

PART II:

INTERPRETATIONS

OF

THE

CONSTITUTION

INTERPRETATIONS OF THE CONSTITUTION

Westminster Confession of Faith

WCF 1-1

(See PART III: JUDICIAL CASES, #50, where a Presbytery was found in error in receiving as a member a minister who declared his belief in continued revelation. The examination was annulled, and the reception of the minister suspended until he received further instruction on this matter.)

(See PART III: JUDICIAL CASES, #61, where General Assembly approved a Presbytery's parameters regarding continuing revelation and/or prophesy. This was confirmed by the following GA rejecting an overture to overturn Case 61 decision.)

(See PART III: JUDICIAL CASES, #64, where a Presbytery was found in error in licensing a candidate, who held to continuing revelation outside the parameters set forth in Case 61.)

WCF 19-4

1983, p. 96, 11-36, III, 29 That the following interim advice of the SCJB in response to Reference 2 from Gulf Coast Presbytery (p. 50f), dated October 16, 1982, be ratified:

QUESTION 1: Is the Presbytery denied the right to examine a man and to judge him to be in error or heretical on the basis of Chapter 19 of the *Westminster Confession of Faith*, and particularly on the basis of Chapter 19, paragraph 4?

No. The judicial decision of the Tenth General Assembly did not deny this right of the Presbytery. Such a judgment should be supported by specific evidence so that the error or heresy might be demonstrated and proved. It should be noted that both judicial decisions and *in these* statements are alike in that they are interpretation of God's Word made by a court of the Church. While they do not supersede the Constitution, they must be submitted to unless they contradict the Constitution and the Word. It has only recently been discovered that the *Minutes of the Seventh General Assembly* are incorrect on page 115. Recommendation 22, paragraph c, should read:

That the General Assembly affirm that no particular view of the application of the judicial law for today should be made a basis for orthodoxy or excluded as heresy in so far as this view is in accord with paragraph a above.

Paragraph a., which is cited, reads:

That since the term "theonomy" in its simplest definition means "God's Law," the General Assembly affirms the *Westminster Confession of Faith*, Chapter 19, and *Larger Catechism*, Questions 93-150, as a broad but adequate definition of theonomy.

QUESTION 2: Are all views defining themselves by the term "theonomy" excluded as a basis for examination for licensure or ordination?

The Statement of the Seventh General Assembly notes that theonomy has varying definitions.

There is no single well-defined school of thought known as "theonomy." The term simply means "God's Law." Great difficulties arise in defining the term in our present theological climate because it has been used in a great variety of ways by thinkers as liberal as Paul Tillich and as conservative as Herman Ridderbos. (*M7GA*, p. 194)

Neither the Statement of the Seventh General Assembly on "theonomy" nor the judicial decision of the Tenth General Assembly eliminated views of "theonomy" from theological examinations. No view of the application of the judicial law contrary to *Westminster Confession of Faith*, Chapter 19, paragraph 4, is acceptable.

QUESTION 3: Are all views of the applicability of God's judicial law for today to be regarded as acceptable in the Presbyterian Church in America?

All views of the application of the judicial law not contrary to *Westminster Confession of Faith*, Chapter 19, paragraph 4, are to be regarded as acceptable within the Presbyterian Church in America.

PCA DIGEST

QUESTION 4: How is the directive that Gulf Coast is "to give direct guidance to Mr. Fell concerning any deficiencies of theology in reference to specific Biblical and confessional matters prior to his examination for ordination" to be related to current procedures prescribed in the *BCO* concerning examination for ordination?

The judicial decision of the Tenth General Assembly was not intended to add to the normal procedures, but simply to remind the Presbytery of its ordinary responsibilities of candidate oversight (see *BCO* 18-1, 18-4, and *M9GA*, page 142). Only the one year of licensure requirement of the new procedures has been exempted for candidates or seminarians already in process.

QUESTION 5: Are the penal sanctions of the judicial laws of the Old Testament, such as those found in Deuteronomy 13, part of the general equity and, therefore, are they to be applied today as they were to the State of Israel, assuming the government was a righteous government according to the truth of God?

All laws of the Old Testament were equitable for the era for which they were designed. But great care must be taken to determine precisely how they apply to the present era. In the case of Deuteronomy 13, in which the state is directed to execute any individual who attempts in private to lead someone to worship another god, it is the interpretation of the Eleventh General Assembly that the legislation applies to the distinctive era in which Israel was established by specific divine revelation as His theocratic nation, and should not be enforced by the state in the present era. Since there are differences of opinion with regard to the application and "general equity" of the various penal sanctions, this declaration shall not be used by the courts of the Church to bind the conscience of elders in the PCA.

WCF 24-5

1979. (See Part I: Assembly Actions, OFFICERS, Divorced)

1986. (See PART III: JUDICIAL CASES, #51, re. ordination for office with respect to divorced persons)

WCF 24-6

1992, pp. 513 ff, p. 59, 20-14.

(See PART V: POSITION PAPERS, Divorce and Remarriage, pp. 182-292)

WCF 31-1

1992, p. 137, 20-67, 1. Response Of The Committee On Constitutional Business To The Constitutional Inquiry From Dr. Morton H. Smith:

"Whereas (*WCF* 31-3) reads:

"All synods or councils, since the apostles times, whether general or particular, may err; and many have erred. Therefore, they are not to be made the rule of faith, or practice; but to be used as a help in both."

which means that all church members should be guided by the latest action of an Assembly on a subject.

Since the report of the SJC comes to the floor of the General Assembly without any provision for questions or discussions, which means that only a small group of the Assembly has any input into the report, does the SJC have authority to propose a decision to the Assembly which contradicts the action of a previous General Assembly? If so, should this not be open to debate by the Assembly?"

RESPONSE:

1. Yes, the Standing Judicial Commission (SJC) does have authority in the adjudication of a case to propose a decision which is different or contradicts an action of a previous Assembly.

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"All synods or councils, since the Apostles' times, whether general or particular, may err; and many have erred. Therefore, they are not to be made the rule of faith, or practice; but to be used as a help in both." (*WCF* 31-3)

2. No, the decision of the Standing Judicial Commission is not debatable. However, the General Assembly may refer, (a debatable motion), any strictly constitutional issue(s) to a study committee. (*BCO* 15-15)

Westminster Larger Catechism

WLC #109

(See Pictures of Christ, Report in *Documents of Synod, Study Papers RPCES*, 1982, pp. 332-350)

Book of Church Order

3-1

1986, p. 126, 14-52, 16. That the answer of the Permanent Committee concerning Constitutional Inquiry #8 from the Trinity Presbyterian Church, be ratified.

1986, p. 331, Appendix I, 8. "2. Can a congregation decide that its session must adopt a rotational system? Or must the session adopt the rotational system at the request of the congregation?"

ANSWER:

2. *BCO* 3-1 indicates that the power of the choice of officers vests in the people as a whole. The *BCO* does not explicitly state where the power is vested to determine (under the *BCO*) whether the system of officers is to be rotational or perpetual. We would therefore urge mutual subjection in determining the matter (Eph. 5:21). Where an insurmountable conflict occurs between a session and the congregation, the presbytery may be invited to arbitrate the conflict (*BCO* 13-9, 40-5, 41, 42, 43). Any decision to have a rotational system of ruling officers must be made in accordance with the procedures of the *BCO* and the Bylaws of that church (*BCO* 25-7, *M3GA* 3-89, p. 113). With regard to the rotation system, "... the *BCO* was deliberately written neither to promote nor to prohibit the rotational system of church officers. The General Assembly has repeatedly affirmed this position (*M1GA* 1-46, p. 35; 1-81, p. 64; *M2GA*, 2-98, p. 72; *M7GA* 7-41, p. 105; *M8GA* 8-88, p. 118).' *M12GA*, p. 127, item 20."

4-3

1985, p. 109, 13-45, III, 49. That the advice regarding Constitutional Inquiry 7 be ratified [voting by associate pastor]

1985, p. 241, Appendix I, 7. Constitutional Inquiry 7: From the Session of Evangelical Presbyterian Church of Levittown, PA.

"Does the associate pastor, when he is not moderating Session, have a vote in that court?"

ANSWER:

The *BCO* 4-3, 12-1, 22-2 lists the members of Session which includes Pastors, Associate Pastors, and Ruling Elders. Every member of the Session, including the Moderator, is entitled to vote by virtue of his membership in the Session.

PCA DIGEST

1985, p. 109, 13-45, III, 52. That the advice regarding Constitutional Inquiry 10 be ratified. [voting by moderator of Session].

1985, p. 242, Appendix I, 10. Constitutional Inquiry 10: From the Session of the Progressive Presbyterian Church of Princeton, NC.

"During a Session meeting, except in voting to break a tie vote, does the Moderator have a vote?"

ANSWER:

The *BCO* 4-3, 12-1, 22-2 lists the members of Session which include Pastors, Associate Pastors, and Ruling Elders. Every member of the Session, including the moderator, is entitled to vote by virtue of his membership in the Session.

The moderator may vote on all issues, not only in breaking or creating a tie vote.

1986, p. 124, 14-52, 9. That the following be adopted by the Assembly as the response to Constitutional Inquiry 1 from Gainesville Presbyterian Church.

1986, p. 329, Appendix I, 9.

"As we have read the Book of Church Order we cannot find any rule that forbids us from having several pastors on the staff of our church (as opposed to associate and assistant pastors)....If there is something in our standards that prohibits this practice, please inform us of it."

1986, p. 124, 14-52, 9.

ANSWER:

The *PCA BCO* 4-3 reads "Its jurisdiction, being a joint power, is lodged in the church session, which consists of its Pastor, Pastors, its Associate Pastor(s) and its Ruling Elders." *BCO* 12-1 (4) reads "The church Session consists of the pastor, associate pastor(s), if there be any, and the Ruling Elders of a church." Thus the *BCO* is not consistent.

PCA practice has been to recognize one pastor as the "senior pastor" in churches served by multiple pastors. (See *BCO* 12-1 and 23-1, 3)

Since the *BCO* makes no specific provision for co-pastors, various sections which clearly envision a single pastor would cause difficulties for which the *BCO* provides no solution (e.g. the Moderator of the Session, succession to the Senior Pastor).

On the principle of plurality of elders, the concept of co-pastor would not be inimical to presbyterianism. That "multiple pastors" or "co-pastors" have historical precedent in presbyterianism is found in *What is Presbyterian Law?*, J. A. Hodge, 1903 ed., p. 49. "What are co-pastors? Ministers associated as pastors over one or more churches, having equal authority." The *BCO* of the PCUS, 1932, XIV. 64 reads "In churches where there are 2 or more Pastors, they shall, when present, alternately preside" (at a session meeting).

Therefore, the General Assembly instructs the Committee on Judicial Business to prepare language to clarify the procedures for utilizing co-pastors in a manner consistent with Biblical teaching on the plurality of elders as has been recognized in Presbyterian polity.

GROUNDS: The recognition of ambiguity in the *BCO* and the absence of specific provisions for the functioning of co-pastors is insufficient reason to advise against the practice of co-pastors which both the majority and minority reports recognize as having Biblical warrant and historical Presbyterian precedent. The *BCO* Chapter 1 specifically addresses the priority of Scripture and the obligation of church courts to uphold the laws of Scripture.

[Note: In 1988, *BCO* amendments were sent down to presbyteries (see *M16GA*, p. 170, 16-77, III, 3), but defeated in 1989 (see *M17GA*, p. 43, 17-6, Item 3).]

INTERPRETATIONS OF THE CONSTITUTION

1986, p. 336, Appendix I, 16. Constitutional Inquiry #16. From Faith Presbyterian Church.

1. Does the Teaching Elder have full voting rights in the Session?
2. Secondly, we need to know whether or not a raise or reduction in the pastor's salary is subject to congregational approval."

1986, p. 128, 14-52, 45. That Constitutional Inquiry #16 from Faith Presbyterian Church, be answered as follows:

1. "The *BCO* 4-3, 12-1, 22-2 lists the members of the Session which include Pastors, Associate Pastors, and Ruling Elders. Every member of the Session, including the moderator, is entitled to vote by virtue of his membership in the Session. The moderator may vote on all issues, not only in breaking or creating a tie vote." *MI3GA* p. 242, item 10.
2. The *BCO* is not explicit on this matter of changes in terms of call. Since *BCO* 20-6 requires that terms of call be determined by the congregation (including financial stipulations) any changes in those terms must also be approved by the congregation.

GROUND: This response is supported by the prior action of the General Assembly in the parallel matter of presbytery approval of changes in the terms of call: "*BCO* 20-1 indicates that Presbytery must approve the call of a pastor. The call establishes the relationship of the pastor to the calling body. The *BCO* is silent concerning amending the call; however, inasmuch as the initial relationship must be approved by Presbytery, it would follow that if any changes are made in the original call, the Presbytery would necessarily have to approve the changes in the call for the protection of both the pastor and the calling body." (*MI1GA*, p. 101, item 55)

6-2

(See *BCO* 24-3, 1982, 10-75, #10; 1984, 12-53, #60)

6-4

Voting, Minimum Age

(See *BCO* 24-3, 1982, 10-75, #10; 1984, 12-53, #60)

7-1

(See PART III: JUDICIAL CASES, #61)

7-2

(See PART V: POSITION PAPERS, Number of Offices, pp. 455-497)

8-6

1987, p. 172, 15-83, III, 13. That Constitutional Inquiry #7 be answered as follows: Constitutional Inquiry #7. From Calvin Presbyterian Church, Phoenix, AZ, regarding the role of an Evangelist in disciplinary matters.

"May a man, called to the position of Presbytery Evangelist, who is granted the powers of receiving and holding members, also exercise discipline over those members in the following areas:

- 1) grant requests for transfer of letter of membership to another church
- 2) remove from the roll names of members who have indicated that they no longer intend to fulfill their vows of church membership (having no court available to act upon the situation), and
- 3) discipline those who ignore the regular responsibilities of church membership (i.e., who have not been in attendance at worship for the past year)?"

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1. Yes. See *BCO* 8-6.
2. and 3. No. See *BCO* 3-2, and *BCO* 5-5.

GROUND: The removal of a name from the church roll is an act of judgment, which is disciplinary, and should therefore be enacted by a court, not by a single individual (see *BCO* 3-2). Likewise, other acts of church discipline must be considered and addressed by the church courts, which have oversight of mission churches, and not by a single individual (see *BCO* 5-5).

