CASE 2009-6
TE JAMES BORDWINE, ET AL
VS.
PACIFIC NORTHWEST PRESBYTERY

I. SUMMARY OF FACTS

06-14-07 The 35th General Assembly of the Presbyterian Church in America adopted the following recommendations of the Ad Interim Committee on Federal Vision, New Perspective, and Auburn Avenue Theologies (the "Ad Interim Committee"), to wit:

1) That the General Assembly commend to Ruling and Teaching Elders and their congregations this report of the Ad Interim Committee on NPP, AAT and FV for careful consideration and study.
2) That the General Assembly remind the Church, its officers and congregations of the provisions of *BCO* 29-1 and 39-3 which assert that the *Confession of Faith and the Larger and zShorter Catechisms of the Westminster Assembly*, while "subordinate to the Scriptures of the Old and New Testaments, the inerrant Word of God," have been adopted by the PCA "as standard expositions of the teachings of Scripture in relation to both faith and practice."
3) That the General Assembly recommend the declarations (the "9 Declarations") in this report as a faithful exposition of the Westminster Standards, and further reminds those ruling and teaching elders whose views are out of accord with our Standards of their obligation to make known to their courts any differences in their views.
4) That the General Assembly remind the Sessions and Presbyteries of the PCA that it is their duty "to exercise care over those subject to their authority" and "to condemn erroneous opinions which injure the purity or peace of the Church" (*BCO* 31-2; 13-9f).
5) That the Ad Interim Study Committee on NPP, AAT and FV be dismissed with thanks.

Declarations

1) The view that rejects the bi-covenantal structure of Scripture as represented in the Westminster Standards (i.e., views which

do not merely take issue with the terminology, but the essence of the first/second covenant framework) is contrary to those Standards.

2) The view that an individual is "elect" by virtue of his membership in the visible church; and that this "election" includes justification, adoption and sanctification; but that this individual could lose his "election" if he forsakes the visible church, is contrary to the Westminster Standards.
3) The view that Christ does not stand as a representative head whose perfect obedience and satisfaction is imputed to individuals who believe in him is contrary to the Westminster Standards.
4) The view that strikes the language of "merit" from our theological vocabulary so that the claim is made that Christ's merits are not imputed to his people is contrary to the Westminster Standards.
5) The view that "union with Christ"' renders imputation redundant because it subsumes all of Christ's benefits (including justification) under this doctrinal heading is contrary to the Westminster Standards.
6) The view that water baptism effects a "covenantal union" with Christ through which each baptized person receives the saving benefits of Christ's mediation, including regeneration, justification, and sanctification, thus creating a parallel soteriological system to the decretal system of the Westminster Standards, is contrary to the Westminster Standards.
7) The view that one can be "united to Christ" and not receive *all* the benefits of Christ's mediation, including perseverance, in that effectual union is contrary to the Westminster Standards.
8) The view that some can receive saving benefits of Christ's mediation, such as regeneration and justification, and yet not persevere in those benefits is contrary to the Westminster Standards.
9) The view that justification is in any way based on our works, or that the so-called "final verdict of justification" is based on anything other than the perfect obedience and satisfaction of Christ received through faith alone, is contrary to the Westminster Standards.

06-14-07 TE Peter Leithart ("Leithart") writes to the Stated Clerk of the Pacific Northwest Presbytery ("PNW") in order to lay out his views on specific subjects contained in the 9 Declarations.

10-04/05-07 In response to a request from Leithart and one of the Complainants herein, PNW appointed a Study Committee (the "PNW Study Committee") charged with examining Leithart's fitness to continue as a PCA Teaching Elder in light of the June 2007 General Assembly's receptions of the Ad Interim Committee's Report on the theology of the Federal Vision.

01-10/11-08 PNW received a status report from the PNW Study Committee.

04-24/25-08 PNW received a status report from the PNW Study Committee.

10-02/03-08 PNW received a Report from the PNW Study Committee (the "Committee Report") and a Minority Report (the "Minority Report"). Leithart's Response to both reports was included. The Committee Report recommended that the views of Leithart be judged to be not out of accord with the fundamentals of our system of doctrine. The Minority Report recommended that the views of Leithart be found out of accord with the fundamentals of the system of doctrine taught in the Westminster Confession of Faith and Catechisms (the "Standards"). PNW adopted the Committee Report.

10-21-08 Complainants herein filed a Complaint with PNW regarding the action of PNW in connection with the adoption of the Committee Report. Complainants contended that: a) PNW erred by not finding that Leithart's views were out of accord with the Standards (Count 1); b) PNW erred by finding that Leithart's views were not out of accord with the Standards (Count 2); c) PNW erred by not correctly applying a principle set forth in the Louisiana Presbytery/Steve Wilkins case(s), i.e. the fact that Leithart's does not explicitly deny certain teachings of the Standards does not exonerate him (Count 3); and d) Members of PNW misunderstood the Minority Report (Count 4).

01-08/09-09 PNW consideration of the Complaint was postponed, due to weather conditions and assigned the Complaint to a Judicial Commission ("PNW Judicial Commission").

11-20-08 The PNW Judicial Commission denied the Complaint for the following reasons, to wit:

a) Counts 1 and 2 were treated as a motion to reconsider and denied because, under *Robert's Rules of Order*, such a motion has to be made by one who voted for it.
b) Count 3 was denied because discussion on floor was attributed to PNW.
c) Count 4 was denied because one cannot complain about misunderstandings of presbyters.

04-23/24-09 PNW adopted the Report of the PNW Judicial Commission that PNW did not err in finding Leithart's views to not be out of accord with the fundamentals of our system of doctrine.

05-18-09 Complainants filed a Complaint with the PCA Stated Clerk alleging PNW erred in rejecting the Minority Report, which contained ample evidence that the differences between Leithart's views and the Standards are fundamental, and in affirming that Leithart's differences are not out of accord with the Standards. Complainants contend the Complaint should be sustained for the following reasons: a) PNW ruled that the "only recourse" was to make a motion reconsider; b) PNW applied the principles found in the Louisiana Presbytery case(s) incorrectly in holding that one could make statements contravening the Standards without explicitly denying the Standards; and c) a complaint to the SJC may only be lodged if charges are actually filed against Leithart or PNW.

II. STATEMENT OF THE ISSUE

Did PNW err in its handling of the Reports from the PNW Study Committee appointed to examine Leithart's fitness to continue as a PCA Teaching Elder?

III. JUDGMENT

Yes. The Complaint is sustained, and the case is sent back to PNW with instructions to proceed according to the Reasoning and Opinion of this Decision.

