

CLERKS OF ASSEMBLY

RECOMMENDATIONS

Consent Recommendation

That Recommendation Nos. 3, 4, 5 and 9 (identified by ►) be adopted by consent.

Recommendation No. 1

That the General Assembly express its profound thankfulness to the Rev. Dr. Tony Plomp for 29 years of extraordinary commitment to the office of Clerk of the General Assembly and to the courts of The Presbyterian Church in Canada. (see p. 7.1.2)

Recommendation No. 2

That the above be the response to Overture No. 37, 2015 and Overture Nos. 4, 5 and 7, 2016 re request for process for a congregation leaving the denomination. (see p. 7.1.5)

► Recommendation No. 3

That the above definition of the scope and purpose of a Declaratory Act be the response to Memorial No. 1, 2015. (see p. 7.1.6)

► Recommendation No. 4

That Overture No. 3, 2016, re Barrier Act and an individual's dissent be answered by the above response. (see p. 7.1.6)

► Recommendation No. 5

That the following Declaratory Act regarding the eligibility of ministers of member churches of The World Communion of Reformed Churches to preside at the Lord's Table be added to Book of Forms section 198.1. (see p. 7.1.7)

Ordained ministers of churches that are members of the World Communion of Reformed Churches are permitted to preside at the Lord's Table at the discretion of the moderator or interim moderator of the relevant session. (A&P 2015, p. 255)

Recommendation No. 6

That Book of Forms section 12.1 be deleted. (see p. 7.1.7)

Recommendation No. 7

That the following revision of Book of Forms sections 65–80.2, regarding overtures and petitions, be approved and remitted to presbyteries under the Barrier Act. (see p. 7.1.8)

Recommendation No. 8

That Book of Forms section 80.2 become the new section 300 as follows. (see p. 7.1.10)

300. The Clerks of Assembly and other agencies, committees and task forces of the Assembly are instructed to ensure that all study papers, referrals and questionnaires addressed to presbyteries and/or sessions are in the hands of the respective clerks three full months in advance of the deadline for response back to the agency, committee or task force of General Assembly. (see Appendix A–6)

► Recommendation No. 9

That Book of Forms section 312 be amended to read as follows. (see p. 7.1.10)

312. The Clerks of Assembly shall be responsible for producing the minutes of the General Assembly and making them available to the church.

REPORT

To the Venerable, the 142nd General Assembly:

There are three clerks of the General Assembly. The Rev. Stephen Kendall is the Principal Clerk. The Rev. Dr. Tony Plomp and the Rev. Don Muir are Deputy Clerks. Mr. Kendall and Mr. Muir serve full time at the national office in Toronto while Dr. Plomp serves part time from his home in Richmond, British Columbia.

Throughout the year, the Clerks of Assembly respond to queries from officers and members of lower courts as well as from individual members of the church. In addition, they monitor the receipt of responses from presbyteries to remits sent down under the Barrier Act and to referrals from the General Assembly. They also act as consultants to General Assembly commissions and committees. The three clerks meet together twice each year. In the autumn they discuss and designate the work referred to them by the Assembly. In the spring they finalize their responses to overtures and prepare their report to the General Assembly. Matters of polity are discussed at both meetings.

THE REV. DR. TONY PLOMP

On April 4, 2016, the Rev. Dr. Tony Plomp became the longest serving Clerk of Assembly in the history of The Presbyterian Church in Canada. It was the 1987 General Assembly that adopted the following motion, “That the Rev. Tony Plomp of Richmond, British Columbia, be appointed as a Deputy Clerk of the General Assembly effective July 1, 1987 for a term of five years.” Interestingly, Dr. Plomp was elected Moderator of that same Assembly.

The original appointment has been renewed five times in succession. Across the decades, Dr. Plomp has been a faithful servant of the church alongside three Principal Clerks and three other Deputy Clerks. He is also widely respected as a compassionate pastor, thoughtful theologian and kind friend to many. Regrettably, ill health has prevented Dr. Plomp from attending a General Assembly since 2006. He continues, however, to work closely with Mr. Kendall and Mr. Muir, providing wise council and unstinting dedication to our denomination.

Recommendation No. 1 Adopted/Defeated/Amended

That the General Assembly express its profound thankfulness to the Rev. Dr. Tony Plomp for 29 years of extraordinary commitment to the office of Clerk of the General Assembly and to the courts of The Presbyterian Church in Canada.

REFERRALS AND OVERTURES

OVERTURE NO. 37, 2015 (A&P 2015, p. 610–11, 249, 17)

Re: Process for a congregation leaving the denomination

OVERTURE NOS. 4, 5 AND 7, 2016 (p. 28.1.2–3, 28.1.4)

Re: A policy for a congregation leaving the denomination

These various overtures request the establishment of a means for congregations to leave The Presbyterian Church in Canada, retaining their property and assets, if they find themselves unable to accept changes in doctrine or discipline made by the General Assembly. Some of the overtures refer to current discussions around human sexuality as the source of the request.