9-4

1987, p. 170, 15-83, III, 9. That the advice of the Permanent Committee regarding Constitutional Inquiry (hereafter designated "CI") #3 be ratified.

Constitutional Inquiry #3. From All Saints Reformed Presbyterian Church, Richmond, VA, regarding a church treasurer.

"Is it in conflict with *BCO* 9-4 for the deacons to delegate the responsibilities of treasurer to a capable member of the congregation who is not a deacon?"

ANSWER: "No."

10-2

1975, p. 113, 3-89. In response to the Resolution of John Holmes regarding *BCO* 10-2, ...that the General Assembly instruct the Sessions of the PCA that budgeting decisions are now their full responsibility and that they should assume this function at once in accordance with our Constitution, and they should take action to so inform their Diaconates of this departure from what most of our Diaconates have previously understood as the function of the Diaconate.

The Committee recommends that it be answered with the statement that the church officers need no special instruction in this area, since this section is already in the *Book of Church Order*.

10-3

1984, p. 137, 12-53, II, 51. That the Assembly ratify the answer to the following Constitutional inquiry:

Constitutional Inquiry 1: from the Session of the First Presbyterian Church of Stanley, North Carolina. When a ruling elder commissioner is elected to serve as moderator at a subsequent meeting of a presbytery, must his session elect him also to serve as their representative for the meeting at which he will serve as moderator? (this is a summary of the circumstances described)

ANSWER:

Neither the *BCO* nor parliamentary procedure require that the moderator be a voting member of the court he moderates (*BCO* 10-3; Robert's Rules of Order, page 343, Section 43). Therefore, a ruling elder who is not serving as a representative of the local church may serve as moderator, and another ruling elder serve as the representative. Since the right to vote is given only by virtue of representation (*BCO* 13-1), a moderator who is not a representative may not vote under any circumstances. When the ruling elder representative is elected moderator, the significance of his vote is not lost since he may vote on any ballot or when his vote would have a determinative effect (e.g., a tie). Those votes which he does not cast are on matters in which his vote would not have affected the outcome had they been cast.

1989, p. 151, 17-82, III, 8. That the advice of the Committee on Judicial Business regarding Assignment #8 be ratified as amended; and that the Committee on Judicial Business be instructed to draft an amendment to *BCO* 10-3 to clarify the matter related to "Question a." under ADVICE.

INTERPRETATIONS OF THE CONSTITUTION

The 16th General Assembly assigned to this Committee a request from the Review and Control Committee on the operation of *BCO* 10-3 and the conduct of Presbytery meetings. The specific questions asked were:

- "a. Do the last two sentences of *BCO* 10-3, paragraph 1, apply to presbyteries? In particular:
- a) Do they establish a procedure which the presbytery must follow when the moderator is absent?
 - b) Do they require that a sermon be preached at each meeting (stated or called) of presbytery?
 - c) If a sermon is required, must the sermon be preached by the Moderator?"
- "b. Is it proper for a meeting of presbytery to be conducted by conference telephone call?"

ADVICE:

Concerning "Question a.":

As *BCO* 10-3 is ambiguous with regard to this question, each Presbytery should interpret the section as it sees best.

Concerning "Question b":

No. *BCO* 13-4 requires that the Presbytery meet "at the ...place appointed."

Adopted

11-4

1982, p. 107, 10-77

(See also PART I: ASSEMBLY ACTIONS, PRESBYTERY, KOREAN LANGUAGE, 1982, 10-66; 1992, 20-23 and 20-71)

By common consent, the Assembly returned to the question of the erection of a nongeographical presbytery. TE Vaughn E. Hathaway, Jr., presented the following opinion of the Sub-Committee on Judicial Business regarding the following constitutionality of a nongeographical presbytery.

The General Assembly directed the Sub-Committee on Judicial Business to answer the question: Is a nongeographical presbytery constitutional (cf. *BCO* 11-4, 13-1, et al.)?

In answering the question the Sub-Committee considered the following:

1. The *BCO* does not take into consideration "superimposed" presbyteries.
2. *BCO* 11-4 seems to prescribe geographical bounds to a presbytery.
3. *BCO* 13-1 does not limit the word "bounds" to a geographical definition.

Therefore, it is the opinion of the Sub-Committee on Judicial Business that the question of nongeographical presbyteries is not addressed in the *BCO*.

1985. (See PART III: JUDICIAL CASES, #48)

1992. (See PART I: ASSEMBLY ACTIONS, PRESBYTERY, KOREAN LANGUAGE, 1992, 20-23)

1993. (See PART III: JUDICIAL CASES, #91)

12-1

(See also *BCO* 4-3, 1985, #49 & #52; 1986, 14-52, #9 and #45)

1984, p. 141, 12-53, III, 62. That the General Assembly ratify the answer to the following Constitutional Inquiry:

Constitutional Inquiry 11: from Central Georgia Presbytery requesting advice on the interpretation of *BCO* 12-1.

It is recognized that "if there are fewer than three Ruling Elders the pastor and one ruling Elder shall constitute a quorum." Does this mean if there is only one ruling elder elected that he plus

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the pastor constitute a valid session? Or must there be two Ruling Elders with or without a pastor to constitute a valid Session?

ANSWER:

1. If there is only one ruling elder elected, he plus the pastor constitute a valid session, however both must be in attendance, obviously, to constitute a quorum.
2. If a church has a pastor, there must be only one ruling elder to constitute a valid session. If a church has no pastor, to have a Session, the church must have a minimum of two ruling elders.
3. Our *BCO* provision is an exception to standard rules of parliamentary procedure (see Section 4, pages 26-28, Robert's Rules Of Order Newly Revised, 1970).

12-3

1987, p. 171, 15-83, III, 11. That the advice of the Permanent Committee regarding Constitutional Inquiry #5 be ratified.

Constitutional Inquiry #5. From Central Carolina Presbytery regarding the status of Stated Supply as Moderator.

- "1) Does the Stated Supply automatically become the Moderator of the Session, or must the Session request such (*BCO* 12-3)?
- 2) Although the pastor normally serves as moderator of a congregational meeting, does this duty automatically fall to a Teaching Elder Stated Supply, or must the meeting be opened according to *BCO* 24-2, where the Session appoints one of its members of (sic) call the meeting to order?"

ANSWER:

- "1. The Session may invite the Stated Supply to serve, or he could be appointed by presbytery to be moderator with their consent (*BCO* 12-3).
2. The Session should appoint one of their members to open the meeting in accord with *BCO* 24-2."

13-1

Moderator, Ruling Elder-Voting Member

(See *BCO* 10-3, 1984, 12-53, #51)

Nongeographical Presbytery

(See *BCO* 11-4, 1982, 10-77)

13-2

(See *BCO* 24-6, 1988, 16-77)

13-5

1984, p. 138, 12-53, II, 54. That the Assembly ratify the answer to the following Constitutional inquiry:

Constitutional Inquiry 4: from the Presbytery of Eastern Canada: See Recommendation 36, p.

297. "The Presbytery of Eastern Canada requests of the Committee on Judicial Business clarification of *BCO* 13-5 with reference to a situation such as that of (a teaching elder without call)."

ANSWER:

BCO 13-5 reads that "ordinarily" there must be a call to a definite work. The two exceptions listed are in the cases of honorably retired ministers and "those cases deemed necessary by the Presbytery, subject to the review of the General Assembly." In the case of (teaching elder in question), the Presbytery must use its judgment regarding the necessity.

INTERPRETATIONS OF THE CONSTITUTION

1984, p. 138, 12-53, II, 53. That the Assembly ratify the answer to the following Constitutional inquiry:

Constitutional Inquiry 3: from the Presbytery of Eastern Carolina;

1. If, indeed, ...(a teaching elder) did join the ...Reformed Church, could Presbytery then rescind her action and reinstate (the teaching elder) in the Presbytery?
2. If (the teaching elder) is now a member of another independent church, does this constitute a similar irregularity and thus preclude his being reinstated by the route of rescinding the previous action?
3. If (the teaching elder) cannot be reinstated by rescinding a previous action, then how could he be reinstated? Would it have to be as a minister from outside the PCA? Would he therefore have to have a call to a specific work?

ANSWER:

1. No. The rescinding of the action of Presbytery does not erase the action of (the teaching elder) in joining the ...Reformed Church nor the action of that church in enrolling him as a member. According to the Minutes of January 24, 1981, (item 27) and Minutes of January 22, 1983, (item 21), his membership had been transferred to that body. Whatever the errors of Presbytery, Presbytery cannot amend nor expunge the actions of another church.
2. Yes. See answer to Question 1.
- 3a. Yes. See answer to Question 1.
- 3b. *BCO* 13-5 states that ordinarily a minister must receive a call to a definite work. The two exceptions listed are regarding those honorably retired and cases deemed necessary by the Presbytery subject to the review of the General Assembly.

13-6

(See also *BCO* 21-4, 1986, 14-52, 48)

1979, p. 104, 7-41, III, 21.

- a) That the *BCO* 13-6 states that anyone coming from another denomination must be asked the questions for ordination, and
- b) That Presbytery also has the authority to require an ordination that is in accord with Scripture, if deemed necessary.

1985, p. 109, 13-45, III, 56. That the advice regarding Constitutional Inquiry 16 regarding the use of the "extraordinary clause" be ratified.

1985, p. 246, Appendix I, 6. Constitutional Inquiry 16: From the Presbytery of the Western Carolinas.

The Presbytery respectfully requests the Judicial Business Committee of the General Assembly to advise when and if the extraordinary clause may be used regarding ministers transferring from another denomination.

ANSWER:

BCO 13-6, dealing with admitting ministers from other denominations, contains no reference to an "extraordinary clause." Neither does *BCO* 21-4 paragraph 1, (educational requirements) contain this clause. Therefore there is no applicable "extraordinary clause" to use in the admitting of ministers from other denominations.

Note: *BCO* 13-6 was amended in 1992 providing for the use of extraordinary clause to apply to ministers transferring from other denominations.

13-9

(See also *BCO* 24-6, 1986, 14-52, 44)

1985, p. 111, 13-45, III, 65. That the advice regarding Constitutional Inquiry 12 (p. 245) from Missouri Presbytery be ratified as amended.

PCA DIGEST

Shall the Churches of Presbytery be visited on a regular basis by a committee of presbytery whose aim it is to promote the welfare of the churches under its care and thus, also to ward off troubles in the churches?

ANSWER:

BCO 13-9, paragraph 2 includes among the powers of presbytery the power "...to visit churches for the purpose of inquiring into and redressing the evils that may have arisen in them..." "and also '...in general, to order whatever pertains to the spiritual welfare of the churches under its care...' for the constructive purpose of guarding 'all the flock of which the Holy Spirit has made you overseers' (Acts 20-28)." It is the prerogative, therefore, of presbytery to initiate such a visitation (as described in *BCO* 13-9).

1986, p. 128, 14-52, 46. That the answer of the Permanent Committee concerning Constitutional Inquiry #17 from Ascension Presbytery, be ratified.

1986, p. 336, Appendix I, 17. Constitutional Inquiry #17. From Ascension Presbytery.

"Re *BCO* 13-9, 'to review the records of church sessions': when a presbytery finds that it has overlooked the review of session minutes for a period of as long as several years, is it mandatory that presbytery review all such un-reviewed records or is it acceptable to correct this previous over-looking by beginning with the current records?"

ANSWER:

It is mandatory that presbytery review all unreviewed records of church sessions.

GROUNDS: It is the right and duty of every court to review the records of the court next below for the purpose of approval, disapproval, or correction. (*BCO* 13-9; 40-1,2,3,4)

1985. (See PART III: JUDICIAL CASES, #48, where presbyteries may visit churches only upon request by a session or specific problem in church or session.)

(See PART III: JUDICIAL CASES, #69 and #70, where the Assembly judged that the *BCO* does not give a Presbytery authority and power to suspend members of a Session without the consent of the congregation and without due process.)

(See PART III: JUDICIAL CASES, #92, where the general provision to dissolve the pastoral relation cannot circumvent or contradict the more specific provision of *BCO* 23-1.)

14-1

1982, p. 60, 10-23 At the Ninth General Assembly, the Permanent Sub-Committee on Judicial Business was asked to respond to the question whether or not the Committee of Commissioners has to make a recommendation concerning the new cooperative agreements of the Permanent Committee on Mission to the World.

In order to answer the question, the Permanent Sub-Committee on Judicial Business took notice of the following points:

- 1) *BCO* 14-1-5 states that the General Assembly has the responsibility "to evaluate needs and resources."
- 2) *BCO* 14-1-7 states: "The Assembly's committees are to serve and not to direct any Church judicatories. They are not to establish policy, but rather execute policy established by the General Assembly."
- 3) *BCO* 14-6 states that the General Assembly has the power "to institute and superintend the agencies in the general work of evangelization." The actions and activities of all the committees are always subject to the review of the General Assembly.
- 4) Church courts have final responsibility in determining doctrinal compatibility (see *BCO* 12-5, 13-8, and 14-6). Each new cooperative agreement requires the acceptance of a doctrinal statement.
- 5) The Committee of Commissioners is not envisioned in our system of government as serving as a commission but as a channel by which business is reviewed and brought to the floor for final action by the General Assembly (see *RAO* 8-1; *M8GA*, p. 239; and *BCO* 15-1).

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Thus, it is the opinion of the Sub-Committee on Judicial Business that the Committee of Commissioners must make a recommendation to the General Assembly regarding each new operative agreement of the Committee on Mission to the World.

1-1-12

1985, p. 86, 13-27 The following constitutional inquiry from the floor was referred to the committee on Judicial Business:

"Does the *Book of Church Order* 14-1-12 permit a trustee of an agency whose term has expired to be nominated to fill the unexpired term of another trustee who has resigned from his position?"

1985, 13-31, p. 91 ...The following response was adopted:

"BCO 14-1-12 (4) permits such election only if the bylaws of the agency (as approved by the Assembly) so specify."

1-6

operative Agreements

(See BCO 14-1, 1982, 10-23)

1-1

1985, p. 108, 13-45, III, 47. That the advice regarding Constitutional Inquiry 5 be ratified amended.

Standing Rule 16 in effect makes the Administrative Committee into a commission with unlimited powers. A commission is to be limited to specific matters committed to it (BCO 15-1). If Standing Rule 16 were to be amended to specify which matters were to be committed to it as a commission, it might be then in compliance with the BCO.