IV. REASONING AND OPINION

The Record in this matter suggests that there are aspects of the teachings of TE Leithart that are in conflict with our standards. These teachings could reasonably be deemed to be injurious to the peace and purity of the church (*BCO* 13-9(f)). Further, the Record shows that Complainant and

Respondent acknowledge the same. However, without formal judicial process, PNW does not have the authority to render a definitive judgment as to whether those teachings strike at the vitals of religion or were industriously spread. (*BCO* 34-5 & 6) Therefore, Complainants are not entitled to a declaration that these teachings are out of accord with our system of doctrine. Similarly, without the completion of judicial process, PNW could not declare that these teachings are not out of accord with our system of doctrine.

PNW erred by declaring that TE Leithart's views were not out of accord with our standards. Further, PNW may not, at this point, (as Complainants have asked) declare that his views are out of accord with our standards. Nevertheless, the views of TE Leithart touching fundamentals of the system of doctrine (for example on baptism, the bi-covenantal nature of Scripture, and imputation) set out in the Record (in PNW's own Reports) suggest a strong presumption of guilt that these views represent offenses that could properly be the subject of judicial process. (*BCO* 31-2, *BCO* 29-1 & 2)

In light of these findings, PNW is directed to proceed, as follows:

(1) Pursuant to *BCO* 31-7, PNW may counsel TE Leithart that the views set forth above constitute error that is injurious to peace and purity of the church and offer him pastoral advice on how he might recant and make reparations for those views or, if he is unwilling or unable in conscience to do so, that he is free to take timely steps toward affiliation with some other branch of the visible church that is consistent with his views;
(2) If said pastoral advice is not pursued or fails to result in TE Leithart's recanting or affiliating with some other branch of the visible church before the Fall Stated Meeting of PNW, then PNW shall take steps to comply with its obligations under *BCO* 31-2.

Beyond these directions, we call attention to the responsibility of members of PNW, as those called to rebuke any who contradict sound doctrine, to bring charges in this case, should they find the views in question to be in violation of our Doctrinal Standards.

This matter is remanded to PNW for further actions consistent with this opinion.

This Decision was amended by the full Standing Judicial Commission.

Roll call vote on 2009-6:

TE Dominic A. Aquila, Concur	TE William R. Lyle, Concur
TE Howell A. Burkhalter, Dissent	RE J. Grant McCabe, Concur
RE E.C. Burnett, Concur	TE Charles E. McGowan, Concur
TE David F. Coffin Jr., Concur	TE D. Steven Meyerhoff, Concur
RE Marvin C. Culbertson, Concur	TE Timothy G. Muse, Concur
RE J. Howard Donahoe, Absent	RE Frederick J. Neikirk, Concur
RE Samuel J. Duncan, Dissent	RE Jeffrey Owen, Absent
TE Fred Greco, Concur	RE Calvin Poole, Absent
TE Grover E. Gunn III, Concur	G. Dewey Roberts, Concur
RE Terry L. Jones, Concur	TE Danny Shuffield, Concur
RE Thomas F. Leopard, Concur	RE John B. White Jr., Concur

17 Concur, 2 Dissent, 3 Absent

CASE 2009-6
TE JAMES BORDWINE, ET AL V. PACIFIC NORTHWEST PRESBYTERY
CONCURRING OPINION

We concur in the majority's finding that PNW erred in its handling of the Reports from the PNW Study Committee appointed to examine TE Leithart's fitness to continue as a PCA teaching elder. However, we would like to add to the Reasoning and Opinion the following:

First, the majority's Reasoning and Opinion states:

> The Record in this matter **suggests** that there are aspects of the teachings of TE Leithart that are in conflict with our standards. These teachings **could reasonably be deemed** to be injurious to the peace and purity of the church (*BCO* 13-9(f)). Further, the Record shows that Complainant and Respondent acknowledge the same (emphases added).
> and
> Nevertheless, the views of TE Leithart touching fundamentals of the system of doctrine (for example on baptism, the bi-covenantal nature of Scripture, and imputation) set out in the Record (in PNW's own Reports) **suggest** a strong presumption of guilt that these views represent offenses that could properly be the subject of judicial process (*BCO* 31-2, *BCO* 29-1 & 2; emphasis added).

It appears that the majority was too reluctant to state that the views or teachings of TE Leithart conflict with our Standards, are injurious to the peace and purity of the PCA, or that there is a strong presumption of guilt that TE Leithart's views constitute offenses, as if there might be some precedent for the SJC not making such findings. There is precedent for such findings: In SJC Case 2007-8 (TE James Jones, et al vs. Louisiana Presbytery), the SJC ruled, based on the Record, that TE Wilkins, whose views were found to be similar to those of TE Leithart, that those views differed, in a fundamental way, from the Westminster Standards, to wit:

> *BCO* 13-9.f gives presbyteries the power and responsibility to "condemn erroneous opinions which injure the purity or peace of the Church." Further, *BCO* 40-4 states, "Courts may sometimes entirely neglect to perform their duty, by which neglect heretical opinions or corrupt practices may be allowed to gain ground." **The record is clear that TE Wilkins expressed views that differ at key points from the Constitutional standards.** Given the nature of those apparent differences, it is the conclusion of the Standing Judicial Commission that there is a strong presumption from the record that Louisiana Presbytery did, in fact, neglect its duty to "condemn erroneous opinions which injure the purity or peace of the Church" when it found on January 20, 2007, "no strong presumption of guilt in any of the charges contained [in the Memorial from Central Carolina Presbytery] and exercise[d] its prerogative not to institute process regarding those allegations;" and when it acted on April 21, 2007, to deny the complaint of TE James Jones, specifying as grounds "the written exam of TE Wilkins and his transcribed oral exam on December 9, 2006, and the supporting rationale adopted by Presbytery this day..." (emphases added).
>
> and
>
> Given the nature of these and other issues on which TE Wilkins appears to have expressed differences from the positions of *The Westminster Standards*, and given the action of Presbytery to find no strong presumption of guilt with regard to the issues raised in the Memorial, and given the action of Presbytery to deny the complaint of TE Jones (and noting the supporting rationale for that denial); and given Presbytery's failure to explain how they concluded TE Wilkins' views are consistent with *The Westminster Standards* and do not strike at the fundamentals of the system of doctrine (*BCO* 21-4) Presbytery has given the

> appearance that it has failed to "condemn erroneous opinions which injure the purity or peace of the Church" and, by this neglect may have allowed heretical opinions to gain ground.
>
> In sum, it is the opinion of the Standing Judicial Commission that Louisiana Presbytery erred in its interpretation of the proper standards and procedures for dealing with TE Wilkins' expressed differences from *The Westminster* documents, which, as *BCO* 29-1 and 39-3 both note are "accepted by the Presbyterian Church in America as standard expositions of the teachings of Scripture in relation to both faith and practice." **Moreover, there is at least a strong presumption that Presbytery erred in failing to condemn the views in question.** Indeed, Presbytery's citation, without any *caveats* whatsoever, of the written and oral examinations of TE Wilkins as part of its grounds for denying the complaint of TE Jones gives the appearance that Presbytery is supportive of views such as those noted above, and it reinforces the concern that Presbytery has failed to meet its Constitutional obligations as noted above. It is for these reasons that the complaint is sustained and the judgment noted above is entered (emphases added).

