

THE CHURCH OF THE COVENANT
Special Session Meeting
Wednesday, October 14, 2015

RULING ELDERS PRESENT: April Betzner, Pat Boyer, Joel Braun, Gordon Core, Jerry Davison, Sue Denmead, Cindy Garlisi, Linda Grimm, Jim Little, Steve Marriner, Crystal Miles, and Dennis Myers

STAFF PRESENT: The Rev. Dr. Stuart D. Broberg, Don Nixon

GUEST PRESENT: Sam Foreman, Esq.

A special meeting of the Session of The Church of the Covenant was held in the dining room on Wednesday, October 14, 2015. The Rev. Dr. Stuart D. Broberg called the meeting to order with a prayer at approximately 7:05 p.m. Dr. Broberg reviewed a letter he wrote to the Session (see Attachment 1). In his review of the letter, he recommended that the Session should adopt a resolution that confirms that this congregation can decide to nominate whoever it wants so long as those decisions confirm with the current Book of Order.

Dr. Broberg then introduced Mr. Sam Foreman, an attorney, whom the Session has asked to assist us in evaluating the ongoing nominating issue. Dr. Broberg thanked Mr. Foreman for his assistance to the Session to help us work through our decision-making process, including providing the Session with the memo he will be reviewing tonight.

Mr. Foreman addressed the Session. He provided his thoughts on the August 27, 2001 Policy (see Attachment 2). He said the resolution was fine until challenged by a higher body, at which point he said it would likely very be overturned. He felt that, specifically, the first sentence in the fourth bullet on that page would now be considered to be inappropriate. He advised that the Session should reconsider that bullet, not the whole page. Mr. Foreman provided a memo to the Session, in which he summarized his conclusions on this matter (see Attachment 3).

Mr. Foreman said that, in his opinion based his review of the current Book of Order and The Confessions, it is still up to the Nominating Committee and the congregation to decide on whether or not any person is qualified to be an officer. He agreed with Dr. Broberg's above-stated idea about this congregation (through the Nominating Committee) can decide who to nominate. He recommended that the Session change the 2001 Policy to prevent someone from taking a Presbyterian judicial action.

Dr. Broberg then summarized Mr. Foreman's main points: 1) The August 27, 2001 Policy is all right until something happens to not make it all right, such as being challenged and overturned by a higher body; 2) That Policy would lose in such challenges because it picks out a specific provision of The Book of Order and that type of restating of The Confessions and/or the Book of Order is frowned upon; and, 3) the Nominating Committee (which reports to the congregation, not to the Session) must consider all situations when selecting nominees. All agreed that, based on the information provided by Mr. Foreman and Dr. Broberg, that our congregation can

nominate and elect whomever it wants to so long as those procedures comply with the current Book of Order and The Confessions.

There was discussion about the information and documents provided by Dr. Broberg and Mr. Foreman. There was discussion about how we could address the 2001 Policy. There was discussion about what would happen to the current Nominating Committee's slate if that Policy was rescinded. There was discussion about what the 2001 Policy meant and what legal weight it carries.

All agreed that the Session did not want to pick any sides in this issue, or to even give the appearance of picking a side. All agreed after much discussion that it is very important to let each member of the congregation voice their opinion through the standard congregational voting process. Dr. Broberg then advised the congregation about how the voting process would be handled if there were nominations from the floor. He noted that he has gone through "nominations from the floor" scenarios many times in his career, and feels very comfortable with how to deal with that if it occurs at the congregational meeting on November 22.

After much discussion, it was agreed and noted that the August 27, 2001 document represented only a resolution and Statement of Belief by the Session in place at that time. That August 27, 2001 document represented the views and votes of the Session at that time, and was correct with the Book of Order at that time. But it was not a Policy of The Church of the Covenant. And it does not comply with the current Book of Order, and it can be rescinded.

Gordon Core then moved and April Betzner seconded the following motion: *The first sentence in the fourth bullet of the Statement of Belief presented in the August 27, 2001 minutes of the Session conflicts with the current Book of Order, based on legal advice received by the current Session. Therefore, that Statement is not binding on the Nominating Committee. As stated in the current Book of Order, G-2.0105, "Freedom of Conscience with respect to the interpretation of scripture is to be maintained."* This motion was unanimously approved by the Session.

Next, Sue Denmead moved and Linda Grimm seconded a motion noting the Session's gratitude to Mr. Sam Foreman for his outstanding assistance to us in this matter. This motion passed unanimously.