With respect to the exception to Presbytery minutes of 8/4 - 6/83 (Exception #1); the CJB points out to the Presbytery that this exception is cited by General Assembly action. The options open to Presbytery are:

- a: Petition the General Assembly to rescind the exception;
- b: Proceed - under protest - to re-examine the minister;
- c: Comply

As to Presbytery allowing an exception which does not undermine the system of doctrine as set forth in the *WCF* and does not strike at the vitals of religion, Presbytery may do so. The CJB does not know of any past action regarding *WCF* XXVII:4.

☒ also CONFSSIONAL SUBSCRIPTION)

With respect to the exception of Presbytery minutes (8/4-6/83) adding "church history" and "the history of this denomination" to the licensure exam (BCO 19-2) (Exception #2), the CJB points out that the Unified Curriculum (BCO 21-4) covers these subjects (Minutes Sixth General Assembly, p. 87, item 4).

Presbytery may ask candidates any question from the Unified Curriculum (BCO 21-4). The list of subjects for examination (BCO 19-2) for licensure is complete. Additional subjects may not be added to that list. Examination in additional subjects may not be used to fail a candidate.

As to the force of the Report of the Committee on Review and Control of Presbyteries: CJB points out that the exceptions made by the Committee on Review and Control have been approved by the General Assembly. They are binding unless rescinded by the General Assembly. Presbytery must abide by them. Presbytery has the privilege to appeal to the General Assembly to rescind its previous action.

☒ also GENERAL ASSEMBLY, Actions, Binding Character of)

15-2

1985, p. 109, 13-45, III, 55. That the advice regarding Constitutional Inquiry 15 from the Presbytery of Western Carolinas regarding *BCO* 15-2 be ratified.

1985, p. 246, Appendix I, 5. Constitutional Inquiry 15: From the Presbytery of the Western Carolinas.

(That) we request the Judicial Business Committee of the General Assembly to interpret *BCO* 15-2 as to whether or not commissions are limited to the five matters included in the first paragraph and to give an interpretation of the whole paragraph, including the meaning of "Among the matters...".

ANSWER:

The language "Among the matters that may be properly executed..." provides a typical but not exhaustive list.

Those items specifically listed may be assigned to commissions. Other matters may be assigned, with the understanding that the assignment to a commission will be subject to review and control.

1986, p. 120, 14-44. Constitutional Inquiry from the Commission to adjudicate Case #5:

"What constitutes a judicial commission under the terms of *BCO* 15-2? Specifically, must a presbytery act to 'clothe' a commission with judicial authority in order to meet the constitutional requirements of 15-2 as a 'judicial commission.' If the presbytery must act, what action must be taken?"

ANSWER:

A judicial commission is a commission appointed in accordance with *BCO* 15-2 with instructions to adjudicate a matter. Such a commission may only be appointed after the charges have been approved for process by the court under *BCO* 32-3.

1986, p. 336, Appendix I, 14. Constitutional Inquiry #14. From Palmetto Presbytery regarding visitation of a church by a commission of presbytery.

1. Can a commission established by a presbytery to visit a church 'affected with disorder' (*Book of Church Order* 15-2) be given judicial power when there are no charges involved and no existing case?
2. If it can what are the limits of that power. Specifically can it suspend; or dissolve a session? If not what powers does such a commission have in relation to solving problems in a particular church."

ANSWER:

1986, p. 128, 14-52, 43. That Constitutional Inquiry #14, Question 1 from the Palmetto Presbytery, be answered in the following way:

1. No. It would be improper to appoint a judicial commission in the absence of "strong presumption of guilt" (*BCO* 31-2 para. 2).
2. See answer to 1.

18-2

1988, p. 172, 16-77, III, 9. That the advice of the Committee on Judicial Business regarding Constitutional Inquiry #1 be ratified.

Constitutional Inquiry #1: From the Central Carolina Presbytery, concerning the use of the "extraordinary clause" for ordination.

QUESTION Re: Candidates in *BCO* 18-2, "Every applicant for care shall be a member of the congregation whose session provides an endorsement for at least six months before filing his applications, except in those cases deemed extraordinary by the Presbytery"

- a. Does this mean Presbytery may exempt (1) only the six month stipulation, or (2) the endorsement of the candidate by the Session?
- b. May Presbytery waive the section: 'Every applicant must file his application with the Clerk of Presbytery at least two months before the meeting of Presbytery'?

INTERPRETATIONS OF THE CONSTITUTION

- "c. If a Presbytery approves previous service as fulfilling the internship requirements, may it waive the section: 'An applicant for care may not be received under care and examined for ordination at the same meeting of presbytery, since he must serve a period of at least one year of internship prior to ordination?'"

ANSWER: Re *BCO* 18-2

Question A (1). Answer is Yes, and

Question A (2). No, see paragraph 1 of *BCO* 18-2.

Question B. Answer is No.

Question C. Answer is No, the context demands a sequence of time. The one year requirement may be shortened on the basis of *BCO* 19-7 or *BCO* 21-4.

18-7

1984, p. 126, 12-53, II, 15. That the following response to the inquiry of Grace Presbytery (Appendix I, A, 4, p. 287) be approved:

That Grace Presbytery's Constitutional Inquiry (to the 11th General Assembly) regarding the possibility of "Dual Candidacy" in relation to *BCO* 18-7 be answered, as follows:

"The second sentence of *BCO* 18-7, 'The candidate may be allowed to retain membership in his home church upon the request of his Session and the approval of both Presbyteries involved,' does not intend or allow for 'dual' candidacy. The first sentence of *BCO* 18-7 indicates that the purpose of the provision is to allow the candidate to become a candidate of another presbytery while retaining membership in his home church.

"The approval of both presbyteries is required because *BCO* 18-2 states that 'Every applicant for the ministry must put himself under the care of the Presbytery which should ordinarily be the Presbytery that has jurisdiction of the church of which he is a member.' It is the ordinary prerogative of the presbytery of the home church to supervise the candidacy of men who are members of churches within their bounds, which prerogative is being waived."

GROUND:

1. The purpose of candidacy is supervision of the candidate's preparation for the ministry. A candidate for the gospel ministry who is licensed to preach in more than one presbytery under the provision of *BCO* 19-1 and 19-5 should be under the care of only one presbytery as a candidate in his course of study and of practical training.
2. The purpose of licensure is for jurisdiction over the licentiate who is regularly providing the preaching of the Word within the bounds of the licensing presbytery. If the candidate of one presbytery is licensed to preach in another presbytery, it should be only for the purpose of jurisdiction by that presbytery with reference to his regularly providing the preaching of the Word, and not for the preparation for the ministry.

19-1

1989, p. 168, 17-82, III, 39. That the answer of the Judicial Business Committee regarding Constitutional Inquiry #7 be ratified.

Constitutional Inquiry #7: From Ascension Presbytery concerning interns preaching on a "regular" basis.

Presbytery Questions:

1. May an intern properly complete his internship, including the testing of his gift of preaching, without being licensed?

ANSWER:

1. Yes. *BCO* 19-7, 8.

2a. Yes.

2b. Yes. See answer to Question 1 above.

PCA DIGEST

3. Yes.
4. In the absence of any determination of the General Assembly, it is the prerogative of Presbytery to determine what constitutes "preaching on a regular basis." *Adopted 1992, p. 127, 20-62.* "May a minister from another denomination, duly licensed by a presbytery (*BCO* 19-1), serve as a stated supply (*BCO* 22-5, 22-6)? May such a minister administer the sacraments? This inquiry comes from a real situation within the James River Presbytery which needs a timely answer to this perplexed question. The advice will go to the Ministerial and Church Relations Committee and, through it, to the Presbytery."

RESPONSE: The Committee on Constitutional Business answers Personal Resolution #3, constitutional inquiry, with the following:

1. Yes. A minister from another denomination, recognized by presbytery as such and duly licensed by presbytery, may serve as a stated supply (*BCO* 19-1, 22-5)
2. No. Unless he is a minister in a church with which the PCA had fraternal relations or the presbytery has determined that his view of the sacraments are consistent with the Standards of the PCA.

19-2

(See also *BCO* 21-4, 1986, 14-52, 37 & 48)

1986, p. 126, 14-52, 19. That the answer of the Permanent Committee concerning Constitutional Inquiry #11 from the Presbytery of the Ascension, be ratified.

1986, p. 333, Appendix I, 11. Constitutional Inquiry #11. From the Presbytery of the Ascension.

"Re *BCO* 19-2.D., must the written sermon be presented to the presbytery before a candidate may be licensed, or is it the intention to make it optional, i.e. before the presbytery or before the committee, as is clear with regard to the oral sermon?"

ANSWER:

The candidate must present both a written sermon and an oral sermon. The written sermon must be presented (available) to the presbytery before a candidate can be licensed. The oral presentation may be before either the presbytery or its committee.

1988, p. 172, 16-77, III, 9.

QUESTION Re: Licensure in *BCO* 19-2, "No Presbytery shall omit any of these parts of examination except in extraordinary cases..."

"Does this exception mean that a candidate could in fact be exempted from *any* of the prescribed parts A-D?"

ANSWER: Re *BCO* 19-2

Yes, see *MI3GA*, p. 110 concerning *BCO* 21-4, which applies to ordination, and would also apply to licensure. Further, we recommend the historic position regarding the extraordinary clause "that whenever presbyteries receive or ordain candidates under the so called extraordinary clause, the presbytery must be sure that it is truly an extraordinary case, and not a subterfuge to avoid the years of training which is the historic requirement of the Presbyterian Church...for its ministers." See *Digest of Acts PCUS* p. 212, item 3.

19-7

1988, p. 172, 16-77, III, 9.

QUESTION Re: Internship in *BCO* 19-7

"May a presbytery designate as the intern year a period of service in the church even before the candidate came under care of presbytery, or before his licensure (such as in the case of a man who has served as a ruling elder supply over a period of years)?"

ANSWER: Re *BCO* 19-7

Yes, see *BCO* 19-16.

INTERPRETATIONS OF THE CONSTITUTION

20-1

(See also CHAPLAINS, ORDINATION)

1983, p. 51, 11-9, C. Reference 3: From the Presbytery of the Southwest

At the Winter Stated Meeting of the Presbytery of the Southwest, a request was submitted to the Presbytery from one of our churches for permission to change the terms of call of its pastor. The matter was referred to the Committee of Churches, Ministers and Candidates. The recommendation of the committee, duly made and seconded was that "the Desert Springs Church be commended in its diligence and thanked for its request, but that Presbytery approval is not required to amend the terms of call of a pastor." A substitute motion was made and seconded that "the Presbytery grant permission to the Desert Springs Church to amend its call as requested."

1983, p. 101, 11-36, III, 55. That the following interim advice given to Southwest Presbytery in relation to Reference 3 concerning Presbytery approval of changes in the terms of ministers' calls be ratified:

BCO 20-1 indicates that Presbytery must approve the call of a pastor. The call establishes the relationship of the pastor to the calling body. The *BCO* is silent concerning amending the call; however, in as much as the initial relationship must be approved by Presbytery, it would follow that if any changes are made in the original call, the Presbytery would necessarily have to approve the changes in the call for the protection of both the pastor and the calling body.

1989, p. 158, 17-82, III, 21. That the advice of the Judicial Business Committee regarding Constitutional Inquiry #5 be ratified.

Constitutional Inquiry #5: From the Northeast Presbytery requesting advice concerning who must approve the changes in the terms of a pastoral call.

ANSWER: The congregation must approve changes in the terms of the pastor's call (see *BCO* 20-6).

The 11th General Assembly has already spoken on the role of the presbytery in this process (see *Minutes of the 11th General Assembly*, 1983, 11-36, III, 55, p. 101).

"*BCO* 20-1 indicates that Presbytery must approve the call of a pastor. The call establishes the relationship of the pastor to the calling body. The *BCO* is silent concerning amending the call; however, in as much as the initial relationship must be approved by Presbytery, it would follow that if any changes are made in the original call, the Presbytery would necessarily have to approve the changes in the call for the protection of both the pastor and the calling body." *Adopted*

20-6

(See *BCO* 4-3, 1986, 14-52, 45, #2)

21-1-2

1987, p. 176, 15-83, III, 21. That the GA answer CI #8 as follows:

Constitutional Inquiry #8. From Ascension Presbytery regarding *BCO* 21-1, 2.

"Re *BCO* 21-1, paragraph 2. The *Book of Church Order* allows that under certain circumstances a candidate, licentiate, or ordained minister may be permitted to move onto a field to which he is called. It is stated that an ordained minister from another presbytery or denomination shall not ordinarily move onto the field until received by the presbytery.

- (1) Presbytery's question is, does this imply that the candidate or licentiate who is permitted to move onto the field would be a candidate or licentiate under that presbytery's jurisdiction, as opposed to a man who is a candidate or licentiate of another presbytery?

PCA DIGEST

- (2) To put it another way, would candidates or licentiates of other presbyteries be ordinarily prohibited from moving onto fields since such is the case for ordained ministers?"

ANSWER:

1. The *BCO* does not address whether the candidate or licentiate shall be under the care of that Presbytery or another. Therefore, that matter is left to the Presbytery's discretion, subject to review and control by the GA.
2. What Presbytery should do concerning candidates and licentiates is not addressed by the *BCO*. Therefore, it is left to the Presbytery to deal with each situation on its own merits. The Committee recognizes the distinction in *BCO* 21-1 between the situation of candidates and licentiates and the situation of ordained ministers.

GROUNDS: Candidates and licentiates are not on Presbytery roll, but a special roll.

21-4

(See PART I: ASSEMBLY ACTIONS, MINISTER, Preparation for the Ministry, Candidacy, Uniform Curriculum for the Uniform Curriculum that was approved by the 1978 General Assembly.)

1985, p. 107, 13-45, III, 44. That Paragraph 1 of the advice regarding Constitutional Inquiry 2 be ratified; and that Paragraph 2 be rescinded; and that GA recognize ordinations which may have been based upon this advice be accepted as irregular but valid.

1985, p. 239, Appendix I, 2. Constitutional Inquiry #2: From Palmetto Presbytery (regarding the use of the "extraordinary clause" in the light of the internship requirements.)

"May the *BCO* 21-4 be used in this man's case, or can you suggest another route, short of his having to repeat his experience of internship for a full year?"

