Dowling [R]	*Concur*	Lee	*Concur*	Waters	*Concur*
M. Duncan [R]	*Concur*	Lucas	Absent	White [R]	*Concur*
S. Duncan [R]	*Concur*	McGowan	*Concur*	Wilson [R]	*Concur*

CASE No. 2022-20

MR. DEREK WILSON et al.

v.

PACIFIC NORTHWEST PRESBYTERY

DECISION ON COMPLAINT
March 2, 2023

The Case is judicially out of order and is not able to be put in order because the avowed Complaint filed with the Session of Covenant Presbyterian Church was not a complaint "against some act or decision of a court of the Church." (*BCO* 43-1) [ROC 6-9]. The Complaint alleges errors related to actions taken in a congregational meeting. Under our rules, ". . . a congregation meeting is not a court of the Church, and the *BCO* has no provision that allows a Complaint against congregational actions" (Judicial Case 2021-12 *Complaint of Christian Michelson and Stuart Michelson v. Northwest Georgia Presbytery,* Feb. 1, 2022).

The concerned members were not and are not without recourse. The members could have informed Presbytery, under *BCO* 13-9(f) and 40-5, of what, in their view, was an unconstitutional limitation on voting in the Congregational Meeting. Presbytery's response to that report would have been an action of a court, which, in turn, could be subject to complaint. Further, since this Complaint is out of order, it is possible that the matter could be raised in the review of the records of Session and/or Presbytery if the issue is raised in their minutes. The Complaint is dismissed.

The Proposed Decision was drafted by TE Coffin and RE Wilson and approved by the Panel. The SJC approved the Decision by vote of 20-2 on the following roll call. Ruling Elders indicated by [R].

Bankson	*Concur*	Eggert [R]	*Dissent*	Neikirk [R]	*Concur*
Bise [R]	*Concur*	Ellis	*Concur*	Pickering [R]	*Concur*
Carrell [R]	*Dissent*	Garner	*Concur*	Ross	*Concur*
Coffin	*Concur*	Greco	*Concur*	Sartorius	*Concur*
Donahoe [R]	Disqualified	Kooistra	*Concur*	Terrell [R]	*Concur*
Dowling [R]	*Concur*	Lee	*Concur*	Waters	*Concur*
M. Duncan [R]	*Concur*	Lucas	Absent	White [R]	*Concur*
S. Duncan [R]	*Concur*	McGowan	*Concur*	Wilson [R]	*Concur*

RE Donahoe was disqualified because he is a member of the Pacific NW Presbytery.

CONCURRING OPINION
Case 2022-20: *Wilson v. Pacific Northwest Presbytery*

TE Guy Prentiss Waters & RE Frederick (Jay) Neikirk; joined by TEs David Garner, Fred Greco, Michael Ross, and Art Sartorius & REs John Bise, Steve Dowling, Samuel Duncan, John Pickering, Bruce Terrell, and John White.

We concur with the Decision of the Standing Judicial Commission in Case 2022-20. We wish, however, to highlight the importance of the substantive issue raised in this Case, and to reiterate the SJC's conclusion that such matters are not always beyond the reach of the courts of the Church.

This Complaint was occasioned by an action that was taken in a congregational meeting. Specifically, the moderator of the congregational meeting "limited the vote [on a matter] to communing members age 18 and above" (ROC 33, 36). The particular matter concerned a proposed request to "accept or reject the resignation" of the congregation's associate pastor (ibid). The effect of the moderator's ruling was to prevent a portion of the congregation's communing members from voting on a motion put before the congregation, a motion relating to the spiritual governance of the congregation.

What are we to make of this action? The Constitution declares, "Those only who have made a profession of faith in Christ, have been baptized, and admitted by the Session to the Lord's Table, are entitled to all the rights and privileges of the church" (*BCO* 6-4). The only express provision in the Constitution for the suspension or removal of any ecclesiastical right or privilege is the particular censures imposed upon a church member found guilty of some offense (*BCO* 36). The Record gives no indication that the

communing members who were prevented from voting at this congregational meeting had so been censured as to deprive them of the right to vote in a congregational election. That is to say, the Record affords no evidence that these communing members under the age of 18 were prevented from voting as a result of some formal, Constitutional, disciplinary proceedings.

Rather, the Record indicates that this prevention came from a provision of the church bylaws that limits voting in congregational meetings to those communing members aged 18 and above (ROC 33, 37). But the bylaws of a local congregation cannot be the final word on ecclesiastical matters. This point is clearly stated in *BCO* 25-7, "if a particular church is incorporated, the provisions of its charter and bylaws must always be in accord with the Constitution of the Presbyterian Church in America" (emphasis added). *BCO* 25-7 goes on to say, "All the communing members on the roll of that church shall be members of the corporation" (emphasis added). In light of this provision, no congregation or court of the Church may use its bylaws to set aside the Constitution or violate church law, for whatever reason.

Further, *BCO* 25-11 draws a distinction between "matters ecclesiastical," where "the actions of such local congregation or church shall be in conformity with the provisions of this *Book of Church Order*" (emphasis added), and other actions, including those dealing with property, or whether the church will affiliate with or withdraw from the PCA, that may be taken in accordance with "applicable civil laws." Thus, these paragraphs draw an important distinction between ecclesiastical matters where civil laws, including church bylaws, cannot trump the *BCO*, and civil matters where the church can and should follow applicable civil laws. These provisions of the *BCO* lead, in turn, to two critical questions that must drive any analysis of the issue raised by this Complaint: 1) Does a vote to call a pastor or to dissolve a pastoral relationship fall into the ecclesiastical or civil realm? and 2) If such a vote is fundamentally a "matter ecclesiastical," does the *BCO* allow a local congregation to set qualifications on voting beyond those of being a communing member and being present at the relevant congregational meeting?

These questions are important because to prevent any class of church members from voting apart from the express provisions of the Constitution raises serious questions about the integrity of ecclesiastical membership and the extent and limits of ecclesiastical power. May a congregation, as opposed to its Session, take an action, whether through the church bylaws or a decision at a particular meeting of that congregation, that bars some members from any of the "rights and privileges of the church," including the right to vote on who shall be spiritual leaders of the congregation? Further, may a communing

member in the Presbyterian Church in America, solely by virtue of age (or gender, or race, or any other defining characteristic not stipulated by the Constitution) be thereby barred from the exercise of any of the "rights and privileges of the church"? Such weighty questions merit the attention of the courts of the Church**,** acting in accordance with the provisions of review set forth in the Constitution, so as either to vindicate the position reflected in the Church's bylaws or to vindicate the position reflected in the arguments of Complainants.

The importance of these questions is matched by an attendant challenge. How might the concerns raised in this particular Case come under the review of the courts of the Church? As the SJC's decision in this Case rightly observes, actions taken in a congregational meeting are not actions of a court of the Church and, therefore, are not properly actions against which Complaint may be made (see *BCO* 43-1). But, the Decision continues, "the concerned members were not and are not without recourse." What options lie at these members' disposal? The SJC's Decision in Judicial Case 2021-12 (*Michelson and Michelson v. Northwest Georgia Presbytery*), referenced in the current Decision, proposes distinct avenues that are pertinent to this Case. It is, therefore, possible for a matter raised in a congregational meeting or in church bylaws to come for review before the courts of the Church. Thus, while one might construe this Judicially Out of Order ruling to say that such a matter could never come before the courts of the PCA, the reasoning in *Michelson* and in this Case in fact indicate that there are ways that an issue of substance can be raised appropriately, even though that was not done in this particular Case.

In closing, we wish to emphasize that this Concurring Opinion in no way adjudicates the matters that Complainants have raised in their Complaint (and, in any case, critical materials are lacking from this Record that are necessary to any such adjudication). We do believe, however, that the issue raised in the Complaint, and the questions that grow out of that issue, merit adjudication, and that higher courts are not barred in all situations from taking up such questions even when they grow out of a church's bylaws or actions taken at a congregational meeting.

DISSENTING OPINON
Case 2022-20: *Wilson, et al. v. Pacific Northwest Presbytery*

RE Jim Eggert, joined by RE Dan Carrell

Background

This case involves a Complaint alleging that minor communicant members of a congregation were deprived of their alleged right to vote at a congregational meeting. The complainants are J. Derek Wilson and others identifying themselves as "Concerned Members of Covenant Presbyterian Church" in Issaquah, Washington (CPC).