Dr. Broberg then reviewed a memo he wrote that outlined the procedures for dealing with nominations from the floor during congregation elections. This memo is presented as Attachment 4. After reviewing this memo, the Session had many questions and considered a motion to adopt the memo as a guide for the next congregation meeting in case nominations were done from the floor. But after this discussion, Jim Little withdrew his motion.

Dr. Broberg asked that the people who had met previously with: 1) Denise Gibson; 2) the person who has brought the August 27, 2001 document to the Nominating Committee; and, 3) Rev. Craig Kephart (Washington Presbytery Executive Presbyter), to meet with these three people again. The purpose of this second meeting is to keep those people informed about the Session's activities and intentions.

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Dennis Myers moved and Sue Denmead seconded a motion to adjourn this special Session meeting. There was no discussion and the Session unanimously approved the motion.

Dr. Broberg closed the meeting with prayer at 8:37 p.m.

Respectfully submitted,

Jonathan M. Pachter

Jonathan M. Pachter, Clerk of Session

Letter to Session
October 14, 2015

Dear Session Members:

Thank you for being part of the Lord's process in seeking to do the right thing, not to harm people in our church family, and being obedient to God's Word. It is not an easy task but I believe we are rising to the occasion and balancing all of these good things along the way.

We have sought to receive wise counsel from an attorney related to our policies and my hope is that we will listen carefully and take the advice we have been given and do the right thing by seeking to follow the law and The Book of Order.

Then, my hope is that we will also review and approve the Nominations from the Floor Memo, prepared with the advice of the Stated Clerk of Washington Presbytery, John Rodgers. He has given us guidance related to The Book of Order, Roberts Rules of Order, Revised, and our own church By-laws. I would hope we would continue to endorse processes that are fair, transparent and seeking to be faithful to the rules.

I would hope we would also seek to follow up with the folks we sent teams to speak with in another round of conversation; good communication and people not being surprised by our decisions will be helpful in allowing us all to respond in a good way to what we are hoping to achieve. Again, I believe that we can find a way that is pleasing in the sight of God and our best options under all the many and varying opinions related to these important matters.

Then, I would hope we would plan a process how to inform our congregation, through some sort of information meeting, so they can best understand how we have tried to take steps that are reasonable, representative of the entire congregation, as well as being according to the rules. We must attempt to keep both sides of this debate over these important matters in focus, losing sight of neither side in the process, and endeavoring to anticipate and address those concerns. Good, faithful and transparent communication will be important to retaining the trust of our congregation.

Then, I would hope that we would be certain to draft language in policies that assure The Church of the Covenant lifts up our God-given right to elect officers and pastors whom we alone choose, without the interference of the civil authorities or higher councils of the church, through representative processes controlled by the members themselves. Our church polity, our system of governance, the ways we nominate and elect our own leaders, are not just haphazard ways of governing ourselves. These are heartfelt Christian beliefs that come from the Bible as the Word of God, The Confessions of Faith of the PC (USA), as well as the Book of Order (church constitution) of our church. The way we govern ourselves in a representative system of church governance is as much an expression of faith as is The Apostles Creed.

Lastly, I would reiterate our need to pray together as a session in seeking God's will collectively, which will be better than any one of our ideas individually. I am praying for you and I believe in your ability to walk with God through this important time. I would ask that this letter would be included in the minutes of this called Session Meeting, October 14, 2015 and as Moderator I do so stipulate.

Faithfully,

Dr. Stu Broberg

Monday, August 27, 2001

The Session of The Church of the Covenant (PCUSA) of Washington, PA responds to the 213th General Assembly's actions with the following convictions and intentions:

- The recent statement on the Lordship of Jesus Christ and his saving work is woefully weak in comparison with existing statements already recorded in our Book of Confessions. They are based on such passages as John 14:6 where Jesus says: *"I am the way, and the truth and the life. No one comes to the Father except through me."*; and Acts 4:12, where scripture indicates the conviction of the apostles: *"There is salvation in no one else, for there is no other name under heaven given among mortals by which we must be saved."*
- The 213th General Assembly's statement allows for the continued persistence of an increasing universalism in our denomination, which denies the need for repentance of all sin for salvation through Jesus Christ, and violates the God-given free will of those who foolishly choose to reject Jesus as Savior and Lord. Repentance of sin and confession of faith are necessary for salvation.
- The standard revealed for salvation is clear in Romans 10:9, 10. *"If you confess with your lips that Jesus is Lord and believe in your heart that God raised him from the dead, you will be saved. For one believes with the heart and so is justified, and one confesses with the mouth and so is saved."*
- We also affirm the standard for ordination found in Amendment B (1996) as reflecting God's divine intentions for humankind, and congruency with Biblical principles for those who seek the call of ordained leadership in the church. Furthermore, we believe that all professing Christians are called by God to exhibit faithfulness between a man and a woman in marriage, and to uphold the standard of chastity in singleness.
- Our intention is to continue to proclaim Jesus Christ as the only Savior for the world and the only and pre-eminent Lord of Life.