ANSWER:

It is the opinion of the Committee on Judicial Business that the "extraordinary clause" of *BCO* 21-4, paragraphs 2 and 3, applies to the parts of trial named in these paragraphs and has no reference to mandatory period of internship. It would therefore be improper to use this provision to allow the omission of the program of internship.

If the presbyteries involved were persuaded that all the requirements of internship were met in substance, they could accept and approve such as fulfilling the requirements of the *BCO* although their action would be irregular and subject to the review and control of the Assembly. The Committee on Judicial Business would note that such an action would appear to meet the spirit of the statement of the Twelfth General Assembly adopted in response to Overture 52 from Philadelphia Presbytery: "The Committee urges the General Assembly to express leniency for the ensuing year to encourage those involved to continue."

1985, p. 110, 13-45, III, 61. That the emergency interim advice regarding Constitutional Inquiry 20 (Item 12-90) dated June 22, 1984, from Louisiana Presbytery regarding the proper use of the extraordinary clause (*BCO* 21-4) be ratified.

The General Assembly has previously spoken on the proper use of the extraordinary clause (see *M9GA*, 9-65, III, E, p. 122), which says:

The General Assembly recognizes that the use of the extraordinary clause is left to the discretion of an individual presbytery subject to the review of the General Assembly and to the process provided for in a complaint. The General Assembly declares that the use of the extraordinary clause should be limited to extraordinary circumstances of the church or proven extraordinary gifts of the man. The Assembly would take notice, however, that there has been an increasing laxity in the application of the clause. The Assembly would, therefore, counsel that presbyteries exercise diligence and care in the use of this provision in order that they not prevent the ordination of a candidate for whom there are truly exceptional circumstances nor ordain a person who is inadequately prepared for the ministry.

INTERPRETATIONS OF THE CONSTITUTION

1986, p. 127, 14-52, 37. That the response of the Permanent Committee to the Constitutional Inquiry raised under the report of Review and Control of Presbyteries at the Thirteenth General Assembly be sustained.

1986, p. 346, Appendix I, 37. ... (What parts of trials for licensure and ordination may be done by less than the full Presbytery) be answered by the following:

1. Except in those areas otherwise specified by the *BCO*, all parts of the trial must be conducted by Presbytery as a whole.
2. The Presbytery may rely in part upon the report of its committees in determining the depth and duration of its own examination, but in all cases the examination must be conducted to the satisfaction of the Presbytery.
3. Presbytery must record its decision concerning each area of examination as specified.
4. Previous Assemblies have determined that the examination may not be conducted by a commission. (e.g. *MI2GA*, p. 195, 5.b.) If the Assembly desires that this be explicitly reflected in the *BCO* it should instruct this committee to prepare appropriate language.

1986, p. 129, 14-52, 48. That the answer of the Permanent Committee concerning Constitutional Inquiry #19 from the Southeast Alabama Presbytery be ratified.

1986, p. 337, Appendix I, 19. Constitutional Inquiry #19. From Southeast Alabama Presbytery.

"As one of the Presbyteries whose practice of dividing into sections at Presbytery meetings when there are several sermons to hear (by candidates for licensure, ordination or transfer from the membership of another presbytery), the Presbytery of Southeast Alabama requests further clarification of the legality of this practice."

ANSWER:

1. Except in those areas otherwise specified by the *BCO*, all parts of the trial must be conducted by Presbytery as a whole.
2. The Presbytery may rely in part upon the report of its committees in determining the depth and duration of its own subject of the judicial decision of the Assembly. (See the Response of the Assembly to the Protest, especially reason #3.) The position that one believes that it is Biblically valid to ordain women as deacons, but who agrees to abide by the position of the *BCO* 7-2 and 9-3 is not sufficient reason by itself to deny ordination or reception in the PCA.

1988, p. 172, 16-77, III, 9.

QUESTION: Re Ordination "Do the education requirements mandate a college diploma?" No, Presbytery shall omit any of these parts of trial for ordination except in extraordinary cases, and then only with three/fourths approval of Presbytery." *BCO* 21-4

"Does this section apply only to the parts of trial for ordination listed in the immediate paragraph (experiential religion, languages, Bible, theology, sacraments, Church history, Church gov't, thesis, exegesis, and sermon), or may it apply also to the parts listed in the first paragraph of 21-4 (diploma, theological study, internship, licensure)?"

ANSWER: Re *BCO* 21-4

As *BCO* 21-4 stands, the answer to the question is yes. This section applies only to the parts of trial for ordination listed in the immediate paragraph (experiential religion, languages, Bible, theology, sacraments, Church History, Church government, thesis, exegesis, and sermon. The three items in par. 1 of *BCO* 21-4 namely, the diploma from a college, the diploma from a seminary and the record of completion of the internship are pre-requisites to the trial for ordination and not part of the trial.

1988, p. 164, 16-67, V, 6. That the Constitutional Inquiry: "Does *BCO* 21-4 forbid or permit presbyteries to divide into committees or parts in order to hear the sermons of candidates for ordination?", referred to the Committee on Judicial Business, be answered, as follows:

BCO 21-4 does not permit presbyteries simply to divide into committees or parts in order to hear the sermons of candidates for ordination. It would not be contrary to the express provisions of the *BCO* to divide a presbytery into commissions.

PCA DIGEST

The General Assembly recommends that this practice not be resorted to regularly but that it be viewed as exceptional. The procedure might be subject to abuse and could be detrimental to the health and strength of the church. Also, there are more suitable alternatives.

21-5

(See PART III: JUDICIAL CASES, #23)

1984, p. 142, 12-53, III, 69., 2(A). [I]s this the intent of the General Assembly? ([T]hat a person who believes that the Scriptures do not prohibit the ordination of women as deacons should not be ordained in the Presbyterian Church in America, nor admitted as an officer of the PCA even if he agrees to comply in practice with the standards of the PCA which do not permit the ordination of women to any office.)

2(B). Is it permissible for a court of the PCA to ordain a man or receive an ordained man who believes that the Scriptures would permit the ordination of women as deacons but who agrees to submit in practice to our present standards?

ANSWER:

2(A). It is the opinion of the Committee on Judicial Business that the Eleventh General Assembly sustained the complaint (Barleman, et al. vs. Ascension Presbytery) as a result of the cumulative effect of the sustained specifications, which included specification E. (regarding the ordination of women as deacons), thereby rendering the trials for ordination unsatisfactory. However, this specification by itself was not the subject of the judicial decision of the Assembly. (See the Response of the Assembly to the Protest, especially reason #3.) The position that one believes that it is Biblically valid to ordain women as deacons, but who agrees to abide by the position of the *BCO* 7-2 and 9-3 is not sufficient reason by itself to deny ordination or reception in the PCA.

2(B). It would be unwise, improper, and unconstitutional for the General Assembly to determine abstractly apart from the process afforded by our Constitutional Standards what would disqualify a man from holding office in the Presbyterian Church in America. The Constitution provides that the Standards of our Church may be modified if it should be proved from the Word of God, our only inerrant and unalterable guide to faith and practice, that the Standards are in any way not in agreement with the Word. Also, as the result of proper judicial processes, judgments may be made which determinately interpret what may or may not be in accord with our Standards. Any other procedure of setting forth or compiling a list of essential or nonessential doctrines would, in effect, amend the standards by an unconstitutional method..." (*MIOGA*, p. 103, Recommendation 25, Answer to Questions 2 and 3, paragraph 1).

1984, p. 153, 12-73. Response to the Constitutional Inquiry from TE Bruce W. Howes et al., who posed the following questions:

1. May an ordained RE or TE believe that the Bible permits the ordination of women to the Diaconate and remain faithful to his affirmation of the third ordination vow?
2. May a presbytery constitutionally accept an affirmative answer to vow three from a candidate who believes that the Bible permits the ordination of women to the Diaconate?

The proposed response of the Committee is:

It would be unwise, improper, and unconstitutional for the General Assembly to determine abstractly apart from the proper processes afforded by our constitutional standards what would disqualify a man from holding office in the Presbyterian Church in America...[A]s the result of proper judicial processes, judgments may be made which determinately interpret what may or may not be in accord with our standards. Any other procedure of setting forth or compiling a list of essential or nonessential doctrines would, in effect, amend the standards by an unconstitutional method. (*MIOGA*, p. 103, rec. 25, answer to questions 2 and 3, paragraph 1.)

(See Constitutional Inquiry 13, below.)

INTERPRETATIONS OF THE CONSTITUTION

1984, p. 165, 12-83 Constitutional Inquiry 13

Constitutional Inquiry #13 from Central Carolina Presbytery which asked:

1. How should (or could) a Presbytery receive and handle such exceptions as directed by Ordination Vow 2?
2. Are exceptions to the *BCO* and not to the Confession of Faith to be handled in a different manner?

ANSWER:

1. Would a man make known any changes in his doctrinal view, the procedure which the respective court of jurisdiction should follow would apply equally to a deacon, ruling elder, or teaching elder. The court of jurisdiction should investigate the matter. If the court should find that the exception is such as to warrant judicial process, the procedure as set forth in the *BCO* (see chapter 27-37) should be followed. Or, if the due minutes of the proceedings should be recorded noting the exception and the action of the court. (*MIOGA*, pp. 103, 104, Recommendation 25, answer to question 4)
2. Yes. Ordination Question 3, (*BCO* 21-5) asks merely "Do you approve of the form of government and discipline of the Presbyterian Church in America, in conformity with the general principles of Biblical polity?" Whereas, Ordination Question 2 asks concerning our doctrinal standards "Do you sincerely receive and adopt the Confession of Faith and Catechisms of this church as containing the system of doctrine taught in the Holy Scriptures; and do you further promise that if at any time you find yourself out of accord with any of the fundamentals of this system of doctrine, you will on your own initiative, make known to your presbytery the change which has taken place in your views since the assumption of this ordination vow?" When an exception to the *BCO* is dealing with a matter spoken to in the Westminster Confession of Faith and Catechisms of this church, the exception shall be dealt with as an exception to the Westminster Confession of Faith or Catechisms of this church.

1986, pp. 125-6, 14-52, 13. When a man is ordained with the allowance of exceptions to his full acceptance of the PCA standards, he thereby obtains (1) approval of his suitability to function within the ordained office, and (2) liberty to believe and live in some way not fully in accord with some portions of these standards. This allowance of exceptions, however, does not warrant his teaching or preaching of that matter so as to disturb the peace and purity of the church. The court of jurisdiction must determine in each situation whether such unwarranted actions have occurred.

(See PART III: JUDICIAL CASES, #78, where this is cited as grounds for concurring with a presbytery that denied to one of its ministers the right to teach and practice in worship his exception regarding continued revelation. Also, see Case 68, where a similar decision was made regarding a Sunday School teacher who took exception to the Standards.)

(See PART III: JUDICIAL CASES, #73, where it was judged by the Assembly that both infant baptism and limited atonement are to be considered fundamentals of the system of doctrine, and that there can be no exceptions given in the case of officers of the church.)

22-2

(See *BCO* 4-3, 1985, 13-45, #49 & #52; 1986, 14-52, 45)

22-3

1986, p. 128, 14-52, 42. That the answer of the Permanent Committee concerning Constitutional Inquiry #13 from the Faith Presbyterian Church, be ratified.

PCA DIGEST

1986, p. 335, Appendix I, 13. Constitutional Inquiry #13. From the Faith Presbyterian Church.

"May a session call an assistant pastor whom they judge to be acceptable doctrinally but whose ordination is from another denomination without the call being approved by presbytery and the candidate being first examined and approved by the presbytery?"

ANSWER:

The question of an ordained assistant pastor not being a member of the PCA presbytery of which the church is a member is not specifically addressed in the *BCO*. The validity of a man's ordination as a Teaching Elder must be determined by the court charged with such ordinations, i.e. the Presbytery. Therefore, by inference and by historical precedent any ordained Teaching Elder should become a member of the presbytery in which he serves. [*BCO* 20-1; 21-1: a call must come through Presbytery. *BCO* 21-5,9: an assistant pastor is to be ordained and/or installed by the presbytery: inferred by the questions in these two sections. *BCO* 21-6, 10: The questions (propounded by the presbytery) to the congregation are in this case directed to the session. *BCO* 21-7: an assistant pastor is declared by presbytery to have been ordained and/or installed and that in this case the charge is to the session and not the congregation.]

We recommend that the General Assembly clarify the *BCO* regarding this subject (e.g. *BCO* 22-3 says an assistant pastor is not a member of the session yet 12-4 says he may moderate the session; 22-3 indicates the call is by the session yet 22-4 and 23-1 indicate that the dissolution is by the presbytery).

1989, p. 156, 17-82, III, 17. That the advice of the Committee on Judicial Business regarding Constitutional Inquiry #1 be ratified.

Constitutional Inquiry #1: From the Tennessee Valley Presbytery concerning the implementation of *BCO* amendments regarding Assistant Pastors.

The Presbytery's questions were:

"In light of the ratification of item #18 (amendments to *BCO* 22-3, and 22-4) on June 6, 1988 by the Sixteenth General Assembly, the Ministers' Committee has the following questions to refer to the Permanent Committee so that we might better perform our duties in the light of this constitutional change. Our questions are:

1. Is this change retroactive, i.e., does this mean that we should seek to bring each Assistant Pastor (not a member of Presbytery) who is presently serving in one of our churches into Presbytery membership being governed by the same provisions that apply to Pastors (in chapters 20, 21, and 13-3 of the *BCO*)?
2. Does this procedure apply to every full-time minister called by the session of a PCA church or does it only apply to those with the title of "Assistant Pastor"? For example, does this apply to one called as a "Pastor of Music," "Minister of Discipleship," or "Pastor to Young Adults" if they are called by a Session and work full-time as under their authority?
3. Should a lesser examination procedure be developed for such Assistant Pastors? i.e., should they be expected to meet the same qualifications of any member of Presbytery, including being examined on the same level and subjects?"

ANSWER:

The term "assistant pastor" is used in the *BCO* to refer to those teaching elders who have been called to the ministry of the Word and sacraments by a Session, with the permission and approval of Presbytery, under the provision of *BCO* 20, 21, and 13-2, without being elected by the congregation (22-3).

With regard to the Presbytery's questions:

1. Yes. A Presbytery shall seek to bring each assistant pastor, as defined above, who is not a member of your presbytery and who is presently serving in one of your churches into membership in your presbytery under *BCO* provisions applying to pastors.

INTERPRETATIONS OF THE CONSTITUTION

2. No. Only those assistant pastors as defined above need to comply with the provisions of *BCO* 22-3 and 4.
3. Assistant pastors, as defined above, are governed by the same provisions that apply to pastors.