The question put to congregational vote was whether to accept the resignation of their Associate Pastor pursuant to *BCO* 23-1. The Complaint states, "The Session disregarded proper procedure for a Congregational Meeting …infringed on the rights and agency of congregants and violated the government of the Church…by not abiding by the *Book of Church Order*" and specifically "disenfranchising communing members under 18."

The Congregation elected one of its Ruling Elders as Moderator of the meeting. After the suffrage and other objections were raised, the Complaint continues, "the Moderator called for a recess to consult with the Session," and "[a]fter consultation, and by agreement with the Session" the "violations were upheld by the Session after which the vote was forced by the Moderator over objection."

The minutes of the congregational meeting record that "Mr. Wilson [one of the complainants] asked for the opportunity to speak to the matter of the vote," at which point "a short recess was taken." The minutes add that "Mr. Wilson objected that the meeting was out of order because we did not allow the resignation to be debated" adding without further elaboration that "Mr. Orth [another one of the complainants] noted that he objected in the manner the meeting was conducted and asked that it be noted in the minutes." The minutes also record that "Mr. Dedo [another one of the complainants] asked that it be reflected in the minutes that he spoke in the meeting," although the minutes fail to record what he said.

The Complaint continues:

> The mode of the actions and irregularities of the Session of CPC comprise a heavy hand over the congregation. Pleas for redress were rebuffed at the meeting by the Moderator and the Session by consultation. Concerned congregants, crushed in spirit under the weight of the Session, ceased to have the will to explore procedural remedies that may have been effective had the Moderator or the Session understood them. The actions and attitude of the Session in this matter do not engender purity, peace and unity by any means, but rather disrupt the same … The Session of CPC has demonstrated a lack of ability to either approve of or submit to the government of the Church through ignorance, misunderstanding and/or willful violations of the *Book of Church Order*….

The vote passed 37-27 in favor of accepting the Associate Pastor's resignation.

The "redresses" requested by the Complaint included the following: (1) invalidating the results of the meeting, (2) distributing a copy of the Complaint to all the members, and (3) calling a congregational meeting to: (a) acknowledge the proper issues highlighted by the Complaint, (b) consider acceptance of the associate pastor's resignation, and (c) establish a committee of congregants to recommend paths forward as a church to be considered at a future congregational meeting.

The Session's answer to the Complaint explained that the CPC Bylaws prohibited minors from voting. While the Session denied that any member of the congregation had "moved to allow the vote of communing members under the age of 18 in contravention of the Bylaws," the Session did not deny the Complaint's allegation that it had agreed with the Moderator's ruling about the prohibition.

After the Session denied the Complaint, the Complainants took that Complaint to Presbytery which found that, although the Ruling Elder Moderator of the congregational meeting acted as a representative of the Session while moderating, the Session nevertheless did not violate the Constitution of the PCA when, following its Bylaws, it limited the vote to communing members 18 and above because the PCA Constitution does not afford suffrage rights to

communicant minor members. The Presbytery concluded that any right of minor communicants to vote under the *Book of Church Order* is not absolute but may be qualified. This question of whether minor communicant suffrage rights under our Constitution may be qualified was the sole issue raised by Complainants for the SJC's consideration.

The Court has found this case to be "judicially out of order," a technical term for the situation that obtains under SJC rules when, after a case has been assigned to a Panel for review, the Commission, upon the proposal of the Panel, determines, based on the record of a case, that the relevant provisions of the *BCO* have not been followed. (*OMSJC* 9.1.b). One feature of this procedure is that the parties to the case are not afforded the opportunity to brief the case, or even whether the case is justiciable. The Court maintains that *BCO* 43-1 was not followed in this case because, it says, the Complaint "alleges errors related to actions taken in a congregational meeting," and thus was not "against an act or decision of a court of the church." Appealing to *Complaint of Christian Michelson and Stuart Michelson v. Northwest Georgia Presbytery* (Judicial Case 2021-12, Feb. 1, 2022, M49GA, Page 822), the Court recounts this Court's prior declaration that the *BCO* "has no provision that allows a Complaint against congregational actions" and suggests other possible procedural remedies by which the Complainants might seek redress.

This Case is Justiciable

We believe the Complaint should have been decided after the parties had been afforded a full opportunity to perfect the record, brief the issue in the Complaint, and be heard.

The right to complain against "some act or decision" of a court of the Church is, on its face, a broad license, and *BCO* 43-1 even repeats itself in its second sentence, insisting that a complaint may be "against any action of a court to whose jurisdiction [the complainant] is subject." The phrase "any action" opens an enormous jurisdictional field. An "act" is *the doing of a thing or deed*. A "decision" is *a determination arrived at after consideration*. And it is hard to imagine a more comprehensive adjective than "any" to communicate the breathtaking scope of actions that may be complained against; that industrious (if diminutive) adjective includes *all* or *every* of whatever

kind. Therefore, a complaint may be directed to any determination or deed of a Session, of whatever kind.

The Court's decision rests entirely on the proposition that "the *BCO* has no provision that allows a complaint against congregational actions." But for the reasons detailed above, the Complaint is not even on its face against *congregational actions*; it is against the *Session's* claimed infringement on the alleged rights of communing members under 18 to vote at a congregational meeting, rights the Complainants maintain are guaranteed by the PCA Constitution.

If such suffrage rights exist, and the Session, as alleged, during the congregational meeting conferred with the Moderator (its "representative") and decided *not* to seek to secure and defend the suffrage rights of its members, then the Session failed to "observe and carry out the lawful injunctions of the higher courts" as set out in our *Form of Government*. (*BCO* 12-5f). We can even grant that, had they tried, they might have been unsuccessful in the effort. But the decision *not* to seek to secure the alleged suffrage rights of the minor members is a justiciable question because it was an "act or decision" of the Session.

The Complaint alleges that the Session merely "followed the church's bylaws," but the CPC Bylaws make no difference to the SJC's jurisdiction over the underlying question.

While it is true that Article VII of CPC's Bylaws state, "the minimum voting age shall be eighteen (18) years," other provisions of the CPC Bylaws draw the enforceability of this declaration into question if it is indeed the case that the Constitution of the PCA guarantees suffrage rights to minor communicants. For example, Article II of the CPC Bylaws declares that "the general purpose of CPC is to proclaim, administer, and uphold the gospel and law of Christ as revealed in the Scriptures, *and in accordance with the Constitution of the Presbyterian Church in America*" (emphasis added). Article III provides, "The operation of CPC shall *in all instances* be … according to … *the Constitution of the Presbyterian Church in America*, which consists of … *The Book of Church Order, as adopted by the Presbyterian Church in America*" (emphasis added). Article VII provides that even meetings considered to be "meetings of the Corporation … *shall be conducted according to the rules and procedures of the Book of Church Order of the Presbyterian Church in America*" (emphasis added).

Therefore, if it is the case that minor communicants possess the same suffrage rights as adult communicants pursuant to the PCA Constitution, CPC's own Bylaws already accommodate conformity to this requirement despite their prescription of a minimum voting age. If minor communicant suffrage rights exist, the Session (through the Moderator or otherwise) should have explained the Constitutionally guaranteed suffrage rights of minor communicants to the Congregation and encouraged the Moderator (and Congregation) to interpret the Bylaws to permit such minors to vote according to the operation of *The Book of Church Order*; the Session's declining to do so was an "act or decision" subject to the review of the higher courts.

But even if the CPC Bylaws are interpreted to *prohibit* minor communicant suffrage, and if such suffrage exists, the Session acted wrongly by calling the meeting without recommending a change to the CPC Bylaws. Article VIII of those Bylaws provides that they may be amended "by an affirmative vote of three-quarters (3/4) of the members voting at a Congregational Meeting." Therefore, if such minor communicant suffrage rights exist in the PCA Constitution, the Session, rather than deciding as it did to recommend proceeding to the vote immediately, should have pastorally explained to the Congregation that proceeding further under the circumstances would violate the Constitution. Considering that, the Session should have suggested to postpone the vote on the resignation until another meeting could be called and propose that the Congregation first consider amending the Bylaws to bring them into conformity with the Constitution, before proceeding to the vote on the resignation. Better still, the Session should have included a proposed amendment to the Bylaws when it called the meeting in the first place.