We intend to stand firm on these basic beliefs regardless of denominational actions. If necessary, we will respond appropriately in peace and love, yet with the firmness of our convictions in a positive way. It is our intention to let the community and the world know who we are and where we stand on these matters in a proactive way, without impugning those who would take another position.

It was moved and seconded that the above statement of belief be adopted and shared with the congregation, the churches and pastors of Washington Presbytery, the Presbytery staff, and the General Assembly Council. Motion passed. Rev. Meyer announced that a copy of this statement will be placed in the *Messenger* and a couple of the upcoming bulletins.

Rev. Meyer also shared an article from *Presbyterians Today*, which responded to a question regarding the standing of homosexuals as Christians. The author, James Ayers, stated that Christian tradition holds that homosexual practice is a sin. Whether that traditional stand is a mistake must be

MEMORANDUM

TO: The Session of the Church of the Covenant
267 E. Beau St.
Washington, PA 15301

FROM: Samuel H. Foreman

DATE: October 12, 2015

Question Presented

Whether the resolution adopted by the Church of the Covenant, dated Aug. 27, 2001, is valid and binding upon the Church, and does it act as a *per se* bar to consideration of the candidacy for ordination in the office of Deacon of a non-chaste single person.

Brief Answer

The Church's resolution of August 27, 2001 does not appear to be valid in light of judicial precedent within the denomination, which has struck down similar resolutions which purport to select a single aspect of the Confessions to serve as a bar to candidacy for ordination. However, even in the absence of such a resolution, it is entirely within the right and power of the Session or council considering any applicant's candidacy for ordination to deny their application on the basis that they do not live in faithful heterosexual marriage or chaste singleness.

Answer

The resolution of August 27, 2001, reads, in pertinent part:

We also affirm the standard for ordination found in Amendment B (1996) as reflecting God's divine intentions for humankind, and congruency with Biblical principles for those who seek the call of ordained leadership in the church. Furthermore, we believe that all professing Christians are called by God to exhibit faithfulness between a man and a woman in marriage, and to uphold the standard of chastity in singleness.

This paragraph relates to standards for ordination, and sets forth a prohibition against adultery and non-chastity, and requires commitment to monogamy or celibacy for someone called to a position involving ordination.¹

First, it has been suggested that the case of Session of the First Presbyterian Church of Washington, 1793, v. Presbytery of Washington, 218-15, is controlling on this issue. I do not think the decision of the GAPJC in the Washington Presbytery matter is binding, and I think it is distinguishable from the resolution under consideration here. The resolution at issue in Remedial Case 218-15 read, in pertinent part:

“Therefore, any departure from ordination standards mandated in the Book of Order, unless repented of, shall bar a candidate from ordination and/or installation. . .”

The salient point of the GAPJC holding, affirming the Synod’s opinion, is in the third specification of error, in the Synod’s holding that the Washington Presbytery’s Resolution A “provided an unqualified bar to ordination or installation in Washington Presbytery of anyone who is unrepentant of any act or thought that the Confessions call sin.” Essentially, Resolution A was found invalid because it was overbroad, and might bar a candidate for failure to observe the sabbath in some fashion on Sunday, marriage to a Catholic, or commission of a similar lesser transgression which the Confessions deem sin.

This does not provide much guidance as to the Aug. 27, 2001 resolution, however. While the Washington Presbytery Resolution, in Case 218-5, was struck down because it broadly barred anyone from ordination if they committed any sin unrepentantly, and could therefore be enforced arbitrarily, one might argue that the Church of the Covenant’s Resolution of

¹ Amendment B was a successful effort to amend the Book of Order by adding the following language:

“Those who are called to office in the church are to lead a life in obedience to Scripture and in conformity to the historic confessional standards of the church. Among these standards is the requirement to live either in fidelity within the covenant of marriage between a man and a woman, or chastity in singleness. Persons refusing to repent of any self-acknowledged practice which the confessions call sin shall not be ordained and/or installed as deacons, elders, or ministers of the Word and Sacrament. (G-6.0106.b).”