Adopted

23-1

(See *BCO* 4-3, 1986, 14-52, 9)

1988, p. 177, 16-77, III, 27. That the advice of the Committee on Judicial Business regarding Constitutional Inquiry #3 be ratified.

Constitutional Inquiry #3: From Presbytery of the Ascension.

QUESTION Re: Resignation of a Minister from a "pastoral charge" which is outside the bounds of the Presbytery (*BCO* 23-1).

- "1. Is this provision to be understood as applying to a "pastoral charge" where a non-PCA church is the calling body, e.g. an independent or unaffiliated church wherein a PCA teaching elder has been serving as pastor (or as assistant pastor, etc..) with the full concurrence of the Presbytery and with that particular church's recognition of Presbytery's proper authority over and oversight of this teaching elder?
- "2. To put it another way, is the *BCO* provision properly satisfied in cases such as this by simply relying on a properly certified congregational or sessional vote to concur with the request for dissolution of the 'pastoral charge'?"

ANSWER:

No. The provision of *BCO* 23-1 should not be understood as applying to pastoral charges outside the jurisdiction of the Presbytery. Chapter 23 does not apply to churches not under the jurisdiction of the Presbytery.

1993. (See PART III: JUDICIAL CASES, #92, where the specific provision for dissolving pastoral relations cannot be circumvented or contradicted by the general provisions of *BCO* 13-9.)

23-2

1989, p. 157, 17-82, III, 19. That the advice of the Judicial Business Committee regarding Constitutional Inquiry #3 be ratified.

Constitutional Inquiry #3: From the Illiana Presbytery requesting advice concerning the constitutionality of their proposed rewrite of Standing Rule 140 of Standing Rules of the Presbytery:

"140. When ministerial members retire from active status, they need not continue to report, and Presbytery is not required to respond to the above question. However, it is a benefit to the brethren and a courtesy to our retired men that they be given the opportunity to testify to their service for the Lord."

ANSWER:

The Committee advises Illiana Presbytery that we do not believe the proposed rule 140 is in conflict with *BCO* (*BCO* 23-2). We advise Presbytery, based on *BCO* 41-5, to use its own wisdom in rewriting its standing rules in accordance with the *BCO*. *Adopted*

23-3

(See *BCO* 4-3, 1986, 14-52, 9)

24-1

1986, p. 126, 14-52, 17. That the answer of the Permanent Committee concerning Constitutional Inquiry #9 from the Covenant Presbyterian Church, be ratified.

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1986, p. 332, Appendix I, 9. **Constitutional Inquiry #9.** From the Covenant Presbyterian Church.

1. Are rotating Sessions permissible according to the Book of Church Order?
2. May the Session limit the number of officers standing for election?
3. May the names of those eligible for election be printed before the day of election?
4. What grounds are allowed the Session for disallowing the nomination of any men nominated by the congregation?
5. Are there any limitations with regard to when an election may be held, i.e., once a year or more or less often?

Enclosed please find a copy of the present procedures which are a part of our policy manual. We request that you review these procedures...."

ANSWER:

1. See *M12GA*, p. 127, item 20.
2. The session is to declare all of those who are eligible but may not otherwise determine the number of officers to be elected. The number of officers to be elected shall be determined by the congregation (*BCO* 24-1).
3. Yes. (*M7GA*, p. 101, item 4)
4. The grounds allowed the session for disallowing the nomination of any man nominated by the congregation shall be their failure to conform to Biblical and constitutional standards. (*BCO* 24-1, *M8GA* p. 119, item 19; *M7GA* p. 80, item 3)
5. There are no constitutional limitations other than the 30 day notice prior to an election.

The committee declines to review the Bylaws submitted because it is not authorized to so do.

1988, p. 176, 16-77, III, 26. That the advice of the Committee on Judicial Business regarding Constitutional Inquiry #2 be ratified.

Constitutional Inquiry #2: From Covenant Presbyterian Church, Palm, Bay, Florida.

QUESTION Re: Election of Officers under *BCO* 24-1.

"If a Session finds that four nominees for office adequately meet the Biblical requirements, may they, for the sake of limiting board size, only put two of those men on the ballot?"

ANSWER: No.

1. *BCO* 24-1 requires that the session shall report all eligible men to the congregation, after examination.
2. *BCO* 24-1 says that the congregation determines the number of elders to be elected.
3. *BCO* 24-1 allows the Session to recommend the number to be elected.

24-2

(See *BCO* 12-3, 1987, 15-83, 11)

24-3

1982, p. 101, 10-75, III, 10. That Reference 3 which reads as follows:

The Session of Vineville Presbyterian Church at its stated November 1981, meeting requested that the General Assembly's Judicial Committee provide an interpretation of 24-3 and 24-4 of the Book of Church Order with respect to what constitutes a voter (one who casts a vote for one or more candidates or one who casts a blank ballot).

Be answered with the following advice:

A person eligible to vote is defined in *BCO* 24-3 as a communing member in good and regular standing who is present at the congregational meeting called to elect officers. A majority vote of the voters present is required to elect.

GROUND:

This recommendation is a ratification of the answer already given by the Permanent Sub-Committee on Judicial Business.

INTERPRETATIONS OF THE CONSTITUTION

1984, p. 140, 12-53, II, 60. That the General Assembly ratify the answer to the following Constitutional Inquiry:

Constitutional Inquiry 9: From Texas Presbytery.

That the Presbytery ask the General Assembly's Permanent Committee on Judicial Business if a congregation may be permitted to set a minimum age for voting in view of *BCO* 6-2, 6-4, 24-3, 25-1, and 25-3.

ANSWER:

The *BCO* does not provide for the setting of minimum age for voting in congregational meetings even when constituted as a meeting of the corporation, except when the state provides for a minimum age for those voting in the corporation.

[Clerk's Note: *BCO* 25-11 indicates that congregations must act in accord with applicable civil laws.]

24-6

1986, p. 126, 14-52, 16. That the answer of the Permanent Committee concerning Constitutional Inquiry #8 from the Trinity Presbyterian Church, be ratified.

1986, p. 331, Appendix I, 8.

- "3. Can a congregation by its vote in a congregational meeting rotate all of its elders off of the session and all of its deacons off of the diaconate? (without rotating anyone on)
4. With regard to *BCO* 24-6, what is the procedure to follow if an entire session 'becomes unacceptable in his (its) official capacity to a majority of the church?' Obviously the entire session will not act to dissolve itself; what can the congregation do if the session will not act?"

ANSWER:

3. No. Officers may be removed from the session or diaconal board apart from a rotational plan in accordance with *BCO* 24-6 or other disciplinary provisions of the *BCO*. Where a rotational system for officers has been adopted, (see answer to #2 above) rotation of officers off the session or diaconal board should be carried out in accordance with that plan.
4. Where an insurmountable conflict occurs between a session and the congregation, the presbytery may be invited to arbitrate the conflict (*BCO* 13-9, 40-5, 41, 42, 43).

1986, p. 128, 14-52, 44. That the answer of the Permanent Committee concerning Constitutional Inquiry #15 from Covenant Presbyterian Church, be ratified.

1986, p. 336, Appendix I, 15. Constitutional Inquiry #15. From Covenant Presbyterian Church.

May a congregation, by vote at a congregational meeting, dissolve the session?

ANSWER:

The congregation may not dissolve the Session. The congregation may in accordance with *BCO* 24-6 by a majority vote in a regularly called congregational meeting request the Session to dissolve the relationship of officers individually, but the ultimate decision rests with the Session. Presbytery may assume original jurisdiction under provisions of *BCO* 13-9.

1988, p. 178, 16-77, III, 30. That the advice of the Committee on Judicial Business regarding Constitutional Inquiry #6 be ratified.

Constitutional Inquiry #6: From Town North Presbyterian Church, Richardson, TX.

QUESTION Re: Rotation system for Elders and Deacons:

- "I. A. Does *BCO* 24-6 allow a Session as it seeks 'to determine the best measure for promoting the spiritual interests of the church and congregation' (12-5), to determine that a previously ordained officer, though chargeable with neither heresy nor immorality, has become unacceptable in his office capacity and thus preclude him being presented to the congregation as a nominee, or

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- B. Does the *BCO* anywhere require that such a nominee be allowed to stand for re-election to his former office if he so desires (24-7)?
- "II. If a ruling Elder or Deacon has not actually served, either by reason of his own decision or lack of nomination, for three years or more (*BCO* 13-2), is a Session required to proceed with the provisions of *BCO* 38-2 with the man's consent or *BCO* 34-10 without the man's consent? If it is not required, may it proceed in this manner?"

ANSWER:

- I. A. Session must first determine if a man is qualified for office. *BCO* 24-6 does not apply to inactive elders or deacons. All qualified nominees must be presented for election (24-1).
- B. Yes, if he is qualified. To be eligible a man must be qualified in accordance with *BCO* 24-1 and the Bylaws of the local church must be met.
- II. No. An inactive elder (one not presently elected to serve in office on a Session or Diaconate) is not subject to either 38-2 or 34-10.

1989, p. 157, 17-82, III, 20. That the advice of the Judicial Business Committee regarding Constitutional Inquiry #4 be ratified, as amended.

Constitutional Inquiry #4: From the Town North Presbyterian Church, Richardson, Texas, requesting advice concerning our previous answers to their requests for advice (which have been ratified by the GA) concerning the election of officers.

Their revised questions were:

1. Is a man to be re-examined for qualification for office each time he is re-nominated in a rotational system?
2. Which view is correct, in the case where an officer who has rotated off active service, but has not been disciplined or removed from office,
 - a) must he *ipso facto* be considered as qualified and, thereby, be presented to the congregation as a qualified nominee if nominated; or
 - b) may he, on examination by the Session, be considered to be unqualified because the Session believes there are circumstances that currently disqualify a nominee but which do not constitute grounds for discipline and/or deposition?
3. In the case where an officer who has rotated off active service, can he be divested of his office other than under *BCO* 38-2 or *BCO* 34-10.

ANSWER:

The Committee advises the Town North Presbyterian Church that the answers to their questions are:

1. & 2. There is no provision in the *BCO* to answer these questions.
3. An elder or deacon not presently serving on a Session or Diaconate cannot be divested except in accordance with 24-6, 38-2, or 34-10.

Notation: The answer to question 3 above is an amplification of paragraph II of the 16th General Assembly's answer to Constitutional Inquiry #6 (*M16GA*, p. 178, 30). *BCO* 38-2 does not apply to an inactive officer unless the officer initiates the procedure of 38-2. *Adopted as amended*

1993. (See PART III: JUDICIAL CASES, #93, #94)

24-9

1985, p. 109, 13-45, III, 50. That the advice regarding Constitutional Inquiry 8 be ratified. [voting by emerited elders].

1985, p. 241, Appendix I, 8. Constitutional Inquiry 8: From the Session of the Antioch Presbyterian Church of Woodruff, SC.

"The Session of Antioch would like for me to request that you ask the Judicial Committee to clarify whether Elders Emeritus can vote in Session meetings."

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ANSWER:

The Twelfth General Assembly took final action to amend *BCO* 24-9 to state clearly that Elders and Deacons Emeriti may not vote in their respective meetings.

This same General Assembly adopted a Personal Resolution which provided that those Elders and Deacons who were previously Emeritus (prior to the adjournment of the Assembly), with the understanding that they would retain voting privileges, would retain those privileges regardless of the new reading of *BCO* 24-9.

The "grandfather clause" procedure has been used previously to provide transition to facilitate changes in the *BCO* (i.e., regarding Internship - Minutes of the Ninth General Assembly, 9-65, item III, H, 2., p. 142; regarding Trustees of former RPCES church - Minutes of the Tenth General Assembly, 10-75, item III, 40, p. 106).

1987, p. 170, 15-83, III, 10. That the advice of the Permanent Committee regarding Constitutional Inquiry #4 be ratified.

Constitutional Inquiry #4. From Town North Presbyterian Church, Richardson, TX, regarding the status of emeritus officers.

"Attached are two letters between David Clelland and Morton Smith on the interpretation of the *BOCO* (sic) 24-9. We request you confirm the following points of their interpretation or instruct us accordingly.

1. *BOCO* (sic) 24-9 prohibits the Elder or Deacon Emeritus from voting in his local Session or Diaconate.
2. *BOCO* (sic) 24-9 permits him to perform certain duties on a voluntary basis if requested by the Session or a higher court. If such service is requested and agreeable then the Emeritus officers serves with the power to vote in the higher court or board which he has been requested to serve. (This in no way restores any right to vote in the local Session or Diaconate.) For example, an Elder Emeritus can serve as a voting delegate to Presbytery."

ANSWER:

- "1. Affirmed.
2. Yes"

Previous actions of the Assembly on this matter are as follows:

"Whereas, many of our elders and deacons emeritus have become emeritus officers prior to the Assembly's motion, and

Whereas, the rules these men understood when they became emeritus officers have now changed to disallow their voting privileges,

Therefore, be it resolved that this ruling not be retroactive, but only apply to those becoming elders or deacons emeritus after this Assembly's conclusion. Adopted" (*M12GA*, p. 81, item 9)

"The Twelfth General Assembly took final action to amend *BCO* 24-9 to state clearly that Elders and Deacons Emeriti may not vote in their respective meetings.

"This same General Assembly adopted a Personal Resolution which provided that those Elders and Deacons who were previously Emeritus (prior to the adjournment of the Assembly), with the understanding that they would retain voting privileges, would retain those privileges regardless of the new reading of *BCO* 24-9.

"The 'grandfather clause' procedure had been used previously to provide transition to facilitate changes in the *BCO* (i.e., regarding Internship--*M9GA*, 9-65, item II, H, 2., p. 142; regarding Trustees of former RPCES church--*M10GA*, 10-75, item III, 40, p. 106)." *M13GA*, 241, I, 8. See also page 109.

25-1

Voting, Minimum Age

(See *BCO* 24-3, 1982, 10-75, #10; 1984, 12-53, #60)

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25-2

1983, p. 98, 11-36, III, 34. Regarding question seven: Congregational meetings may be called for other purposes than stated in the question. *BCO* 25-2 states that a congregational meeting may be called for anything which "may seem for the best interests of the church."

