

**Permanent Judicial Commission**  
Report to the 40<sup>th</sup> General Assembly



Yvonne K. Chapman  
*Moderator*

**Summary of Work, 2019-2020:**

1. Considered complaint dated June 17, 2019, (GA40-23) by member of Sunset Presbyterian Church against the Presbytery of the Pacific Northwest concerning the composition of the judicial commission appointed to hear a disciplinary matter involving TE “M” (full name redacted for privacy).
2. Considered complaint dated June 30, 2019, (GA40-24) by former REs of Sunset Presbyterian Church against the Presbytery of the Pacific Northwest acting by and through its Stated Clerk, its Ministerial Committee, and the members of that Committee requesting the General Assembly to take certain actions pertaining to the disciplinary proceedings involving TE “M” (full name redacted for privacy).
3. Permanent Judicial Commission Chairman Pro Tempore (now Moderator) and Assistant Stated Clerk discussed the July 17, 2019, Memo from a Judicial Investigative Committee requesting discovery material from the Office of the Assistant Stated Clerk concerning a disciplinary matter; there was no referral to the PJC and no formal action was taken.
4. Examined the Ascending Overture from the Presbytery of the Gulf South to amend *Book of Government* G.13-2 (GA40-25) for “clarity and consistency of language and for compatibility with other provisions of the Constitution of the Evangelical Presbyterian Church” and recommended “an amended version of (the) proposed constitutional changes as well as advice to accept or decline the proposals referred to the Commission” (See G.21-3D.2a).
5. Reviewed the March 11, 2020, Provisional Opinion of the Stated Clerk (GA40-27) waiving the bylaw requirement for virtual meetings of Presbyteries until the General Assembly convenes on June 24, 2020, due to the pandemic health crisis. (See G.21-3D.1.b).

6. Considered Notice of Appeal from “I.Z.” (full name redacted for privacy) regarding the decision of the Presbytery of the East (GA40-28) that dismissed both his appeal of sanctions imposed by Fourth Presbyterian Church (Fourth) and his complaint against members of the pastoral staff of Fourth.
7. Reviewed the April 2, 2020, Provisional Opinion of the Stated Clerk (GA40-29) waiving the bylaw requirement for virtual meetings of Session and Congregations until the General Assembly convenes, due to the pandemic health crisis. (See G.21-3.D.1.b).
8. Reviewed the June 22, 2020, Provisional Opinion of the Stated Clerk (GA40-30) concerning the celebration of the Lord’s Supper until the General Assembly convenes, due to the pandemic health crisis. (See G.21-3.D.1.b).

### **Recommendations to the 2020 General Assembly:**

#### **Recommendation 40-23:**

Ratify the decision of the Permanent Judicial Commission dismissing the Complaint dated June 17, 2019, filed by member of Sunset Presbyterian Church against the Presbytery of the Pacific Northwest, as the Complaint did not allege proper grounds for the General Assembly to take the actions requested.

#### **Recommendation 40-24:**

Ratify the decision of the Permanent Judicial Commission dismissing the Complaint dated June 30, 2019, filed by former REs of Sunset Presbyterian Church against the Presbytery of the Pacific Northwest, acting by and through its Stated Clerk, its Ministerial Committee, and the members of that Committee as Complainants lack both procedural and jurisdictional grounds for the General Assembly to take the actions requested.

#### **Recommendation 40-25:**

DECLINE the Ascending Overture from the Presbytery of the Gulf South to amend *Book of Government* G.13-2 as the Overture does not provide sufficient clarity to resolve any confusion distinguishing the roles of Ruling Elder and Deacon from Teaching Elder. Rather, the Permanent Judicial Commission recommends that the General Assembly ACCEPT its amended version of the proposed constitutional change.

#### **Recommendation 40-27:**

Sustain the Provisional Opinion issued by the Office of the Stated Clerk on March 11, 2020, due to the exigent pandemic health crisis. G.21-3D.1.b.

#### **Recommendation 40-28:**

Ratify the decision of the Permanent Judicial Commission of May 4, 2020, dismissing the appeal of Mr. IZ on grounds that the appeal is not in order under *Book of Discipline* 13-4 and 13-6 for failure to state adequate factual or constitutional grounds for appealing the decision of the Presbytery of the East, and summarily dismissing Mr. Z’s appeal pertaining to his complaint against members of the pastoral staff at Fourth Presbyterian Church for lack of standing. See D.14-2.

**Recommendation 40-29:**

Sustain the Provisional Opinion issued by the Office of the Stated Clerk on April 2, 2020, due to the exigent pandemic health crisis. G.21-3D.1.b.

**Recommendation 40-30:**

Sustain the Provisional Opinion issued by the Office of the Stated Clerk on June 22, 2020, due to the exigent pandemic health crisis. G.21-3D.1.b.

**Work of the Committee in 2019-2020 regarding  
Recommendations presented to the 2020 General Assembly:**

RECOMMENDATION 1: GA40-23 DECISION OF THE PERMANENT JUDICIAL COMMISSION

In the Matter of:  
C.L. vs. Presbytery of the Pacific Northwest  
Decided June 21, 2019

**Matter before the PJC**

On June 17, 2019, the Office of the Stated Clerk received a Complaint transmitted via email from “C.L.” (full name redacted for privacy), a member of Sunset Presbyterian Church (Sunset) against the Presbytery of the Pacific Northwest (hereafter PPNW).

On May 17, 2019, PPNW appointed a judicial commission to hear a disciplinary charge against a Teaching Elder of Sunset where complainant is a member. Complainant objects to the composition of the judicial commission, which includes three members of the presbytery ministerial committee (identified by name in the Complaint) who were involved in attempts to resolve the issue prior to the filing of the disciplinary charge by the Session of Sunset.

The Complaint alleges, “The use of people that were present at closed session meetings where topics were discussed that directly relate to the charges now in front of the Judicial Commission as members of that Commission represents a clear bias and an inappropriate procedural action. It violates the spirit of the Book of Discipline 7-6 and 8-1 along with generally accepted principles of fairness with regards to investigations and trials.”

In reviewing the Complaint, the PJC inquired as to the status of the Complainant with respect to the pending disciplinary matter. Facts established that Complainant is *not a party* to any of the proceedings between the Session and the TE, nor did he attend the meeting on May 17, 2019, at which the PPNW appointed the judicial commission. Facts established that there were no objections to actions taken by the PPNW filed by any persons present at the May 17 meeting and that there has been no action taken on the pending disciplinary matter by the judicial commission.

Complainant requests the EPC General Assembly to “Appoint a new Judicial Commission made up of members that have no prior knowledge of the situation that would be put in front of that Commission. Specifically, all members of the current Judicial Commission

should be ineligible to serve as they have been influenced by those who brought previous bias into the proceedings up to this point.”

### **Issue for PJC Consideration**

Does the Complaint allege proper grounds for the General Assembly to set aside peremptorily the appointment by PPNW of members of a judicial commission, and appoint a new judicial commission, to hear the pending disciplinary matter?

### **Discussion**

#### **Jurisdiction**

EPC Book of Discipline, Chapter 14 (Jurisdiction): The General Assembly has original jurisdiction over chapter 14 complaints regarding actions or decisions of Presbyteries and judicial cases referred to it by a lower court (G.22-3). D.4-2-C; see also D.14-5-A.2.

#### **The Complaint**

C.L. is a member of Sunset, whom PJC presumes is in good standing, but he is not a party to the pending disciplinary matter filed by Sunset Ruling Elders against a Teaching Elder. As a member of Sunset, generally, C.L. has standing to file a complaint (D.14-2). However, as a non-party, he does not have standing to challenge peremptorily the composition of a judicial commission, particularly when the accused has not yet exhausted his own remedy in that regard (D.10-2). Furthermore, the PJC determines he does not have grounds to file this complaint as the appointment of the judicial commission was not procedurally irregular nor in clear violation of the EPC Constitution (D.14-3).