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for The Session of the Church of the Covenant
10/12/2015
by Samuel H. Foreman

Aug. 27, 2001 is valid, because it is quite *specific* in the standard which it requires of applicants for ordination. Instead of broadly barring anyone from serving in a position of leadership for any transgression of the principles of the Confessions, it specifies specifically that no one may be ordained who fails to abide by the Confessions pertaining to marriage and chastity.

However, there is another case decided by the General Assembly Permanent Judicial Commission which is more directly on point: Bush v. Pittsburgh Presbytery, 218-10. In that case, the Pittsburgh Presbytery adopted a resolution which read, in pertinent part:

Resolves that no exceptions to the requirement that all Ministers of Word and Sacrament must “live either in fidelity within the covenant of marriage between a man and a woman or in chastity in singleness” (Book of Order, G-6.0106b) will be allowed within the jurisdiction of this Presbytery;

and

Resolves that Ministers of Word and Sacrament shall be prohibited from conducting same-sex marriages within the jurisdiction of this Presbytery. [*The GAPJC decision does not address this portion of the resolution*]

The GAPJC held that the Presbytery could not adopt an ordination standard which purported to be different than that required in the Book of Order (which then contained the express “fidelity and chastity” requirement), and that to allow a Presbytery to state that “in this Presbytery, no one can be ordained who violates X,” wrongly implied that this might be permissible in some other Presbytery, when, in fact, all Presbyteries must abide by the same rules. It wrote:

“Adopting statements about mandatory provisions of the Book of Order for ordination and installation of officers falsely implies that other governing bodies might not be similarly bound; that is, that they might choose to restate or interpret the provisions differently, fail to adopt such statements, or possess

some flexibility with respect to such provisions. Restatements of the Book of Order, in whatever form they are adopted, are themselves an obstruction to the same standard of constitutional governance no less than attempts to depart from mandatory provisions.”

The GAPJC reached the following specific holdings:

2. Examinations of Candidates: Ordaining and installing bodies must examine candidates for ordination and/or installation individually. The examining body is best suited to make decisions about the candidate’s fitness for office, and factual determinations by examining bodies are entitled to deference by higher governing bodies in any review process.

3. Statements of “Essentials of Reformed Faith and Polity”: Attempts by governing bodies that ordain and install officers to adopt resolutions, statements or policies that paraphrase or restate provisions of the Book of Order and/or declare them as “essentials of Reformed faith and polity” are confusing and unnecessary; and are themselves an obstruction to constitutional governance in violation of G-6.0108a.

In the body of its decision, the GAPJC further wrote: “G-6.0108a sets forth standards that apply to the whole church. These standards are binding on and must be followed by all governing bodies, church officers and candidates for church office.” I interpret this to mean that if a Presbytery cannot adopt such a resolution, then neither can an individual church.

Based upon these holdings, I believe the Resolution of August 27, 2001 is not valid, as it is factually analogous to the Pittsburgh Presbytery’s resolution which was declared invalid in Bush.

The next question is: In the absence of the resolution, what standards govern the Church’s decision whether to accept an applicant for ordination? The Book of Order 2013-2015 provides the following in place of the prior G-6.0108, and the “Fidelity and Chastity” requirement which was fought over for many years:

G-2.0105 Freedom of Conscience

It is necessary to the integrity and health of the church that the persons who serve it in ordered ministries shall adhere to the essentials of the Reformed faith and polity as expressed in this Constitution. So far as may be possible without serious departure from these standards, without infringing on the rights and views of others, and without obstructing the constitutional governance of the church, freedom of conscience with respect to the interpretation of Scripture is to be maintained. It is to be recognized, however, that in entering the ordered ministries of the Presbyterian Church (U.S.A.), one chooses to exercise freedom of conscience within certain bounds. His or her conscience is captive to the Word of God as interpreted in the standards of the church so long as he or she continues to seek, or serve in, ordered ministry. *The decision as to whether a person has departed from essentials of Reformed faith and polity is made initially by the individual concerned but ultimately becomes the responsibility of the council in which he or she is a member.*

(emphasis added). This would appear to me to leave discretion in the local church or council as to whether any particular candidate's moral behavior – whether it pertain to sexuality or any other sin – serves to prohibit them from candidacy for ordination.

