

**PERMANENT JUDICIAL COMMISSION  
OF THE GENERAL ASSEMBLY  
PRESBYTERIAN CHURCH (U.S.A.)**

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Eric Parnell, Bruce McIntosh, Cordelia )  
Shieh, Margaret Gelini, Greg Roth, Marsha )  
Roth, Randy Young, and the Session of )  
Walnut Creek Presbyterian Church, )  
Appellants (Complainants), )  
v. )  
Presbytery of San Francisco, )  
Appellee (Respondent). )  
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**Decision and Order**  
Remedial Case 220-10

**Arrival Statement**

This remedial case before the Permanent Judicial Commission of the General Assembly (GAPJC or this Commission) is an appeal from the Decision on remand of the Permanent Judicial Commission of the Synod of the Pacific (SPJC) dated September 17, 2011.

**Jurisdictional Statement**

This Commission finds that it has jurisdiction, that Eric Parnell, Bruce McIntosh, Cordelia Shieh, Margaret Gelini, Greg Roth, Marsha Roth, Randy Young, and the Session of Walnut Creek Presbyterian Church (Appellants) have standing to file the Appeal, that the Appeal was properly and timely filed, and that the Appeal states one or more of the grounds for appeal required under D-8.0105.

**Appearances**

The Appellants were represented by Mary Holder Naegeli and Bruce McIntosh. The Appellee, the Presbytery of San Francisco (Presbytery), was represented by Douglas Nave and Pamela Byers.

**History**

In a stated meeting on November 10, 2009, the Presbytery validated the call of the Candidate, Lisa Larges (Candidate), to institutional service outside the jurisdiction of the church. The Presbytery then voted to approve her ordination to the office of minister of the Word and Sacrament. In the ordination examination, there was extensive and elaborative discussion in which the Candidate presented both a Statement of Faith and a Statement of Departure, the latter in regard to provisions in the (then) Form of Government, G-6.0106b.

Appellants filed a remedial complaint against the Presbytery with the SPJC on December 21, 2009, citing errors in the Presbytery's acceptance of the Candidate's departure from G-6.0106b. A Stay of Enforcement was entered.

The trial before the SPJC was held on September 23, 2010. The record contains a comprehensive consideration of scriptural and confessional texts dealing with homosexuality as well as scholarly analysis by expert witnesses on the interpretation of these texts. This testimony reflected a spectrum of diverse theological and interpretive perspectives.

The SPJC Decision to affirm the action of the Presbytery was rendered on September 25, 2010. The SPJC at the same time ordered a continuation of the Stay of Enforcement, in anticipation that its Decision would be appealed. A Notice of Appeal was filed on November 9, 2010 (Remedial Case 220-03).

On July 15, 2011, Appellee filed a motion with the GAPJC to dismiss Appellants' remedial complaint, alleging that the Appellants' case was now moot because the *Book of Order* was changed on July 10, 2011, to amend G-6.0106b (now G-2.0104b). The motion was denied by the GAPJC on August 1, 2011.

The GAPJC Decision in Remedial Case 220-03, also rendered on August 1, 2011, affirmed the SPJC Decision on nine of the original Specifications of Error, primarily on the basis that the G-6.0106b arguments were moot. The GAPJC also determined that the record did not reflect whether the SPJC had ruled on Specification of Error No. 10, which read: "The SPJC erred by not correcting the doctrinal error and abuse of discretion exercised by the Presbytery of San Francisco in this ordination decision." Furthermore, the GAPJC sustained Specification of Error No. 11, which read: "The SPJC erred when it failed to rule on the constitutionality of the ordination decision itself, limiting its comments to presbytery process only." This Commission remanded the case to the SPJC "to rule on the matters which are the subject of Specifications of Error Nos. 10 and 11 above, and such other matters as may come before it."