In developing this response, the Clerks of Assembly consulted with members of the Trustee Board, the Assembly Council and the Pension and Benefits Board.

While the Clerks of Assembly will focus on the law and polity, they acknowledge the concern expressed in the overtures that there is the potential for division in the current discussions. The Clerks believe the denomination is called to work diligently to find ways to continue to be one family under Christ. There will always be tremendous scope for a generosity of spirit and diversity of practice as we seek to fulfill the mission of God in our communities and beyond.

Two of the overtures allude to a situation whereby former members of the congregation of St. Andrew’s, Lachine, Quebec, were able to keep their building at nominal cost when they wished to leave the denomination. This was not the case. At no time did the property move to the former members. Rather, a temporary lease agreement was arranged by the Trustee Board in which the former members paid a nominal rent and were responsible for all expenses related to the facility. Shortly thereafter, the Trustee Board sold the property, at market value, to the Norwegian Church Association.

Overture No. 37, 2015 begins with the assertion that the trustees of a local congregation hold the real property of a congregation in trust for that congregation. This is a misunderstanding of our polity.

Trustees of a local congregation hold property of a congregation under a dual trust. The first is for the benefit of that congregation, but it is also for the benefit of The Presbyterian Church in Canada. Congregations are not independent bodies within our church. They are a part of The Presbyterian Church in Canada which is governed by the Book of

Forms and the Presbyterian system of church government. (See especially Book of Forms sections 109.2, 114.6, 139, 149, 150–157, 158–173 and 200–200.14.)

As noted in the Trust Deed for congregations found in Appendix C of the Book of Forms (section 5 C):

Congregational Trustees will hold all property and real estate for the sole use and benefit of the congregation. It is noted that in the event that the congregation is dissolved, by provincial and federal law, the ownership of the church, contents, funds and property transfer to the Trustee Board of The Presbyterian Church in Canada and will be used to further the mission of the church.

The federal and provincial legislation referred to in this section is found in Appendix B–6 From The Act to Incorporate The Trustee Board of The Presbyterian Church in Canada (1939), section 13, re Property of Congregations Ceasing to Exist.

All lands and premises and personal property and assets which have been, or shall hereafter at any time, be held by any trustee or trustees for any congregation of The Presbyterian Church in Canada which shall have ceased to exist shall vest in the Board upon trust to sell, get in and realize the same and to pay the proceeds to the treasurer of The Presbyterian Church in Canada for such trusts, institutions, organizations, schemes of funds thereof as may be determined from time to time by the General Assembly of the said church.

This legislation is in force federally and in each province. It means that while congregations themselves own their property, it is held by trustees for the congregation under a Trust arrangement. The Trust, in effect, is that the property must be used for the benefit of the congregation and its purposes and in the event that it ceases to exist (which takes place on dissolution) it reverts to The Presbyterian Church in Canada to be held in trust by the Trustee Board, still for the benefit of The Presbyterian Church in Canada.

Some of the overtures refer to other denominations, but we must adhere to our own polity and the legal implications of the specific Act (to Incorporate the Trustee Board) that governs our denomination. If a civil court were ever to be involved, and we pray that will not be the case, this Act and its application through our own internal polity will be the basis upon which decisions are made. Both stipulate that the property is held for the benefit of The Presbyterian Church in Canada.

This is consistent with the principle that when donors through the years have given to the congregation, they have given to a congregation of The Presbyterian Church in Canada for the purposes of The Presbyterian Church in Canada. There is no provision for those donations, now represented in the assets of the congregation, to be moved outside The Presbyterian Church in Canada no matter how much support there may be to withdraw from The Presbyterian Church in Canada. When a congregation issues charitable givings receipts to members of The Presbyterian Church in Canada who have given to a congregation of The Presbyterian Church in Canada, a further trust relationship is established regarding the assets of the church, consequently they must be used for the ministry for which they were given, that is, a congregation of The Presbyterian Church in Canada. A second principle that highlights members' connection beyond the congregation is in the fact that we are members both of a local congregation and also of The Presbyterian Church in Canada. A member in good standing has the right to present a membership certificate to any session of any congregation in the country and immediately claim the privileges of membership in that congregation by virtue of their membership in The Presbyterian Church in Canada. (Book of Forms section 125.2, 126 and Appendix A–8)

According to The Act to Incorporate The Trustee Board of The Presbyterian Church in Canada, the Board has a duty to realize assets for the benefit of The Presbyterian Church in Canada.

Our polity does not include any provision for a congregation to be dismissed as an entity from the denomination, with or without retaining ownership or property.

Members may leave a congregation under the provisions of Book of Forms section 142. Even if every member were to leave a congregation, the congregation still exists as a congregation of The Presbyterian Church in Canada until the presbytery dissolves it (section 200.9).

142. Members of the church are under the care and subject to the authority of the session until they are disjoined by receiving a certificate, or having their names removed in consequence of voluntary withdrawal from the fellowship of the congregation, or as a result of a judicial process.

Ministers may also leave the denomination under the provision of Book of Forms section 251–251.1 thus receiving a letter of standing which indicates that they leave the denomination as ministers of the gospel in good standing at the date of issue.