Accordingly, while the Resolution of Aug. 27, 2001 may not be valid under these judicial decisions, this does not mean that the Session must ordain a deacon who has an open or adulterous marriage, or someone who is homosexual. To the contrary, if the Session is of the opinion that a candidate's exhibition of such behavior "departs from the essentials of the Reformed Faith," then it is a valid basis upon which to refuse ordination. The judicial decisions merely state that no resolution is permissible which isolates or elevates one part of the Confessions, all of which must be considered in any particular candidate's application.

S. H. Foreman

**Memo on Nominations from the Floor
Annual Meeting to Elect Officers –November 22, 2015
The Church of the Covenant**

Note: this procedure drafted with the advice of Stated Clerk John Rodgers, 10/13/15

Note: The procedure comes from the Book of Order, Roberts Rules of Order, Revised and our Bylaws

The Nominating Committee through its Chair presents its report and its slates ad seriatim, for Elders, then Deacons, then Nominating Committee, and then Trust Fund Management and Auditor positions. The Moderator begins by stating to the Chair of Nominating, **“Nominations are now in order for the office of _____. (elder, deacon, nominating committee, trust fund management, auditor).** They present a slate with the exact number of names corresponding to the openings being elected and filled by the congregational meeting. (exception from Roberts Rules for more than maximum p. 433) Once the slate has been moved by the Chair of Nominating, the Moderator asks: **“Are there any nominations from the floor?”** If there are none, the Moderator, then calls for a motion that nominations be closed. Moved, seconded and approved (requires a 2/3 vote). And then the vote on the slate is taken by voice vote. (simple majority of those members present and voting). No unanimous ballot may then be cast.

If there is a nomination from the floor, the Moderator again asks: **“Are there any further nominations from the floor?”** If none, **Motion then that nominations be closed (2/3 vote).** Then the Moderator calls for a **motion to approve the use of paper ballots.** (majority vote). Then the tellers of the election are instructed to pass out previously prepared ballots to members of the congregation only.

These previously prepared ballots have the names of all of the people being nominated by the Nominating Committee listed with a box to check next to their name. Above each category (elder, deacon, nominating committee member, trust fund management, auditor) it states: **“Vote for a maximum of ----”** (If there are 6 openings for elder then the maximum number to vote for is 6). A verbal instruction is made that, in the event someone marks their ballot with more than the maximum then the tellers are instructed to declare that ballot null and void. There are then also open lines with no name printed next to them, also with a box to check, where someone’s name who has been nominated from the floor can be written in. Likewise there is a verbal announcement from the Moderator noting where the name is to be written in and the spelling of the name. Instruction that clear legible writing is important. Instruction to fold the ballot in half only. Instruction that placing more than one ballot folded together invalidates both ballots. Instruction about write in (but not more than 6 for any office). Moderator inquires: **“Have all those voted who wish to do so?...Then declares that the “polls are closed.”**

As has been our practice, there will be no speeches or discussion from any of the candidates for office. Procedural questions are always in order.

The tellers for the election will be appointed in advance. They will consist of the ushers for the 11am service for that day and also a person appointed by the Moderator who knows the congregation and its rolls, to be able to determine when the ballots are passed out who is and who is not a current member of the congregation. Once the election is set and ready to proceed, the Moderator will call for the distribution of ballots by the tellers. The person appointed as head teller, if there is some question about whether someone is or is not a church member, will have the current roll books present in order to double check someone’s status. The tellers hand the ballots to individuals whom they know and

believe are members of The Church of the Covenant. While non-member visitors may be present, they do not have the right to vote. The Moderator will appoint the head teller in advance.

The tellers then take the written ballots back to the ~~Moderator~~ ^{Office Suite} and count them carefully 3 times. The totals should agree three times in a row to be final. If someone mismarks a ballot by voting for more than the maximum in that category then that ballot is declared "illegal". If a ballot is folded with another ballot likewise the ballots are declared "illegal". The head teller then records the votes, signs the record, and hands that record to the Moderator to announce to the congregation and for the totals to be entered into the minutes of the meeting. The "Tellers Report" is included in its entirety in the minutes of the meeting by the Clerk. The paper ballots are given by the head teller to the Clerk where they are kept under lock and key for one year following the election and then destroyed. The names of those elected are then published in the following week bulletin.

The Tellers Report

Number of Votes Cast _____.

Necessary for Election (one half of total number cast) _____.

Person X received _____ (list name and total votes received)

Person Y received _____.

Person Z received _____.

Etc. _____.

Illegal Votes _____.

Ballots folded together (illegal) _____.

List names of Tellers _____.

List name of Head Teller _____.

10/ 14/ 15