In its rationale for remand, this Commission stated:

The record does not reflect that the SPJC ruled on the Appellants' contention that Scripture and the Confessions prohibit certain sexual behavior. While the Appellants' complaint was based primarily on G-6.0106b, the Appellants clearly and consistently presented arguments at trial on the basis of scriptural and confessional standards without objection by the Presbytery. Since the doctrinal issue is central to the Appellants' case, it was error for the SPJC not to expressly rule upon the issue.

Upon remand, the SPJC determined that the existing record was complete and did not require augmentation by the parties. On September 17, 2011, the SPJC rendered its final Decision not to sustain Specifications of Error Nos. 10 and 11, and to affirm the action of the Presbytery approving the ordination of the Candidate. The Appeal of this Decision was received on October 31, 2011.

## Specifications of Error

*Specification of Error No. 1. The SPJC committed an error of constitutional interpretation (D-8.0105g) when it failed to act according to its constitutional responsibility to warn and bear witness against error in doctrine within its bounds (G-3.0401c).*

This specification of error is not sustained.

*See Decision below.*

*Specification of Error No. 2. The SPJC committed an error of constitutional interpretation (D-8.0105g) when it presumed that it was the presbytery's prerogative to determine the essentials of Reformed faith and polity, when they are expressed in the Constitution (G-2.0105).*

This specification of error is not sustained.

*See Decision below.*

*Specification of Error No. 3. The SPJC committed an error of constitutional interpretation (D-8.0105g) when it failed to properly reconcile the Historic Principles of Church Order by giving effect only to F-3.0101 (Freedom of Conscience) at the expense of all the others.*

This specification of error is not sustained.

*See Decision below.*

*Specification of Error No. 4. The SPJC committed an error of constitutional interpretation (D-8.0105g) when it applied the concept of mutual forbearance (F-3.0105) to permit the candidate's conscientious objection to a scriptural and confessional standard to infringe upon the rights and views of others (G-2.0105).*

This specification of error is not sustained.

*See Decision below.*

*Specification of Error No. 5. The SPJC committed an error of constitutional interpretation (D-8.0105g) when it failed to apply and enforce the interpretation of Scripture found in the Confessions (G-2.0105) with regard to sexual conduct.*

This specification of error is not sustained.

*See Decision below.*

*Specification of Error No. 6. The SPJC committed an error of constitutional interpretation (D-8.0105g) when it failed to discipline and rebuke the Presbytery for its failure to admonish and instruct the candidate in correct doctrine (G-3.0301c).*

This specification of error is not sustained.

*See Decision below.*

*Specification of Error No. 7. The SPJC committed an error of constitutional interpretation (D-8.0105g) when it permitted the Presbytery to accept a candidate for ordination who could not, by her rejection of sound doctrine, provide an affirmative answer to each of the constitutional questions for ordination (W-4.4003, 4005b, 4006b).*

This specification of error is not sustained.

*See Decision below.*

*Specification of Error No. 8. The SPJC committed an error of constitutional interpretation (D-8.0105g) when it permitted mere authoritative interpretations - in this case, the PUP and Knox AI - to override constitutional provisions, including those found in the Book of Confessions.*

This specification of error is not sustained.

*See Decision below.*

## **Decision**

This Commission holds that the SPJC both effectively answered the remanded items and appropriately ruled that the Presbytery acted within the bounds of the Constitution. This Commission finds that the eight Specifications of Error in the current Appeal deal with alleged errors in constitutional interpretation by the SPJC Decision on remand. These alleged errors can be subsumed under two categories: (1) doctrinal error by errant interpretation of Scripture and Confessions, and (2) the authority of the Presbytery in the examination of the Candidate for ordination. The Commission agrees with the SPJC Decision that the Presbytery properly exercised its prerogative in determining that the Candidate did not depart from the essentials of Reformed faith and polity.

This Commission agrees with the SPJC assessment of the record that

a vast diversity of interpretation of scripture and the confessions regarding human sexuality evident in the record is also manifest across the churches and members of the denomination. Such thoughtful disagreement among reasonable and faithful Presbyterians is itself an important and faithful part of the Reformed tradition.