We see no reason why the question of minor communicant suffrage is not susceptible to SJC review pursuant to *BCO* 43-1 in this matter. If minor suffrage rights exist as supposed by the Complainants, the "act or decision" of the Session in this matter was: (1) calling the Congregational meeting in an erroneous manner without including a proposed change to the Bylaws before the Congregation would take up the business of the resignation, (2) continuing its error at the meeting in deciding, through the Moderator, to overrule the objection to the vote rather than encouraging the congregation to postpone the vote until after the Bylaws could be changed to bring them into conformity with the Constitution, and (3) acquiescing in either the Constitutional defect in the Bylaws or its own unconstitutional interpretation of them.

By contrast, the Court apparently supposes that the mere fact the Complaint is "related to actions taken at a congregational meeting" renders the case judicially out of order *per se*. That is not persuasive because it fails to account for the fact that the Session acted *concurrently* and *independently* of the Congregation by acceding to the Bylaws in the ways enumerated above.

An Unnecessary Curtailment of BCO 43 Jurisdiction

The Court's decision potentially leads to a troublesome and needless curtailment of the jurisdiction of the higher courts in *BCO* 43 Complaint proceedings regarding questions of congregational suffrage. Furthermore, the Court's failure to recognize the possibility of Sessional action concurrent with or related to the congregational meeting in this case potentially undermines the very rationale that might support its proposed alternate "recourse" for review by the courts of the Church.

In a real sense, congregations are the ultimate arbiter of voting rights in our polity. If a member challenges the ruling of the Moderator about voting rights, and the Moderator is *sustained* by vote of the Congregation, then the Congregation -- not the Moderator -- has acted. Turn it around, and we find that if the Moderator's ruling is challenged by a member and the Moderator is *overruled* by the Congregation, that is a Congregational action too. Thus, even when no member objects to a Moderator's ruling about who is entitled to vote, the Congregation has tacitly accepted the Moderator's decision, for the Moderator is merely effectively reflecting the will of the Congregation. On this theory, no matter the scenario, the Congregation is always the ultimate decision maker with respect to voting eligibility. But as the Court rightly insists, no congregational decision, whether about voting eligibility or otherwise, is subject to review by Complaint because a congregation is not a court of the Church.

Thus, does a Session or any other court of the Church have authority to secure the rights of church members to vote in cases where a congregation has adopted unconstitutional bylaws? Not directly. The courts of the Church, in this case the CPC Session, whose power is solely ministerial and declarative, could only instruct, encourage, and admonish (but not coerce) its Congregation to correct its bylaws to bring them into conformity to the injunctions of the higher courts. Yet if the CPC Session fails to do so, the SJC's decision will not deem that failure an "act or decision" permitting review by means of a complaint.

If we assume that a congregation's bylaws are unconstitutional, yet the lower courts of the Church disagree, does our polity afford another method besides complaint proceedings to accommodate both review and redress? The Court, citing *Michelson*, assures us that the "concerned members were not and are not without recourse," but that assurance is doubtful.

Michelson describes three ways (*Michelson* at page 823).

Michelson's first way, uncited by the Court, is for the member to complain against the action of the Congregation at the point a court of the Church seeks to implement the alleged unconstitutional decision. That, of course is no apparent help in this case since the vote to dissolve the relationship with the minister is merely an informational vote for Presbytery which considers the vote as part of its deliberations in deciding whether to dissolve the minister's call (*BCO* 23-1).

Michelson proposes a second way: Presbytery, it is supposed, could take note of a Constitutional deficiency in a congregational meeting in their review of the records of the Session per *BCO* 13-9(b). But, having the record in this case, the Court should already know that such is not a solution here because the minutes of the congregational meeting do not mention anything about minor suffrage at all. Therefore, Presbytery's review of the minutes would not be sufficient to trigger any review jurisdiction sufficient to bring the question of minor communicant suffrage rights into view.

So, turning to *Michelson's* third way, we consider whether *BCO* 13-9(f) which gives Presbytery the power "to visit churches for the purpose of inquiring into and redressing the evils that may have arisen in them" might provide an avenue of review. But that does not appear to be a promising solution when one considers that the Complaint about suffrage in this case, the very Complaint the Court has ruled judicially out of order because it was a "congregational action," was already presented to Presbytery. Having resolved the Complaint *against* the Complainants Presbytery can hardly be expected to come riding in on a white horse to redress an "evil" that it has adjudicated is not an "evil" at all, given that Presbytery decided that minor communicants do *not* have the right to vote under the PCA Constitution that the Complainants suppose.
Thus, *Michelson's* "three ways" rubric for avenues of alternate review does not furnish any review jurisdiction that would bring the suffrage question to

bear any more than has already been both realized and rejected in the instant case.

The Court also mentions the Complainants possibly using *BCO* 40-5 to seek the redress of the higher courts, an avenue not expressly mentioned by *Michelson*. Ironically, this suggestion might be helpful, but only if the Court agrees that the Session acted, which means that such review would only duplicate *BCO* 43 Complaint jurisdiction, making *BCO* 40-5 jurisdiction unnecessary. This is because *BCO* 40-5 only grants review jurisdiction where one files with the "court of appellate jurisdiction" a "credible report with respect to the court next below of any important delinquency or grossly unconstitutional proceeding of such court," which already supposes that the court in question has *acted* in some way, a proposition that the Court's decision implicitly denies.

We can follow the Court's proposed alternate path in some detail. If we assume the Complainants proceed with such a report, the CPC Session (the "court next below") is the court that was and is responsible for securing the alleged suffrage rights of the members of CPC. (See *BCO* 11-4). Therefore, the court of "appellate jurisdiction" to receive such a "report" would be Presbytery.

But what would be the "important delinquency or grossly unconstitutional proceeding" of the CPC Session that the Complainants might make a "report" about? Our best guess is that such a "report" would look exactly like the Complaint that the Court has already declared is *not justiciable* because it was an act of the congregation, not the CPC Session.

Under the Court theory, why could not the Complainants offer up their Complaint again, only now calling it a "report" under *BCO* 40-5? Even if they modified it in some ways, it is hard to imagine such a report would be materially different from the Complaint the Court has rejected as judicially out of order. And of course, given its failure to sustain the Complaint, we can reasonably expect that Presbytery would refuse to act on such a report, so unless a review of that Presbytery's decision not to act can be reviewed, the matter would remain settled on exactly the same terms as it is already.

And since it is unlikely that the Complainants have standing themselves to file a complaint should Presbytery deny (as we suspect it would) that the Session

engaged in any "important delinquency" or "grossly unconditional proceeding," they would need a volunteer, someone with standing, to take up a new complaint on their behalf against Presbytery's declination to proceed under *BCO* 40-5. And putting aside for a moment that the whole success of this procedural mechanism is likely to depend entirely on the charity of others besides the Complainants, even this does not address a fundamental underlying problem with the Court insistence that the instant case pertains only to "congregational actions" rather than actions of a Session, the only kinds of actions that will support *BCO* 40-5 review in the first place.

We cannot reconcile how the Court believes that this case might reach resolution in the higher courts through *BCO* 40-5 when it has already rejected the position that the CPC Session acted or decided anything in connection with the suffrage question. Both *BCO* 40-5 and *BCO* 43 necessarily involve, as far as we can tell, the same subject matter. If the Session was engaged in an "important delinquency" or "grossly unconstitutional proceeding," it was certainly already so engaged when the congregational meeting in question occurred. Are not "important delinquencies" and "grossly unconstitutional proceedings" merely a more flagrant species of "acts or decisions"? But if that is the case, how can the Court credibly contend there was no justiciable Sessional act or decision in this Complaint proceeding, yet at the same moment maintain that inauguration of *BCO* 40-5 proceedings would transform this same controversy into a justiciable matter concerning "important delinquencies" or "grossly unconstitutional proceedings" of the CPC Session? We are left wondering why the Court would not agree that those very "delinquencies" and "proceedings" were also "acts or decisions" that this Court could have reviewed *immediately* in these proceedings rather than send the Complainants off to the uncertain hope that they might find redress under *BCO* 40-5.

We hope the Court's tolerance toward *BCO* 40-5 review can be fairly interpreted to accommodate at least the possibility that some future similar fact pattern might permit higher court review of Sessional acts or decisions concurrent with or related to congregational meetings via *BCO* 43 Complaint proceedings.

Concerning Remedy

We would agree that had the SJC taken this case and sustained the Complaint, it could not, as requested by the Complainants, invalidate the results of the congregational meeting. That is because the Congregation is not a court of the Church.

BCO 43-10 permits the higher court in complaint proceedings the following remedies: it may "annul the whole or any part of the action of a lower court against which complaint has been made, or to send the matter back to the lower court with instructions for a new hearing."