GROUND:

1. It was the opinion of the SCJB that the questions in this letter were proposed on the basis of actions that may have been taken by Eastern Carolina Presbytery. Therefore, any answers might have prejudiced proper possible constitutional procedures. If these questions had been completely neutral, answers might have been proposed.
2. In view of the fact that question seven involved a strict interpretation of the *BCO*, the answer above was proposed.

25-11

(See *BCO* 46-5, 1988, 16-77, III, 28)

1991, p. 104, 19-48. The principle of the voluntary association of churches applies to the voluntary association of individuals to a local PCA congregation. (See further on *BCO* 46-5, 1991, p. 102, 19-48.)

26-6

1979, p. 101, 7-41, III, 3. That answer 1 to the Rev. Laurie Vidal concerning election of a female communing member as a trustee of a church be approved, and that he refer this request to Presbytery for further advice.

The Committee answered that a trustee is not ordained and is not an officer of the church, and therefore election of a female communing member on the roll of the church as a trustee does not contravene the *BCO* 26-6 and 26-7.

27-5

(See *BCO* 46-5, 1985, 13-45, #43)

30-1

1986, p. 126, 14-52, 20. That the answer of the Permanent Committee concerning Constitutional Inquiry #12 from the Great Lakes Presbytery, be ratified.

1986, p. 333, Appendix I, 12. Constitutional Inquiry (appended to Case 4). From the Great Lakes Presbytery.

"The Appellant ...Is he divested from office or is that action of Presbytery suspended until the General Assembly's Commission has acted?"

ANSWER:

Yes the judgment is suspended, unless the court for sufficient reasons, which are duly recorded, by separate action puts the censure into effect.

GROUND: See *BCO* 30-1, 30-5, 34-10, and 42-6.

30-2

1987, p. 128, 15-62, 1. In the report of the Judicial Commission in the case of TE Bogue et al. vs. Presbytery of the Ascension:

- a. Is not the censure of admonition applied to the complainants on p. 139 in the paragraph beginning "In fairness..." contrary to the requirements of *BCO* 27-5 which require due process?

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- b. Is not the explanatory opinion of Judgment No. 5 supporting an "*in thesi*" statement of the Assembly over a judicial decision of the Assembly contrary to *BCO 14-7?* - RE David Coffin

The Committee recommends that the following response be adopted:

Admonition is of two kinds; formal and informal. Informal admonition is that which is part of the daily interaction of true Biblical relationships (Mt. 18). Formal admonition comes after the informal has not produced the fruit of peace in Christ, and after judicial process (*BCO 27-5, 30-2, 36-3*).

The paragraph in question falls within the sphere of informal admonition, and is not contrary to the requirement of *BCO 27-5*.

30-4

(See *BCO 46-5, 1985, 13-45, #43*)

30-5

(See also *BCO 30-1, 1986, 14-52, 20*)

1982, p. 49, 10-12, C. Reference 1: From the Presbytery of Central Florida (Designated a Reference at the direction of the Sub-Committee on Judicial Business)

The Presbytery of Central Florida requests that the following overture be presented to the Tenth General Assembly of the Presbyterian Church in America:

Whereas, *BCO 36-7* declares that the censure of deposition is grounded in the judgment that an ordained person is "disqualified for the office of the Christian ministry (or Ruling Eldership, etc.);" and

Whereas, *BCO 37-4*, in providing for the restoration of a deposed officer allows the court to "declare you absolved from the said sentence of deposition" and to "restore you to said office"; and

Whereas, these provisions do not address the question of ordination status of the individual under consideration;

Now therefore, the Presbytery of Central Florida requests answers to the following questions:

1982, p. 99, 10-75, III, 8. That the General Assembly answer Reference 1 from the Presbytery of Central Florida with the following response:

Q.1. While under the censure of deposition, what is the status of the ordination of the individual?

A. A person under the censure of deposition has no ordination status. (*BCO 30-5*)

Q.2. In the process of restoration to office, is it necessary for the adjudicating court to:

a. Undertake the entire ordination process?

b. Simply ask the constitutional questions for ordination?

c. Simply declare the restored offender again fully qualified for the office from which he was deposed?

A. The court of jurisdiction, in restoring a deposed minister, should proceed with great caution in accordance with *BCO 34-8* and *37-7*, and in proceeding to re-ordination, the court shall as a minimum, require the reaffirmation of the ordination vows, and the laying on of hands. The man shall not be reordained until he has received a proper call.

31-2

(See *BCO 15-2, 1986, 14-52, 43; PART III: JUDICIAL CASES, #90, #95*)

31-3

(See *PART III: JUDICIAL CASES, #95*)

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32-2

(See PART III: JUDICIAL CASES, #90)

32-3

(See PART III: JUDICIAL CASES, #54, under "Statement of Issues, B," "Statement of Deficiencies, 4" and "Opinion")

32-9

(See PART III: JUDICIAL CASES, #19)

32-15

(See PART III: JUDICIAL CASES, #56)

33-1

(See PART III: JUDICIAL CASES, #54, under "Statement of Issues, B," "Statement of Deficiencies, 4" and "Opinion")

34-1

(See PART III: JUDICIAL CASES, #19)

34-7

(See PART III: JUDICIAL CASES, #22)

34-10

(See *BCO* 30-1, 1986, 14-52, 20)

35-1

(See PART III: JUDICIAL CASES, #56)

35-5

(See PART III: JUDICIAL CASES, #56)

35-12

(See PART III: JUDICIAL CASES, #56)

36-7

(See *BCO* 30-5, 1982, 10-12, C)

37-4

(See *BCO* 30-5, 1982, 10-12, C)

1989, p. 158, 17-82, III, 22. That the advice of the Judicial Business Committee regarding Constitutional Inquiry #6 be ratified, as amended.

Constitutional Inquiry #6: From the Presbytery of the Ascension requesting advice concerning the restoration of a deposed officer who is repentant. The specific questions asked were:

1. To what extent, if at all, does this Presbytery continue to have jurisdiction over this individual?

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2. If the individual in question does seek to be restored to the ministry, is this to be done only by following the formula in *BCO* 37-4 and 7, or is he to go through the process outlined in *BCO* 18-21?

ANSWER:

1. The Presbytery has no more jurisdiction over this individual than over any other member of a particular church, except with respect to his censure and restoration according to *BCO* 37-4 and 37-7.
2. If the individual in question was deposed by the Presbytery under *BCO* 36-7, he needs to be restored by the Presbytery in accordance with *BCO* 37-4 and 7 (see also *BCO* 34-8). In such a case, *BCO* 18 through 21 does not apply.

Adopted

38-2

[Note: *BCO* 38-2 was deleted by the Fourteenth General Assembly in 1986.]

1986, p. 126, 14-52, 16. That the answer of the Permanent Committee concerning Constitutional Inquiry #8 from the Trinity Presbyterian Church, be ratified.

1986, p. 331, Appendix I, 8. "6. Is *BCO* 38-2 regarding a communing member's request to be transferred to the roll of non-communicants constitutional in view of the privilege and duty of partaking of the sacrament of the Lord's Supper incumbent upon those who profess faith? Is *BCO* 38-2 consistent with *WCF* XXVII and XXIX and *L.C.* Q.63; 161-164; 168-175?"

ANSWER:

6. Though *BCO* 38-2 is part of the Constitution, this provision of the *BCO* is currently in the process of being deleted. The 13th General Assembly decided that:
 - "A. Our Lord by specific command mandates that Christians shall commune or partake of the Lord's Supper (Luke 22:19; 1 Cor. 11:24). There is no valid reason for an adult communing member to transfer his name to the roll of noncommuning members nor for Sessions to grant such a request.
 - B. No session representatively nor teaching nor ruling elder individually has offered supportive reason for the inclusion of *BCO* 38-2 after notice of possible repeal and due time for response having elapsed." (*MI3GA*, p. 103, item 11)

38-3

1986, p. 125, 14-52, 11. That the answer of the Permanent Committee concerning Constitutional Inquiry #3 from the Presbytery of North Texas be ratified.

1986, p. 330, Appendix I, 11. The questions were in regard to judicial procedure in a particular case.

ANSWER:

The Committee on Judicial Business is not able to answer the specific questions as stated. The questions ask more than an interpretation of the constitutional issues and go beyond the scope of our authority as stated in the Manual of Operations for the Committee on Judicial Business (5-2, c, 4, a). We offer the following information.

Members (and officers) may be removed from the rolls of the Presbyterian Church in America through the following provisions:

1. *BCO* 38-3 upon their joining another church.
2. *BCO* 27-5 (see also *BCO* 46-2) after full disciplinary process.
3. *BCO* 46-2,3,4 when they have moved beyond the bounds of the church.

PCA DIGEST

1987, p. 170, 15-83, III, 8. That the advice of the Permanent Committee regarding Constitutional Inquiry #2 be ratified.

Constitutional Inquiry #2. From Central Carolina Presbytery regarding the "withdrawal of membership" of a Teaching Elder.

- "1) Can a presbytery merely transfer a minister to an independent church thus withdrawing his name from the rolls of presbytery and the PCA?
- 2) If so, how does this affect his PCA ordination?
- 3) If not, what suggestions do you offer the presbytery to biblically and constitutionally handle this request and similar ones?
- 4) What similarities and differences are there in this case with one in which a presbytery receives a previously ordained minister from an independent church? What principles derived from these similarities and differences may we use in possible cases in the future?"

ANSWER:

- "1. In view of the attached letter of request of the teaching elder involved, the Committee advises that the Presbytery should handle the withdrawal by erasure according to *BCO* 38-3.
2. The action does not affect his ordination, unless the church be heretical. See *BCO* 38-3.
3. See answers to 1 and 2.
4. To answer question 4 in detail is beyond the scope of this Committee's responsibilities, which is only to answer constitutional questions."

1991. (See PART III: JUDICIAL CASES, #59, Response to Memorial, Conclusion 4, where the Session accepted the resignation of a member and removed his name from the roll.)

1991, p. 104, 19-48. "Irregularity" principle applies more broadly than the specific section suggests: "there are situations where a member resigns from a local church and the 'irregularity' shall be recorded and the name erased."

1992, pp. 291 ff. Review of Presbytery Records Committee requested: "It needs to be made clear in *BCO* 38-3 whether a man automatically loses ordination when he renounces the authority of the church...."

RESPONSE: "According to *BCO* 13-9, the Presbytery has full authority to judge ministers and may divest a minister from office whose name is erased. The language of *BCO* 38-3 does not envision the loss of ordination when an officer in good standing joins 'some other evangelical church,' even if charges are pending against him. If, in the court's judgment, "the denomination be heretical," the court is to withdraw all authority to exercise his office. The *BCO* permits a court the freedom of action to withdraw authority to exercise his office from one who joins another church as a member rather than as an officer."

(See also PART III: JUDICIAL CASES, #45)

39-2

1984 p. 139, 12-53, II, 56. That the Assembly ratify the answer to the following Constitutional inquiry:

Constitutional Inquiry #6: from Central Carolina Presbytery: With reference to *BCO* 39-2, the "Presbytery (is) concerned about the after effects of a complaint, especially if at any time in the future a similar issue comes to the floor."

ANSWER:

The *BCO* prohibitions on debate and discussion pertain:

- a. Only to the particular matter of complaint (*BCO* 42-4);
- b. Only to the time period prior to final adjudication of the complaint (*BCO* 43-4; 42-4);
- c. In the presence of members of the higher court (or commission) hearing the complaint (*BCO* 42-4);

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- d. To all members of the lower court against which the complaint is made (and not merely to the complainant and the respondent) (*BCO* 39-2). All prohibitions expire upon final adjudication of that complaint.

40-3

1992, p. 138, 20-67, 2. Response To Constitutional Inquiry By TE Roy Taylor:

"What is the force of an action of a court which is contrary to the constitution of the church? Specifically, may a court take exception contrary to *BCO* 40-3 to a lower courts' actions while the matter is under judicial process of complaint or appeal? If so, what is the force of such unconstitutional decisions? If not, is the exception taken through review and control null and void?"

RESPONSE: The committee on constitutional business provides the following advice on the inquiry:

No. Proceedings in judicial cases shall not be dealt with under review and control when notice of appeal has been given to the lower court. (*BCO* 40-3) An exception pertaining to a lower courts' actions is not to be "dealt with" until the judicial process is complete. The language of the *BCO* does not prohibit Review and Control from noting what it believes to be an exception, but no action can be taken by the higher court until final judgement has been rendered in the judicial case.

The effect of an alleged unconstitutional action by a court shall be suspended when an appeal is entered (*BCO* 42-6) and may be suspended by action of the court when a complaint is entered (*BCO* 43-4).

40-5

1990, p. 79 ff, 18-19, under Communication 2.

I. MEMORIAL DEFINED

To my knowledge, the only place where "memorial" as a special communication is used in the *Book of Church Order* is in *BCO* 40-5: "When any court having appellate jurisdiction shall be advised, either by the records of the court next below or by memorial, either with or without protest..."

In *Digest of Acts and Proceedings of the PCUS, 1861-1965*, on page 230, it refers to a 1913 decision to the effect that the rights of appeal, complaint and memorial estopped by approval of minutes of a lower court by the higher court.

In *Constitution of PCUSA, 1930*, p. 414, gives a definition as follows:

"139. Any judicatory deeming itself aggrieved by the action of any other judicatory of the same rank, may present a memorial to the judicatory immediately superior to the judicatory charged with the grievance and to which the latter judicatory is subject, after the manner prescribed in the sub-chapter on complaints, save only that with regard to the limitation of time, notice of said memorial shall be lodged with the stated clerks, both of the judicatory charged with the grievance and of its next superior judicatory, within one year from the commission of the said alleged grievance.

"140. When any judicatory deems itself aggrieved by another judicatory and determines to present a memorial as provided for in the preceding section, it shall appoint a committee to conduct the case in all its stages, in whatever judicatory, until the final issue be reached.

"141. The judicatory with which the memorial is lodged, if it sustain the same, may reverse in whole or in part the matter of grievance, and shall direct the lower judicatory how to dispose of the case, and may enforce its orders. Either party may appeal to the next higher judicatory, except as limited by Chapter XI...of the Form of Government."

The *Book of Discipline* of the Reformed Presbyterian Church, Evangelical Synod had the following two sections in Chapter XII:

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"3. Every member of the church has the right of access to any church court by petition or memorial. He has direct access to the session of the congregation to which he belongs, but a petition or memorial to a higher court must, in the first place, be presented to the session, with a request for its transmission.