Based on the foregoing, the majority should have definitively ruled, based on the Record, that some of the views and teachings of TE Leithart are out of accord with some of the fundamentals of the system of doctrine taught in the Standards and that there was a strong presumption of guilt in connection with the same.

Second, the majority's Reasoning and Opinion states:

> However, without formal judicial process, PNW does not have the authority to render a definitive judgment as to whether those teachings strike at the vitals of religion or were industriously spread. (*BCO* 34-5 & 6) Therefore, Complainants are not entitled to a declaration that these teachings are out of accord with our system of doctrine. Similarly, without the completion of judicial process, PNW could not declare that these teachings are not out of accord with our system of doctrine.
>
> PNW erred by declaring that TE Leithart's views were not out of accord with our standards. Further, PNW may not, at this point, (as Complainants have asked) declare that his views are out of accord with our standards.

The majority ruled that, absent formal judicial process, a Presbytery (or session) cannot undertake to determine or declare whether or not an elder's views strike at the vitals of religion or are out of accord with our system of doctrine. While we concur in part, the majority decision is too expansive without warrant when it ruled that a Presbytery (or Session) cannot ever undertake to make a non-judicial declaration that a member's views either are, or are not, outside of the Westminster Standards. This is not our polity or what our *BCO* declares.

If the court makes a non-judicial declaration that certain views are not outside of our Standards, then the matter is over, unless someone complains that this decision is not correct, as the Complainants did herein. Similarly, if the court makes a non-judicial declaration that the views are outside of our Standards, this is not a judicial determination of such, but is merely a finding, in the form of pastoral advice, that the member's views could be the subject of formal judicial process. Such a finding would give the court an opportunity to counsel and instruct the member in his error(s), failing which formal judicial process should then be initiated.

Surely immediate formal judicial process is not required by the 2nd Ordination Vow (*BCO* 21-5 or 24-6), to wit:

> …and do you further promise that if at any time you find yourself out of accord with any of the fundamentals of this system of doctrine, 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?

How is a Presbytery (or Session) to respond when an elder makes his changes in views known? There has to be some initial finding, short of formal judicial process, that either the elder's changed views do not strike at the fundamentals of our system of doctrine, or that the changed views do strike at the fundamentals, which would then result in the institution of formal judicial process, unless the court undertook to first counsel and instruct the elder in his error(s).

Likewise, how then should PNW have responded when it was presented with a request from TE Leithart and one of the Complainants herein to appoint a study committee charged with examining TE Leithart's fitness to continue as a PCA teaching elder in light of the June 2007 General Assembly's reception of the Ad Interim Committee's Report on the theology of the Federal Vision? We believe that PNW did exactly as it should have done in appointing a study

committee. The issue ought to be whether or not PNW properly handled the Committee Report and Minority Report that were the product of this study committee.

Third, the majority's Reasoning and Opinion states

> In light of these findings, PNW is directed to proceed, as follows:
>
> (1) Pursuant to *BCO* 31-7, PNW may counsel TE Leithart that the views set forth above constitute error that is injurious to peace and purity of the church and offer him pastoral advice on how he might recant and make reparations for those views or, if he is unwilling or unable in conscience to do so, that he is free to take timely steps toward affiliation with some other branch of the visible church that is consistent with his views;
>
> (2) If said pastoral advice is not pursued or fails to result in TE Leithart's recanting or affiliating with some other branch of the visible church before the Fall Stated Meeting of PNW, then PNW shall take steps to comply with its obligations under *BCO* 31-2.

The first directive assumes PNW accepts the proposition that TE Leithart's views constitute error(s). The Record does not support this, and the majority decision does not make this finding. Therefore, if PNW does not accept this proposition, as it is not bound to do, what options are there for one who believes TE Leithart's views differ, in a fundamental way, from our Standards?

The second directive assumes PNW will employ *BCO* 31-2 to find a strong presumption of guilt on the part of TE Leithart. Once again, the Record does not support this, and the majority decision does not make this finding. Therefore, if PNW does not utilize *BCO* 31-2 to find a strong presumption of guilt that TE Leithart's views constitute error, which justifies formal judicial process, as it is not bound to do, what options are there for one who believes PNW has erred?

This creates the situation wherein someone, feeling so aggrieved, will need to file yet another complaint, that will eventually make its way to the SJC, challenging the failure of PNW to accept this proposition or find a strong presumption of guilt. At that time, based on essentially the same Record, the SJC will then be faced with ruling whether or not TE Leithart's views are in

error, i.e., finding that there is strong presumption of guilt that TE Leithart's views are out of accord. Given the history of this disputed theological issue, we believe the SJC would rule that *BCO* 31-2 should be invoked, that a strong presumption of guilt found, and judicial process initiated.

In our concurrence, we believe that what amounts to a completed *BCO* 31-2 investigation has already been conducted by PNW; that PNW recognize that this investigation raised a strong presumption of guilt that TE Leithart holds views that place him out of accord, in a fundamental way, with our Standards; and that PNW should acknowledge that it erred in not instituting judicial process and do so now. The majority was correct in remanding the case to PNW; we believe that this remand implies the directive to institute process, based on a finding of a strong presumption of guilt, appoint a prosecutor to prepare an indictment of TE Leithart, and to conduct a trial.

TE Dominic Aquila TE Grover Gunn
RE Marvin (Cub) Culbertson Jr. TE William (Bill) R. Lyle
TE Fred Greco TE Dewey Roberts

CASE 2009-6
TE JAMES BORDWINE, ET AL V. PACIFIC NORTHWEST PRESBYTERY
DISSENTING OPINION

I dissent from the result reached by the majority.

I concur in the majority's finding that PNW erred in its handling of the Reports from the PNW Study Committee appointed to examine TE Leithart's fitness to continue as a PCA Teaching Elder. However, I cannot agree with the Reasoning and Opinion adopted in connection with the remanding of the case.