251. Upon his/her own application, a presbytery may grant to a minister or certified candidate for ordination, against whom are pending no matters in the way of judicial process, a letter of standing (see Appendix A–15) setting forth the facts of his/her ordination or certification and certifying to his/her presbyterial standing at the date of issue.

251.1 Upon the receipt of a letter of standing, the applicant ceases to be a minister or certified candidate for ordination of The Presbyterian Church in Canada; and the letter of standing can only be received by a presbytery with the permission of the General Assembly. (A&P 1894)

In the past twelve years there have been three situations of congregations where the majority of members and the minister felt they could not remain within The Presbyterian Church in Canada. In these cases, as a matter of principle, and consistent with our polity, the majority members received certificates (or were removed from the roll) and the minister a letter of standing. The remaining members carried on, retaining ownership of the property and all assets relating to the congregation, or those assets were transferred to The Trustee Board of The Presbyterian Church in Canada. In each case, the presbytery, while disappointed by the departure, worked graciously with the departing members and minister. All were treated as brothers and sisters in Christ through their period of transition.

Book of Forms section 200.1 grants authority to the presbytery alone to organize new congregations and section 200.9 authorizes the presbytery to dissolve congregations.

200.1 Congregations may be organized and places of worship erected only with the sanction of the presbytery, which should be satisfied that such places of worship are of a suitable character (see sections 150 and 200.7).

200.9 It belongs to the presbytery, subject to a corrective case to synod and General Assembly, to sanction the name of congregations, unite or disjoin congregations in pastoral charges, raise or reduce the status of charges as self-supporting or mission fields, and to dissolve congregations and to discontinue preaching stations.

(Note for clarification: The authority to ‘disjoin’ a congregation in section 200.9 pertains only to disjoining congregations in multi-point pastoral charges.)

On dissolution, all assets (real and personal property – meaning land, buildings, bank accounts and all goods and chattels held by the congregation) vest with (become the property of) The Trustee Board of The Presbyterian Church in Canada for the ongoing use and benefit of The Presbyterian Church in Canada.

One scenario that honours our polity and approximates the prayer of the overture would be as follows. Members of a congregation express their desire to leave The Presbyterian Church in Canada. They resign their membership and receive certificates to that effect from the session of the congregation, or if necessary, from the presbytery. If, in this case, the remaining members do not have sufficient resources to maintain the congregation, the presbytery will consider dissolving the congregation. Following due process, the presbytery proceeds with the dissolution. The property will then vest with the Trustee Board of The Presbyterian Church in Canada. The Trustee Board normally gives priority to other Christian churches in offering church properties for sale (Book of Forms section 200.11.1). Working with a presbytery, the Trustee Board could be alerted to the fact that a fellowship (or new congregation outside of The Presbyterian Church in Canada) made up of former members of The Presbyterian Church in Canada would like to purchase the building the previous congregation owned. Such a sale could be given priority and would therefore meet the fiduciary requirements of the Trustee Board and the desire of a group of former members to re-own, if not retain, their property.

The Clerks of Assembly are disinclined to create a process for congregations to withdraw from The Presbyterian Church in Canada. To do so would require changes to our civil legislation both federal and provincial. The current provisions of the church for members and ministers to leave if they feel constrained by conscience to do so, is available, even with the consequence that church property remains with The Presbyterian Church in Canada. If this happens, there will always be room for gracious action, and loving respect on the part of those leaving, those remaining, their presbyteries and the Trustee Board. By God’s grace, we remain brothers and sisters in Christ.

Recommendation No. 2 Adopted/Defeated/Amended

That the above be the response to Overture No. 37, 2015 and Overture Nos. 4, 5 and 7, 2016 re request for process for a congregation leaving the denomination.

MEMORIAL NO. 1, 2015 (A&P 2015, p. 611–12, 249, 17)

Re: Process re changes to church's teaching on human sexuality

Definition of scope and purpose of a Declaratory Act

This memorial was referred to the Clerks of Assembly by the 2015 General Assembly with the request that that the Clerks provide a definition of the scope and purpose of a Declaratory Act.

The memorial itself quotes the pertinent legislation regarding a Declaratory Act:

293. The Assembly may pass a Declaratory Act affirming what it understands to be the law of the church regarding any particular matter; and such act may be passed without submission to presbyteries. But any action contemplating a change in the law of the church must be dealt with according to the provisions of the Barrier Act (A&P 1877) that are as follows:

293.1 No prepared law or rule relative to matters of doctrine, discipline, government or worship, shall become a permanent enactment until the same has been submitted to presbyteries for consideration...

The plain reading of section 293 is quite clear that a Declaratory Act is an affirmation by the General Assembly of its understanding of church law on any particular matter. The Clerks of Assembly take this to mean that a Declaratory Act does not change the law, but states an understanding, or an interpretation of church law. By stating an understanding, or giving an interpretation of a particular law, that law would therefore be clarified for those that need to apply it. This understating is supported by the legislation around the Barrier Act, which is the process our church has to change church law, doctrine, or government.