EPC Book of Discipline Chapter 14 (Complaint) provides the following:

**D.14-1, Complaint Defined.** A complaint is a written contention made to a higher court *challenging some act or decision of a lower court that seeks a remedy.*

**D.14-3, Initiation of Chapter 14 Case.** A complaint initiates a case under this Chapter 14 against a court in the following manner:

- A. A complaint shall only be made when the action or decision of the court is alleged to be *procedurally irregular and/or in clear violation of the EPC Constitution.*
- B. A complaint shall set forth with particularity all of the facts and reasons why the action or decision of the court is being challenged. This includes reference to the *specific provisions of the EPC Constitution, or any applicable bylaws or rules alleged to have been violated.* (Emphasis added).

The Complaint alleges that the PPNW specifically violated provision 7-6 and 8-1 of the Book of Discipline.

Book of Discipline 7-6 provides:

#### **Biased Accusations and Testimony.**

Great caution should be exercised by the court or commission in receiving accusations and testimony from any person:

- A. Who is known to hold a malignant spirit against the accused;
- B. Who is not of good character;
- C. Who is under sanction or who is the subject of an action for ecclesiastical judicial procedures;

- D. Who is deeply interested in any respect in the conviction of the accused; or
- E. Who is known to be litigious, contentious, rash, or highly imprudent.

Book of Discipline 8-1 provides:

**Warning to All.**

Every member of a court or commission engaged in an ecclesiastical judicial procedure shall bear in mind the command of Scripture: “Brothers, if someone is caught in a sin, you who are spiritual should restore him gently. But watch yourself, or you also may be tempted” Galatians 6:1 (NIV).

The Complaint alleges, “The use of people that were present at closed session meetings where topics were discussed that directly relate to the charges now in front of the Judicial Commission as members of that Commission represents a clear bias and an inappropriate procedural action.”

The EPC Book of Government envisions that members of the ministerial committee who served in an effort to resolve issues at a local church may also serve on the judicial commission subsequently appointed when charges are filed regarding those issues. See G.21-2D.2e: “Presbytery may authorize the Ministerial Committee to serve as a Judicial or Administrative Commission.” Therefore, in this case, the action of PPNW in appointing a judicial commission that includes members of the Ministerial Committee is not procedurally irregular nor in violation of the EPC Constitution (D.14-3). The EPC *Book of Discipline* provides that the Teaching Elder subject to disciplinary charges may challenge the composition of the judicial commission that hears the case (D.10-2).

**Challenges to the Court**

*Any party* may, for cause hereinafter described, challenge the right of any member to sit in the trial of the case. *The question shall be decided by other members of the court.* (Emphasis added). A challenge for cause against a member of the court shall be granted when:

- A. Disclosure of Opinion: The member of the court expresses his opinion of the guilt of any party to any person not a member of the court before the conclusion of the trial.
- B. Absence: The member of the court shall absent himself from any sitting of the trial without the permission of the court, or satisfactory reasons rendered.
- C. Conflict of Interest: *The member of the court appears to the court to be related to the parties or other witnesses, to have an interest in the result, or to have similar impediment or conflict of interest.* (Emphasis added)

The Complaint filed in this matter is in the nature of an interlocutory appeal filed by a non-party to a disciplinary case challenging the composition of a judicial commission to hear the disciplinary charge. The *Book of Discipline* provides that a **party must raise this question** and the matter “**shall be decided by other members of the court.**”

The PJC determines that no bias results to the accused in this matter by the dismissal of this Complaint since the TE retains the right to challenge the composition of the judicial commission and appeal any adverse decision (D.13-4).

**On Motion:**

**Accordingly, and based on the above discussion, the Permanent Judicial Commission**

**determines that C.L. has no grounds to file this Complaint against the Presbytery of the Pacific Northwest. The appointment by the PPNW of members of a judicial commission who also served on the ministerial committee that attempted to resolve the dispute between Sunset Session and the Teaching Elder was not procedurally irregular or in clear violation of the EPC Constitution. Challenges to the composition of the judicial commission are raised by a party and decided by other members of the court. The Complaint is dismissed. This decision is unanimous.**

Members of PJC present and voting:  
Yvonne K. Chapman, Chairman Pro Tempore  
Amanda Cowan  
Neil Ellison  
Dana Opp  
Ken Roberts  
Present at the meeting and not voting:  
Jerry Iamurri, Assistant Stated Clerk

RECOMMENDATION 2: GA40-24 DECISION OF THE PERMANENT JUDICIAL COMMISSION

In the Matter of:  
David Griffiths and Julie Sherrill vs. Presbytery of the Pacific Northwest,  
acting by and through its Stated Clerk, its Ministerial Committee,  
and the members of that Committee  
Decided July 10, 2019

**Matter before the PJC**

On July 1, 2019, the Office of the Stated Clerk received a Complaint dated June 30, 2019, transmitted by David Griffiths via email on June 30. Complainants are two members of Sunset Presbyterian Church (Sunset), both Ruling Elders whose terms on the Session of Sunset expired in 2017. Complainants are *not parties* to any of the proceedings between the Session and TE “M” (full name redacted for privacy) and they did not attend the Presbytery of the Pacific Northwest (PPNW) meeting on May 17, 2019, when the PPNW appointed the judicial commission to hear disciplinary charges against TE M. Complainants request the General Assembly to take the following actions:

1. Investigate Complainants allegation of Contempt against the PPNW, the Stated Clerk, its Ministerial Committee, and members of the MC and file disciplinary charges, if appropriate.
2. Dismiss peremptorily the disciplinary charge pending against TE M.
3. Form a special commission to investigate all actions taken by the PPNW, through the Stated Clerk, the Ministerial Committee, and members of the Ministerial Committee (from 2017 to the present) regarding the dispute between Sunset’s Session and TE M, report the findings of that investigation to Sunset and take appropriate actions based on those findings.

**Background**

This is the second complaint received by the General Assembly raising issues related to the disciplinary charge brought against TE M by members of the Session of Sunset on April 26,

2019. On May 17, 2019, the PPNW appointed a judicial commission to hear the disciplinary charge. The Stated Clerk of PPNW informed PJC Chair Pro Tempore that TE M was served with the indictment on July 1 and the disciplinary case is scheduled for trial on July 13.

In the first complaint, received by the General Assembly June 17, 2019, *In the Matter of C.L. vs. Presbytery of the Pacific Northwest*, Complainant objected to the composition of the judicial commission, which includes three members of the presbytery's ministerial committee who were involved in attempts to resolve the issue prior to the filing of the disciplinary charge against TE "M" by the Session of Sunset. Complainant C.L. requested the EPC General Assembly to appoint a new judicial commission.

On June 21, 2019, the PJC entered its opinion *In the Matter of C.L. vs. Presbytery of the Pacific Northwest*, as follows:

On Motion:

Accordingly, and based on the above discussion, the Permanent Judicial Commission determines that C.L. has no grounds to file this Complaint against the Presbytery of the Pacific Northwest. The appointment by the PPNW of members of a judicial commission who also served on the ministerial committee that attempted to resolve the dispute between Sunset Session and the Teaching Elder was not procedurally irregular or in clear violation of the EPC Constitution. Challenges to the composition of the judicial commission are raised by a party and decided by other members of the court. The Complaint is dismissed. This decision is unanimous.