First, the majority's Reasoning and Opinion states:

> The Record in this matter **suggests** that there are aspects of the teachings of TE Leithart that are in conflict with our standards. These teachings **could reasonably be deemed** to be injurious to the peace and purity of the church (*BCO* 13-9(f)). Further, the Record shows that Complainant and Respondent acknowledge the same. (emphasis added)
> and
> Nevertheless, the views of TE Leithart touching fundamentals of the system of doctrine (for example on baptism, the bi-covenantal

> nature of Scripture, and imputation) set out in the Record (in PNW's own Reports) **suggest** a strong presumption of guilt that these views represent offenses that could properly be the subject of judicial process. (*BCO* 31-2, *BCO* 29-1 & 2) (emphasis added)

It appears that the majority is reluctant to state that the views or teachings of TE Leithart conflict with our Standards, are injurious to the peace and purity of the PCA, or that there is a strong presumption of guilt that TE Leithart's views constitute offenses, as if there might be some precedent for the SJC not making such findings. There is precedent for such findings, as similar findings were made in the case of TE James Jones, et al vs. Louisiana Presbytery, SJC Case 2007-8, in which the SJC ruled, based on the Record, that TE Wilkins, who holds very similar positions as TE Leithart, held views that differed, in a fundamental way, from the Westminster Standards, to wit:

> *BCO* 13-9.f gives presbyteries the power and responsibility to "condemn erroneous opinions which injure the purity or peace of the Church." Further, *BCO* 40-4 states, "Courts may sometimes entirely neglect to perform their duty, by which neglect heretical opinions or corrupt practices may be allowed to gain ground." **The record is clear that TE Wilkins expressed views that differ at key points from the Constitutional standards.** Given the nature of those apparent differences, it is the conclusion of the Standing Judicial Commission that there is a strong presumption from the record that Louisiana Presbytery did, in fact, neglect its duty to "condemn erroneous opinions which injure the purity or peace of the Church" when it found on January 20, 2007, "no strong presumption of guilt in any of the charges contained [in the Memorial from Central Carolina Presbytery] and exercise[d] its prerogative not to institute process regarding those allegations;" and when it acted on April 21, 2007, to deny the complaint of TE James Jones, specifying as grounds "the written exam of TE Wilkins and his transcribed oral exam on December 9, 2006, and the supporting rationale adopted by Presbytery this day. . . ." (emphasis added)
>
> and
>
> Given the nature of these and other issues on which TE Wilkins appears to have expressed differences from the positions of *The Westminster Standards*, and given the action of Presbytery to find no strong presumption of guilt with regard to the issues raised in the Memorial, and given the action of Presbytery to deny the complaint of TE Jones (and noting the supporting rationale for

> that denial); and given Presbytery's failure to explain how they concluded TE Wilkins' views are consistent with *The Westminster Standards* and do not strike at the fundamentals of the system of doctrine (*BCO* 21-4) Presbytery has given the appearance that it has failed to "condemn erroneous opinions which injure the purity or peace of the Church" and, by this neglect may have allowed heretical opinions to gain ground.
>
> In sum, it is the opinion of the Standing Judicial Commission that Louisiana Presbytery erred in its interpretation of the proper standards and procedures for dealing with TE Wilkins' expressed differences from *The Westminster* documents, which, as *BCO* 29-1 and 39-3 both note are "accepted by the Presbyterian Church in America as standard expositions of the teachings of Scripture in relation to both faith and practice." **Moreover, there is at least a strong presumption that Presbytery erred in failing to condemn the views in question.** Indeed, Presbytery's citation, without any *caveats* whatsoever, of the written and oral examinations of TE Wilkins as part of its grounds for denying the complaint of TE Jones gives the appearance that Presbytery is supportive of views such as those noted above, and it reinforces the concern that Presbytery has failed to meet its Constitutional obligations as noted above. It is for these reasons that the complaint is sustained and the judgment noted above is entered. (emphasis added)

Based on the foregoing, the majority should have definitively ruled, based on the Record, that some of the views and teachings of TE Leithart are out of accord with some of the fundamentals of the system of doctrine taught in the Standards and that there was a strong presumption of guilt in connection with the same.

Second, the majority's Reasoning and Opinion states:

> However, without formal judicial process, PNW does not have the authority to render a definitive judgment as to whether those teachings strike at the vitals of religion or were industriously spread. (*BCO* 34-5 & 6) Therefore, Complainants are not entitled to a declaration that these teachings are out of accord with our system of doctrine. Similarly, without the completion of judicial process, PNW could not declare that these teachings are not out of accord with our system of doctrine.

> PNW erred by declaring that TE Leithart's views were not out of accord with our standards. Further, PNW may not, at this point, (as Complainants have asked) declare that his views are out of accord with our standards.

It appears that the majority is ruling that, absent formal judicial process, a presbytery (or session) cannot undertake to determine or declare whether or not an elder's views strike at the vitals of religion or are out of accord with our system of doctrine. The majority appears to be ruling that a presbytery (or session) cannot undertake to make a non-judicial declaration that an elder's views either are, or are not, outside of the Westminster Standards. This just cannot be our polity!

If the court makes a non-judicial declaration that the views are not outside of our Standards, then the matter is over, unless someone complains that this decision is not correct, as the Complainants have done herein. Similarly, if the court makes a non-judicial declaration that the views are outside of our Standards, this is not a judicial determination of such, but is merely a finding, in the form of pastoral advice, that the elder's views could be the subject of formal judicial process. Such a finding would give the court an opportunity to counsel and instruct the elder in his error(s), failing which formal judicial process should then be initiated.

Surely immediate formal judicial process is not required by the 2nd Ordination Vow (*BCO* 21-5 or 24-6), to wit:

> . . . do you further promise that if at any time you find yourself out of accord with any of the fundamentals of this system of doctrine, 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?

How is a presbytery (or session) to respond when an elder makes his change in views known? There has to be some initial finding, short of formal judicial process, that either the elder's changed views do not strike at the fundamentals of our system of doctrine, or that the changed views do strike at the fundamentals, which would then result in the institution of formal judicial process, unless the court undertook to first counsel and instruct the elder in his error(s).

Likewise, how then should PNW have responded when it was presented with a request from TE Leithart and one of the Complainants herein to appoint a study committee charged with examining TE Leithart's fitness to continue as

a PCA Teaching Elder in light of the June 2007 General Assembly's reception of the Ad Interim Committee's Report on the theology of the Federal Vision. I would submit that PNW did exactly as it should have done in appointing this study committee. The issue ought to be whether or not PNW properly handled the Committee Report and Minority Report that was the work product of this study committee.