This Commission agrees with the SPJC that, within this diversity of interpretation, the Presbytery did not commit "doctrinal error or abuse of discretion" and that the Presbytery acted within its constitutional authority in making the ordination decision challenged by the Appellants.

Beginning with the Adopting Act of 1729, as reaffirmed by the Swearingen Commission Report of 1926-1927, presbyteries have had full authority to determine whether a candidate for ordination adheres to the necessary and essential tenets of the Reformed faith. This tradition is currently articulated in the *Book of Order* at G-2.0105, which states that "persons who serve [the Church] in ordered ministries shall adhere to the essentials of the Reformed faith and polity as expressed in this Constitution," and the "decision as to whether a person has departed from essentials of Reformed faith and polity is made initially by the individual concerned but ultimately becomes the responsibility of the council in which he or she is a member."

The *Book of Confessions* reflects that the Church listens to a multitude of voices in shaping its beliefs. The *Book of Confessions* is hardly univocal, containing as it does eleven different creeds, catechisms, and confessions of faith written over millennia of Christian witness. They each "arose in response to particular circumstances within the history of God's people....They are the result of prayer, thought and experience within a living tradition....They affirm a common faith tradition, while also from time to time standing in tension with each other" (F-2.01). Therefore, the confessional tradition is, itself, an instrument of reform. The *Book of Confessions*, much like Scripture itself, requires discernment and interpretation when its standards are to be applied in the life and mission of the church.

This Commission affirms the SPJC conclusion that the Presbytery acted within its constitutional authority to determine that in this ordination examination of the Candidate, she did not depart from the necessary and essential tenets of the Reformed faith as understood by the Presbytery.

### **Order**

IT IS THEREFORE ORDERED that the decision of the Permanent Judicial Commission of the Synod of the Pacific is hereby affirmed and the stay of enforcement is hereby vacated.

IT IS FURTHER ORDERED that the Stated Clerk of the Synod of the Pacific report this decision to the Synod of the Pacific at its first meeting after receipt, that the Synod of the Pacific enter the full decision upon its minutes, and that an excerpt from those minutes showing entry of the decision be sent to the Stated Clerk of the General Assembly.

IT IS FURTHER ORDERED that the Stated Clerk of the Presbytery of San Francisco report this decision to the Presbytery of San Francisco at its first meeting after receipt, that the Presbytery of San Francisco enter the full decision upon its minutes, and that an excerpt from those minutes showing entry of the decision be sent to the Stated Clerk of the General Assembly.

## **Absences and Non-Appearances**

Commissioner Flor Vélez-Díaz was absent and did not take any part in the deliberations or decision. Commissioner Jeana Lungwitz did not participate in this case.

### **Concurring Opinion of Gregory A. Goodwiller, William E. Scheu, Tony M. Cook, and Yun Jin Kim**

We concur with the result reached by the majority, but make the following observations. The Presbytery faithfully examined this Candidate and voted by a majority (157 to 138) to ordain her. At the time of the examination, it allowed a “scruple” which we believe to have then been unconstitutional. But since that occasion the constitutional language to which the Candidate objected has been removed and replaced. Although this Commission in its previous Order dated August 1, 2011, “encouraged” the SPJC “to direct the Presbytery to reexamine the candidate” under the new constitutional provision, it declined to do so and determined instead that:

This vast diversity of interpretation of scripture and the confessions regarding human sexuality evident in the record is also manifest across the churches and members of the denomination. Such thoughtful disagreement among reasonable and faithful Presbyterians is itself an important and faithful part of the Reformed tradition. This range of interpretations reached through thoughtful and prayerful discernment is, in itself, evidence that the candidate’s departure cannot be from an essential of Reformed faith and polity. Disagreements over particular passages of scripture and confessions, and their interpretation in light of scripture and confessions as a whole, preclude designating such passages as somehow uniquely central to determining the fitness and faithfulness of a candidate for office. Rather, such disagreements call for the exercise of mutual forbearance toward one another (F-3.0105).