### **The June 30 Complaint: *Griffiths/Sherrill v. PPNW et al***

#### **Issues for PJC Consideration**

Is this Complaint requesting the three actions properly filed before the General Assembly?  
Does the General Assembly have jurisdiction to take the three actions requested?

#### **Discussion**

Complainants are members of Sunset, whom PJC presumes are in good standing, but they are not parties to the pending disciplinary matter filed by Sunset Ruling Elders against TE M. As members of Sunset, generally, Complainants have standing to file a Complaint. "It is the right of any member of the church in good standing to make complaint against any action of a lower court to whose jurisdiction he is subject." (D.14-2). However, as non-parties, they do not have standing to challenge peremptorily the composition of a judicial commission, particularly when the accused has not yet exhausted his own remedy in that regard (D.10-2). See also the opinion of the PJC in *In the Matter of C.L. vs. Presbytery of the Pacific Northwest*.

EPC Book of Discipline, Chapter 14 (Complaint), provides the following:

#### **D.14-3 Initiation of Chapter 14 Case**

A complaint initiates a case under this Chapter 14 against a court in the following manner:

- A. A complaint shall only be made when the action or decision of the court is alleged to be *procedurally irregular and/or in clear violation of the EPC Constitution*.

- B. A complaint shall set forth with particularity all of the facts and reasons why the action or decision of the court is being challenged. This includes reference to the *specific provisions of the EPC Constitution, or any applicable bylaws or rules alleged to have been violated.* (Emphasis added).

There are no facts alleged in the Complaint that establish that actions of the PPNW, including its Ministerial Committee, were procedurally irregular or in clear violation of the EPC Constitution (D.14-3A). Regarding D.14-3B, the only provision of the EPC Constitution cited in the Complaint is 7-6 of the Book of Discipline.

Book of Discipline 7-6 provides:

**Biased Accusations and Testimony.**

Great caution should be exercised by the court or commission in receiving accusations and testimony from any person:

- A. Who is known to hold a malignant spirit against the accused;
- B. Who is not of good character;
- C. Who is under sanction or who is the subject of an action for ecclesiastical judicial procedures;
- D. Who is deeply interested in any respect in the conviction of the accused; or
- E. Who is known to be litigious, contentious, rash, or highly imprudent.

Since a trial of the disciplinary charge against TE M had not been held when the Complaint was filed, there is no record to review. Therefore, D.7-6 is not applicable.

*Request 1: Investigate Complainants allegation of Contempt against the PPNW, the Stated Clerk, its Ministerial Committee, and members of the MC and file disciplinary charges, if appropriate.*

According to the EPC Book of Discipline, the General Assembly has original jurisdiction over chapter 14 complaints regarding actions or decisions of Presbyteries and judicial cases referred to it by a lower court (D.4-2C). The General Assembly *does not* have original jurisdiction over individuals. Therefore, the GA has no authority to conduct an original investigation into allegations of contempt against members of the PPNW, including its Stated Clerk or members of the Ministerial Committee.

In any event, there is no evidence that the Complainants followed the mandate set forth in D.1-6 before bringing this Complaint demanding disciplinary charges against members of the PPNW, including members of its Ministerial Committee and the Stated Clerk. "When a charge of personal offense is brought before any court of the church, the party bringing the charge must include a certified statement detailing how the principles outlined in Matthew 18:15 and Galatians 6:1 have been met."

Request 1 is not properly before the General Assembly.

*Request 2: Dismiss peremptorily the disciplinary charge pending against TE M.*

Under D.14-6, a complaint *shall* be filed within 30 days of the action or decision complained of. Complainants seek to dismiss the disciplinary charges filed April 26 and note the



appointment of the judicial commission by the PPNW on May 17, 2019. The complaint dated June 30, 2019, is more than 30 days after both dates. While **D.14-6** allows an exception to the filing period when the complainant legitimately had no knowledge of the PPNW action within the 30-day period, Complainants do not allege lack of this knowledge. **D.14-6** also allows an exception if complainant petitions the higher court to file an untimely complaint to avoid manifest injustice; but there is no such petition in the complaint. The PJC finds that this Complaint is an attempt to interrupt an action for discipline commenced pursuant to the EPC Constitution (**D.6-1**).

Though the General Assembly may hear appeals of disciplinary matters, based upon the Record of the Case (**D.10-4C**), or hear matters referred to it by a lower court (**G.22- 3**), the General Assembly has no jurisdiction to dismiss a pending disciplinary indictment against a TE. Once a disciplinary charge is commenced, the court having jurisdiction *shall* proceed according to the Book of Discipline. See EPC Book of Discipline, chapter 6.

Request 2 is not properly before the General Assembly.

*Request 3: Form a special commission to investigate all actions taken by the PPNW, through the Stated Clerk, the Ministerial Committee, and members of the Ministerial Committee (from 2017 to the present) regarding the dispute between Sunset's Session and TE M, report the findings of that investigation to Sunset and take appropriate actions based on those findings.*

Although the General Assembly has original jurisdiction over chapter 14 complaints regarding actions or decisions of Presbyteries (**D.4-2C**), we reiterate that there is no evidence that actions of the PPNW, including its Ministerial Committee, were procedurally irregular or in clear violation of the EPC Constitution (**D.14-3A**). This Complaint challenging the authority of PPNW and its Ministerial Committee over TE M is not properly before the General Assembly (**G.16-2** and **G.19**). There are neither grounds nor jurisdiction for the General Assembly to initiate an investigation of actions taken by the PPNW over a two-plus year period involving TE M (See also **G.20**).

Furthermore, PJC finds that the Complaint is improperly brought before the General Assembly as there is no evidence that Complainants sought review of the actions taken by the PPNW (as alleged in the Complaint) before bringing this Complaint. Under **D.1-11**: "In the case of actions by a church court raising issues, misunderstandings, and disputes, which are not personal offenses requiring discipline, but which raise issues that bear upon the authority of jurisdiction, one may seek review/file a complaint (petition, request for review by) in the court having original jurisdiction thereof." Complainants have not presented their concerns before the PPNW before bringing this Complaint to the General Assembly.

Request 3 is not properly before the General Assembly.

**On Motion:**

**Accordingly, and based on the above discussion, the Permanent Judicial Commission finds that Complainants lack both procedural and jurisdictional grounds to demand the relief requested. The Complaint is dismissed. This decision is unanimous.**

Members of PJC present and voting:  
Yvonne K. Chapman, Chair Pro Tempore  
George Dakin  
Neil Ellison  
Donald Flater  
Donald Harms  
Dana Opp  
Ken Roberts

### RECOMMENDATION 3: GA40-25 DECISION OF THE PERMANENT JUDICIAL COMMISSION

#### REVISED DECISION

In the Matter of:

Ascending Overture from the Presbytery of the Gulf South  
to Amend *Book of Government* 13  
Decided March 12, 2020  
Revised March 16, 2020

#### **Matter before the PJC**

The Presbytery of the Gulf South has submitted an Ascending Overture to the 40th General Assembly to amend *Book of Government* G-13, “The Ordination and/or Installation of Officers.” See Attachment [GA40-26](#).

#### **Issues for PJC Consideration**

Once the Stated Clerk refers a proposed amendment to the Permanent Judicial Commission, the PJC “shall examine the proposed amendment for clarity and consistency of language and for compatibility with other provisions of the Constitution of the Evangelical Presbyterian Church.” The PJC “shall report its findings to the General Assembly along with its recommendations, which may include an amended version of any proposed constitutional changes as well as advice to accept or decline the proposals referred to the Commission.” (G.21-3.D.2).