Third, the majority's Reasoning and Opinion states

> In light of these findings, PNW is directed to proceed, as follows:
>
> (1) Pursuant to *BCO* 31-7, PNW may counsel TE Leithart that the views set forth above constitute error that is injurious to peace and purity of the church and offer him pastoral advice on how he might recant and make reparations for those views or, if he is unwilling or unable in conscience to do so, that he is free to take timely steps toward affiliation with some other branch of the visible church that is consistent with his views;
>
> (2) If said pastoral advice is not pursued or fails to result in TE Leithart's recanting or affiliating with some other branch of the visible church before the Fall Stated Meeting of PNW, then PNW shall take steps to comply with its obligations under *BCO* 31-2.

The first directive assumes PNW accepts the proposition that TE Leithart's views constitute error(s). The Record does not support this, and the majority decision does not make this finding. Therefore, if PNW does not accept this proposition, as it is not bound to do, what options are there for one who believes TE Leithart's views differ, in a fundamental way, from our Standards?

The second directive assumes PNW will employ *BCO* 31-2 to find a strong presumption of guilt on the part of TE Leithart. Once again, the Record does not support this, and the majority decision does not make this finding. Therefore, if PNW does not utilize *BCO* 31-2 to find a strong presumption of guilt that TE Leithart's views constitute error, which justifies formal judicial process, as it is not bound to do, what options are there for one who believes PNW has erred?

This creates the situation wherein someone, feeling so aggrieved, will need to file yet another complaint, that will eventually make its way to the SJC, challenging the failure of PNW to accept this proposition or find a strong

presumption of guilt. At that time, based on essentially the same Record, the SJC will then be faced with ruling whether or not TE Leithart's views are in error, i.e. finding that there is strong presumption of guilt that TE Leithart's views are out of accord. Given the history of this disputed theological issue, it is difficult to imagine the SJC not so ruling.

The SJC's reluctance, at this time, to find that TE Leithart's views constitute error(s) is judicial in-economy at its worse and does little to bring some resolution to this long standing controversy within the PCA.

Fourth, the majority's Reasoning and Opinion states:

> Beyond these directions, we call attention to the responsibility of members of PNW, as those called to rebuke any who contradict sound doctrine, to bring charges in this case, should they find the views in question to be in violation of our Doctrinal Standards.

While this option is available, and it is very proper to encourage this action, the Record and the arguments of the Complainants indicate that this is not a viable option.

Based on the foregoing, I would rule that since what amounts to a thorough *BCO* 31-2 investigation has already been conducted by PNW, the results of which PNW should have recognized raised a strong presumption of guilt that TE Leithart holds views that place him out of accord, in a fundamental way, with our Standards, PNW erred in not so doing. In determining what is the appropriate remedy, the SJC should have remanded and sent this case back to PNW with instructions to institute process, based on this finding of a strong presumption of guilt, and appoint a prosecutor to prepare an Indictment of TE Leithart and to conduct the case.

/s/ Samuel J. Duncan

OBJECTION
Case 2009-06 – Bordwine, et al vs. Pacific Northwest Presbytery

This is an Objection rather than a Dissenting Opinion since I was not present and thus not entitled to vote on the final decision of the SJC (*BCO* 45-4). Though present during the very early part of the discussion, I was unavoidably absent during the bulk of the discussion and when the vote was cast.

I appreciate what appears to be the SJC's attempt to walk a fine line, especially in a potentially divisive case. And I am a strong advocate of trying to craft a decision which garners broad support among the judges. The SJC should be commended if that was part of the goal. It is an honor to serve with these men. Their love for the PCA, the Standards, Presbyterian government, and their fellow presbyters is deep and abiding. Nonetheless, I respectfully disagree with the court's judgment and find much of the court's reasoning unpersuasive and confusing. (In this Objection, all emphasis and underlining is added.)

A quick review. Prior to Presbytery's Oct 2008 meeting, copies of three reports were distributed to presbyters: a Study Committee Majority Report (13 pages), minority report (26 pages), and TE Leithart's Response[1] to both (32 pages). (All three were in the Record of the Case.) At the Oct meeting, Presbytery heard the committee recommendation. A committee minority proposed the following substitute as one of its two recommendations, but it was not adopted. The single committee recommendation was adopted.

> Minority: "That Presbytery find TE Peter Leithart's views, as summarized in the Minority Report, to be out of accord with the <u>fundamentals</u> of the system of doctrine taught in the Westminster Standards."
>
> Committee: That the views of TE Peter Leithart be judged to be <u>not</u> out of accord with the <u>fundamentals</u> of our system of doctrine."

The three members of the committee minority then complained against this action, and their complaint was denied in April 2009. The main issue in Oct 2008 and again in April 2009 was simple. Did this minister hold any views which were out of accord with the *fundamentals* of our system, which according to *BCO* 21.4.f means the difference is either "hostile to the system" or it "strikes at the vitals of religion." Hereafter "HSD" & "SVR" (cf. *RAO* 16.3.e.5.d)

The SJC decision does not declare any specific view as being out of accord with a fundamental of our system of doctrine. The decision does not declare there is a strong presumption of guilt on any offense. So it's a bit unclear what is being said. Apparently, Presbytery's error was in procedure not judgment.

"<u>Fundamentals</u>"

In the SJC decision, there seems to be some confusion on the difference between a view that is out of accord with the Standards (i.e., it is a difference)

and one that is out of accord with a *fundamental* of the system of doctrine (i.e., because it is HSD or SVR). The decision does not sufficiently acknowledge this crucial difference. In several places, the court uses the lesser phrases "out of accord with our Standards" or "out of accord with the system." For example, in the first sentence in the second paragraph of the Reasoning, the SJC writes:

> "Presbytery erred by declaring that TE Leithart's views were not out of accord with our standards."

But that is not what Presbytery declared. Presbytery did not say his views were not *differences*. Presbytery did not declare every one of his views was in accord with the Standards. In the one-sentence recommendation adopted by Presbytery in October 2008, that court simply declared: "That the views of TE Peter Leithart be judged to be not out of accord with the fundamentals of our system of doctrine." (The SJC's confusing omission of the noun "fundamentals" also exists in six other places: Summary of Facts 10/21/08 lines 4 and 5, in 5/18/09 line 4, in Reasoning paragraph 1 lines 8 and 10, and in Reasoning paragraph 2 line 3.)

Furthermore, a distinction should be made between (1) a difference with some Confessional statement or proposition *related* to a fundamental doctrine, and (2) a difference with the fundamental doctrine itself. For example, a 1991 SJC decision declared infant baptism is a fundamental of our system of doctrine. But not all differences with the Standards' many statements on baptism constitute differences with that fundamental. For example, many PCA Sessions do not discipline baptistic parents who choose not to have their young children baptized, despite the fact that *WCF* 28:5 declares it is "a great sin to contemn [scorn] or neglect this ordinance…" (Research demonstrates the Westminster divines believed and meant that baptistic parents are "neglecting the ordinance" as long as they have not baptized their child. See the Westminster Theological Journal article written by Jonathan Moore who holds a PhD in Historical Theology from Cambridge - WTJ 69 [2007]: 63-86.) So that commonly-held difference with *WCF* 28:5, while touching a fundamental of our system, is not a disagreement with the fundamental itself.