The Clerks, by reviewing the past 15 Declaratory Acts passed by General Assemblies (since 1992), have been able to assess the last 23 years of decisions in this regard.

Most Declaratory Acts in this period represent well the plain understanding of section 293.

A 2014 Declaratory Act clarifies that ministers must retire in order to receive a church pension. In 2008, an Act describes what qualifies as an 'audit' of church financial statements. This was to make it clear that there is distinction between the technical meaning in financial circles and the expected practice within the church.

In 2001 a Declaratory Act clarified how a motion to refer should be dealt with.

In 1998, a Declaratory Act stipulated that a 75% majority is necessary to made the decision for a synod to function by commission. One could argue that instead of affirming an understanding of the law, this amended existing legislation, since, in the absence of any exceptional legislation, decisions of church courts can always be passed by a simple majority vote. This is an example of a Declaratory Act amending, to an extent, an existing law. In the absence of this Declaratory Act, the law of the church would still be that a simple majority would be sufficient. This, in the view of the Clerks of Assembly, is not a good application of a Declaratory Act. An addition to legislation would have been preferred.

In 1993, a Declaratory Act clarified that both active and inactive members of the Order of Diaconal ministers are eligible to be on the roll of a presbytery, and in 1992, an Act clarified that such ministers are to be on the rotation as commissioners to General Assembly. This, in the view of the Clerks of Assembly is another good example of a Declaratory Act since the legislation had already been passed making members of the Order members of church courts.

One anomaly in this 23 year history of Declaratory Acts, at least in the view of the Clerks of Assembly, is the Declaratory Act passed in 2001 regarding the Westminster Confession of Faith and the Pope, in which the church distanced itself from derogatory theology applied to the pope in the Westminster Confession. While it was an utterly appropriate distancing for our church to make, it is hard to argue that it does not change the doctrine of a subordinate standard, even if that doctrine was not held by the vast majority of our ministers and elders. The Clerks of Assembly see this as a convenient, but not particularly appropriate, use of a Declaratory Act.

Conclusion

While past General Assemblies seem to have occasionally passed Declaratory Acts that may have verged on changing doctrine or law rather than simply interpreting it, the Clerks of Assembly stand by a plain interpretation of section 293, namely that a Declaratory Act ‘affirms what a General Assembly understands to be the law of the church regarding any particular matter’. The Clerks of Assembly would advise this and future Assemblies against passing Declaratory Acts that introduce new or revised legislation or doctrine into the life of the church.

Recommendation No. 3 Adopted/Defeated/Amended

That the above definition of the scope and purpose of a Declaratory Act be the response to Memorial No. 1, 2015.

OVERTURE NO. 3, 2016 (p. 28.1.1–2)**Re: Barrier Act and an individual’s dissent**

The Barrier Act has been used as a method of discernment by The Presbyterian Church in Canada since 1877. The purpose of the Barrier Act is to prevent a sudden alteration to the doctrine, worship, discipline or government of the church. It is also meant to encourage prayer, reflection and discussion before a significant change is made to any of these fundamental aspects of the life of the church.

The Barrier Act requires the approval of two General Assemblies and the majority of presbyteries, provided those replying constitute a majority of ministers, members of the Order of Diaconal Ministries and representative elders. The first Assembly remits a matter to the presbyteries for consideration. Presbyteries either express approval or disapproval. The approval or disapproval response from each presbytery is sent to the General Assembly Office accompanied by the total number of presbyters on the constituent roll of the presbytery. Presbytery responses are tallied and reported to the second General Assembly. If the majority of presbyteries express approval, that second General Assembly may adopt the proposal so that it becomes part of the life of the church. If the majority of presbyteries express disapproval, the second General Assembly must reject the proposal but may remit it, or an amended version, again to the presbyteries. (Book of Forms section 293.3)

Overture No. 3, 2016 accurately notes that if a member of presbytery votes against approving a remit, that presbyter may ask to have his or her dissent recorded in the presbytery minutes. The overture goes on to express concern that even though the member expresses dissent, that member is included in the total number on the roll of the presbytery that supports the overture.

It is important to understand that counting the constituent membership of a presbytery is not a means of determining how many individuals approve or disapprove a particular remit during the Barrier Act process. It is a way of ensuring that at least half of all members of all the presbyteries are represented in the vote on a particular proposal. An individual’s dissent to a specific decision is intended to be handled by the court in which the vote was held.

While it is important for a presbytery to honour the right of a presbyter to record dissent, that dissent does not figure into the calculation of support for a remit at that point in the process. Since the Barrier Act process is based on the vote of the presbytery and not the individual, the Clerks are of the opinion that it is unnecessary to amend the legislation.

Recommendation No. 4 Adopted/Defeated/Amended

That Overture No. 3, 2016 re Barrier Act and an individual’s dissent be answered by the above response.