#### **Discussion**

Commissioners reviewed and discussed the proposed amendments of G.13 submitted by the Presbytery of the Gulf South. There was agreement that the intent of the overture, to resolve confusion in the language in Chapter 13 regarding the roles of the Ruling Elder and Deacon, was not accomplished by the extensive rewrite in the proposal. Commissioners agreed that a simple and concise revision would be appropriate and would provide needed clarity. This goal can be accomplished by inserting the following:

- A parenthetical phrase to clarify that Ruling Elders and Deacons report to their Session rather than to a Presbytery in section G.13-2.A, paragraph 4;
- A parenthetical phrase to clarify the office sought by a Ruling Elder or Deacon in section G.13-2.A, paragraph 8;
- A parenthetical phrase to clarify that congregants submit only to Teaching/Ruling Elders in section G.13-2.C paragraph 2; and
- A parenthetical phrase to clarify that congregants pledge to fulfill the terms of the call and make provision for the Teaching Elder in section G.13-2.C paragraph 4.

**Findings and conclusions**

Accordingly and based on the above discussion, the Permanent Judicial Commission finds that the Ascending Overture as submitted should be declined by the General Assembly. Instead, the PJC recommends that the General Assembly accept the version of the proposed constitutional changes to G.13 as revised by the PJC. [See revision below.]

**On Motion:**

**The motion was approved to revise the proposed overture for clarity and conciseness in accordance with the revision shown below. This decision is unanimous.**

Members of PJC present and voting:

Yvonne K. Chapman, Moderator

Ken Roberts

David Tyra

Amanda Cowan

Donald Flater

Dana Opp

George Dakin

Neil Ellison

Donald Harms

Present, not voting: Jerry Iamurri, Assistant Stated Clerk

[Revision by the Permanent Judicial Commission]

<b>Current Book of Government (2018-19):</b>	<b>Proposed: PJC Amendment;</b> Additions shown in <i>bold italics</i> ; deletion <del>striketrough</del>
<p><b>Administration of vows and questions</b>                      Ordination vows                      The person presiding shall administer the following ordination vows for those being ordained and for those coming into the Evangelical Presbyterian Church from some other denomination:                      Do you reaffirm your faith in Jesus Christ as your own personal Lord and Savior?                      Do you believe the Scriptures of the Old and New Testaments to be the Word of God, totally trustworthy, fully inspired by the Holy Spirit, the supreme, final, and the only infallible rule of faith and practice?                      Do you sincerely receive and adopt the Westminster Confession of Faith and the Catechisms of this Church, as containing the system of doctrine taught in the Holy Scriptures?</p>	<p><b>Administration of vows and questions</b>                      Ordination vows                      The person presiding shall administer the following ordination vows for those being ordained and for those coming into the Evangelical Presbyterian Church from some other denomination:                      Do you reaffirm your faith in Jesus Christ as your own personal Lord and Savior?                      Do you believe the Scriptures of the Old and New Testaments to be the Word of God, totally trustworthy, fully inspired by the Holy Spirit, the supreme, final, and the only infallible rule of faith and practice?                      Do you sincerely receive and adopt the Westminster Confession of Faith and the Catechisms of this Church, as containing the system of doctrine taught in the Holy Scriptures?</p>

<p>Do you promise that if at any time you find yourself out of accord with the system of doctrine as taught in the Scriptures and as contained in the Westminster Confession of Faith and the Catechisms of this Church you will, on your own initiative, make known to your Presbytery the change which has taken place in your views since the assumption of this ordination vow?</p> <p>Do you affirm and adopt the “Essentials of Our Faith” without exception?</p> <p>Do you subscribe to the government and discipline of the Evangelical Presbyterian Church?</p> <p>Do you promise subjection to your fellow Presbyters in the Lord<sup>109</sup>?</p> <p>Have you been induced, as far as you know your own heart, to seek the office of the holy Ministry from love to God and a sincere desire to promote His glory in the gospel of His Son?</p> <p>Do you promise to be zealous and faithful in promoting the truths of the gospel and the purity and peace of the Church, whatever persecution or opposition may arise unto you on that account?</p> <p>Installation vows: The person presiding shall administer the following installation vows for those being installed to office in an EPC congregation: Will you seek to be faithful and diligent in the exercise of all your duties as a Christian and a Teaching Elder/Ruling Elder/Deacon, whether personal, or interpersonal, private or public; and to endeavor by the grace of God to adorn the profession of the gospel in your manner of life, and to walk with exemplary piety before the congregation of which God is making you overseer?</p> <p>Are you now willing to accept the call of this church as Pastor/Associate Pastor/Ruling Elder/Deacon, and, relying upon God for strength, promise to discharge to it the duties required of that office?<sup>110</sup></p>	<p>Do you promise that if at any time you find yourself out of accord with the system of doctrine as taught in the Scriptures and as contained in the Westminster Confession of Faith and the Catechisms of this Church you will, on your own initiative, make known to your Presbytery (<b><i>or to your Session in the case of Ruling Elders and Deacons</i></b>) the change which has taken place in your views since the assumption of this ordination vow?</p> <p>Do you affirm and adopt the “Essentials of Our Faith” without exception?</p> <p>Do you subscribe to the government and discipline of the Evangelical Presbyterian Church?</p> <p>Do you promise subjection to your fellow Presbyters in the Lord?<sup>109</sup></p> <p>Have you been induced, as far as you know your own heart, to seek the office of the holy Ministry (<b><i>or the office of Ruling Elder or Deacon</i></b>) from love to God and a sincere desire to promote His glory in the gospel of His Son?</p> <p>Do you promise to be zealous and faithful in promoting the truths of the gospel and the purity and peace of the Church, whatever persecution or opposition may arise unto you on that account?</p> <p>Installation vows: The person presiding shall administer the following installation vows for those being installed to office in an EPC congregation: Will you seek to be faithful and diligent in the exercise of all your duties as a Christian and a Teaching Elder/Ruling Elder/Deacon, whether personal, or interpersonal, private or public; and to endeavor by the grace of God to adorn the profession of the gospel in your manner of life, and to walk with exemplary piety before the congregation of which God is making you overseer?</p> <p>Are you now willing to accept the call of this church as Pastor/Associate Pastor/Ruling Elder/Deacon, and, relying upon God for strength, promise to discharge to it the duties required of that office?<sup>110</sup></p>
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<sup>109</sup> For Deacons, the vow is “Do you promise subjection to your fellow Church Officers in the Lord?” (G.13-7B)

<sup>110</sup> In the case of an Assistant Pastor, the phrase “Are you now willing to accept the call of the Session as Assistant Pastor...” is appropriate.