The Complainants' proposed "amends" called for "distributing a copy of the complaint to all the members [of the Congregation]" and calling a congregational meeting to "acknowledge the proper issues highlighted by the complaint" and "establish a committee of congregants to recommend paths forward as a church to be considered at a future congregational meeting," which might include having the Session encourage the Congregation to revise its Bylaws, seems consistent with a higher court's authority to "send the matter back to the lower court with instructions for a new hearing." Therefore, *BCO* 43-10 does not appear to have limited the SJC's jurisdiction to hear the instant case.

To be clear, we express no opinion concerning whether minor communicants in fact have the suffrage rights under our Constitution asserted by the Complainants. We only maintain that the SJC had jurisdiction to take up that question under the particular facts of this case.

We therefore dissent.

OBJECTION [32]
Case 2022-20: *Wilson v. Pacific Northwest Presbytery*

RE Howie Donahoe

I appreciate the SJC's reason for finding the Complaint out of order. I agree there was no "act or decision" of the Session to complain against, despite the ruling of Presbytery's commission. A congregationally elected moderator of a meeting is not an agent of the Session, regardless of whether he is a member of the Session. But I feel obliged to file this Objection because a Concurring Opinion signed by 12 SJC members seems to insinuate that a congregation *does not* have a right to limit voting age. Because Presbytery was not able to defend its position on that question, [33] and because an Objection may be accompanied with the reasons on which it is founded, I submit the following. Does our *Book of Church Order* prohibit congregations from setting a minimum voting age? No, it does not. And it is reasonable for congregations to conclude that minor communicants possess good, but *irregular* standing, until they have reached adulthood. That conclusion is established by the following:

I. Communicant membership is a necessary (*BCO* 6-4; 25-1), not a *sufficient* condition for voting.
II. Congregations have always borne the responsibility to determine whether minors possess the "*regular* standing" necessary to vote in officer elections (*BCO* 20-3; 24-3).
III. The rights and responsibilities of minor communicants are "irregular" in numerous ways.
IV. A strong analogy exists between minors and associate members, validating congregations in denying voting

[32] *OMSJC* 18-12.a: An Objection is only permissible in the case of an otherwise qualified member of the SJC who could not vote due to being a member of the presbytery or a member of a congregation in the bounds of the presbytery from which the case arose. RE Donahoe is a member of a church in the Pacific NW Presbytery.

[33] Presbytery's Representative was the Rev. Dr. Brant Bosserman (BA Northwest University, MAT Fuller Theological Seminary, and PhD in Philosophy of Religion from Bangor University, U.K.). I am greatly indebted to his work.

privileges to the former after the manner of the latter (*BCO* 46-4).

V. In deferring to civil laws that prohibit minors from voting in congregational meetings, *BCO* 25-11 confirms that minors' standing is irregular and that a minimum voting age is reasonable.

VI. In its handling of the issue of term-eldership, the PCA has established a *BCO* hermeneutic according to which observation of a minimum voting age is allowable even if not recommended.

I. Communicant Rights and Privileges. The first argument in support of congregations' right to specify a minimum voting age is indirect, demonstrating that communicant membership is not a sufficient condition for congregational voting. Instead, communicant membership is but a necessary condition.

BCO 25-1. The congregation consists of all the communing members of a particular church, and they only are entitled to vote.

BCO 6-4. Those only who have made a profession of faith in Christ, have been baptized, and admitted by the Session to the Lord's Table, are entitled to all the rights and privileges of the church.

Simple substitution examples for those two *BCO* passages render the point clear. *BCO* 25-1 is equivalent to the statement: "The pride consists of all the lions of a particular region, and they only birth lions." *BCO* 25-1 no more states that all communicants are entitled to vote, than the latter implies that all lions are female. Again, "those only who are Olympic athletes are entitled to an Olympic medal," is equivalent to *BCO* 6-4. Yet, it does not mean that all Olympians are medalists; and *BCO* 6-4 does not mean that all communicants possess all church rights. Recognizing that 1879 *BCO* 3:3 (the antecedent of PCA *BCO* 6-4) lays down a necessary condition for church rights, F.P. Ramsey notes that some communicants lack adult competency "to act for themselves," so that "there are some rights and privileges that they are not yet capable of exercising and enjoying."[34]

[34] Franklin Pierce Ramsay, *An Exposition of the Form of Government and Rules of Discipline of the Presbyterian Church in the United States* (Richmond, VA: Presbyterian Committee of Publication, 1898), 43.

When read within its wider context, *BCO* 6-4 can only be interpreted as indicating that communicants possess all the rights of the church in collective fashion, as the body possess all five senses, and Christ's church possesses all the spiritual gifts. It cannot be understood in distributive fashion, as if each communicant individually possesses all church rights and privileges. The additional conditions for exercising different privileges cannot be fulfilled by all members. Some conditions, and their corresponding privileges, are mutually exclusive. The church privilege (*BCO* 46-4) to be nominated and elected an officer is suspended on the condition of being male (*BCO* 7-2; 24-1); the right not to testify against someone is suspended on the condition of being his/her spouse (*BCO* 35-2); etc. Nor would it have been appropriate for *BCO* 6-4 to use the quantifier "some" instead of "all," as some suggest would be required if our understanding were correct. Had it done so, the *BCO* would have committed the error of understatement. To indicate, for example, that "lions possess some of the capacities of lions," leaves one wondering which lion capacities belong to another mysterious species. For, it would have been perfectly appropriate to say that "lions possess all the capacities of lions"—even though lion-birthing belongs not to youths, males, those with irregular anatomy, etc.—since all such capacities belong to lions as a collective. The same is true of church rights.

Undue haste to assume the distributive possession of a church right leads to confusion. *BCO* 16-2 declares that the "right of God's people to recognize by election to office those so gifted is inalienable." The PCA Constitution is clear that "God's people" encompasses non-communicant members (WLC 166: *BCO* 6-1), those suspended from the Lord's Table (WCF 30:3), associate members (*BCO* 46-4), etc. However, these parties are not entitled to elect church officers (*BCO* 20-3; 46-4). In addition to being grammatically possible, and perfectly natural, it is strictly necessary to read *BCO* 16-2 as establishing a church's *collective* right to elect officers, and not a *distributive* right belonging to each one of God's people.

II. Historical Meaning of "Regular Standing." The second argument for congregations' right to establish a minimum voting age is that, historically, congregations have always had a right to evaluate minors' standing as "irregular," in the context of congregational meetings.

> *BCO* 20-3. All communing members in good *and regular* standing, but no others, are entitled to vote in the churches to which they are respectively attached.
> *BCO* 24-3. All communing members in good *and regular* standing, but no others, are entitled to vote in the election of church officers in the churches to which they respectively belong.

"Standing" is a matter of belonging to a congregation or church court. "Good" standing is altered only by formal church discipline. "Regular" standing belongs to those who are active in performing the duties laid down for members in the PCA Constitution. Irregular "means unconstitutional in a minor sense,"[35] and belongs to those who do not or cannot fulfill the duties of membership.[36] As there are multiple member duties, some of which are more relevant to the task of electing officers than others, *BCO* 20-3 and 24-3 invite a range of reasonable conclusions as to who may vote. Four considerations validate the conclusion that non-adults fail to meet the condition of "regular standing," formalized in 1879: (A) its antecedents; (B) its rationale; (C) its context; and (D) its subsequent application.

The word "regular" appears 70 times in our *BCO*. It often means something like recurring at uniform intervals or done frequently. But many other times it means conforming to, or governed by, an acceptable standard of procedure or convention. An example of the first use would be *BCO* 19-16:

> 19-16. Where circumstances warrant, a Presbytery may approve previous experience which is equivalent to internship. This equivalency shall be decided by a three-fourths (3/4) vote of Presbytery at any of its *regular* meetings.

Two examples of the second use would be *BCO* 19-7 and 46-3:

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[35] Ramsay, *An Exposition of the Form of Government*, 239.

[36] The PCA member who is in the midst of withdrawing to a new Church retains a certificate of "good standing" in his PCA church for up to a year (*BCO* 46-7). Yet, there is an "irregularity" in his standing since he ceases to fulfill ordinary member duties (*BCO* 38-3). His relative failures to attend Lord's Day worship at his PCA congregation; to be vigilant for the purity and peace of the PCA; to support his PCA minister's worldly needs; etc. are minor, because he is making a reasonable effort to do these things elsewhere.