While we concur with this assessment of where the PC(USA) is as a denomination, we lament that it is in this place – where differences over matters of human sexuality have become so diverse and divisive, where slim majority votes create huge shifts in the communal life of the denomination, and where every decision the church makes in this area is a sweet victory for one side, and a bitter defeat for the other, ultimately causing entire congregations to determine that they can no longer remain in fellowship with the denomination. As Joe Small described in a recent article in *First Things*, our denomination has relied on polity instead of scriptural and theological discernment to decide particular manifestations of the dilemma in which we find ourselves.

In many respects the denomination has been transformed by a culture of sexual fixation rather than being transformative of that culture. What difference does it make to be “Christian” when it comes to our lifestyles? Have we spoken truth to power on issues such as promiscuity, premarital, extramarital and postmarital sex and the “soft” pornography that is rampant in our television shows and advertisements? Have we been willing to teach our children and each other on these matters? Or have we succumbed to the tyranny of cultural peer pressure? How can we discipline officers for sexual misconduct when we are unwilling to discipline ourselves

generally? Have we been blinded by the “trees” of the homosexual issue, while overlooking the “forest” of the larger issues of sexual gluttony generally?

That said, dissent and division in our denomination are nothing new. In many ways, our predecessor church was in a similar place in the 1920’s – when the General Assembly had in the previous decade adopted “five essentials” to which all ministers were required to subscribe. The reports of a Commission appointed by the General Assembly (the Swearingen Commission) are widely praised for restoring peace in the church after that time of upheaval.

The preliminary statements of the Swearingen Commission’s first report in 1926, however, include the following assessment of the church in their day:

There is practically no demand for change in the Constitution of the Church. Such suggestions to this effect as have been made, have not met with appreciable response throughout the Church. All parties appear to be willing to rest upon the Constitution of the Church as it stands. They are agreed that the remedies for our troubles are within the Constitution itself. This is an immense advantage. It leaves to be decided the question of interpretation only. If there were insistence upon alterations in the substance of our organic law, if it were proposed to add new articles, or to amend old ones, our difficulties would be multiplied greatly. So long as the Church is satisfied with the Constitution as it is, we have not broken the continuity of our history, and are in position to be guided by courses adopted in the past when the fathers faced conditions similar to those existing to-day.

The same assessment could not be given today, and it is precisely our arguments over the constitution – including acts of outright defiance of constitutional provisions by those on both “sides” in our various debates – that we believe threaten our continued existence and future vitality as a faith tradition. There was a time when our covenantal commitment to each other was strong, and when “mutual forbearance” meant a willingness to *abide* by our constitution even as we worked to change it. Because of our increasing differences regarding what the constitution *ought* to say, those days are gone – and we are therefore in the position described by the Swearingen Commission in which our difficulties are “multiplied greatly.”

The Swearingen Commission went on to say:

A spiritual revival and a reconsecration of every life to Christ are imperative if harmony is to prevail and our Church is to render full service. Doubtless everyone will assent to this statement. In all our discussions its truth should be assumed as a prime condition of accord. We must begin on our knees, with confession of our sins and sincere repentance, and must move forward in the spirit of renewed allegiance to the Master and of closer fellowship with [God] which will conquer our selfishness, pride and hardness, and will insure in us humility of mind and the purity of heart which yields a vision of God.

Our prayer is that all in our church would still affirm that statement, and that we would once again “begin on our knees” to rebuild the covenant community that we know as the Presbyterian Church (U.S.A.).