"4. A lower court shall transmit a petition or memorial with or without approval or concurrence, as it sees fit. Before transmitting, the court should see that the petition or memorial is in proper form and expressed in respectful language. If transmission is refused, the petitioner or memorialist shall have the right of appeal. These provisions shall apply alike to a petition or memorial from an individual, from any number of persons, from a congregation, or from a lower court."

In 1984, the 12th General Assembly of the PCA (12-53, II, 58, p. 139) answered a constitutional inquiry regarding the "proper recourse of a presbytery when in its perception the General Assembly may have erred in a matter" as follows:

"1. In the course of the meeting of the General Assembly (or any court), when an error is alleged to have been committed, the parties convinced that an error has been made could have recourse through the provisions of *BCO* 45.

"2. Subsequent to the meeting of the court at which an error has been alleged to have been committed, a lower court by memorial, or overture, may seek a correction of the alleged error, if reversible.

"a. Properly speaking, no action of previous General Assembly may be amended, rescinded, or annulled. A subsequent General Assembly may take a contrary position and condemn the action of a previous Assembly but the action of the previous Assembly remains its own.

"b. If the alleged error is in reference to a judicial decision the decision cannot be reversed, but a judgment can be set aside and a new trial ordered if there is "highly important new evidence" or "such palpable error as would manifestly tend to interfere with the substantial administration of justice" (*Baird's Digest of the Assembly Actions*, p. 111).

"c. If the alleged error is related to a part of the constitutional documents which may also be alleged to be in error, a memorial should seek to amend the constitutional documents.

"d. In the meanwhile, the lower courts of the church should submit to the decision of the higher court even if it is alleged to have been in error, unless for sake of conscience the lower court should believe itself duty bound to renounce the jurisdiction of the higher court."

II. ON RE-OPENING A CASE ALREADY ADJUDICATED

The *Digest of the Acts and Proceedings of PCUS, 1861-1965*, p. 113, addresses the matter that the "Assembly will not re-open a case already adjudicated by it, except to correct a manifest error in its own proceedings."

With reference to a case in 1891 it says: "...where a concrete case is brought judicially before a higher court ... is disposed of by final judgment entered therein and sent down, that is an end of the constitutional authority of the higher court to deal with that particular case, unless it be again regularly brought before the higher court for adjudication in one of the recognized modes provided for by our *Book of Church Order*."

It further adds regarding a case in 1920, "It is a principle of law, held in the highest courts of the States, and by the Supreme Court of the United States, that public policy requires that there shall be an end of litigation, and this is as true in the government of the Church as in the government of the State and Nation."

In Hodge's *What is Presbyterian Law*, p. 271, the authority of Assembly decisions with reference to judicial decisions is defined:

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"And its judicial decisions are final and obligatory in all similar cases. No later Assembly can reverse its judicial acts or revise its proceedings. A manifest error may be corrected."

The *Digest of the Acts and Proceedings of the PCUS, 1861-1965*, p. 71, reports on an 1880 case whereby a Synod overruled the Assembly "respectfully praying that it will consider and repeal, or at least seriously modify, so much of the deliverance of the last Assembly, in relation to worldly amusements ... which are not made by them in a strictly judicial capacity, but are deliverances *in thesi*, can be considered as only didactic, advisory and monitory."

"The Assembly, in virtue of its power to give authoritative interpretations of the Word, declares:

1. Nothing is law, to be enforced by judicial prosecution, but that which is contained in the Word as interpreted in our Standards.

2. The *judicial* decisions of our courts differ from *in thesi* deliverances, in that the former *determine*, and when proceeding from our highest court, *conclude* a particular case; but both these kinds of decisions are alike interpretations of the Word by a church court, and both not only deserve high consideration, but both must be submitted to, unless contrary to the Constitution and the Word, as to which there is a right of private judgment belonging to every church court, and also to every individual church member."

In connection with the above statement regarding the right of private judgment, in 1881 the General Assembly stated:

"The Form of Government...declares that "church courts can make no laws binding the conscience, but may frame symbols of faith," etc. It follows that church courts are not infallible, but on the contrary, "all may err, and many have erred; therefore they are not to be made the rule of faith or practice, but to be used as help in both." (*WCF*, XXIII-3) Thus the right of private judgment is asserted; this right, however, is not opposed to lawful authority, but to the assumption of power to bind the conscience."

(See also under *BCO* 45, 1984, p. 139)

1991, p. 100. Reasoning in a case:

"The crux of this issue relates to the language used by the 17th General Assembly that 'all further proceedings in this case be stayed. cf. BCO 40-5.' Acting under this *BCO* 40-5, the 17th General Assembly adopted the recommendation of its Committee of Commissioners for Review and Control (1) to cite Mississippi Valley Presbytery 'to appear by representative... to show what it had done or failed to do in the case in question;' and (2) appointed a Commission 'for disposition' of the matter. (*I7MGA*, p. 203). Later in the Assembly, the 17th General Assembly heard and adopted its Commission's recommendation which concluded with the language noted, namely:

The pastoral complexity of the case and the passage of time warrants all further proceedings in the case be stayed. cf. *BCO* 40-5" (*I7MGA*, p. 174).

Since the Assembly's stated purpose for appointing the Commission was 'for disposition' of the matter, it is our opinion that in adopting the above quoted language the 17th General Assembly clearly intended to dispose of the matter. A careful reading of the entire Report and Recommendation of the Commission, as adopted by the General Assembly, clearly points to an effort to finally and conclusively end, conclude and terminate this matter. We believe this conclusion of the General Assembly that this matter be ended is further verified by the action of the 18th General Assembly approving without exception, the minutes of Mississippi Valley Presbytery dealing with this matter, as above set out.

Certainly all would agree that General Assembly has the authority to end, conclude and terminate a matter, even though there is no such specific language in the *BCO*. Wisdom would dictate that there must be a method for a church court to finally conclude and terminate a matter.

We believe that the words in *BCO* 40-5 - 'may stay all further proceedings' - technically mean to hold in abeyance further proceeding until such time as the court decides to lift 'the stay' and reopen the matter.

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However, we do not believe this was the intention of the 17th or 18th General Assemblies. We believe it was their clear intention to end, conclude and terminate the matter."

41-3

1984, p. 137, 12-53, III, 52. That the Assembly ratify the answer to the following Constitutional Inquiry:

Constitutional Inquiry 2: from a Judicial Commission of Gulf Coast Presbytery.

After a Session has drawn up an indictment of two counts and has tried to prosecute the case to no avail (tied jury) and has referred it to Presbytery, can the commission appointed by Presbytery broaden the indictment, or must it stick to (sic) only the two counts referred?

ANSWER:

When a judicial case is transferred to a different court, the entire matter is transferred. The court to which the matter was referred becomes the "court of original jurisdiction," which differs from an appellate court. The court assumes the rights and responsibilities of the first court, including investigations of offenses. The court may, as per *BCO* 31-2, paragraph 2, proceed to draw up further charges, if pertaining to the original matter, and join them to the original indictment. However, any new charges or accusations should be returned to the first court.

41-5

1986, p. 126, 14-52, 18. That the answer of the Permanent Committee concerning Constitutional Inquiry #10 from the Presbytery of Eastern Canada, be ratified.

1986, p. 332, Appendix I, 10. Constitutional Inquiry #10. From the Presbytery of Eastern Canada regarding the refusal of the 13th General Assembly to accept a judicial reference.

"In our understanding of... the ruling of the Assembly none of the parties could pursue judicial process, and thus, any complaint or charges could not be evaluated. We may, however, have misunderstood or overlooked something and would appreciate any clarification you could give concerning the action...."

ANSWER:

The recommendation of the committee and the determination of the Assembly have application to the judicial process in the courts of the PCA.

42

1986, p. 126, 14-52, 16. That the answer of the Permanent Committee concerning Constitutional Inquiry #8 from the Trinity Presbyterian Church, be ratified.

1986, p. 331, Appendix I, 8. Constitutional Inquiry #8. From the Trinity Presbyterian Church.

"1. Can a complaint be filed against the actions of a congregational meeting? (*BCO* 43-1) Is a congregational meeting considered a 'church court?'"

ANSWER:

1. No. The congregation is not a court of the church (*BCO* 10-2), and a complaint according to *BCO* 42 can only be lodged against a court of the Church. All matters before a congregational meeting are placed before the meeting by the Session (*BCO* 25:2), whether the meeting was called by the Session itself or by the Session at the request of the congregation. Complaints may be lodged against a decision of the Session to place a matter before a congregational meeting, or not to place a matter before the congregation. Similarly a complaint may be lodged against a decision of a Session to implement or not to implement an action of the congregation.

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42-6

(See *BCO* 30-1, 1986, 14-52, 20)

42-11

1986, p. 112, 14-42, Constitutional Inquiry from the Commission to adjudicate Case #4:

"What constitutes 'appearance' under the terms of *BCO* 42-11? For example, if an appellant or his counsel is in the Assembly but does not appear before the commission appointed to adjudicate the case by the end of business on the second day, is it to be considered that he has not appeared?"

ANSWER:

That "appearance" shall be defined as the personal presence of the parties (or counsel) before the adjudicating body after reasonable notice has been given by that body.

43-1

1992, p. 267, 20-75. "Does a member of presbytery have a constitutional right to complain that presbytery has received a protest containing allegedly intemperate or slanderous language?"

RESPONSE: Yes. *BCO* 43-1 states that a complaint is a written representation made against some act or decision of a court of the church. The decision to receive a protest is a decision or action of a court and, therefore, may be complained against. However, *BCO* 45-5 states that a protest must be couched in temperate language and be respectful to the court.

Therefore, although the recording of the protest itself is to end the matter, if a presbyter is convinced that the protest was not couched in temperate language or respectful to the court, he may complain against the action of the court in receiving it. Here the matter that is complained against is new (i.e. intemperate language or disrespect) and is not a continuation of the matter about which the protest was submitted.

43-3

(See PART III: JUDICIAL CASES, #89)

43-4

(See also PART III: JUDICIAL CASES, #56)

1985, p. 109, 13-45, III, 53. That the advice regarding Constitutional Inquiry 13 from Northeast Presbytery be ratified and that *BCO* 43-4 be amended editorially by adding a comma after the word "suspension."

1985, p. 245, Appendix I, 3. Constitutional Inquiry 13: From Northeast Presbytery. The following questions need to be addressed.

1. What is a "notice of complaint" in *BCO* 43-4? Is this an instrument by itself or is it the actual complaint as it is received by the Presbytery? If it is an instrument other than the complaint, is a verbal notice of complaint adequate or must it be written? In our case the notice was written, signed by several men and stated that a formal complaint would be filed within fifteen days. How can a statement of intent which may not be executed be adequate grounds for suspending an action of Presbytery? If a complaint does not materialize, does the vote to suspend action become null and void after fifteen days?
2. When is a motion to suspend the action in order? *BCO* 43-2 requires that "a complaint shall be first made to the court whose act or decision is alleged to be in error." But *BCO* 43-4 says that if one third of the members present for the original action "shall vote for its suspension until the final decision in the higher court" the action shall be suspended. This is the crux of the matter. How can Presbytery vote to suspend action

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until General Assembly has rendered a final decision before it has even received, much less processed the complaint? By vote of the Presbytery *BCO* 43-4 was understood to mean that suspension is only allowable when the matter has been referred to the higher court for final disposition. If this is the case, the body of men giving notice of complaint cannot suspend the action until a time after the action has been affected. This results in nullifying any effect or usefulness of suspension.

ANSWER:

1. It has been the policy and practice of the PCA to regard oral notice of complaint as adequate to cause a vote whether the matter would be supported by 1/3 of the members (per *BCO* 43-4). If so, action is suspended until the completion of judicial process. In the event that the written complaint is not filed with the clerk of the court within 15 days following, the action of Presbytery stands and the vote to suspend action is voided.
2. See answer to 1. The CJB is recommending to the Thirteenth General Assembly that *BCO* 43-4 be editorially amended by placing a comma after the word "suspension" to resolve this ambiguity.

45

1984, p. 139, 12-53, II, 58. That the General Assembly adopt the answer given to the following Constitutional inquiry:

Constitutional Inquiry 8: From St. Louis Presbytery "concerning the proper recourse of a Presbytery when in its perception the General Assembly may have erred in a matter."

ANSWER:

1. In the course of the meeting of the General Assembly (or of any court), when an error is alleged to have been committed, the parties convinced that an error has been made could recourse through the provisions of *BCO* 45.
2. Subsequent to the meeting of the court at which an error has been alleged to have been committed, a lower court by memorial, or overture, may seek a correction of the alleged error, if reversible.
 - a. Properly speaking no action of previous General Assembly may be amended, rescinded, or annulled. A subsequent General Assembly may take a contrary position and condemn the action of a previous Assembly but the action of the previous Assembly remains its own.
 - b. If the alleged error is in reference to a judicial decision the decision cannot be reversed, but a judgment can be set aside and a new trial ordered if there is "highly important new evidence" or "such palpable error as would manifestly tend to interfere with the substantial administration of justice" (Baird's Digest of the Assembly Actions, p. 111).
 - c. If the alleged error is related to a part of the constitutional documents which may also be alleged to be in error, a memorial should seek to amend the constitutional documents.
 - d. In the meanwhile, the lower courts of the church should submit to the decision of the higher court even if it is alleged to have been in error, unless for sake of conscience the lower court should believe itself duty bound to renounce the jurisdiction of the higher court.

46

1986, p. 126, 14-52, 14. That the answer of the Permanent Committee concerning Constitutional Inquiry #6 from the Stoney Point Reformed Presbyterian Church, Richmond, VA be ratified.

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1986, p. 331, Appendix I, 6. Constitutional Inquiry #6. From the Stony Point Reformed Presbyterian Church.

"...[C]oncerning the interpretation of the provision in chapter 46 of our Book of Discipline that when a member moves away from the church he has a year in which to affiliate with another church, after which he may be removed from the roles. The question is, what procedure shall be followed in doing this. Does the Book of Discipline envision our returning to 27-5 and following the formal disciplinary procedures, or may his name simply be removed without any further disciplinary steps?"

ANSWER:

Where a member removes himself from the area of the local church, 46-2 controls (note especially para. 3); 46-5 is not applicable except with members who have shown a spirit of willful neglect. The session, in such cases, should communicate any action taken under 46-2 to the member affected.

1988, p. 178, 16-77, III, 29. That the advice of the Committee on Judicial Business regarding Constitutional Inquiry #5 be ratified.