> 19-7. ... The nature of the internship shall be determined by the Presbytery, but it should involve the candidate in full scope of the duties of any *regular* ministerial calling approved by the Presbytery.
>
> 46-3. Members of one church dismissed to join another shall be held to be under the jurisdiction of the Session dismissing them until they form a *regular* connection with that to which they have been dismissed. (See also *BCO* 20-6, 20-11, 21-4.a, 21-7, 22-5, 24-7, 24-10, 25-6, 35-8, 35-9, and 42-2.)

BCO 20-3 and 24-3 use the phrase "... and *regular* standing" in the second sense, rather than as just a synonym for "good standing." So, what constitutes the "acceptable standard" for participation in congregational meetings? It must be something in addition to merely "*good* standing."

A. Antecedent Language. In 1788, the first Constitution of the Presbyterian Church in the United States of America was ratified. Modeled after a Scottish manual that confined voting to communicant and non-communicant aristocrats, [37] the American Constitution followed suit. Its "Form of Government" defines eligible electors thus:

> 14:3. In this election, no person shall be entitled to vote, who refuses to submit to the censures of the Church, regularly administered; or who does not contribute his just proportion, according to his own engagements, or the rules of that Church, to all its necessary expenses.[38]

With a low bar for what would come to be called "good standing," a voter had to be willing to submit to church censures. Referencing the antiquated practice of "pew holding," eligible voters were those who made a recuring payment—

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[37] Walter Steuart, *Collections and Observations Concerning the Worship, Discipline, and Government of the Church of Scotland: In Four Books* (Edinburgh: Dickson and Elliot, 1773), 3. The earliest edition of this work was printed in 1709. Cf. John B. Adger, "A Question for Our Church: Who Shall Vote for Pastors?" in *The Southern Presbyterian Review*, vol. 28, no. 4 (Oct, 1877), 689.

[38] *The Constitution of the Presbyterian Church in the United States of America* (Philadelphia: Thomas Bradford, 1799), "Form of Government" 14:3.

set by the "rules of the church"—for a pew to occupy with his family.[39] Only pew-holders possessed what would later be called "regular standing" in congregational meetings. They are called "regular members" in the marginal summary of the 1788 Form 14:3.

The 1788 conditions for voters in a pastoral election were retained exactly in the 1821 and 1832 revisions (although the marginal summary was dropped). In 1855 the "Old School" GA was asked, "What action should be taken with a member of the church, who is in regular standing in the communion of the church, but who does not contribute any or his just and proper proportion…?"[40] The question presupposes that regular standing is defined with reference to both regular attendance, and regular monetary support. The GA replied that it was up to congregations as to what action should be taken. The same 1855 GA made the curious pronouncement that despite the limitations laid down in the *BCO*, the "spirit of our system" allowed churches to extend voting privileges to all communicants in mere "good standing."[41] Charles Hodge would report in 1863, that the predominant Presbyterian practice was still for "heads of families, and they only, whether communicants or not, to vote in the choice of pastor."[42] Hodge lists as two minority practices (a) allowance of all communicants and all non-communicant "contributors" to vote; and (b) confinement of the vote "to adult members."

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[39] Gilbert Robins Bracket, *Manual for the Use of the Members of the Second Presbyterian Church, Charleston* (Charleston, SC: Walker, Evans, & Cogswell, 1894), 40. *History of First Presbyterian Church in Raleigh*, North Carolina, 1816-1991 (Raleigh, NC: Commercial Printing Co., 1991), 20.

[40] *Minutes of the General Assembly of the Presbyterian Church in the United States of America 1855* (Philadelphia: Presbyterian Board of Education, 1855), 274. Likewise, an 1860 overture to the PCCS asked whether a man possesses "good and regular standing" if he has "absented himself from the ministration of the word and the ordinances of the church." *Minutes of the General Assembly of the Presbyterian Church in the Confederate States of America 1861* (Augusta, GA: Steam Power Press, 1861), 11. The inquiry must center on whether the man's standing is "regular" since it would have been obvious whether he had been resistant to a church censure.

[41] Ibid. 275

[42] Hodge, "Who May Vote in the Election of Pastor," in *The Church and Its Polity* (New York: Thomas Nelson and Sons, 1879), 244. Adger reports in 1877 that "fourth-fifths" of PCUS churches allowed non-communicant contributors to vote, and many denied suffrage to female communicants. Adger, "A Question," 701, 694.

Given this background, it is extremely unlikely that the 1879 GA of the Presbyterian Church in the United States (PCUS) intended the language of its revised *BCO* —"All communicating members in good and regular standing …" (Form 6:3:4)—to require that that all communicants regardless of age and contribution be allowed to vote.

B. Rationale for the 1879 Language. The language of 1879 Form 6:3:4 was designed to (a) exclude non-communicants from voting, and (b) allow for the range of practice—e.g., confining the vote to heads of household, adults, communicants who could contribute, etc.—then prevalent in the PCUS. Chair of the Committee for *BCO* Revision, John B. Adger, lists the only alternatives considered: (1) extending the vote to non-communicants "regular in attending on the common ordinances and contributing regularly to the support of the pastor;" (2) granting an advisory vote to the same non-communicants; and (3) "Confining the election strictly to members of the church in full communion."[43] Before and after its adoption, position three is described as "rigid," and "confining" the vote to communicants;[44] but never as extending the vote to all communicants.[45] How could the first be described as the "liberal" position,[46] if the third were understood to force all PCUS congregations to extend the voting franchise to every communicant? Moreover, alternatives one and two indirectly testify that adult communicants who regularly attended/supported their church were the only undisputed voters and possessors of "regular standing." For, the alternatives only propose that

[43] James B. Adger, "The General Assembly at New Orleans," in *The Southern Presbyterian Review*, Vol. 28, No. 3 (July, 1877), 539.

[44] Stuart Robinson, "The Revised Book of Church Order," in *The Southern Presbyterian Review* Vol. 30, No. 1, (Jan., 1879), 140. Cf. Adger, "A Question," 708.

[45] We must respectfully disagree with Morton Smith, who concludes that PCA *BCO* 24-3 requires that minor communicants be allowed to vote, on the ground that if they are able to choose Jesus as Savior then they are competent to choose their minister. Smith, *Commentary on the PCA Book of Church Order* (Taylors, SC: Presbyterian Press, 2007), 257. The 1879 authors of this language did not understand it to require universal suffrage, nor do they offer the rationale supplied by Smith. Unless it can be shown *when* and *how* the same language in the PCA *BCO* assumed this new meaning (and rationale), we must embrace its historical sense.

[46] Adger, "General Assembly," 539, 540. John B. Adger "A Question for Our Church: Who Shall Vote for Pastors," *The Southern Presbyterian Review*, Vol. 28, No. 4 (Oct. 1877), 702.

non-communicants who approach the same status should be allowed to vote. If the 1879 Form 6:3:4, were understood to require universal suffrage among communicants, it is mystifying that no contemporaneous publication heralded it as such.[47] How could prominent ministers who sat on the Committee for *BCO* Revision—B. M. Palmer, R. L. Dabney, etc.—vocally oppose universal suffrage as contrary to nature, the marriage bond, etc., and hail the church as the "bulwark" against "universal suffrage" in the political sphere, if the PCUS made it the rule in congregational elections?[48]

C. Literary Context. Most importantly, contextual considerations alone, which are retained in the PCA *BCO*, are sufficient to yield the conclusion that only a limited class of communicants possess the regular standing necessary to elect a minister. Stated simply: Measured by the constitutional requirement for the congregation to support their minister's worldly needs, it is reasonable to conclude that many congregants lack the regular standing to vote in congregational meetings. Laid down only two paragraphs after the qualifications for voters (and again in 1879 *BCO* 6:4:5; compare PCA *BCO* 21-6), the church vow to her minister read:

> 6:3:6—And that you may be free from worldly cares and avocations, we hereby promise and oblige ourselves to pay you the sum of _____ in regular monthly payments…[.] In testimony of this we have subscribed our names this _____ day of _____ A.D. (Compare PCA *BCO*, 20-6.)

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[47] Twenty years later, Ramsey exercises careful reserve in limiting his exposition of *Form* 6:3:4 (compare PCA *BCO* 20-3) to stating which persons are unambiguously *excluded* by each condition—"communicating members;" "good…standing;" "in the churches to which they are respectively attached." He does not advance the conclusion that the PCUS *BCO* extended the voting franchise to all communicants. Ramsey, *An Exposition of the Form of Government*, 129. Ramsey's lack of commentary on who is excluded by the condition of "regular standing" is perhaps best explained by his prior comments on *Form 3:3* (cited on page 1 of this brief, and antecedent to PCA *BCO* 6-4). There, he expressly denied that communicants who lack adult competency possess all church rights and privileges. As we have seen congregational voting would have been a typical church right restricted to adults.