DECLARATORY ACT**MINISTER OF WORLD COMMUNION OF REFORMED CHURCHES PRESIDING AT THE LORD’S TABLE**

In response to Overture No. 4, 2014 and on a recommendation of the Committee on Church Doctrine, the 2015 General Assembly affirmed that ‘...ordained ministers of churches which are members of the World Communion of Reformed Churches are permitted to preside at the Lord’s Table at the discretion of the moderator and interim moderator of the relevant session’. (A&P 2015, p. 255)

Because the Assembly agreed that this is an affirmation of existing law and practice and not a new piece of legislation that would require being sent to presbyteries under the Barrier Act, the Clerks of Assembly believe it is an appropriate matter to be the subject of a Declaratory Act (see p. 7.1.5–6 re the scope and purpose of a Declaratory Act). By adopting a Declaratory Act on this issue, it can be easily referenced in the Book of Forms whenever the question of who can preside at the Lord's Table arises.

The pertinent legislation regarding the regulation of presiding at the Lord's Table is found at Book of Forms section 198.1:

198.1 It belongs to the presbytery to regulate matters concerning the performance of public worship and the administration of the sacraments, within its bounds. It must take cognizance of practices inconsistent with the laws and settled usage of the church. It should enjoin the discontinuance of novel practices calculated to cause division or strife in any congregation.

Recommendation No. 5 Adopted/Defeated/Amended

That the following Declaratory Act regarding the eligibility of ministers of member churches of The World Communion of Reformed Churches to preside at the Lord's Table be added to Book of Forms section 198.1.

Ordained ministers of churches that are members of the World Communion of Reformed Churches are permitted to preside at the Lord's Table at the discretion of the moderator or interim moderator of the relevant session. (A&P 2015, p. 255)

BOOK OF FORMS PROPOSALS

BOOK OF FORMS SECTION 12.1

Dissent when absent from the court – deletion

Book of Forms section 12, states that a member of a court (session, presbytery, synod or General Assembly) is not to withdraw from attendance without the permission of the court. Subsection 12.1, explains that if the member leaves the court without permission, the member is not permitted to dissent from any decision arrived at while absent.

12. A member of the court ought not to withdraw from attendance without leave.

12.1 If he/she does so, he/she cannot dissent from any decision of the court arrived at in his/her absence.

The Clerks of Assembly believe section 12.1 should be deleted from the Book of Forms because it is inconsistent with the legislation on dissent as found in section 91.

91. Any member of a court who has voted on a question and is not satisfied with the decision is entitled to have his/her dissent recorded. By so doing he/she relieves himself/herself from responsibility for the decision and saves himself/herself from censure on account of it. The dissent must be given in when the decision is announced. Reasons for dissent may be given in at that time or within ten days. If in proper language, they are entered in the minutes. When deemed necessary the court prepares answers that are disposed of by being entered in the appropriate minutes.

Section 91 states that only a person who has voted on a question is entitled to have a dissent recorded and the dissent must be given when the decision is announced. If a person is absent from the court when the decision is made and announced, the person could not have voted on the matter nor submit a dissent. This is consistent with the church's belief that God's spirit speaks to us in community. We pray, think, speak and listen together as a way of discerning the mind of Christ for the church. It stands to reason that a person ought to be aware of the discussion that has gone into a decision before the person can offer dissent.

The Clerks are of the opinion that the reasons for the deletion of section 12.1 are self evident and does not require the time and attention of the church to study the matter further and report back to a future Assembly. Therefore, the Clerks make the following recommendation.

Recommendation No. 6 Adopted/Defeated/Amended

That Book of Forms section 12.1 be deleted.

BOOK OF FORMS SECTIONS 65–80.2**Petitions, Memorials and Overtures – revision**

The Clerks of Assembly reported to the 2015 General Assembly that there is some confusion in the church regarding the meaning and use of overtures, petitions and memorials. The confusion mostly relates to petitions and memorials but also stems from the somewhat disorganized manner in which this section of the Book of Form is set out. The Clerks of Assembly were granted permission to circulate proposed legislation designed to simplify and clarify this portion of the church's governance.

The proposed legislation describes the overture in four paragraphs.

1. The definition of an overture.
2. Who may initiate an overture.
3. The information an overture should include.
4. How an overture is transmitted from one court to another.

The legislation provides the same information for a petition.

By way of a reminder, an overture is a formal proposal to a church court requesting a change in legislation, doctrine, policy or another action that is of general interest. A petition is a formal request made to a church court initiating specific business concerning the petitioners.

Because a memorial, which is a submission of facts presented to a court, is rarely used and its purpose can easily be fulfilled by either an overture or a petition, the Clerks of Assembly are of the view that no harm would be done, and greater clarity gained, if the church discontinued the use of memorials in the Book of Forms.

The legislation was sent to the church for its consideration. Feedback was encouraged. A total of 17 presbyteries and 13 sessions offered comments. One presbytery noted, "The proposed changes would clarify and simplify the rules regarding the courts of the church use of these two important vehicles for change." Fourteen (14) other presbyteries and all the sessions echoed this opinion. Only two presbyteries indicated a concern about the removal of memorials.