Constitution Inquiry #5: From Stony Point Reformed Presbyterian Church.

QUESTION Re: Removal of members from the roll without judicial process (*BCO* 46).

- "1. May a letter requesting to be dropped from the roll be construed as making it known that the sender has no intention of fulfilling the church vows?"
- "2. If to delete (in *BCO* 46-5) means other than to excommunicate, what is its meaning?"

ANSWER:

1. The Inquiry is answered by referring to previous answers by the General Assembly on this matter. See *M14GA*, items 14-52, 11, 14 and 16.
2. Also, there is a proposal before this Assembly that may provide for it (see Overture 5, p. 45), answered on p. 173, item 13: "That Overture 5 from the Presbytery of Southeast Alabama, p. 45, be answered in the negative."

Explanatory Note: The changes appear to be seeking to make "erasure" of names from church roles easier. Since "erasure" is the same as excommunication, the process should not be treated lightly.

Referred to the Committee on Judicial Business to report back to the 17th GA for consideration of amendments to the BCO for the non-judicial removal of members from the roll of a local church.

46-2

1986, p. 128, 14-52, 47. That the answer of the Permanent Committee concerning Constitutional Inquiry #18 from Stony Point Reformed Presbyterian Church, Richmond, VA be ratified.

1986, p. 337, Appendix I, 18. Constitutional Inquiry #18. From Stony Point Reformed Presbyterian Church.

"...is a member who moves out of town but refuses to join a PCA church available to him or other evangelical church guilty of willful neglect?"

ANSWER:

The Committee on Judicial Business is not in a position to render a decision relating to the problem involved. The Session must use its best judgment as the court of original jurisdiction. It is the responsibility of the Session to determine the degree of gravity of the member's alleged offense, subject to review by higher courts.

PCA DIGEST

46-5

1985, p. 107, 13-45, III, 43. That the advice regarding Constitutional Inquiry 1 be ratified.

1985, p. 239, Appendix I, 1. Constitutional Inquiry 1: From the Session of the Town North Presbyterian Church of Richardson, Texas.

1. What do *BCO* 46-5 and *BCO* 27-5 require
2. Define *BCO* 30-4.

ANSWER:

1. As *BCO* 46-5 reads currently it does refer to the procedure of 27-5 which require due process if the erring brother show himself to be incorrigible or contumacious. (See *BCO* 33-3 also.)
2. Gross crime and/or heresy is to be understood in the Biblical and moral sense. The degree of heinousness is to be determined by the appropriate church court, not by any one individual.

1986, p. 125, 14-52, 12. That the answer of the Permanent Committee concerning Constitutional Inquiry #4 from the Abbott Memorial Church, Baltimore, MD be ratified.

1986, p. 330, Appendix I, 12. Constitutional Inquiry #4. From the Abbot Memorial Church.

- "1. What constitutes willful neglect of the church (*BCO* 46-5)? Does one or two appearances at church per year, for example, constitute a proper keeping of the membership vows or is delinquency a matter the Session must decide according to each individual situation?
2. Can a member currently under discipline resign his or her membership or transfer to another church?
3. Can a Session that is contemplating discipline of an individual for delinquency or some gross crime and/or heresy offer such an individual the option of resigning so as to avoid the discipline process?
4. Can a member simply resign his or her membership at will under any circumstances?"

ANSWER:

1. What constitutes "willful neglect" must be defined by the Session, subject to the review and control of the higher courts.
- 2a. The *BCO* has no provision for a member to "resign" his or her church membership under any circumstances.
- 2b. In cases of transfer of membership, *BCO* 46-3 provides that the jurisdiction resides in the original Session, which may decline to transfer and proceed with the appropriate disciplinary process itself (*BCO* 46-3, 12-5). Or it may transfer the membership along with the charges pending (cf. *BCO* 38-4).
3. "No communing or noncommunings member of the Church should be allowed to stray from the Scripture's discipline. Therefore, teaching elders must: a) instruct the officers in discipline, b) instruct the congregation in discipline, c) jointly practice it in the context of the congregation and church courts." (*BCO* 27-4, emphasis added). Therefore, the Session should not avoid the disciplinary process by the offering or acceptance of a so-called "resignation."
4. See 2a.

1986, p. 126, 14-52, 16. That the answer of the Permanent Committee concerning Constitutional Inquiry #8 from the Trinity Presbyterian Church, be ratified.

1986, p. 331, Appendix I, 8. "5. Does the phrase in *BCO* 46-5 'should exercise proper discipline by deleting such names from the church roll...' refer to excommunication?"

ANSWER:

5. Yes, in effect this constitutes excommunication though it is called "deletion." It should be emphasized that *BCO* 46-5 requires that the procedures set forth in

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BCO 27-5 be followed. (See also *M13GA* p. 239, item D [1] 1; p. 107, item 43.)

[Note: The 18th General Assembly (1988) amended *BCO 45-6*. See below at 1991 for interpretation and significance.]

1988, p. 177, 16-77, III, 28. That the advice of the Committee on Judicial Business regarding Constitutional Inquiry #4 be ratified.

Constitutional Inquiry #4: From Presbytery of the Ascension.

QUESTION Re: Removal of names from the membership roll and the application of *BCO 46-5*.

- "1. Is the session terminated along with the congregation at the effective date of dissolution (of a particular church)?
2. May the corporation (where applicable) continue to exist after the congregation dissolves to finish matters properly under its care according to state statutes?
3. Are the members of the congregation who do not request and receive transfers to other churches by or on the date of dissolution to be continued as some kind of members on a roll held by Presbytery for some definite or indefinite period of time?
4. OR, does the membership of these members simply terminate at dissolution, thus making them 'other session removals' without process and necessitating their joining other churches thereafter by reaffirmation of faith?
5. OR, can members be assigned to membership in other existing churches simply by action of Presbytery, with or without consent of the Session(s) involved?"

ANSWER:

Re Q1: Yes

Re Q2: Yes, but see *BCO 25-12* regarding disposal of property.

Re Q3: No

Re Q4a: Yes

Re Q4b: No. Membership in the Church visible is dissolved upon dissolution of the congregation, unless transfer is made prior to the dissolution of the church.

Re Q5: Members not consenting to being assigned may not be assigned. Presbytery may assign members to congregations with the consent of the individuals and of the Session (compare *BCO 46-8*), if done prior to the dissolution.

The Committee would draw to the attention of the Presbytery that the *BCO* does not clearly speak on these matters, and there might be benefit for the presbytery to bring overtures regarding this matter to the Assembly.

1991, p. 102, 19-48: Reasoning in a case:

"Clarifying language was needed because confusion had arisen in many sessions and presbyteries over the interpretation of *BCO 46-5* as it relates to an individual's voluntary resignation from membership in a particular church. Many had concluded that in such a case *BCO 46-5* was not applicable but that the session had authority to accept the resignation and remove the person's name from the roll under the general power given to a session under *BCO 12-5(a)*, such as:

'...to receive members into the communion of the church; to remove them for just cause; to grant letters of dismissal to other churches....'

"Others had interpreted *BCO 46-5* to apply when a member voluntarily resigned as they concluded that such a resignation placed the member within the *BCO 46-5* language - '...made it known that he or she has no intention of fulfilling the church vows.' Others thought that language only applied to a member who showed 'willful neglect' or a contumacious spirit, and not to a member who voluntarily asked the session to 'please strike my name from your roll of members.' Hence a general confusion arose across the PCA as to the application of *BCO 46-5* in voluntary resignation cases.

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"This process was a clear expression of the PCA as to the proper interpretation of the language in *BCO* 46-5, which had caused confusion and been interpreted in different ways by sessions and presbyteries. It made clear that it was the intention of this denomination that a simple voluntary resignation of a local church member could be handled by the session under its general powers. It further made clear that even when a member has willfully neglected the church for a period of one year, or has made it known that he or she has no intention of fulfilling the church vows', such member's name may be deleted from the roll under *BCO*'s 46-5 without judicial process. It does not negate the possibility that judicial process may be brought against a member under *BCO* 27-5 *et. seq.* when the Rules of Discipline are properly instituted."

46-6

1989, p. 151, 17-82, III, 6. That the advice of the Committee on Judicial Business regarding the communication from Review and Control Committee be ratified as amended. The question was: "Would it be proper to accept as evidence the letter of a chairman of a presbytery committee stating that a dismissal had been granted?"

"ANSWER:

No. *BCO* 46-6 requires that the presbytery issue a certificate when dismissing a minister, licentiate, or a candidate. According to *BCO* 10-4, the official certification of an action of a court is that which is issued over the signature of the stated clerk."

Adopted

58-4

1986, p. 330, Appendix I, 10.

"May the Session approve an individual to participate in the Lord's table who is not a member in good standing in an evangelical church?"

1986, p. 125, 14-52, 10. That the General Assembly answer Constitutional Inquiry #2 from Westminster Presbyterian Church by saying,

"This matter should be left to the spiritual discernment of the Session."

1987. (See PART III: JUDICIAL CASES, #58, Judgment 2 and 5)

1993, p. 141, 21-56, III, 18. "Change the Invitation to the Sacrament of the Lord's Supper" ...instruct the Stated Clerk to communicate the following grounds to the Session of Third Reformed Presbyterian Church (in denial of their overture) and to Philadelphia Presbytery (in support of their action regarding this overture):

Adopted

- a. In recognition that this is the "Lord's table," 1 Corinthians 10:21, not the table of one church only, *BCO* 58-4 permits "open communion," that is, allowing members in good standing of any evangelical church to partake; and "close communion," which permits only those members of other churches who have been examined and approved by the Session to partake. (It does not permit "closed communion," the practice of excluding all but members of the particular congregation).
- b. In the judgment of charity, we believe that other evangelical churches have examined and found credible the faith of their members and, on the basis of this presumed approval, in "open communion" we invite members of other churches to the Lord's table in our midst. In "close communion," the Session of a particular church itself determines the credibility of a visitor's profession of faith. There is no such available assessment in this life for members of the Invisible Church.
- c. Baptism is into a community of believers, that is a church. Unbaptized people certainly should not be permitted to come to the Table. Of course unbaptized people credibly professing faith in Christ and seeking admittance to the Table should be baptized with all proper speed, and thereupon admitted to the Table. At this point, these communicants are baptized members of a visible church.

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- d. One cannot love Christ and eschew His bride. The credible profession of persons unwilling to unite to Christ's Church must be questioned. Any sinful unwillingness to unite with Christ's people should be addressed pastorally (Hebrews 10:25; I Corinthians 10:16-17). Those unwilling to unite to Christ's Church are outside the visible body of Christ.
- e. One cannot be subject to Christ and not be subject to the government He has appointed in His Church. Believers become subject to the government of the Church through their covenantal vows of membership (Ephesians 4:11-12; Hebrews 13:17; 1 Thessalonians 5:12-13).
- f. Church discipline is necessary for properly maintaining the Lord's table; such discipline is unavailable apart from membership in a visible church.
- g. This overture implies that there is no biblical ground for the keeping of a roll of members of the visible church, and therefore of people who may partake of the church's sacrament. However, the clear evidence of Scripture is that the church should keep a roll of members. The supreme model for our membership roll is the membership roll of heaven (Exodus 32:32,33; Daniel 12:1; Luke 10:20; Philippians 4:3; Revelation 13:8; 20:12,15). The Biblical pattern is for new believers to be "numbered" or "added to" the rolls of the local church (Acts 2:41,47; 6:7; I Timothy 5:9). Members could be taken away from the roll (I Corinthians 5:2)--this indicates more than being physically barred, since even unbelievers could attend Christian worship (I Corinthians 14:23)--or reinstated (II Corinthians 2:6-7); it is impossible to have coherent discipline without such a roll. There was a widow's roll for diaconal purposes (I Timothy 5:9). Elders are to know their sheep, and are accountable for the care of the flock entrusted to them--this demands knowing who they are; that is, it demands a list or roll (Hebrews 13:7,17-18; I Thessalonians 5:11-14; I Peter 5:2; Acts 20:28). The apostolic church utilized letters of transfer or commendation (Acts 18:27; Romans 16:1-2; II Corinthians 3:1; 8:23-24); examples of these letters include Philemon and III John. Interchurch business was conducted by people with reference letters (I Corinthians 16:3; II Corinthians 8:16-24). We conclude therefore that requiring professed believers to be enrolled as members of an evangelical church as a condition for taking the Lord's Supper is consistent with sound Biblical practice.

58-6

1978, p. 112, 6-111, III, 17a. The opinion rendered for the Westminster Church, Kingsport, TN be approved with the comment that the opinions given do not involve nor fully define the procedures for church membership.

Ad Interim Opinion Given:

The Judicial Business Committee gave the following response to questions posed by the December 6, 1977, letter from John G. Thomson, Clerk of Session of the Westminster Presbyterian Church in Kingsport, Tennessee:

QUESTION: 1.A. What is the definition or meaning of "reaffirmation of faith" (*BCO* 58-6)?

ANSWER: It is our opinion that historically "reaffirmation of faith" has meant the giving of affirmative answers to questions 1 and 2 found in *BCO* 58-5.

QUESTION: 1.B. Is this reaffirmation properly fulfilled by affirmative answers to the questions of No. 58-5?

ANSWER: See answer to 1.A. above.

QUESTION: 1.C. Or, may this reaffirmation be satisfied in some other manner? And if so, what?

ANSWER: Yes. See *BCO* 58-6 re: "should give a testimony of their Christian experience to the Session."

QUESTION: 2. Does our Session's policy of requesting reaffirmation of faith by all prospective members imply that such persons were previously out of fellowship with the Church?

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ANSWER: No, it does not make such implications.

QUESTION: 3. In the light of 1 and 2, above, is it improper for reaffirmation to be requested of prospective members coming from evangelical denominations? From PCA congregations?

ANSWER: No, it is not improper. (See *BCO* 12-2.)

QUESTION: 4. Would it be out of accord with the *BCO* to receive members by transfer of letter and concurrent reaffirmation?

ANSWER: No. Such action does not exceed the authority of the Session. (See *BCO* 12-2.)

QUESTION: 5. If 1-B is answered affirmatively, may the constitutional questions be posed anew before the congregation once they have been affirmed before the Session, previously. Would this practice be extra-constitutional, though motivated by an interest in covenanting aspect of membership vows?

ANSWER: Yes, the questions may be posed anew before the congregation; but it is not required by the *BCO*.