[48] Thomas Cary Johnson, *The Life and Letters of Robert Lewis Dabney* (Richmond, VA: The Presbyterian Committee of Publication, 1903), 419.

Could male dependents and female homemakers sign the aforesaid vow? Would it have been natural for all or even most readers in 1879 to assume that women and minors were expected to do so? A negative answer may be inferred from the fact that upon being ordained, only "the heads of families of the congregation then present, or at least the Ruling Elders and Deacons" are invited to "come forward to their Pastor, and give him their right hand, in token of cordial reception and affectionate regard" (1879 *BCO* 6:5:7; compare PCA *BCO* 21-8).

The question of who possesses regular standing hinges, in part, on how the responsibility to remunerate a pastor is understood to be borne by a congregation. If a congregation understood it to be the exclusive calling of men to provide for their natural and church families, then it is reasonable to infer that only male communicants may possess the requisite standing to elect a minister. Female and minor communicants would still enjoy perfectly "good standing" in that context and contribute to decisions in consultation with their husband/father. If a congregation understood it to be the calling of adult men and women to supply the worldly needs of their minister, then it is reasonable to infer that minor communicants lack the requisite standing to vote. Finally, if a congregation understood minor communicants to bear the burden of supporting their minster conjointly with their parents, then it is reasonable to conclude that all communicants regardless of gender or age, may vote in congregational elections. The pertinent point, however, is that the 1879 *BCO* does not pronounce on exactly how the rule to support a minister comes to bear on a congregation. Nor does the 1879 *BCO* pronounce on how this congregational responsibility comes to bear on which members possess "regular standing" in a congregational meeting. What is clear is that from 1861 to 1922 the adjective "regular" refers most often in GA records to the expected monetary giving of congregants.[49] It is also clear that the same condition is retained in the 1925 and 1933 revisions of the PCUS *BCO*, and all editions of the PCA *BCO*.

D. Application. In the decades after 1879, one gathers that voting was often limited to adult men from the prevalent expectation that voters would make monetary "subscriptions" to pay their pastors' annual salary at the same

[49] The 1861 five-page report on, "Systematic Benevolence," is but one case in point. *Minutes of the 1861 General Assembly* (Augusta, GA: Seam Power Press, 1861), 25-29.

meeting in which he was elected;[50] the prevalence of female and youth "auxiliaries," with smaller subscription fees,[51] where they were allowed to speak, elect, and be elected officers; the comparative rarity of male "auxiliaries," since adult men were the typical actors in congregational meetings[52]; etc. After the 1920 victory of Women's Suffrage in the political sphere, it became normative for female communicants to vote in pastoral elections. However, congregations still bore the responsibility to determine which communicants were active/regular in fulfilling member duties. Meyers Park Presbyterian (PCUS) laid down four criteria "whereby an 'active' membership was determined."[53] "Active" members (compare PCA *BCO* 24-1) were those given to "(1) regular attendance, (2) involvement in the church's program, (3) financial contribution, and (4) consistency of Christian character."[54] To impress these distinct expectations on adult members, "an adult communicant's class was instituted in addition to the regular children's" version.[55] Many of the PCUS churches who joined the PCA in the 1970's had rolls that distinguished between members "active" and "inactive." One considerable PCA overture in 1977 proposed express recognition of these (and other) membership categories. Proposed *BCO* 6c-2 read: "The Active Roll shall consist of those communing members who are actively participating in the life and work of the church by attending worship services, and/or being involved in other church activities, and/or by supporting the church financially."[56] On the strictest view of active membership (where the three conditions are conjoined) it is natural for minors to be viewed as less than fully active, failing as they do to supply financial support. The grounds for the overture call attention to the incompleteness of the *BCO* in handling membership statuses that were widely recognized to exist. The GA rejected

[50] Charles William Sommerville, *The History of Hopewell Presbyterian Church* (Charlotte, NC: The Observer Printing House, 1939), 51, 52, 53.
[51] *Minutes of the 1916 General Assembly* (Augusta, GA: Seam Power Press, 1861), 152-153.
[52] Historical Committee of 1976, *The History of Steele Creek Presbyterian Church* (Charlotte, NC: Craftsman Printing and Publishing, 1978), 166.
[53] Thomas Clark, *History of Myers Park Presbyterian Church 1926-1966* (Charlotte, NC: Kingsport Press, 1966), 175.
[54] Ibid. 175
[55] Ibid. 177
[56] *Minutes of the Fifth General Assembly of the Presbyterian Church in America* (Montgomery, AL: Committee for Christian Education and Publication of the Presbyterian Church in America, n.d.), 51.

the vast amendment since certain details undermined church discipline—e.g., it proposed that willful neglect of the church would result in placement on the "inactive roll" (*BCO* 6c-9) rather than erasure (*BCO* 38-4). However, defeat hardly reflects a rejection of the distinction between active and inactive membership. For nominations to the offices of Ruling Elder and Deacon, *BCO* 24-1 instructs congregations to nominate "an active male member" (*BCO* 24-1). It is also evident that an adult who has, for example, lost all soundness of mind should be regarded as an irregular, relatively inactive member, rather than erased from church roles.

PCA overtures in 1984 and 1996 to render the *BCO* explicit in its allowance for a minimum voting age reflect two facts. First, many congregations had long found a minimum voting age appropriate.[57] Second, many had lost sight of how the condition of "regular standing" already safeguarded reasonable restrictions on which communicants may vote.[58] The 1996 overture received approval from 39 out 50 Presbyteries (a 78% majority of Presbyteries and 70% of all individual votes cast). Thus, its defeat at the 25th GA in Colorado Springs[59] is best credited to the convergence of two streams of thought. One group opposes such overtures as superfluous, since congregations have always had the right to evaluate minors as insufficiently active/regular to vote. Another group is concerned that express disassociation between communicant age and voting age may encourage churches to welcome very young and incompetent children to the Lord's Table. In any case, a GA vote not to amend the *BCO* with respect to voting age is not equivalent to removing a longstanding constitutional responsibility to (a) limit voting to those with regular standing, and (b) arrive at reasonable conclusions about which communicants possess that standing based on their fulfilment of member responsibilities. The same is true of the 1982 and 1984 answers from the

[57] In a personal conversation in the early 2000's between Rev. Dr. Robert Rayburn (Faith PCA, Tacoma, WA) and Ruling Elder, Jack Williamson (one of the principal authors of the PCA *BCO*), the later confirmed that many congregations had a minimum voting age at the founding of the PCA in 1973. Williamson also indicated that the authors of the PCA *BCO* had no intention of prohibiting that practice.

[58] For example, the 1984 overture reflects no awareness of how the conditions of "good and regular standing" limit eligible voters—"Whereas, the present Book of Church Order establishes that all communing members of a particular church are entitled to vote…" *Minutes of the Twelfth General Assembly*, 59.

[59] *Minutes of the Twenty Fifth General Assembly*, 114.

Permanent Sub-Committee on Judicial Business (hereafter PCJB) regarding the qualifications for voters. The 1982 reply simply repeats the express conditions of *BCO* 20-3, and the 1984 answer accurately reports that the *BCO* does not expressly provide for the setting of a minimum voting age. However, non-provision is not a synonym for disallowance. (The *BCO* does not provide for the holding of session meetings via zoom; employment of church secretaries; the publication of congregational position papers; etc. But they are hardly disallowed. On this point, see Part VI below.) Most importantly, in its 50-year history, the PCA has never denied that congregations may evaluate minors' standing as irregular, nor has any congregation been convicted for doing so. To insist, as some do, that the *BCO* "plainly" entitles all communicants to vote regardless of age and contribution (not to mention mental health, local residency, etc.) is to assert a perceived "spirit" of the Constitution over against its express conditions.

Given its longstanding precedent in American Presbyterianism, its prevalence among PCA churches, and compatibility with *BCO* conditions, it would be most disruptive to the peace and purity of the Church to judge a congregation's observation of a minimum voting age as out of accord with the PCA Constitution.