The Jenga Stick

In the game Jenga, there are 54 sticks that make a tower (three sticks placed on each of 18 levels). In successive turns, players remove a stick and place it on the top of the tower. When a player removes one that makes the tower fall, he loses. Let's call this decisive stick the "Jenga Stick." When evaluating a man's differences with the Westminster Standards, a Presbytery is permitted

to allow him to remove and replace sticks (express differences/"take exceptions") so long as none of the sticks is a Jenga Stick. The Jenga Stick is a difference that is "hostile to the system" or one that "strikes at the vitals of religion."

Any difference from any statement or proposition in the Standards that is "more than semantic" is technically "out of accord with the Standards." It is a stick. But a Jenga stick is a difference that is more than just "out of accord." It is "out of accord with a fundamental of our system of doctrine" because it is "hostile to the system" or it "strikes at the vitals of religion." Let me illustrate another way. I'm an airline pilot flying an Airbus. There are certain systems important to flight, but others that are *essential*. An Airbus can lose one engine or even all electrical power and still fly. But if I run out of fuel or lose both engines, I'm gliding down. And if I lose total hydraulics, I lose control. While the electrical system is important, hydraulics is a Jenga Stick.

So there are two questions when examining a man's view on a specific subject – Is it a difference? If so, how big? The recognition of a distinction between sticks and Jenga Sticks is clearly and wisely reflected in our PCA documents (e.g., ordination exams *BCO* 21.4.f, defining a range of doctrinal error *BCO* 34-5, strict requirements for what to record in minutes of Presbytery exams *RAO* 16.3.e.5). But in their Reasoning, the SJC does not specify which of Leithart's views should be considered as a difference with the Standards. Nor does the court identify any Jenga Sticks. The dispute in Pacific NW Presbytery involved the two questions below (particularly the second), and the parties were looking to the SJC for a ruling. We failed by not giving them one.

1. Which, if any, of Mr. Leithart's views is a *difference* with the Westminster Standards? (objective evaluation)
2. Which, if any, of those differences should be considered as "hostile to the system" or "striking at the vitals of religion" (a Jenga Stick) - and why? (subjective judgment)

While the SJC does not answer those questions directly, it appears to attempt to address them indirectly. The court writes:

> " . . .the views of TE Leithart touching fundamentals of the system of doctrine (for example on baptism, the bi-covenantal nature of Scripture, and imputation) set out in the Record (in PNW's own Reports) suggests a strong presumption of guilt that these views represent offenses that could properly be the subject of judicial process." (*BCO* 31-2, *BCO* 29-1 & 2)

Is the SJC saying, or even implying, for example, that one particular expression or explanation of the bi-covenantal nature of Scripture is a fundamental of our system? In his 32-page Response, Leithart addresses this question and expresses a view regarding grace and works in the Adamic covenant. He says briefly at one point: *"There are "legal" aspects to every covenant. At the same time, there is grace in every covenant as well*." He argues in his Response that this view has been shared, to greater or lesser degrees, by men like Calvin, Ursinus, Bucanus, Junius, Burges, P. Gillespie, Blake, Owen, Rutherford, Bridge, Boston, Brown, Ridgeley, Thornwell, Dabney, and Bavinck. Given the SJC excerpt above, are we to conclude Leithart's view is "hostile to the system" of Reformed theology or "strikes at the vitals of religion" and that we should presume these spiritual ancestors were guilty of some similar offense?

A Presbytery's Right to a Subjective Judgment on the Weight of a Difference

After scrutinizing a man's view, a church court can declare it does not consider his view to be out of accord with the fundamentals of our system of doctrine. Presbyteries do this in ordination exams. Sessions do this when examining prospective church officers. Judicial process is not necessary for a court to reach this judgment. The SJC was mistaken when it ruled:

> "… without the completion of judicial process, PNW could not declare that these teachings are not out of accord with our system of doctrine."

The SJC did not explicitly declare that PNW Presbytery's *judgment* was in error. The court (apparently) simply declared Presbytery reached the conclusion by an improper path.

Unclear Judgment and Inconsistent Reasoning

Although the Judgment declares, "*The Complaint is sustained* . . . ," part of it was not. It would be more accurate to report the Complaint was denied in part (allegation 1) and sustained in part (allegation 2). Complainants alleged Presbytery erred in two ways:

1. "In rejecting Recommendation 1 of the Minority Report: "That Presbytery find TE Peter Leithart's views, as summarized in the Minority Report, to be out of accord with the fundamentals of the system of doctrine taught in the Westminster Standards."

2. "In adopting the final recommendation of the Majority Report, which affirmed "that the views of TE Peter Leithart be judged to be not out of accord with the fundamentals of our system of doctrine."

But the first allegation of error was not sustained, as reflected in the SJC language below, which ruled Presbytery could not make certain negative declarations about the minister's views:

> "Complainants are not entitled to a declaration that these teachings are out of accord with our system of doctrine…. Further, PNW may not, at this point, (as Complainants have asked) declare that his views are out of accord with our standards."

In addition, the SJC makes other statements that appear inconsistent with what it said above:

> "The Record in this matter suggests that there are aspects of the teachings of TE Leithart that are in conflict with our standards. These teachings could reasonably be deemed to be injurious to the peace and purity of the church (*BCO* 13-9(f))."

Granted, these last two sentences contain some apparently-qualifying words ("suggests… aspects… reasonably"). But is it sensible to rule the court of original jurisdiction has no right to declare a man's view "out of accord with our Standards" but the appellate court has the right to declare the Record "suggests there are aspects of the teachings…that are in conflict with our standards"? It's one thing to overrule a judgment of a lower court. It's altogether another thing to declare it doesn't have the right to make a declaration and then have the higher court imply the declaration.

What exactly is the SJC saying about the views of this minister? The Record included a 32-page paper written by Leithart specifically and comprehensively addressing the majority and minority reports from Presbytery's committee. There was sufficient material on which the SJC could judge whether any of the specific views were Jenga Sticks.

Presbytery's Right to Condemn Erroneous Opinions

BCO 13-9.f gives Presbyteries the "power . . . to condemn erroneous opinions which injure the purity or peace of the Church." Are we to assume it can only exercise this power when the opinion is theoretical or comes from someone who is not a member of that Presbytery?