<p>Questions to the congregation When the person being ordained has responded affirmatively to these vows, the person presiding shall address the following questions to the congregation: Are you, the members of this congregation ready to receive _____ as your <i>(name of office to which the person is being ordained/installed)</i>? Do you promise to submit to _____ in matters of spiritual discipline, and to receive with humility and love the word of truth?  Do you promise to support _____ <i>(name)</i> with your prayers, to give encouragement and assistance in every way as _____ <i>(name)</i> seeks to instruct you in the things of the Lord and to lead you in the building of the Kingdom of God in this place? Do you commit yourselves to fulfill the terms of the call you have extended and to make provision for _____ <i>(name)</i> needs that the name of Christ might be glorified?</p>	<p>Questions to the congregation When the person being ordained has responded affirmatively to these vows, the person presiding shall address the following questions to the congregation: Are you, the members of this congregation ready to receive _____ as your <i>(name of office to which the person is being ordained/installed)</i>? Do you promise to submit to _____ <b><i>(Teaching/Ruling Elders only)</i></b> in matters of spiritual discipline, and to receive with humility and love the word of truth? Do you promise to support _____ <i>(name)</i> with your prayers, to give encouragement and assistance in every way as _____ <i>(name)</i> seeks to instruct you in the things of the Lord and to lead you in the building of the Kingdom of God in this place? Do you commit yourselves to fulfill the terms of the call <del>you have extended</del> and to make provision for <b><i>(Teaching Elder only)</i></b> _____ <i>(name)</i> needs that the name of Christ might be glorified?</p>
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<p><b>13-3 The Act of Ordination</b> Following the congregation’s affirmation, those being ordained shall kneel and members of the ordaining court or Commission shall lay hands on the Ordinand(s).  An appropriate prayer shall be offered and the Ordinand(s) shall thereby be set apart to the office of Teaching Elder/Ruling Elder/Deacon. The presiding person shall state: “By the authority of the Evangelical Presbyterian Church and the Presbytery of _____, I declare that _____ has been ordained to the office of (Teaching Elder/Ruling Elder/Deacon), and that he/she has been duly and properly installed as (Pastor/Associate Pastor/Assistant Pastor/Ruling Elder/Deacon) of this congregation, in accord with the Word of God and the laws of this Church. As such _____ <i>(name)</i> is entitled to be given support, encouragement, honor, and obedience in the Lord. In the name of the Father, and of the Son and of the Holy Spirit. Amen.”</p>	<p><b>The Act of Ordination</b> Following the congregation’s affirmation, those being ordained shall kneel and members of the ordaining court or Commission shall lay hands on the Ordinand(s).  An appropriate prayer shall be offered and the Ordinand(s) shall thereby be set apart to the office of Teaching Elder/Ruling Elder/Deacon. The presiding person shall state: “By the authority of the Evangelical Presbyterian Church and the Presbytery of _____, I declare that _____ has been ordained to the office of (Teaching Elder/Ruling Elder/Deacon), and that he/she has been duly and properly installed as (Pastor/Associate Pastor/Assistant Pastor/Ruling Elder/Deacon) of this congregation, in accord with the Word of God and the laws of this Church. As such _____ <i>(name)</i> is entitled to be given support, encouragement, honor, and obedience in the Lord. In the name of the Father, and of the Son and of the Holy Spirit. Amen.”</p>
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<p>It is appropriate that a charge be given to the Ordinand(s) and to the congregation suitable for the occasion. Following the installation, it is appropriate that the members of the congregation or the Officers and their representatives demonstrate their reception of and commitment to the Ordinand(s) by coming forward and giving an appropriate greeting. The event shall be recorded in the minutes of the Commission (if appointed) and the ordaining/installing Court.</p>	<p>It is appropriate that a charge be given to the Ordinand(s) and to the congregation suitable for the occasion. Following the installation, it is appropriate that the members of the congregation or the Officers and their representatives demonstrate their reception of and commitment to the Ordinand(s) by coming forward and giving an appropriate greeting. The event shall be recorded in the minutes of the Commission (if appointed) and the ordaining/installing Court.</p>
<p><b>The ordination and installation of Ruling Elders and Deacons</b> The person presiding shall administer the vows prescribed in G.13-2A for the affirmation of those being ordained and installed and for those who have been ordained previously in some other denomination and are being installed. For Deacons, the seventh vow of ordination (G.13-2A) shall be: “Do you promise subjection to your fellow Church Officers in the Lord?” The person presiding shall then proceed with the vows of installation, the questions to the congregation, and the act of ordination prescribed in G.13-2B, G.13-2C, and G.13-3.</p>	<p><b>The ordination and installation of Ruling Elders and Deacons</b> The person presiding shall administer the vows prescribed in G.13-2A for the affirmation of those being ordained and installed and for those who have been ordained previously in some other denomination and are being installed. For Deacons, the seventh vow of ordination (G.13-2A) shall be: “Do you promise subjection to your fellow Church Officers in the Lord?” The person presiding shall then proceed with the vows of installation, the questions to the congregation, and the act of ordination prescribed in G.13-2B, G.13-2C, and G.13-3.</p>
<p><b>The installation of previously ordained Ruling Elders and Deacons</b> The procedure for installing a Ruling Elder or Deacon who has been previously ordained will be the same as that for ordination except that the following question shall be substituted for vows 1 through 9 (G.13-2A): “Do you now reaffirm the vows you took upon your ordination and do you recommit yourself to them in the discharge of your obligations?” The person presiding shall then administer the vows of installation as prescribed in G.13-2B. The laying on of hands for ordination shall be omitted. <b>D.</b> The person presiding shall ask the questions to the congregation as prescribed in G.13-1C.</p>	<p><b>The installation of previously ordained Ruling Elders and Deacons</b> The procedure for installing a Ruling Elder or Deacon who has been previously ordained will be the same as that for ordination except that the following question shall be substituted for vows 1 through 9 (G.13-2A): “Do you now reaffirm the vows you took upon your ordination and do you recommit yourself to them in the discharge of your obligations?” The person presiding shall then administer the vows of installation as prescribed in G.13-2B. The laying on of hands for ordination shall be omitted. <b>D.</b> The person presiding shall ask the questions to the congregation as prescribed in G.13-1C.</p>

RECOMMENDATION 4: GA40-27 DECISION OF THE PERMANENT JUDICIAL COMMISSION

In the Matter of:  
Provisional Opinion of March 11, 2020, from the Office of the Stated Clerk  
Decided March 12, 2020

**Matter before the PJC and Issues for PJC Consideration**

In an email dated March 11, 2020, the Office of the Stated Clerk requested:

- A. PJC input for its provisional opinion permitting virtual participation in presbytery meetings due to concerns about the COVID-19 virus; and
- B. PJC recommendation to the 40th GA to “sustain, not sustain, or amend” the provisional opinion pursuant to **G.21-3.D.1b**.

Currently, by provisional opinion adopted by the 30th GA, only presbyteries that have included specific provisions in their bylaws are permitted to hold virtual meetings. The Provisional Opinion of the Stated Clerk, attached below, essentially waives the bylaw requirement for virtual meetings from now until General Assembly because of the current health crisis.

**Discussion:** In accordance with **G.21-3.D.1.2**, the PJC reviewed and discussed the Provisional Opinion referenced below.

**On Motion:**

**The PJC recommends to the General Assembly that the Provisional Opinion issued by the Office of the Stated Clerk on March 11, 2020, be sustained due to the exigent pandemic health crisis. This decision is unanimous.**

Members of PJC present and voting:

Yvonne K. Chapman, Moderator

Ken Roberts

David Tyra

Amanda Cowan

Donald Flater

Dana Opp

George Dakin

Neil Ellison

Donald Harms

Present, not voting: Jerry Iamurri, Assistant Stated Clerk

Provisional Opinion

March 11, 2020

Office of the Stated Clerk

Dr. Jeffrey J. Jeremiah

Under *Book of Government* (hereinafter **G.**) 21-3D.1 “Questions concerning interpretation of the Book of Order shall be referred by the Stated Clerk. The Stated Clerk may issue a provisional opinion that is binding until acted upon by the next General Assembly.” (**G. 21-**

3D.1b). “[The PJC] shall review all provisional opinions and shall recommend to the Assembly that they be sustained, not sustained, or amended, along with reasons.”

Bill Dudley, Stated Clerk of the Presbytery of the Southeast, has asked the Stated Clerk to issue a provisional opinion as to whether the Book of Order permits members of presbytery who join meetings by virtual means to be counted “present” for the purposes of quorum with both voice and vote at a Stated Meeting of the Presbytery. *Book of Government* is silent on this issue, but Act of Assembly 10-02 (adopted by the 30<sup>th</sup> General Assembly) affirmed a 2010 provisional opinion relying on *Robert’s Rules of Order* holding that “Bylaws of representative bodies [may] establish a quorum and conduct business in a meeting with both real and virtual participants.”