The Clerks believe nothing of the original legislation is lost in this proposal and significant clarity is gained. In view of the enthusiastic support of 28 of 30 responses, no changes have been made this year to the proposed legislation.

Current Book of Forms section 80.2 reads as follows:

80.2 The Clerks of Assembly and other agencies, committees and task forces of the Assembly are instructed to ensure that all study papers, referrals and questionnaires addressed to presbyteries and/or sessions are in the hands of the respective clerks three full months in advance of the deadline for response back to the agency, committee or task force of General Assembly. (see Appendix A–6)

(Note for information: Appendix A–6 is a template for a presbytery response to a General Assembly referral. Appendix A–7 will be revised to provide overture and petition templates for the use of the church.)

Since this section relates to a broad range of papers that may be submitted to the General Assembly, and not just overtures and petitions, the Clerks recommend that it become a new section 300 in the General Assembly chapter of the Book of forms.

Recommendation No. 7 Adopted/Defeated/Amended

That the following revision of Book of Forms sections 65–80.2, regarding overtures and petitions, be approved and remitted to presbyteries under the Barrier Act.

OVERTURES**Definition**

65. An overture is a formal proposal to a church court requesting a change in legislation, doctrine, policy or another action that is of general interest. It cannot be used in place of judicial process. The request, if granted, must be within the jurisdiction of the court to which it is addressed, and would be binding on all within the jurisdiction of that court.

Initiation

66. Anyone may prepare an overture, but it must be adopted by a court of the church in order for it to be considered by the court to which it is addressed.

Form

67. An overture must be in respectful language and it should contain: the name of the court to which it is addressed, the rationale for the proposal and the proposal itself. If addressed to the General Assembly, the overture may also contain a request that it be referred to a particular standing committee for consideration in advance of the next General Assembly. The General Assembly may change the referral.

Transmission

68. Once a court has adopted an overture, a motion must be adopted to transmit it to the court to which it is addressed. This is normally the General Assembly. Overtures from presbyteries and synods may be transmitted directly to the General Assembly. Session overtures must be transmitted through the presbytery. The presbytery transmits the overture with one of the following designations: with approval, with disapproval or without comment. If the transmission is refused on grounds of not being in proper form the overture shall receive no further consideration unless those presenting the overture amend it for resubmission or commence a corrective case (see sections 381ff).

69. An overture intended for the General Assembly that contains a request for referral is to be sent by the clerk of the lower court to be received by the Clerks of Assembly by February 1 so that the committee to which it is referred has time to consider it before its report to the General Assembly is due. If no referral is requested it must be received prior to April 1 and the General Assembly will determine how it shall be considered or where it shall be referred.

70. An overture received by the Clerks of Assembly after April 1 will be held for the next General Assembly with the provision that the court initiating the overture may request that it be referred to a standing committee in the meantime.

PETITIONS

Definition

71. A petition is a formal request made to a church court initiating specific business concerning the petitioners. A petition is one of the primary ways that members of the church have access to the courts of the church. A petition may begin, but not replace judicial process (see sections 324–392).

Initiation

72. A petition may be made by a lower court, or by one or more church members. A petition must be presented to the lowest court that has oversight of the petitioners and a petition by members of the church must first be presented to their session.

Form

73. A petition must be in respectful language and it should contain: the name of the court to which it is addressed, the rationale for the request and the specific request. The petition may include a request that it be transmitted to a higher court provided that court has jurisdiction in the matter raised in the petition.

74. A petition may not be used to bring the proceedings of a lower court under the review of a higher court. Corrective cases and appeals are used for that purpose.

Reception and Transmission

75. The court to which a petition is presented decides whether to receive or not receive it based on whether or not it is in proper form. If there is no request for further transmission, the court shall decide what action is to be taken. If the petition is received with a request that it be transmitted to a higher court, it shall be sent on with one of the following designations: with approval, with disapproval, or without comment.

76. A petitioner may be given the opportunity to speak in advance of the decision whether or not to receive it and must be given the opportunity to speak to the petition at any court that agrees to receive it.

77. If a court decides to not receive a petition it shall be returned to the petitioner and the matter ends unless the petitioner chooses to amend and resubmit the petition. The petitioner, subject to section 383 regarding standing, may commence a corrective case, but only based on the court's refusal to receive the petition. A petition may be presented directly to a higher court, but only if the lower court refuses to consider the corrective case. The higher court must hear from the lower court before deciding whether or not to receive the petition.

78. Petitions to the General Assembly must be received by the Clerks of Assembly prior to February 1.

79. When considering how to act on a petition, a court may give any who might be affected by the petition the opportunity to be present.

80. Deleted

80.1 Deleted

80.2 Added to section 300.

Recommendation No. 8 Adopted/Defeated/Amended

That Book of Forms section 80.2 become the new section 300 as follows:

300. The Clerks of Assembly and other agencies, committees and task forces of the Assembly are instructed to ensure that all study papers, referrals and questionnaires addressed to presbyteries and/or sessions are in the hands of the respective clerks three full months in advance of the deadline for response back to the agency, committee or task force of General Assembly. (see Appendix A-6)

BOOK OF FORMS SECTION 312

Distribution of Acts and Proceedings – amendment

In a spirit of careful stewardship, following the 2015 Assembly, paper copies of the Acts and Proceedings were only provided to those who purchased them.

