

1 **OVERTURE 7** from Southeast Louisiana Presbytery (to SJC)
2 “Declare SJC Manual 16 Unconstitutional; Request Standing Judicial
3 Commission to Amend SJC Manual, Section 16”
4

5 **Whereas**, §16 of the Operating Manual of the Standing Judicial Commission (SJC Manual)
6 is constitutionally defective in that it:
7

- 8 a) allows the General Assembly, in the exercise of its original jurisdiction, to censure
9 a presbytery without a trial or many of the protections established for an accused
10 lower court in the *BCO*; and
- 11 b) provides for only a single step of process against a lower court in contravention
12 of *BCO* 40-5 (“the first step”) (cf. *WCF* 30.4); and
- 13 c) arguably falls short of biblical principles of conflict resolution articulated by our
14 Lord Jesus Christ by having such a truncated process for judicial process against
15 lower courts (Matthew 18:15-20); and
- 16 d) fails to maintain the distinction between the general review and control of higher
17 courts and the jurisdiction by process of higher courts, in contravention of *BCO*
18 40-1 to 40-6; and
- 19 e) contravenes *BCO* 40-6, ironically and nonsensically stating that “[a]ny hearing on
20 a Memorial shall not be conducted as in a formal judicial case but in accordance
21 with *BCO* 40-5 and 40-6” (SJC Manual §16.4) and giving the accused only “a
22 maximum of 30 minutes to respond to the citation” (SJC Manual §16.6); and
23

24 **Whereas**, “no inferior court may be censured except after conviction on regular trial, any
25 more than an individual” (F.P. Ramsay, *An Exposition of the Form of Government*
26 *and the Rules of Discipline of the Presbyterian Church* [1898], 241-43); and
27

28 **Whereas**, the Constitution of the Presbyterian Church in America (PCA), including *The Book*
29 *of Church Order (BCO)*, is a law of higher authority in the PCA than the provisions
30 of the SJC Manual (*see BCO* preface III, 26-1; *compare BCO* 26-2 and 26-3
31 [requiring action of two General Assemblies and consent of presbyteries to approve
32 amendments to the Constitution], *with RAO* 17-5 [requiring only one General
33 Assembly’s approval for amendments to the SJC Manual]); and
34

35 **Whereas**, the *Rules of Assembly Operations (RAO)* state that the SJC “shall be governed by
36 the provisions of the Constitution of the Presbyterian Church in America and the
37 Rules of Assembly Operations” (*RAO* 17-5); and
38

39 **Whereas**, the SJC Manual itself states that “it is subordinate to the Constitution of the
40 Presbyterian Church in America and to the Rules of Assembly Operations” and
41 contemplates that in the case of “any conflict between the provisions of this Manual
42 and the Constitution or Rules of Assembly Operation, the Constitution or Rules of
43 Assembly Operation shall take precedence” (SJC Manual preface); and

1 **Whereas**, members of the SJC vow to judge cases according the Constitution of the PCA
2 (see *RAO* 17-1, vow 4); and
3

4 **Whereas**, the original SJC Manual did not include current §16 (*M18GA* [1990], Appendix J,
5 pp. 366-85); and
6

7 **Whereas**, after §16 was first introduced into the SJC Manual, it was vacated by action of the
8 SJC (*M25GA* [1997], p. 64); and
9

10 **Whereas**, when the re-introduction of §16 was proposed to the 29th General Assembly, action
11 on the proposal was postponed until the 30th General Assembly “so that concerned
12 presbyteries and individuals might send suggestions and concerns to the SJC”
13 (*M29GA* [2001], p. 69; see also *id.* at pp. 126, 129-30); and
14

15 **Whereas**, the only two presbyteries to respond to the proposed re-introduction of §16 into
16 the SJC Manual—Mississippi Valley Presbytery and Westminster Presbytery—both
17 communicated their opposition to the General Assembly (*M30GA* [2002], pp. 176,
18 275-76); and
19

20 **Whereas**, before it was stricken from its report by a supplemental report, the Committee on
21 Constitutional Business of the 30th General Assembly also expressed concern over
22 the re-introduction of §16 as “rais[ing] significant constitutional issues” including
23 “[s]ignificant questions of due process” (*M30GA* [2002], p. 104); and
24

25 **Whereas**, amendments to the SJC Manual may be proposed by presbyteries or recommended
26 by the SJC (*RAO* 17-5),
27

28 **Therefore be it resolved** that Southeast Louisiana Presbytery hereby overtures the General
29 Assembly of the PCA to:
30

- 31 1. Declare that the procedure in SJC Manual §16 for handling cases in accordance
32 with *BCO* 40-5 in which the General Assembly receives a credible report of any
33 important delinquency or grossly unconstitutional proceeding by a presbytery is
34 constitutionally defective; and
- 35 2. Request that the SJC recommend to the next General Assembly such amendments
36 to the SJC Manual as may be necessary, wise, and biblical to bring SJC Manual
37 §16’s procedure into conformity with the PCA constitution.
38

39 *Adopted by Southeast Louisiana Presbytery at its stated meeting, January 24, 2009*

40 *Attested by /s/ TE Jeffery Scott Lindsay, stated clerk*