“It is a fundamental principle of parliamentary laws that the right to vote is limited to the members of an organization who are actually present at the time the vote is taken in a legal meeting, although it should be noted that a member need not be present when the question is put. *Exceptions to this rule must be expressly stated in the bylaws.*” (*Robert’s Rules of Order*, 10th edition), pp. 408-409, emphasis added.)

“The bylaws may authorize a board or committee (or even a relatively small assembly) to meet by videoconferencing or teleconference. If they do, then such a meeting must be conducted by a technology that allows all persons participating to hear each other at the same time (and, if a videoconference, to see each other as well). The opportunity for simultaneous communication is central to the deliberative character of the meeting and is what distinguishes it from attempts to do business by postal or electronic mail or by fax.” (*Id.* at p. 482)<sup>1</sup>

Some presbyteries have amended their bylaws to permit virtual participation in meetings while others have not. The Presbytery of the Southeast has not yet included such a provision in its bylaws. However, in light of the current worldwide health issue of the COVID-19 coronavirus, the Stated Clerk is asked whether it is appropriate, under the current health crisis, to temporarily permit virtual meetings in presbyteries whose bylaws do not specifically provide for the use of such technology.

### Provisional Opinion

The Stated Clerk holds that the Constitutional responsibility of the Presbytery to “organize itself as it deems best, within the bounds of this Constitution and lawful Acts of Assembly...[for the] edification of the people” supersedes *Robert’s Rules of Order* when following parliamentary procedure presents presbyteries with a “Hobson’s Choice” between holding a virtual meeting or risking a lack of quorum and consequently skipping a meeting altogether because of the significant health risks associated with physically travelling to attend a meeting of the presbytery. The Stated Clerk rules that irrespective of presbytery bylaws, from March 11, 2020, until the convening of the 40<sup>th</sup> General Assembly (June 24, 2020) any presbytery with sufficient technology to ensure that every participant is able to hear and/or see, vote, and participate in a virtual meeting is permitted to use teleconferencing or videoconferencing technology to hold their Stated and/or Called Presbytery Meetings.



RECOMMENDATION 5: GA40-28 DECISION OF THE PERMANENT JUDICIAL COMMISSION

In the Matter of:  
I.Z. vs. Presbytery of the East  
Decided May 4, 2020

**Matter before the PJC**

On April 27, 2020, the Office of the Stated Clerk received a Notice of Appeal from Appellant "I.Z." (full name redacted for privacy) appealing the decision of Presbytery of the East (POTE) that dismissed his appeal of sanctions imposed by Fourth Presbyterian Church (Fourth). The basis for the dismissal of the appeal was that Appellant failed to provide a statement of grounds for appeal to POTE and therefore abandoned his appeal. The dismissal by POTE thereby confirmed the sanction removing Appellant from membership and fellowship of Fourth pursuant to its disciplinary indictment dated January 20, 2020.

The PJC noted that, prior to filing the form "Notice of Appeal" which listed grounds for appeal, Appellant had notified the Office of the Stated Clerk of his intent to appeal. Through the filing of several other documents both before and after the formal Notice, Appellant provided narrative arguments to support his appeal to the General Assembly. The PJC regarded these filings as a written statement of grounds for appeal under **D.13-6**.

Prior to meeting for deliberations, PJC members reviewed the following documents:

1. Presbytery of East Judgment (signed 03172020; sent to appellant 03292020).
2. Fourth Pres Church v. I.Z. Contempt indictment 01202020.
3. Notice of Appeal 04272020.
4. Complaint for decision of Presbytery of East 04202020.
5. General Assembly Complaint Form 04202020.
6. Petition for Stay 04282020.
7. Record of lower court (Fourth Presbyterian), particularly:
  - a) Records of Investigative Committee, December 2019-February 2020.
  - b) Records of Ecclesiastical Judicial Commission, February 2020.

**Preliminary issues decided by PJC**

- 1) Appellant timely filed the appeal (**D.13-5**).
- 2) Appellant, as the accused party who was disciplined, has standing to appeal the confirmation of sanction (**D.13-2**).
- 3) Appellant does not have standing to appeal the dismissal of the appeal of his Chapter 14 complaint against members of the pastoral staff at Fourth; therefore, that issue will be dismissed summarily for lack of standing (**D.14-2**).
- 4) Appellant filed a written statement of grounds for appeal within the required period (**D.13-6**).

**Issue on appeal**

Did Appellant provide adequate "factual or constitutional bases forming issues on appeal"? (**D.13-6**). In other words, did Appellant provide facts or constitutional reasons from the Book of Order that establish grounds to challenge the decision of POTE dismissing his appeal of Fourth's imposition of sanctions?

## **Background**

Beginning in 2018, Appellant’s behavior toward a female member of Fourth raised concerns that the pastoral staff of Fourth attempted to resolve. Appellant did not comply with directives of the pastoral staff and Session of Fourth. In 2019, Fourth initiated formal discipline against Appellant and appointed a disciplinary commission to resolve those charges. Appellant failed to cooperate regarding the disciplinary process. On January 20, 2020, Fourth filed an indictment for contempt of elders—disregard for church authority and discipline. Appellant ignored the twice-issued summons, did not respond to the indictment, and failed to appear for trial on the indictment. Consequently, Fourth removed Appellant from the membership and fellowship of the church pursuant to **D.8-5C**. Appellant appealed the sanction imposed by Fourth to the POTE. The POTE dismissed the appeal for lack of grounds and confirmed that Fourth acted within its authority under **D.8-5C** by removing Appellant from the membership and fellowship of the church for failure to respond to Summons on the disciplinary indictment.

## **Discussion**

Appellant’s Notice of Appeal identified these grounds for appeal (**D.13-4**):

- A. Any misapplication of the EPC Constitution.
- B. Any irregularity in the proceedings of the lower court.
- C. Declining to receive proper evidence.
- D. n/a.
- E. n/a.
- F. Mistake or injustice in the judgment or sanction.

The PJC examined all documents filed by Appellant before the General Assembly (including Notice of Appeal, Complaint for decision of Presbytery of East, General Assembly Complaint Form, and Petition for Stay) to ascertain whether Appellant stated any “factual or constitutional bases forming issues on appeal.” (**D.13-6**). The PJC considered only statements concerning POTE’s confirmation of sanctions imposed by Fourth. Statements by Appellant regarding the appeal of dismissal of the appeal of his Chapter 14 complaint against Fourth are immaterial to this issue.

Any misapplication of the EPC Constitution. Appellant did not provide any facts or constitutional considerations to support his claim of “misapplication of the EPC Constitution” in the matter of sanctions.

Any irregularity in the proceedings of the lower court. Appellant referred to “irregularity in proceedings of the Session by deciding issues not before the Session.” In all supporting documents, Appellant failed to identify any facts to support this claim. As the PJC observed, the disciplinary indictment before the Session of Fourth related to Appellant’s contempt, an issue squarely before the Session.

Declining to receive proper evidence. Appellant referred to “declining to receive new evidence” but did not identify any facts to support this claim as it pertains to rulings on sanctions. PJC observed that since Appellant did not appear for his trial, he did not offer any evidence.

Mistake or injustice in the judgment or sanction. Appellant claimed “Injustice in rendering the sanction made by the lower court.” The PJC deliberated at length regarding two concerns raised by Appellant under this ground.

- Appellant claimed a conflict of interest in that both Fourth and POTE had an interest in the result.

The Book of Discipline provides that a party may challenge the right of any member to sit in trial of his case. A challenge for cause shall be granted for conflict of interest if a member of the court has an interest in the result (D.10-2C).