A church court is *always* free to declare its opinion on whether a particular view is out of accord with the Standards. And it is not restricted to just theoretical or hypothetical instances. For example, a Presbytery declares its opinion whenever it rules on a man's difference expressed in an ordination exam. And the Memphis GA declared its opinion in 2007 when it declared the nine declarations were "faithful expositions" of the Standards.

Likewise, a court is *always* free to declare its opinion that it considers a particular difference to be HSD or SVR. Several years ago, one of our Presbyteries let it be known that it considered any non-Calendar Day view of creation to be a Jenga Stick – no candidate could get ordained, and no minister could transfer in, who did not hold that view. And it was their right. Similarly, in an ordination exam if a man expresses a view the court considers HSD or SVR, his exam will not be sustained. However, once a man becomes a member of the court, it understandably gets a bit more complicated. If a member of the court expresses a view that the court believes is HSD or SVR, the court can critique the view. And, presumably, that critique would have pastoral consequences. But apart from judicial process, it cannot censure him for holding the view. In other words, Presbytery has the right to declare that his view (as the court understands it) is HSD or SVR. But that declaration itself has no judicial consequences.

The Real Question - and Possible Outcomes

The SJC seems to rule a court cannot ever, apart from judicial process, declare a *particular* man's view to be "out of accord with the fundamentals of the system of doctrine taught in the Westminster Standards." Is that always true?

1. A candidate is being examined for ordination, and he holds a view that the Presbytery deems (by motion and vote) to be out of accord with a fundamental of the system of doctrine taught in the Standards because it considers it to be HSD or SVR. His exam is not sustained. And then a minister announces he holds the exact same view. However you spin it, the minister's view has indirectly just been declared HSD or SVR.
2. A minister wants to know whether his view on something in the Standards is considered by his fellow presbyters as being HSD or SVR. He sends a written explanation of his view. It is neither mandatory nor helpful for Presbytery to respond: "We can't answer your question apart from indicting you and conducting a trial."
3. A Session wants to know whether a view held by one of its elders is considered by Presbytery as being HSD or SVR, and they file a

Reference with that question. It is neither mandatory nor helpful for Presbytery to respond: "We can't answer your question since it is an actual view held by a particular elder."

The real question is not: "Is a Presbytery constitutionally permitted to adopt a motion that declares a particular view to not be HSD or SVR (or to be HSD or SVR) if they already know it is held by one of their ministers?" The real question is: "What happens after such a declaration is adopted?"

If a Presbytery judges a minister's view to be not out of accord with the *fundamentals* of our system of doctrine (like in this case) there are several options.

1. Individual presbyters are still free to seek to persuade the minister that his view is HSD or SVR.
2. After some period of time, individual presbyters could seek to persuade Presbytery, probably in writing, that the view is HSD or SVR and, if a new consensus seems to develop, seek to persuade the court to "amend or rescind something previously adopted" and render a different judgment.
3. Some presbyter could file a Complaint seeking the mind of the broader church (higher court) on whether the view should be considered HSD or SVR. (That is what happened in this case.)
4. Some presbyter could file charges against the minister. (However, if the Presbytery was thorough in evaluating the minister's view in the first place, it's not likely it will accept the charges or appoint a prosecutor. Presbytery could say it has already determined there is no "strong presumption of guilt.")
5. New "evidence" could arise that might lead Presbytery to conduct another evaluation of the minister's view(s).
6. If *BCO* 34-1 were ever amended to delete the phrase "refuses to act," then the SJC could assume original jurisdiction, at the request of some number of Presbyteries, and apply *BCO* 31-2 itself.

On the other hand, if a view held by a minister has been judged by Presbytery as being HSD or SVR, he has several options.

1. He could choose to do nothing. (The ball is not necessarily in his court.)
2. He could report his intent to commit to further study.
3. He could try to persuade Presbytery to reconsider their opinion. He could write a paper clarifying his view, or arguing why it should not be considered as a difference, or why it should at least not be considered as HSD or SVR.

4. If he feels "aggrieved by injurious reports" and wants to be formally exonerated, he could ask the court to officially investigate these reports "affecting his Christian character." Per *BCO* 31-2, the court would have an "imperative" duty to conduct this investigation, and the investigation would presumably result in either an indictment or exoneration.

Presbytery would also have several options. Presbytery could:

1. Pastorally recommend he consider not teaching the view (or at least consider refraining from "industriously spreading" it).
2. Pastorally recommend he consider transferring to a PCA Presbytery where his view would not be considered HSD or SVR.
3. Pastorally recommend he consider a denomination where the view might be more suited.
4. Accept charges filed by another member in accord with *BCO* 32-2 (who perhaps would be willing to serve as prosecutor.) See also *BCO* 31-6.
5. Proceed with judicial process per *BCO* 31-2, if Presbytery believes the view is an "offense" because it is a "doctrine…which is contrary to the Word of God" and that can "be proved to be such from Scripture (*BCO* 29-1) and because the view is a **"**Heresy…of such a nature as to warrant deposition;" (*BCO* 34-5).

Precedent

The SJC has not hesitated in the past to rule on whether a view was, or was not, out of accord with a fundamental of our system of doctrine. Below are some cases in which the SJC ruled a view was out of accord with a fundamental of our system:

Bogue v. Ascension, 1980	Reversed Presbytery and annulled an ordination exam, ruling "belief in extraordinary revelation by tongues interpreted" did not "adequately protect the fundamental teaching of the *WCF* and *BCO* concerning the sufficiency and finality of revelation in Scripture."
Gentry v. Calvary, 1986	Ruled that a man's views "relative to the matter of continual revelation are unconstitutional and are fundamentally out of accord with the doctrine of the PCA. (See similar decisions in Serio v. Palmetto, 1988 and Landrum v. MS Valley, 1997 and 1998.)

Bowen v. E. Carolina, 1991	Affirmed Presbytery's judgment that "infant baptism and limited atonement are to be considered fundamentals of our system of doctrine and that there can be no exceptions given in the case of officers of the church."

Below are other cases where SJC ruled a view was not out of accord with any fundamental of our system:

Lee v. Gulf Coast, 1982	Ruled that "no particular view of the application of judicial law for today should be made as a basis for orthodoxy or excluded as heresy." See also Gunter & Monroe v. Central Florida, 1992 (theonomy cases).
First Pres v. N. TX, 1990	Ruled that the view denying an innocent party the right to remarry after a divorce, while contrary to the *WCF*, did not "strike at the vitals of religion."
Mt. Carmel v. NJ, 1998	Ruled that certain non-Calendar Day views of creation were not out of accord with any fundamental of our system, but that "any purely naturalistic evolutionary interpretation is not compatible with our Confessional standards."

