church's view of Scripture and its perspicacity and authority?

23. Robert Shaw, *The Reformed Faith: An Exposition of the Confession of Faith of the Westminster Assembly …* (1845; reprint, Inverness, Scotland: Christian Focus Publications, 1973) 312.

24. Presbyterian Church in America, *Book of Church Order* (Lawrenceville, GA: The Committee for Christian Education and Publications, sixth edition, 2003) *14-7*.

Similarly, the Assembly annually meets for business and deliberates matters of significance to a variety of presbyteries as they come by way of overtures. The Assembly declares itself on the various issues and what happens? Presbyteries walk away thinking the particular deliverance was for someone else, but does not bind them to do anything differently than before.

From all we have seen above, there is no basis historically or constitutionally for *in thesi* deliverances to be taken lightly. They should have an effect on the way every presbytery thinks about and goes about her business. From the 1880 decision of the PCUS General Assembly, to William Cunningham and Robert Shaw, we have heard the wise words of the Fathers—"Listen carefully to the collective wisdom of the church." If Presbyterianism means anything, it means that no church is an island; we are a part of the whole. One contemporary PCA churchman explains the relevance of *in thesi* deliverances in the following manner:[25]

> In actuality, the GA makes such statements to advise its members and churches of the mind of the larger church at that moment. While such action does not have the authority of law to bind conscience or future Assemblies, brothers in Christ are obligated to weigh with great deference this "pious advice" since they have vowed to seek the peace and purity of the church, and this cannot be done through simply ignoring the properly approved advice of brothers and fathers.

As one can see from this statement, there is great reason for an *in thesi* deliverance of the General Assembly to obligate every presbyter and presbytery to consider and apply the "pious advice" of the gathered Assembly of divines. Why should *in thesi* deliverances not be considered "pious" and be taken seriously? After all, the ecclesiastical office-bearers of the church have issued a deliverance they believe to be consistent with their constitutional documents.

Nevertheless, we do admit there is a difference between the constitutional law of the church, the judicial decisions of the supreme judicatory, and *in thesi* deliverances.

The difference between judicial renderings and *in thesi* deliverances, it would seem, have to do with the manner in which each stand to the church. *In thesi* deliverances stand as a provisional response to a general concern of the church (albeit the concern may be as specific as what a confessional phrase means, e.g., "the space of six days"). They are a provisional response, yet consistent with our constitution according to human wisdom. In contrast to the Assembly's issuance of an *in thesi* deliverance, a judicial decision stands as a final redress of a specific matter. In other words, when an overture comes before the General Assembly and the Assembly responds, she does not respond in her relation to the lower courts as the "last resort." It is only when the Assembly decides a specific case—as the case has been brought to her through proper process—as she settles the constitutional right or wrong of a specific case, that she speaks as the court of "last resort." When the General Assembly speaks as the court of "last resort," she speaks with her ultimate authoritative voice. In the context of the "last resort," the church is saying "thus saith the Lord." Appeal can be taken no higher.

The question remains, however, are *in thesi* deliverances of the General Assembly authoritative? Yes, because the court is presumed to have spoken consistent with her constitution. Are they the final word on a given subject? No, because they are not specific to a case. Should they simply be dismissed as "non-binding" and, thus, superfluous? No, because they reflect the wisdom of the church. Should they be allowed simply to collect archival dust? No, because ideas have consequences. If they are important and profitable, they should receive further church-wide consideration and perhaps further explanation, and expounding so as to become the proposition of the church formally. If they are dangerous to the long-term health of the church, they should be exposed, and consequently expunged from the records of the church so as to remove the likelihood of confusion and future conflict.

When a court of the church hands down a "didactic, advisory, and monitory" deliverance, it behooves elders to act as churchmen for the good of the whole, not Independents concerned only with their local church. Men need to begin to think presbytery-wide, and assembly-wide; thinking for the good of the whole, not just the part. The latter really is the only way to offset the all-too-present lackadaisical approach to *in thesi deliverances* and the "Independent tendency" in American Presbyterianism.■

25. Bryan Chapell, President of Covenant Seminary, made these comments in response to the Presbyterian and Reformed Joint Commission on Chaplains and Military Personnel. They appear in Note 1 of "PRJC Letter Regarding Women in Combat" available through the PCA Office of Administration.