Appellant alleged a conflict of interest affected the judgment of POTE because a member of the pastoral staff of Fourth served in a leadership capacity with POTE while Appellant’s appeal was pending before POTE. However, Appellant presented no facts to establish that any member of Fourth, particularly from its pastoral staff, served on the judicial commission appointed by POTE to hear his appeal. Moreover, in any event, challenges to the composition of the court “shall be decided by other members of the court.” (D.10-2). Appellant did not raise this issue before the POTE and, therefore, waived the issue.

The Book of Discipline gives a church authority to discipline a member. There is no presumption that a conflict of interest exists when a church session prosecutes a disciplinary indictment against a member for contempt of elders and disregard for church authority and discipline (D.7 and D.8). Appellant did not raise a conflict of interest before the Session of Fourth in his disciplinary trial and, therefore, waived the issue.

- Appellant claimed irregularity in proceedings because the POTE did not respond to procedural questions while his appeal was pending.

Although the prohibition against *ex parte* communications permits “questions on procedural matters that may be addressed to the Clerk of the court,” the EPC Constitution does not require the court to respond to every such inquiry (D.3-1C). Appellant presented no facts that any unanswered questions affected the outcome related to his appeal regarding imposition of sanctions.

The PJC recognized that the discipline imposed against Appellant by Fourth was for his contempt of disciplinary processes established under the EPC Book of Order, not for his behavior involving another congregant. In this case, Appellant appealed the result of a process he chose to disregard.

In reviewing materials in this case and during deliberations, members of the PJC expressed sincere compassion for Appellant’s quandary. Fourth, through its pastoral staff and Session, showed great patience in attempting to guide and discipline Appellant. Appellant failed to take advantage of many opportunities to resolve concerns in his former church. Because of his deliberate refusal to cooperate, Fourth imposed disciplinary consequences authorized under the EPC Constitution.

What else was Fourth Presbyterian to do for a member who refused to submit to its authority and discipline? Before the Session receives a new member, he shall answer affirmatively to this question:

Do you submit yourself to the government and discipline of the Evangelical Presbyterian Church and to the spiritual oversight of this Church Session, and do you promise to promote the unity, purity, and peace of the Church? (G.8-3B.3e).

It would be a most extraordinary matter to grant an appeal as a reward to a party who refused to submit to the authority and discipline of the church and exhibited contempt in a court below. Although this decision ends the ecclesiastical appeal process, this is not necessarily an end to Appellant's relationship with Fourth. The PJC encourages Appellant to prayerfully seek restoration of his relationship with the church and, through sincere repentance, pursue the remedy set forth under D.12-3.

**On Motion:**

**The EPC General Assembly's Permanent Judicial Commission, after very careful thought and deliberation, holds that the appeal of I.Z. is not in order under Book of Discipline 13-4 and 13-6 for failure to state adequate factual or constitutional grounds for appealing the decision of the Presbytery of the East. I.Z.'s appeal is hereby DISMISSED. This decision is unanimous.**

I.Z.'s appeal pertaining to his complaint against members of the pastoral staff at Fourth is dismissed summarily for lack of standing (D.14-2).

Members of PJC present and voting:

Yvonne K. Chapman, Moderator

Amanda Cowan

George Dakin

Neil Ellison

Donald Flater

Donald Harms

Dana Opp

Ken Roberts

David Tyra

**RECOMMENDATION 6: GA40-29 DECISION OF THE PERMANENT JUDICIAL COMMISSION**

In the Matter of:

Provisional Opinion of April 2, 2020, from the Office of the Stated Clerk

Decided July 30, 2020

**Matter before the PJC and Issues for PJC Consideration**

The Office of the Stated Clerk referred to the PJC the following Provisional Opinion (note: the entire referral is set forth below this opinion):

## **Provisional Opinion**

The Stated Clerk holds that the Constitutional responsibility of the Session to oversee and supervise “the entire life of the local church” supersedes *Robert’s Rules of Order* when following parliamentary procedure presents congregations with a “Hobson’s Choice” between holding a virtual meeting or risking a lack of quorum and consequently foregoing a meeting altogether because of the significant health risks associated with attending a meeting of the local church. The Stated Clerk rules that irrespective of congregational bylaws, from April 2, 2020, until the convening of the 40th General Assembly ...any session or congregation with sufficient technology to ensure that every participant is able to hear and/or see, vote, and participate in a virtual meeting is permitted to use teleconferencing or videoconferencing technology to hold their Stated and/or Called Congregational and Session Meetings. Additionally, the Stated Clerk rules that Book of Order 7-5 requires one-tenth of active members in churches of 100 or more be present personally or virtually in order to establish a quorum.

Pursuant to G.21-3.D.1b, the PJC “shall review all provisional opinions and shall recommend to the Assembly that they be sustained, not sustained, or amended, along with reasons.”

## **Discussion**

In accordance with G.21-3.D.1.2, the PJC reviewed and discussed the Provisional Opinion.

## **On Motion:**

**The PJC recommends to the General Assembly that the Provisional Opinion issued by the Office of the Stated Clerk on April 2, 2020, be sustained due to the exigent pandemic health crisis. This decision is unanimous.**

Members of PJC present and voting:

Yvonne K. Chapman, Moderator

David Tyra

Amanda Cowan

Donald Flater

Dana Opp

George Dakin

Neil Ellison

Donald Harms

Present, not voting: Jerry Iamurri, Assistant Stated Clerk

## **Matter referred**

April 2, 2020

Provisional Opinion 2020-03

Office of the Stated Clerk

Dr. Jeffrey J. Jeremiah

Dear colleagues in ministry,

Under *Book of Government* (hereinafter, G.) 21-3D.1 “Questions concerning interpretation of the Book of Order shall be referred by the Stated Clerk. The Stated Clerk may issue a

provisional opinion that is binding until acted upon by the next General Assembly.” G. 21-3D.1b “[The PJC] shall review all provisional opinions and shall recommend to the Assembly that they be sustained, not sustained, or amended, along with reasons.” Teaching Elder James Holland has asked the Stated Clerk to issue a provisional opinion as to whether the Book of Order permits members of Sessions and Churches who join meetings by virtual means to be counted “present” for the purposes of quorum with both voice and vote at a Stated or Called Meeting of their respective bodies and whether Book of Order 7-5 requires one-tenth of the active members of churches over 100 to establish a quorum for congregational meetings.

Act of Assembly 10-02 (adopted by the 30th General Assembly) affirmed a 2010 provisional opinion relying on *Robert’s Rules of Order* holding that “Bylaws of representative bodies [may] establish a quorum and conduct business in a meeting with both real and virtual participants.”

“It is a fundamental principle of parliamentary laws that the right to vote is limited to the members of an organization who are actually present at the time the vote is taken in a legal meeting, although it should be noted that a member need not be present when the question is put. *Exceptions to this rule must be expressly stated in the bylaws.*” (*Robert’s Rules of Order, 10th edition*, pp. 408-409, emphasis added).

“The bylaws may authorize a board or committee (or even a relatively small assembly) to meet by videoconferencing or teleconference. If they do, then such a meeting must be conducted by a technology that allows all persons participating to hear each other at the same time (and, if a videoconference, to see each other as well). The opportunity for simultaneous communication is central to the deliberative character of the meeting and is what distinguishes it from attempts to do business by postal or electronic mail or by fax.” (*Ibid.*, p. 482)

Some congregations have amended their bylaws to permit virtual participation in meetings while others have not. However, in light of the current worldwide health issue of the COVID-19 coronavirus, the Stated Clerk is asked whether it is appropriate under the current health crisis to temporarily permit virtual meetings in local congregations whose bylaws do not specifically provide for the use of such technology.