Compact disks, containing the complete Acts and Proceedings since 1980 and General Assembly minutes from 1925 to 1979, the Book of Forms, Living Faith (English, French and Korean) and the Social Action Handbook are sent to ministers, members of the Order of Diaconal Ministries, others on the constituent roll and to each congregation. Additional disks are available upon request. While relatively inexpensive, this method of circulating the Acts and Proceedings is becoming obsolete as many new computers do not include CD drives.

It is possible for the Acts and Proceedings to be stored on a jump drive (also known as a flash drive, USB drive, memory stick). This method of production and distribution would naturally involve some expense. No decision on this option has been made to date.

The easiest and least expensive way to access the Acts and Proceedings is by downloading it from Presbyterian.ca. The Acts and Proceedings from 1990 to the present are available online. All the other resources, included on the compact disk mentioned above, are also available online.

The current legislation related to the distribution of the Acts and Proceedings states that one copy of the General Assembly minutes will be "sent by mail" to specific recipients as stated below.

312. One copy of the minutes shall be sent by mail, when issued, to each minister and member of the Order of Diaconal Ministries, and to each retired minister, also to each session in all congregations that have contributed to the Assembly fund during the year then preceding.

In order for the legislation to match the current and future reality of distribution, the Clerks of Assembly propose a revision to section 312. Since this is an administrative issue and not a fundamental change in the law of the church, the Clerks are of the opinion this decision can be made by this Assembly.

Recommendation No. 9 Adopted/Defeated/Amended

That Book of Forms section 312 be amended to read as follows:

312. The Clerks of Assembly shall be responsible for producing the minutes of the General Assembly and making them available to the church.

BOOK OF FORMS APPENDIX K – ADDED

The Special Committee re the Optional Elimination of Synods reported to the 2015 General Assembly. The recommendations of that committee were adopted. One of those recommendations stated that if the legislation found in Remit B, 2015 (see p. 19.1.1–2) is adopted by the 2016 General Assembly, then Appendix K will be added to the Book of forms. Appendix K outlines an orderly process for considering and achieving the dissolution of a synod.

Appendix K was included in the committee's report to the 2015 General Assembly. During the intervening year, the Clerks noted that section 3 of the appendix could be improved. Formerly, it read:

3. Synod forwards the presbytery approved dissolution plan to General Assembly for final approval.

The Clerks have amended the sentence as follows:

3. Synod reviews the dissolution plan and, if necessary, amends it. The synod then forwards the plan to the General Assembly, through the Committee on Bills and Overtures, for final approval.

Therefore, if Remit B, 2015, is approved by this Assembly, the following, slightly amended Appendix K will be added to the Book of Forms.

APPENDIX K**PROCEDURES FOR THE DISSOLUTION OF A SYNOD**

1. Synod prepares a dissolution plan including but not limited to:
 - A. Preamble summarizing the process followed by the synod leading to the decision to seek dissolution.
 - B. Transfer of all assets or liabilities under its control to a presbytery or presbyteries within its bounds.
 - C. Transfer of responsibility for staff, property and collaboration on any current or proposed programs to a presbytery or presbyteries within its bounds.
 - D. Transfer of all necessary synod budget items to a presbytery or presbyteries within its bounds.
 - E. A plan for the annual inter-presbytery attestation of minutes (Book of Forms section 32).
 - F. A formula for redistributing synod appointments to Assembly Council from among the presbyteries within its bounds.
 - G. A formula for redistributing synod appointments to the Committee to Nominate Standing Committees (Book of Forms section 288.1)
 - H. Consultation with the Life and Mission Agency on funding for the synod's regional staff or other synod grants.
 - I. A formula for collaboration among the presbyteries on future requests for amendment to the plan by General Assembly.
 - J. Any other matters deemed necessary.
2. Synod forwards the plan to the presbyteries within its bounds for consideration. Presbyteries will report back to the synod indicating approval, requested amendments, or disapproval after consulting with the congregations within their bounds.
3. Synod reviews and amends the dissolution plan and forwards it to the General Assembly, through the Committee on Bills and Overtures, for final approval.
4. General Assembly considers the dissolution plan and may grant dissolution with a specific date to become effective or refer the plan back to the synod.
5. Following the approval by the General Assembly, the synod shall, through signing officers, effect the necessary transfers and proceed with closing bank accounts, removing signing officers, revoking charitable status (if in place) and any other legal matters that need to be brought to conclusion.

6. Synod minutes and official reports shall be transferred to the Archives of The Presbyterian church in Canada and any legal documents transferred to the body accepting responsibility.