## **Concurring Opinion of Michael Lukens and A. Bates Butler III**

As both this majority opinion and the SPJC have clarified, the matter of interpretation is central because in large part it is inevitable within scriptural and confessional authority. The necessary act of interpretation has been at the heart of the Reformed tradition from its inception. One may, in fact, claim that the Reformation in itself was an event of radical reinterpretation, i.e., a corrected interpretation of the Bible in a recovery of the priority of the Gospel of Jesus Christ and the means of grace. The Confessions of the Reformation period stand as consummate expressions resulting from this interpretive turn. The necessary role of textual interpretation within the Reformed tradition is, for example, clearly summarized in the second chapter of the Second Helvetic Confession (“Of Interpreting the Holy Scriptures; and of Fathers, Councils, and Traditions”). This hermeneutic practice and process upon which the Reformation is grounded has continued in further confessional development and has retained a critical role in the modifications in Reformed church life and doctrine since.

In this case, the parties agree on the necessity of continuing interpretation in understanding the meaning of Scripture and Confession through the application of modern textual analysis. The record exhibits testimony and general agreement in a number of interpretive conflicts in the church’s more recent history dealing with issues such as the role of women in the church, or in the matter of divorce and remarriage. The use of textual-critical methods, especially in the last century, has altered the range of interpretation to such an extent that scriptural and confessional texts in the arena of social and sexual relations areas have become open to alternate understandings.

Only in the matter of homosexuality do the Appellants claim an exception, i.e., pressing a univocal meaning and interpretation across vastly different historical periods and socio-cultural contexts. Although in other areas of contention there is an acceptance of the conditioning nature of radically altered historical-cultural situations, including differing social and scientific assessments, that may lead to the legitimacy of variant interpretation, in the argument of this Appeal homosexuality is an exception. It alone is held to be exempt from such interpretive analysis. The Appellants do not offer a convincing rationale in support of this exception. There is extended reference to a simple preponderance of pre-modern and early modern testimonies, but the argument remains rooted in an assumption of univocal constancy, with little reference to contemporary critical analysis or contextual differentiation. Absent such substantiation, the Appellants present no basis for rejecting the truth claim in variant interpretations.

Contention over scriptural and confessional texts is both inevitable and common. However, it is not for this Commission or the judicial process overall to test the value or judge the truth of variant interpretations of particular texts, excepting egregious refutation or abuse of primary or first order creedal affirmations, to which level the issue in this case does not rise. The majority decision affirms the historic tradition about the appropriate and traditional place for such evaluation in councils of the church. It is, then, for this Commission to adjudge whether a council is within its authority to evaluate and determine the fitness of persons for ordination. The majority decision speaks clearly to this matter.

Further, there is an assumption in this Appeal that the doctrinal issue herein deals with an “essential and necessary” dimension of Reformed doctrine. Although the church has long resisted and does not have a listing of specific doctrines or moral practices that fulfill this character, there exists a valuable conception for illuminating the nature of “essential and necessary” in the Swearingen Commission Report of 1927. That which is “essential and necessary” is that which must be present in the doctrinal system of the church in order to uphold its central witness and maintain its distinctive character. Absent such doctrine, the system collapses. The test then becomes whether a particular doctrine or



practice is necessary for the integrity of the system of doctrine as a whole. The record in this case does not sustain the notion that the ordination of a gay or lesbian person to the ministry of the Word and Sacrament is so critical that it would compromise or undermine the “essential and necessary” character of Reformed doctrine.

### **Certificate**

We certify that the foregoing is a true and correct copy of the decision of the Permanent Judicial Commission of the General Assembly of the Presbyterian Church (U.S.A.) in Remedial Case 220-10, Eric Parnell, Bruce McIntosh, Cordelia Shieh, Margaret Gelini, Greg Roth, Marsha Roth, Randy Young and the Session of Walnut Creek Presbyterian Church, Appellant (Complainants) vs. The Presbytery of San Francisco, Appellee (Complainant), made and announced at Indianapolis, IN, on April 29, 2012.

Dated this 29<sup>th</sup> day of April, 2012.