### Provisional Opinion

The Stated Clerk holds that the Constitutional responsibility of the Session to oversee and supervise “the entire life of the local church” supersedes *Robert’s Rules of Order* when following parliamentary procedure presents congregations with a “Hobson’s Choice” between holding a virtual meeting or risking a lack of quorum and consequently foregoing a meeting altogether because of the significant health risks associated with attending a meeting of the local church. The Stated Clerk rules that irrespective of congregational bylaws, from April 2, 2020, until the convening of the 40th General Assembly (June 24, 2020) any session or congregation with sufficient technology to ensure that every participant is able to hear and/or see, vote, and participate in a virtual meeting is permitted to use teleconferencing or videoconferencing technology to hold their Stated and/or Called Congregational and Session Meetings. Additionally, the Stated Clerk rules that Book of

Order 7-5 requires one-tenth of active members in churches of 100 or more be present personally or virtually in order to establish a quorum.

Thank you, and I trust this will be helpful as you minister in this extraordinary time.

Jeff Jeremiah  
EPC Stated Clerk

RECOMMENDATION 7: GA40-30 DECISION OF THE PERMANENT JUDICIAL COMMISSION

In the Matter of:  
Provisional Opinion of June 22, 2020, from the Office of the Stated Clerk  
Decided July 30, 2020

**Matter before the PJC and Issues for PJC Consideration**

The Office of the Stated Clerk referred to the PJC the following Provisional Opinion (note: the entire referral is set forth below this opinion):

**Provisional Opinion**

It is the ruling of the Stated Clerk that the administration of the Lord's Supper during a virtual worship service is temporarily permissible under the Constitution. This ruling will remain in effect until physical gatherings are no longer prohibited or the 40th General Assembly acts on it, whichever comes first.

Pursuant to G.21-3.D.1b, the PJC "shall review all provisional opinions and shall recommend to the Assembly that they be sustained, not sustained, or amended, along with reasons."

**Discussion**

In accordance with G.21-3.D.1.2, the PJC reviewed and discussed the Provisional Opinion.

**On Motion:**

**The PJC recommends to the General Assembly that the Provisional Opinion issued by the Office of the Stated Clerk on June 22, 2020, be sustained due to the exigent pandemic health crisis. This decision is unanimous.**

Members of PJC present and voting:

Yvonne K. Chapman, Moderator

David Tyra

Amanda Cowan

Donald Flater

Dana Opp

George Dakin

Neil Ellison

Donald Harms

Present, not voting: Jerry Iamurri, Assistant Stated Clerk

## Matter referred

June 22, 2020

TO: Permanent Judicial Commission

FROM: Jeffrey Jeremiah

RE: Provisional Opinion

*Book of Government* 21-3D.1.b states that the Permanent Judicial Commission will review provisional opinions and make a recommendation to the General Assembly that will be “sustained, not sustained, or amended, along with reasons.” The following is a provisional opinion addressing the administration of the Lord’s Supper during virtual worship.

### Provisional Opinion

It is the ruling of the Stated Clerk that the administration of the Lord’s Supper during a virtual worship service is temporarily permissible under the Constitution. This ruling will remain in effect until physical gatherings are no longer prohibited or the 40th General Assembly acts on it, whichever comes first.

### Commentary

In response to the unique crisis that is the COVID-19 pandemic, Bill Dudley, Stated Clerk of the Presbytery of the Southeast, and Mark Eshoff, Stated Clerk of the Presbytery of the Pacific Southwest, asked the Stated Clerk for guidance about the advisability of administering the sacrament of the Lord’s Supper during virtual worship services. The Constitution enables the Stated Clerk to give advice or make rulings on subjects brought to him that are “new, delicate, or difficult” (*Book of Government* 21-3D.I).

The COVID-19 pandemic and its subsequent impact on the life and worship of the EPC is certainly new, delicate, *and* difficult. Two factors stand out in this situation:

1. Prohibition from physically gathering to worship. As federal, state, and local governments have responded to the COVID-19 pandemic, physical gatherings have been severely limited, if not banned altogether. We honor God by obeying these directives from our government (Romans 13:1-7).
2. Availability of gathering “virtually” to worship. Technological advances in the late 20th century ushered in the possibility of gathering “virtually.” In the last ten years this has become increasingly available and has enabled churches to worship virtually. Because of the prohibitions against physical gatherings, this currently is the *only* way for many of our churches to gather. While not ideal, to gather and worship to the extent the church is able is a blessing and encouragement to God’s people. Many churches are doing this.

### Responses

1. 1 Corinthians 11:2-34 addresses the worship of the church in Corinth. “Gathering” is referred to five times; this is understood to be physically together in one place. As verses 17-34 specifically address the celebration of the Lord’s Supper, the sacrament may only be administered in a physical gathering of believers, as no other type of gathering was envisioned. For this reason, a church may decide that it is not



- appropriate to celebrate the Lord's Supper during a virtual worship service.
2. However, it is possible to interpret and apply 1 Corinthians 11 in another way, while still honoring the principle of Christian worship. In Section 6 of "Holy Scripture" in the *Westminster Confession of Faith*, liberty is given to work out the principle of Christian worship according to changes in circumstances. In this extraordinary circumstance, in which the church is prohibited from gathering physically to worship, the Confession grants liberty to the church in ordering its worship.

While the Confession prohibits private (or individual) reception of the sacrament (*Westminster Confession of Faith*, Chapter 29.4), the Constitution makes provision for individuals who want to participate in the sacrament but are not able to join the physical gathering due to circumstances beyond their control. *Book of Worship* 3-3G.1 provides for the celebration of the sacrament for those who are ill.

The person who is ill is not physically able to be present to participate in the sacrament due to circumstances beyond his or her control. It is not ideal to administer the Lord's Supper individually for the sick. But it is better than depriving them of the spiritual nourishment and growth that results from participating.

In this extraordinary and temporary circumstance, the church finds itself in the same situation. It is not able to physically meet to worship due to circumstances beyond its control. While not ideal, a church may decide it is better in the midst of this crisis to offer the sacrament for the spiritual nourishment and growth of its members.

#### Instructions for a virtual administration of the Lord's Supper

Churches that decide to celebrate the sacrament as part of a virtual worship service should:

1. Take special care to give instructions for the proper and reverent preparation of the elements beforehand, as well as of unused elements at the conclusion of the sacrament.
2. Take special care to introduce the sacrament in the worship service with affirmations of our Reformed understanding of it: the spiritual presence of Christ in the sacrament, the spiritual nourishment and encouragement it provides, the status of the elements used, fencing the table, self-examination, etc.

**Committee Members:**

- RE Yvonne Chapman (Moderator), Presbytery of the Central South
- RE Amanda Cowan, Presbytery of Florida and the Caribbean
- TE George Dakin, Presbytery of the Pacific Northwest
- TE Neil Ellison, Presbytery of the Mid-Atlantic
- RE Donald Flater, Presbytery of the Rivers and Lakes
- RE Donald Harms, Presbytery of the Midwest
- TE Dana Opp, Presbytery of the Alleghenies
- RE Ken Roberts, Presbytery of the West
- RE David Tyra, Presbytery of the Pacific Southwest
- TE Jeff Jeremiah, Stated Clerk (ex officio)
- TE Jerry Iamurri, Assistant Stated Clerk (ex officio)

**Committee Meeting Dates:**

Permanent Judicial Commission meetings are via video conference; materials are circulated and issues clarified by email in advance of deliberations. PJC decisions are drafted and circulated by email for approval by Commissioners as soon as possible following deliberations.

June 21, 2019


July 10, 2019

March 12, 2020

May 4, 2020

July 30, 2020

Respectfully submitted,

  
Yvonne K. Chapman, Moderator

September 2020