BOOK OF FORMS SECTIONS 252 AND 373

When the Special Commission re Appeal No. 1, 2015 rendered its judgment on March 21, 2016 (see p. 20.1.1–6), the commission made the following observation in the analysis portion of its report. “The commission notes that the two sections of the Book of Forms which deal with deposition, 252 and 373, are not consistent in terms of the grounds which are cited...The commission would suggest that these sections should be examined by the Clerks of Assembly with a view towards obtaining consistency between them.”

The Clerks appreciate the careful attention of the commission. They will consider this suggestion with a view to offering a recommendation on the matter to the 2017 General Assembly.

CONSULTATIONS

The Clerks of Assembly, as directed by the General Assembly, have consulted with the authors of the following reports.

2015 General Assembly Special Commission

Appeal No. 1, 2015 (A&P 2015, p. 612, 249, 17) re appeal against the actions and censure of the Presbytery of Brampton against the Rev. Edward Dowdles. See report p. 20.1.1–6.

Assembly Council – Overture No. 3, 2015 (A&P 2015, p. 573, 216, 24).

Re: Committee re General Assembly budget and arrangements. See report p. 2.1.26.

Assembly Council – Overture No. 2, 2016 (A&P 2016, p. 28.1.1)

Re: Timeline regarding overtures relating to human sexuality

Referred to Assembly Council to consult with Clerks of Assembly. See report p. 2.1.29–31.

RESPONSIBILITIES OF THE CLERKS OF ASSEMBLY

The Clerks of Assembly are deeply involved in each General Assembly. Before the Assembly, the Clerks assist with the collection and distribution of reports to be considered by the Assembly and set the provisional agenda. During each business session (sederunt), they record minutes and advise the Moderator on procedure. After each sederunt, they prepare draft minutes that are distributed to commissioners. Once the Assembly is dissolved, the Clerks complete The Acts and Proceedings and review evaluations. The Acts and Proceedings contains the minutes of Assembly, reports to the Assembly, field reports from staff of International Ministries and Canadian Ministries, statistical information regarding congregations, presbyteries and synods, the names and addresses of professional church workers, and contact information for congregations and camps. As of 2014, paper copies of the Acts and Proceedings are not automatically distributed to presbyteries but may be purchased through the national office Resource Centre. The Acts and Proceedings are available online at presbyterian.ca. An annually produced CD-ROM contains the full Acts and Proceedings from 1980 to the present, the minutes of each General Assembly from 1925 through to 1979, along with the current version of the Book of Forms, Living Faith (English, French and Korean) and the Social Action Handbook. Following the Assembly, the Principal Clerk informs the lower courts of matters referred to them by the General Assembly.

Orientation for Commissioners and Young Adult Representatives

Resources are available from the General Assembly Office to help presbyteries prepare commissioners for the General Assembly. Mr. Muir sends orientation resources directly to first-time commissioners prior to the Assembly and, during the Assembly, he and Ms. Terrie-Lee Hamilton, Senior Administrator in the Assembly Office, co-host a question-and-answer meal for first-time commissioners. Prior to the Assembly, they also led a webinar for commissioners, hosted by the Rev. Dr. Ross Lockhart of St. Andrew’s Hall. The Principal Clerk provides procedural orientation sessions for commissioners during one of the first sederunts. The Clerks of Assembly also meet with the Young Adult Observers to discuss what they might experience at the Assembly.

Support to Sessions, Presbyteries and Synods

The General Assembly Office serves all the courts of the church, and provides support for standing committees and special commissions of the General Assembly. Sessions are served by *Equipping For... Eldership*. This resource is

sent to congregations three times annually in the PCPak. Copies of issues dating back to February 2002 are available on The Presbyterian Church in Canada website (presbyterian.ca). Presbyteries and synods are served by the Clerks' Corner, an online source of frequently requested resources, as well as by workshops led by the Clerks as time permits. Every two years, the Clerks of Assembly invite all clerks of presbytery and synod to a consultation. The consultation affords an opportunity for clerks from across Canada to worship, exchange ideas, discuss governance matters, receive updates on church policies, and meet national office staff in an unhurried retreat atmosphere.

COMMISSION RE MATTERS LEFT UNCARED FOR OR OMITTED

Special Committee re Pension Solvency Funding

The commission met by correspondence on Monday, September 21, 2015 and approved two requests from the 2015 General Assembly's Special Committee re Pension Solvency Funding. The first request was to permit appointee, Mr. Ken Heckbert, to participate on this committee by correspondence. The second was to add Ms. Joyce Harrison to the committee.

Synod of British Columbia – Minutes

The minutes of the 2012 and 2013 Synod of British Columbia meetings were not presented to the General Assembly for attestation. The 2015 General Assembly agreed that these minutes be submitted for attestation to this commission. (A&P 2015, p. 45, Committee to Examine the Records, Rec. No. 3). The commission met by correspondence on Thursday, April 7, 2016 and the minutes were attested as neatly and correctly kept.

The commission is made up of the Clerks of Assembly and the Moderator of the 2015 General Assembly. (A&P 2015, p.45)

Stephen Kendall, Don Muir, Tony Plomp
Clerks of Assembly