III. Irregular Standing of Minor Communicants. The third argument in support of congregations' right to specify a minimum voting age is based on the numerous irregularities that attend minor communicants' membership. The ground for these differences is minors' relative intellectual and emotional immaturity, combined with their residing under the unique, but constitutional, guardianship of their parents (WLC 118, 124; *BCO* 28-1; 28-5).

1. Minor communicants who neglect the church for one year do not ordinarily receive verbal or written warning from their session (*BCO* 38-4); their parents do.
2. Minor communicants who move are not typically expected to present a certificate of dismission to their new church (*BCO* 46-4); their parents are.
3. Minor communicants are not expected to provide for the "worldly maintenance" of their minister (*BCO* 21-6).
4. Minor communicants can be (for good or for ill) prevented by parties other than session members, namely their parents, from partaking of the Lord's Supper.

5. Minor communicants can be prevented by their parents from attending congregational meetings, nominating church officers, electing church officers, etc. in the congregation to which they belong. They alone might be allowed by their parents to vote only on the condition that they second their parents' judgment in every matter.
6. Minor communicants cannot be prosecuted for contumacy (*BCO* 35-12) for failure to testify in church courts, if the only reason for their absence is that they were strictly prohibited from doing so by their parents.
7. Minor communicants may be deemed incompetent witnesses in church courts (*BCO* 35-1)
8. Minor communicants may be prevented by the civil government from voting in all matters that pertain to the church in its capacity as a corporation, or a board of trustees (*BCO* 25-11).
9. Minor communicants may be prevented from marrying without parental approval (*BCO* 59-4).
10. Minor communicants must have parental approval before signing a "Christian Conciliation Contract" (*BCO*, Appendix 1).

Considering examples 1-10, it can surely be said that no communicants' standing is so irregular as that of minors. Legitimate circumstances disallow them from fulfilling many Constitutional duties of typical members. The underlying factors in each irregularity listed turns on minors' relative lack of personal sovereignty (see Part IV) and emotional and intellectual maturity (see Part V). Both factors have significant bearing on minors' exercise of voting privileges. It is reasonable, but not required, for congregations to specify a minimum voting age associated with legal adulthood, at which point these irregularities are significantly diminished or generally cease.

One objection is that some of the abovementioned irregularities (1-10) apply to adults, while others do not apply to some minor communicants. Yet, both sorts of exceptions prove the rule that no class of communicants is subject to so many and so stark irregularities as minors. Housewives and retired adults may not be able to furnish the ministry with monetary support. However, the former are "one flesh," and cooperative with a tithing husband in a preeminent way, while the latter have typically been active givers for some season of life. Of those minors who generate income and heed their responsibility to contribute to the church, they are still not ultimately responsible to be providers for themselves, their families, or the church. Others may object that

if minors lack regular standing, then their judicial rights are also in jeopardy. To the contrary, the right to file complaint rests on the lone condition that a member enjoys "good standing" (*BCO* 24-7; 25-2; 43-1; 43-5), while the right to accuse belongs to any "injured party" (*BCO* 31-5). That voting privileges alone are suspended on the additional condition of "regular standing" (*BCO* 20-3; 24:3) implies that a higher bar is required for voting privileges.

Finally, special attention must be given to irregularity number 5 on our list. The fact that minor communicants stand in a unique position to be unduly influenced, or even worse, manipulated in their voting is significant. Only they might have their vote suspended by their parents on the condition that they share their parents' perspective. Minors who have never been invited by their parents to vote might be required to do so on issues of great controversy. A congregation may wisely take this irregular feature of minor's membership, arising from their position within a household, as grounds for observing a minimum voting age. For, implied by the democratic process itself is the right to be free from individuals who wield disproportionate influence, not by persuasive arguments, but by mere force. Although a wife may be manipulable by her husband as well, an adult's ability to transcend such pressure is greater, and the effects of such manipulation measurably less than in the case of minors. For, whereas one spouse may be the victim of forceful manipulation, the votes of multiple children can be wielded by an exploitative father.

IV. Analogy with Associate Members. The fourth argument for congregations' right to establish a minimum voting age is based on the analogy between minor communicants and associate members. Associate members are "believers temporarily residing in a location other than their homes," who obtain a unique sort of membership in a PCA congregation near their temporary residence, without ceasing to be "communicant members of their home church" (*BCO* 46-4). They are disallowed from voting in their local church on account of their divided commitments.[60] Their standing in their local congregation is manifestly irregular because they cannot furnish it with the full-fledged support typical of members. Analogously, minor communicants' membership commitments are divided in their own way, between (at least) two decision makers; and of which, the minor is not even

[60] Some might assert that associates may vote in their home congregation. Yet, it would seem debatable, at the least, as to whether "non-resident" members (as they have historically been distinguished in Presbyterian membership rolls) retain the same "regular standing" as resident members.

the executive. Without his parents' consent and assistance, a minor communicant cannot: attend worship services, ordination services, congregational meetings, committee meetings, the proceedings of church courts; serve as a witness; become married; pursue disciplinary process; partake of the Lord's Supper; etc. Still more, a minor communicant might be forced to sever all relationship to the PCA if its doctrine, officers, and stances become distasteful not at all to the minor, but to his parental guardians alone. Hence, by argument from lesser to greater, if Associates' standing may be regarded as irregular (and their voting privileges suspend) on account of their divided commitments, so too may that of minor communicants.

Some may contest the validity of minors becoming communicants at all, if their member vows are not strictly equivalent to those of adults. However, Presbyterians have never denied that minors can become communicants, nor made the maturity to elect officers a condition for communion. Francis Mackemie, the father of American Presbyterianism,[61] and Samuel Davies, the founder of Hannover Presbytery,[62] both underwent powerful conversions as minors. Even more to the point, *BCO* member vows one through three are qualitatively different from vows four and five. Minors certainly can be executive decision makers in their avowed belief that they are sinners; in their receiving and resting upon Christ alone for salvation; and in their determination to "live as becomes the followers of Christ" (*BCO* 57-5). These vows can be kept regardless of their parents' decisions, and minors who can make them would be received as communicants. By contrast, for the reasons identified above, minors cannot be the executive decision-makers when it comes to the fifth membership vow to, "submit yourselves to the government and discipline of the Church." Thus, it is reasonable for congregations to conclude that minor communicants possess good, but irregular standing, until they have reached adulthood.

One way to appreciate the irregularity of minors' status is by considering the negative precedents that would be set by ruling against congregations' right to regard minors as such. If minor communicants' rights and privileges are identical to those of their adult counterparts, could a minor successfully prosecute his father for preventing him from voting in a congregational meeting? An adult communicant would surely prevail if another church

[61] Henry Alexander White, *Southern Presbyterian Leaders 1683-1911* (Carlisle PA: Banner of Truth, 2000), 10

[62] Ibid. 44.

member prevented him from doing so. To answer in the affirmative would undermine the leadership that fathers are called to exercise over their families. To answer in the negative, precisely on account of fathers' familial rights, is to tacitly agree that minors lack regular standing in congregational meetings. Again, should a thirteen-year-old communicant nominated to the office of Ruling Elder be able to convict his session for refusing to extend him the training and vetting of other nominees? (Precedents are clear that an active adult nominee may not be so denied.) Or is it appropriate for congregations to evaluate that no minor is sufficiently "active" to be nominated in the first place (*BCO* 24-1)? To answer in the negative would be to force congregations to engage in an unseemly charade, training minors as if they were viable officer candidates. To answer in the affirmative is to concede that congregations have the right to evaluate that minors lack "regular standing," and certain church privileges suspended upon it.

V. Civil Restrictions on Voting Age. The fifth argument for congregations' right to establish a minimum voting age is based on the broad *BCO* requirement (25-11) that congregations submit to civil laws that have bearing on the matters discussed in Chapter 25, which include congregational voting (25-1). Some might mistakenly argue that *BCO* 25-11 pinpoints a singular exception to communicant voting rights, supposedly establishing the rule that no other exceptions exist. Yet, the paragraph does not specifically address voting. Its chief purpose is to require that congregations exiting or joining the PCA (and thus jettisoning some prior church constitution) proceed in an orderly fashion, governed at the very least by the applicable civil laws. Nevertheless, the 1984 PCJB correctly concluded that *BCO* 25-11 requires congregations to heed standard civil laws that limit congregational voting. For example, if the civil law prohibits minors from electing board members or corporation officers with financial responsibilities, then they cannot elect church officers (*BCO* 9-4; 5-9).