The Nine Declarations

There might be some confusion about the *effect* of actions taken by the 2007 GA. (In this present case, two-thirds of the Summary of Facts is dedicated to it). At the 34th GA in Atlanta in 2006, an Ad-Interim Study Committee was approved and charged with the following assignment:

> To determine whether these viewpoints and formulations [i.e., NPP and FV] are in conformity with the system of doctrine taught in the Westminster Standards, whether they are hostile to or strike at the vitals of religion, and to present a declaration or statement regarding the issues raised by these viewpoints in light of our Confessional Standards."

The following year, the majority of our fathers and brothers at the 35th GA in Memphis adopted five recommendations from the Study Committee

(http:// www.pcahistory.org/pca/07-fvreport.pdf). The wording of Recommendation 3 is most pertinent here:

> "Recommendation 3: That the GA recommends the [nine] declarations in this report as a faithful exposition of the Westminster Standards, and further reminds those ruling and teaching elders whose views are out of accord with our Standards of their obligation to make known to their courts any differences in their views."

Three points are worth noting:

1. While the majority of men at the 2007 Memphis GA believed these were nine "faithful expositions" of the Standards, there is no *constitutional* requirement for men to agree with that conclusion - in any of the nine instances. There is a crucial difference between the men at a single GA agreeing on an exposition of a confessional paragraph, and the denomination amending the Constitution to explicitly reflect that understanding. Otherwise, our confession could be amended by majority vote at a single GA, rather than by the 3/4-3/4-3/4 required in *BCO* 26-3. I'll use an extreme example to make this procedural point. *BCO* 14-5 stipulates the quorum for GA is 50 TEs and 50 REs representing at least 1/3 of the Presbyteries. Let's say a GA is held at a relatively inconvenient city, where attendance is low, and one hour before adjourning on Friday, a majority of the quorum still present adopts a motion proclaiming it is a "faithful exposition" of *WCF* 24:1 to understand that marriage could be between two consenting adults, not just between a man and a woman. (See also the SJC reasoning in Edgemont Session v. Westminster in 1997 dealing with the 16th GA's study on Freemasonry.)
2. While the majority of men at the 2007 Memphis GA voted in favor of regarding the nine declarations as "faithful expositions" of the Standards, each declaration only declared a certain view to be "contrary to the Standards." It did not declare any as being "hostile to the system" or as "striking at the vitals of religion." Presumably, even if a Presbytery agreed with all nine declarations, and it was examining a candidate who disagreed with all nine, they would still need to determine whether each difference should be regarded as HSD or SVR. It is important to also note the Ad-Interim Study Committee was specifically tasked by the Atlanta GA "to determine whether [certain] viewpoints and formulations… are hostile to or strike at the vitals of religion." However, the Committee (wisely) did

not recommend that any particular view be regarded as HSD or SVR and the Memphis GA did not adopt anything declaring such.

3. In the second part of Recommendation 3, all elders are reminded to "make known to their courts any differences" they have with our *Standards*. (This was already a well-known requirement in the PCA – see *BCO* 13-6, *BCO* 21-4.f, RAO 16-3.e.5, and to a different extent, the second part of ordination vow 2 in *BCO* 21-5). But Recommendation 3 did not say men are obligated to make known to their courts differences they might have *with these nine declarations of the 2007 Memphis GA*. The nine declarations are not themselves part of our Standards.

There are over 32,000 words in the Westminster Standards, written over 350 years ago. Taken together, it is a magnificent document. Best of its kind. It has been and remains an immeasurable blessing to the Church and critically important in our role as teachers, pastors, examiners, and children of God. Elders should know it well. But it shouldn't be surprising that theologically-rigorous men like us in the PCA might find some statements or propositions with which we differ. Frankly, I wonder if there were any Westminster divines who would have proclaimed, like many of our ministerial candidates, "I have no difference with *any* statement or proposition in the Standards." We sometimes forget it was a consensus document prepared over three years and not every paragraph was adopted unanimously by the 60-120 men in attendance for any particular vote.

Frequently, ordination candidates proclaim they have no differences with any statement and proposition in the Standards. But do they really agree, for example, with the quasi-Erastian view that holds the civil magistrate should use tax money to pay the salaries of the ministers? (LC 191:"In the second petition [Lord's Prayer]… we pray, that… the church (be)… *countenanced and maintained* by the civil magistrate…") Do they really agree that God still makes himself known through "lots" and that these are valid and appropriate for Christians? (LC 112: "The 3rd commandment requires, that … *lots*… and whatsoever else there is whereby he makes himself known, *be holily and reverently used*…" - citing Acts 1:24-26.) Faithfulness and fidelity to the Standards, and a firm and passionate embrace of their teachings, is not necessarily synonymous with "no exceptions."

Conclusion

The SJC gives two "directions" to Pacific Northwest Presbytery at the end of the decision, but they are confusing. The first direction references *BCO* 31-7,

but that paragraph only applies *after* an indictment. It begins, *"When the prosecution is instituted by the court . . . "* The first direction also says Presbytery "may counsel TE Leithart that the views set forth above constitute error that is injurious to the peace and purity of the church . . ." But the SJC never rendered such a judgment on any of his views. So the first amends is not coherent and it is unclear what is meant by the seemingly-optional "*may* counsel." And the second "direction" from the SJC is contingent on the first.

Nineteen years ago, the SJC identified two specific Jenga Sticks in another case – limited atonement and infant baptism (Bowen vs. Eastern Carolina). That clear identification has served the PCA well. Candidates know it. Examining courts know it. Most of our congregants know it. In this case, the SJC was asked to rule on the dispute between the complainants and Presbytery over whether any of a minister's views were Jenga Sticks. If SJC believed any views were Jenga Sticks, instead of indirectly critiquing them, the court should have:

(1) clearly identified them,
(2) clearly explained how and where they differed from the Standards, and
(3) clearly explained why the court judged them to be hostile to the system or striking at the vitals of religion.

RE Howard Donahoe

[1]At the time of this Objection, Leithart's 32-page Response from the Record could also be found at http://www.leithart.com/pdf/Response-to-Presbytery-Committee-Reports.pdf

CASE 2009-7
TE JAMES URISH VS. ROCKY MOUNTAIN PRESBYTERY

I. SUMMARY OF FACTS

1. Rocky Mountain Presbytery examined Mr. Dan Breed for ordination at the January 2009 Stated Meeting. During the candidate's theological examination, he was questioned about views he had expressed in his written theological examination as to the role a woman may play in the life of the church. Specifically, the candidate wrote:

> Women and men in the church are able to teach, mentor, lead, administer, and counsel men and women as is seen