BCO 25-11 indirectly validates two important conclusions. First, it confirms that minor communicants' standing is irregular in a significant respect. Unlike their adult counterparts, minors may be suspended from voting by the civil government. They do not possess the same "inalienable" voting privileges as others (*BCO* 16-2). If they did, their voting privileges could not be restricted. For, an axiom of the PCA Constitution is that the Church cannot make concessions to the civil government in defiance of its own, or Biblical principles (WCF 20-1; 23-3). Second, *BCO* 25-11 confirms that the typical civil laws which would restrict congregational voting to adults are inherently

reasonable. For, another constitutional axiom is that no civil law may require "blind obedience," for such laws "destroy liberty of conscience, and reason also" (WCF 20:3). It hardly needs to be said that the eminently reasonable, highly intuitive, and almost universally recognized ground for such civil laws is that minors lack the requisite maturity and independence to vote. In this connection, it may be observed that the *BCO* recognizes, in a variety of ways, different gradations of maturity among communicants (recall Part III). Although there is a specific "age of discretion" (*BCO* 56-4) at which one may be communed, there are multiple "years of discretion" (*BCO* 56-4) in the advance toward (and beyond) adulthood, with the right to marry typically located at a later year "of discretion" (*BCO* 59-4).

Taken together, the conclusions that follow from *BCO* 25-11—(a) minor communicants possess irregular standing, (b) on account of their relative immaturity—constitute reasonable grounds for congregations to disallow minors from voting, as an application of *BCO* 20-3. Although the knowledge and discernment required of communicants is robust (*BCO* 57-3; 57-5; WLC 171-175), the PCA Constitution never describes it as of the same nature or degree as that necessary to assess the fitness of a potential minister. To discern that a prospective pastor possesses careful discretion; courage to take difficult stands; excellent household management skills; empathy to comfort the downcast; etc. may, in the wise judgment of a church, require more life experience than is common to minor communicants. The capacity to thoughtfully engage more complex theological objections raised by others to a potential pastor's preaching, exceptions to the Westminster Standards, ministry philosophy, etc. may require a more developed intellect than what is necessary to sufficiently understand the Lord's Supper and make a credible profession of faith. Likewise, the emotional maturity to navigate heated congregational disagreements, and even losses of consequential votes may, in the estimation of a congregation, not be the normal possession of minors. If a congregation is persuaded that the maturity to elect a minister is more like that necessary to become married than to become communed, it will reasonably conclude that minors lack the requisite standing to elect a minister. None of this diminishes the fact that minor-communicants may have meaningful input in congregational matters—even when they lack voting privileges—through conversation with their parents.

VI. Analogy with Term Eldership. The sixth argument for congregations' right to observe a minimum voting age is based on the analogous (and well-

established) congregational right to elect ruling elders for definite terms rather than perpetual service. The PCA's handling of the issue of elder terms:

1) Encourages a *BCO* hermeneutic that recognizes congregations' right to establish a minimum voting age;
2) Argues that it is unnecessary to amend the *BCO* with respect to minimum voting age; and
3) Confirms that bylaws may set reasonable limits on who may vote in the congregations and PCA sessions.

First, with respect to elder term limits, the PCA has embraced a *BCO* hermeneutic according to which non-provision for a practice cannot be construed as prohibition, especially when that practice both (a) has longstanding precedent in Presbyterianism, and (b) has existed in PCA congregations since the denomination's founding. In 1976 a resolution was sent to the Fifth GA declaring that the *BCO* prohibits an elder rotation system and advising all PCA congregations to "bring themselves into conformity with the *BCO*" by abandoning the practice.[63] The resolution accurately calls attention to the fact that the *BCO* "contains no provisions for an automatic rotational system for removing elders." To the contrary, according to *BCO* 24-7 (at the time, *BCO* 25-7), "ordination to the offices of ruling elder or deacon is perpetual…" Without denying either point, the PCJB recommended against adopting the resolution on the ground that the relevant *BCO* passage "was deliberately worded at the First General Assembly so as to allow this system, though not recommending it."[64] In other words, non-provision must not be confused with prohibition. Throughout the centuries, many Presbyterian congregations have specified term limits for ruling elders.[65] In fact, the minutes of the First General Assembly reveal that among the PCA's founding congregations were those with an elder rotation system.[66] Ultimately, the Seventh GA adopted the PCJB's hermeneutic declaring, "This General Assembly believes that the previous General Assembly acted wisely when it adopted Chapter 25 [presently, Chapter 24] in the *BCO* without legislating on the specific matter of the rotation of church officers."[67]

[63] *Minutes of the Fifth General Assembly*, 70.
[64] *Minutes of the Sixth General Assembly of the PCA*, 191.
[65] J. Aspinwall Hodge, *What is Presbyterian Law as Defined by the Church Courts?* (Philadelphia: Presbyterian Board of Publication, 1882), 162-163.
[66] *Minutes of the First General Assembly*, 21-22.
[67] *Minutes of the Seventh General Assembly*, 105.

Significantly, the same hermeneutic argues in favor of congregations' right to observe a minimum voting age. Confinement of voting to adults has vast precedents in Presbyterianism, and it was the practice of congregations at the founding of the PCA. Thus, it should be said that the "General Assembly acted wisely" when it adopted *BCO* 25-1, "without legislating on the specific matter" of a minimum voting age.

Second, the PCA's handling of the term-eldership question reveals that the most expedient way to remedy confusion on a *BCO* matter may not be by amendment, but by church officers better acquainting themselves with historic PCA practice and the careful wording of the *BCO*. Just one year after the GA affirmed that the *BCO* was compatible with term-eldership, a 1980 overture to the 8th GA proposed an amendment that would render explicit congregations' right to embrace the rotation system.[68] Although the overture acknowledged the relevant passages of the *BCO* were "intended to allow, though not to recommend" the practice, it supplied several intuitive rationales for why its allowance should be rendered explicit. In short, the overture reports that many readers still doubted the *BCO* allowance for elder-terms, and it argues that continuation of the practice under such circumstances effectively "erodes the authority of, and respect for" the *BCO*. Nevertheless, the overture was not adopted on the ground that the matter had already been sufficiently addressed.[69] Whatever confusion there may be on the question of term-eldership can be alleviated by church officers who are privy to the PCA's historic practices, and keen to the careful wording of the *BCO*. For example, although a novice reader of *BCO* 24-7 may develop the impression that occupancy of the office of elder is perpetual, a capable minister will be able to explain that the passage only ascribes perpetuity to the officer's ordination. The same can be said for the observance of a minimum voting age. A novice reader may develop the impression from *BCO* 25-1 that every communicant is entitled to vote. However, a capable minister will be able to explain the difference between a necessary and sufficient condition. He will also be able to demonstrate how communicant membership is specified as the former (not the latter) with respect to congregational voting (recall Part I above). Moreover, if the PCA specifically desires to take the nuanced stance that both term eldership and a minimum voting age are allowable without

[68] *Minutes of the Eighth General Assembly*, 37.
[69] Ibid. 118.

recommending or so much as suggesting either practice to congregations, then the ideal way to do so is by retaining *BCO* 24-7 and 25-1 in their current form.

Third, the *BCO* allowance for congregations to embrace a rotation system has significant bearing on the matter of voting. If congregational bylaws may prohibit ordained ruling elders (whose term of service has expired) from voting in the most consequential Church courts, then by argument from greater to lesser, they may specify a minimum voting age which places a reasonable limitation on which communicants may vote in congregational meetings.

Conclusion. PCA congregations have the right to adopt a minimum voting age. The *BCO* does not identify admission to the Lord's Supper as a sufficient condition for voting. Instead, it leaves it to congregations to make reasonable determinations as to which communicants possess "regular standing," albeit with reference to their fulfillment of objective *BCO* member duties. One acceptable conclusion is that minors are not regular in fulfilling the relevant membership duties (because they lack the personal sovereignty and/or maturity to do so) to vote in congregational meetings.

IV. PROPOSED AMENDMENTS TO SJC MANUAL

OMSJC 2.12.c. - Update citation reference to RONR.

> 2.12.c. To maintain order and decorum at meetings the procedures and sanctions of RONR (12th ed.) 61:6-61:21, shall be available to the Commission, except that the Commission may not suspend the rights of membership or expel a member from the Commission.

OMSJC 4.2 - Reduce time required for calling a non-physical SJC meeting to 14 days.

> 4.2 In addition to the stated meetings specified in Section 4.1, the Commission may hold special meetings, provided such special meetings shall be called by one of the following methods, to-wit: