

How the New Form of Government* Would Harm Congregations

As long as the congregation is free to continue its life and ministries, the average Presbyterian has little interest in what happens at the denominational level. However, the proposed new Form of Government (nFOG) would bring about significant negative changes at the congregational level. That is because though purporting to create a denomination more “focus[ed] on the mission of God,” the nFOG in fact would create a more centralized, hierarchical governance in our denomination. The results would include limiting the powers of the session so that funding by sessions of the denomination’s mission budget as well as fully funding the per capita budget would become mandatory. The session would no longer have the responsibility and power to determine the mission of the congregation, but instead would be responsible for leading the congregation in the denomination’s mission as determined by the higher governing bodies in the hierarchy of the denomination. The nFOG would also create a more powerful, but less clearly-defined role for the presbytery in the process for calling pastors.

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1. The effect of changing the meaning of words

The most insidious way in which significant changes are incorporated into the nFOG is by redefining the word “church.” In the current Form of Government, the word “church” can mean a congregation, the denomination, or the wider church, depending on the context in which the word is used. A footnote on the first page of the nFOG, however, specifies that **in the nFOG the lower-case word “church” always means the denomination:**

Throughout this document [The Foundations of Presbyterian Polity] and the Form of Government, the capitalized term “Church” refers to the Church Universal, the Church as it is

* A proposed new Form of Government is coming to the General Assembly in July 2010. The proposal calls for striking the entire Form of Government section in our *Book of Order* and inserting two new documents, Foundations of Presbyterian Polity and a new Form of Government. Items in the “Foundations of Presbyterian Polity” document begin with the prefix “F” and items in the “Form of Government” document begin with the prefix “G.” In this paper, both documents are referred to collectively as the “new Form of Government,” or “nFOG.”

called to be in Christ; the lower-case term “church” refers to denominations, except as part of a title (i.e. Presbyterian Church (U.S.A.)). In place of the vernacular use of “church” to denote a congregation of believers, the term “congregation” is used.

Therefore, in cases where the **wording** of the current Form of Government is retained in the nFOG, the **meaning** can be totally different. The phrase “supporting the mission of the church” is carried over to the nFOG, but in the nFOG, as the excerpt above shows, it is specifically defined to mean “supporting the mission of the denomination.”

2. The effect of other changes in terms currently in common use

In our current *Book of Order*, “office” means the ordained office of deacon, elder, or minister of the Word and Sacrament. In the nFOG “**ordered ministry**” replaces “**ordained office**,” so in the nFOG deacons, elders and ministers are no longer referred to as “officers.”

Our current Form of Government also uses the term “officers of governing bodies.” (G-9.0201 “Officers of each of the governing bodies shall be a moderator and a clerk. Governing bodies may provide additional officers as required.”) In the nFOG, “**officers**” refers *only* to “**officers of governing bodies**.”

In nFOG terminology, “deacon” remains as “deacon,” “**ruling elder**” replaces “**elder**,” and “**teaching elder**” replaces “**minister of the Word and Sacrament**.” Our current Form of Government also includes the synonyms “ruling elder” for elder and “teaching elder” for minister (G-4.0301b). Although the titles “elder” and “minister of the Word and Sacrament” are the terms now in common usage, “ruling elder” and “teaching elder” are the terms used in the nFOG.

Another terminology change is that “**council**” replaces “**governing body**.”

In some cases the nFOG would make obsolete nomenclature currently in common use, replacing it with new terms. The new terms would not reflect changes in language used by Presbyterians. Rather, it is the other way around: the nFOG would force new terms on Presbyterians and create confusion over the meaning of the terms.

But the effect would be more than confusion. Relationships, responsibilities, and powers are affected. Using the word “church” when “denomination” is meant is particularly problematic.

In order to help the reader of the nFOG understand the meaning of the altered terminology, when we quote from the nFOG on the remaining pages we will insert the current term in brackets alongside the new nFOG term.

3. The effect on a congregation’s stewardship of tithes and offerings

Under the current *Book of Order* and its authoritative interpretations by the General Assembly Permanent Judicial Commission (GAPJC), a session has complete responsibility and authority over how that congregation’s funds are used. Sessions may voluntarily choose to pay requested per capita apportionments or not to pay them. Sessions may choose the extent to which they will support, or may choose not to support, the denomination’s mission programs. (1)

The current G-10.0102 states,

*The session is responsible for the mission and government of the particular church. It therefore has the responsibility and power . . . to establish the annual **budget**, determine the distribution of the church’s **benevolences**, and order offerings for Christian purposes, providing full information to the congregation of its decisions in such matters.*

The nFOG contains a similar provision, but incorporates several additional provisions which are very different. Among them are those that intend to end voluntary giving by congregations and mandate both per capita and mission giving to the denomination. These are the nFOG provisions related to how a congregation's money would be used:

- nFOG G-3.0205 Finances. “In addition to those responsibilities described in G-3.0113, the session shall prepare and adopt a **budget** and determine the distribution of the congregation's **benevolences**. It shall authorize offerings for Christian purposes and shall account for the proceeds of such offerings and their disbursement. It shall provide full information to the congregation concerning its decisions in such matters.”
- nFOG G-3.0202f Relations with other councils [governing bodies]. “**Sessions have a particular responsibility** to participate in the life of the whole church [denomination] through participation in other councils [governing bodies]. **It is of particular importance that sessions . . . f. send to presbytery and General Assembly requested financial contributions**, statistics, and other information **according to the requirements of those bodies.**”
- nFOG G-3.0113 Finances. “Each council [governing body] **shall prepare and adopt a budget to support the church's [denomination's] mission** within its area . . . “
- nFOG G-3.0106 Administration of Mission. “The funding of mission similarly demonstrates the unity and interdependence of the church [denomination]. The failure of any part of the church [denomination] to participate in the stewardship of the mission of the whole church [denomination] diminishes that unity and interdependence. **All mission funding should enable the church [denomination] to give effective witness in the world to God's new creation in Jesus Christ, and should strengthen the church's [denomination's] witness to the mission of God.** Each council [governing body] above the session shall prepare a budget for its operating expenses, including administrative personnel, and may fund it with a per capita apportionment among the particular congregations within its bounds. Presbyteries are responsible for raising their own funds and for raising and timely transmission of funds to their respective synods and the General Assembly. Presbyteries may direct per capita apportionments to sessions within their bounds.”

The nFOG retains a provision that the session shall adopt a budget and determine the distribution of the congregation's benevolences, but the additional provisions in the nFOG cause serious concern. The one provision that is carried over will, if the nFOG is approved, be interpreted in the context of the three new provisions in the nFOG which state that *all* mission funding should support the denomination's witness, that the session *shall* prepare and adopt a budget to support the denomination's mission within its area, that sessions have a *particular responsibility* to participate in the life of the whole denomination and it is *of particular importance* that sessions “*send to presbytery and General Assembly requested financial contributions . . . according to the requirements of those bodies,*” a phrase incorporated into the same sentence as sending statistical information. It is apparent that “benevolences” will be interpreted in a more narrow way in the nFOG and that the authority of a session to determine how the congregation's money is spent will be restricted since each session will be required (“*shall*”) to support the denomination's mission budget and, by the only logical application of nFOG G-3.0202f, sessions will be required to fully support the per capita budget as well.

In an ideal church, of course each session would want to support the denomination's per capita and mission budgets. The reality in our denomination at the present time, however, is that many higher governing bodies have strayed so far from the biblical and confessional understanding of the faith that they are supporting organizations and programs (with both the per capita and mission budgets) which many sessions find antithetical to the true mission of Christ's Church. Although previous General Assemblies have rejected overtures that would make per capita funding mandatory, the effect of the nFOG's new language would be to compel sessions to use the congregation's funds to support work

which many sessions believe directly opposes the teaching of Scripture and the Confessions of the denomination.

4. The effect on the mission of the congregation

The current G-10.0102 states “*The session is responsible for the **mission and government** of the particular church. It therefore has the responsibility and power . . . c. to lead the congregation in participation of the **mission of the whole Church** in the world, in accordance with G-3.0000;*”

In the nFOG, these most basic principles are overturned:

- nFOG G-3.0201 “The **session shall have responsibility for governing the congregation** and guiding its witness to the sovereign activity of God in the world, so that the congregation is and becomes a community of faith, hope, love, and witness.”
- nFOG G-3.0201c “. . . the session has responsibility and power to . . . lead[ing]the congregation in participating in the **mission of the whole church [denomination]**”

The current Form of Government specifies that the session is responsible for the *mission and government* of the congregation. In the nFOG, “mission” has been deleted. The nFOG is careful to distinguish between “witness” and “mission.” The session’s responsibility for the “mission” of the congregation is gone leaving a weak substitute responsibility only to “guide” the congregation’s “witness.”

The current Form of Government, in the provision quoted from G-10.0102, capitalizes the word “Church,” therefore the current Form of Government is clearly speaking of the session’s current responsibility and power to lead the congregation in participation in the mission of the *Church* universal. When incorporating this language into the nFOG, the authors of the nFOG specifically removed the capitalized word “Church” and replaced it with the lower-case word “church,” which changes the meaning to the session having the *responsibility* to lead the congregation in participating in the mission of the *denomination*.

The nFOG provides that “The jurisdiction of each council [governing body] is limited by the express provisions of the Constitution, with the acts of each subject to review by the next higher council [governing body]” (nFOG G-3.0101). “Powers not mentioned in this Constitution are reserved to the presbyteries” (nFOG G-3.0101). This language is currently found in G-9.0103. Therefore, both the current Form of Government and the nFOG state that while the presbytery has all powers not mentioned in the constitution, the *session has only those powers specifically granted to it by the “express provisions of the constitution.”*

Both by omitting “the session is responsible for the mission . . . of the congregation” and by explicitly requiring the session to lead the congregation in the denomination’s mission, the effect of the nFOG is to remove from the session the responsibility and power to determine the congregation’s mission. Loss of the session’s responsibility and power to determine the *mission of the congregation* is a striking change in our polity and a gutting of the powers of the session.

5. The effect on the relationship between governing bodies

The current G-9.0103 says,

*All governing bodies of the church are united by the nature of the church and share with one another responsibilities, rights, and powers as provided in this Constitution. The governing bodies are **separate and independent**, but have such mutual relations that the act of one of them is the act of the whole church performed by it through the appropriate governing body. The jurisdiction of each governing body is limited by the express provisions of the Constitution, with powers not mentioned being reserved to the presbyteries, and with the acts of each subject to review by the next higher governing body.*

This contrasts with two similar provisions in the nFOG, one in the “F” section and one in the “G” section:

- nFOG F-3.0203 “. . . All councils [governing bodies] of the church [denomination] are united by the nature of the church [denomination] and share with one another responsibilities, rights, and powers as provided in this Constitution. The councils [governing bodies] are **distinct**, but have such mutual relations that the act of one of them is the act of the whole church [denomination] performed by it through the appropriate council [governing body]. The larger part of the church [denomination], or a representation thereof, shall govern the smaller.”
- nFOG G-3.0101 “. . . All councils [governing bodies] of the church [denomination] are united by the nature of the church [denomination] and share with one another responsibilities, rights, and powers as provided in this Constitution. The councils [governing bodies] are **distinct**, but have such mutual relations that the act of one of them is the act of the whole church [denomination]. The jurisdiction of each council [governing body] is limited by the express provisions of the Constitution, with the acts of each subject to review by the next higher council [governing body]. Powers not mentioned in this Constitution are reserved to the presbyteries.”

In the 1992 case *Session of Central Presbyterian Church v. Presbytery of Long Island* (Remedial Case 204-5), the General Assembly Permanent Judicial Commission (GAPJC) ruled that under our current Form of Government, a presbytery could not punish a session or congregation because of the session’s failure to pay per capita funds. In that decision, the GAPJC’s findings described our governance under the current Form of Government as a system in which each governing body has its defined sphere of authority and responsibility. In its decision, the GAPJC wrote:

These issues go to the heart of our Presbyterian system of church governance. Our system is unique. It neither imposes decisions from the top down nor allows particular churches to operate in a vacuum. . . . While our Book of Order speaks in terms of “higher governing bodies,” we acknowledge that our system contemplates a partnership of church governance in which each governing body has responsibilities, exercises authority, and carries out mission in particular areas (G-9.0103).

Our current governance is one in which governing bodies are “separate and independent” (G-9.0103) and each “has responsibilities, exercises authority, and carries out mission in particular areas.” The nFOG would create a hierarchical structure in which, instead of being described as “*separate and independent*,” the different governing bodies are described as only “*distinct*.” In his paper “What is Missional Ecclesiology?” (available on the PC(USA) website as a resource for the proposed new Form of Government), Paul Hooker, one of four persons on the “writing team” of the task force which wrote the nFOG, explains in the section defining “missional polity”:

As sessions guide and *govern* the work of congregations, as presbyteries nurture, guide, and *govern* the work of sessions, and as synods and the General Assembly support and *govern* the work of presbyteries, they do so under the rubric of these essential tasks.

The differences in the language are subtle, but they have significant implications for our denomination’s polity. In Hooker’s description of “missional polity,” each governing body is to “*govern*” the one below it. This is completely different from our current polity in which each governing body is “*separate and independent*” and operates in its constitutional sphere of authority and in which the acts of each governing body are only *subject to review by the next higher governing body* to ensure compliance with constitutional requirements. Hooker also illustrates use of the word “distinct” in the “missional polity” section of the paper: “Just as the being of the Triune God is relational in nature—with the Father, Son, and Spirit *distinct* yet bound forever as one—so also is the basic nature of Christian life relational.”

In examining the provisions of the nFOG, the careful reader can see how the application of these ideas results in a centralized, top-down governance, with the session at the bottom of the structure, following instructions from and sending required financial support to the higher governing bodies.

6. *The effect of higher governing bodies on a congregation's mission*

The current Form of Government makes the session “*responsible for the mission and government*” of the congregation (see “The effect on the mission of the congregation” section above).

The responsibility for mission is very different in the nFOG:

- nFOG G-3.0501a “. . . the **General Assembly** has responsibility and power to: . . . **establish[ing] a comprehensive mission strategy and priorities for the denomination.**”
- nFOG G-3.0401a “Synod is responsible for the life and mission of the church [denomination] throughout its region and for supporting the ministry and mission of its presbyteries as they seek to support the witness of congregations, to the end that the church [denomination] throughout its region becomes a community of faith, hope, love, and witness. . . . the **synod** has the responsibility and power to: . . . This responsibility may include **developing, in conjunction with its presbyteries, a broad strategy for the mission of the church [denomination] within its bounds and in accord with the larger strategy of the General Assembly.**”
- nFOG G-3.0402 “. . . The synod has responsibility for supporting the work of the presbyteries within its bounds and as such is charged with: a. developing in conjunction with its presbyteries, joint plans and objectives for the fulfillment of mission, providing encouragement and guidance to its presbyteries and overseeing their work;”
- nFOG G-3.0301c “. . . the **presbytery** has responsibility and power to: . . . **assist[ing] congregations in developing mission and participating in the mission of the whole church [denomination];**”
- nFOG G-3.0303 “Presbytery. . . has a particular responsibility to coordinate, guide, encourage, support, and resource the work of its congregations for the most effective witness to the broader community. In order to accomplish this responsibility, the **presbytery has authority to: a. develop strategy for the mission of the church [denomination] in its district.**”
- nFOG G-1.0101 “The Mission of the Congregation. The **congregation is the church [denomination] engaged in the mission of God in its particular context.** . . .”

So the strategy and priorities for mission under the nFOG go from General Assembly, to synod, to presbytery, to congregation. So that covers everything, right? Is anything missing? Oh, yes, the session: nFOG G-3.0201c “. . . the **session** has the responsibility and power to: c. . . **lead[ing] the congregation in participating in the mission of the whole church [denomination].**”

But is this really a problem? After all, the current Form of Government (G-11.0103) already states “The presbytery is responsible for the mission and government of the church throughout its geographical district. It therefore has the responsibility and power a. to develop strategy for the mission of the church in its area consistent with G-3.0000; b. to coordinate the work of its member churches, guiding them and mobilizing their strength for the most effective witness to the broader community for which it has responsibility;” The current Form of Government also has corresponding statements for the synod (G-12.0102) and the General Assembly (G-13.0103).

So is the nFOG really any different in regard to mission from the current Form of Government? *It is completely different!* Currently, the General Assembly, synod, and presbytery can conduct their own mission programs *in their constitutionally-assigned scope of authority and responsibility* and they can offer all the strategy and guidance they wish to offer to the sessions, but each session has the authority and responsibility to determine, under the broad description of “The Church and its Mission” in G-3.0000, what the mission of its congregation will be. The nFOG *changes the context completely because it removes the session's responsibility and power to determine the mission of its congregation* and instead requires the session to lead its congregation in the denomination's mission, which is determined by the higher governing bodies. Both the current Form of Government and the nFOG are very clear that powers not mentioned in this Constitution are reserved to the presbyteries and that the powers of sessions (and

synods and the General Assembly) are limited “by the express provisions of this Constitution.” This means that if the Constitution does not expressly give a power to the session, the session does not have that power. The nFOG takes decision-making authority for the congregation’s mission away from the session and gives it to the denominational hierarchy established by the nFOG.

7. *The effect on the leadership of the congregation*

The current G-7.0103 states,

The members of a particular church voluntarily put themselves under the leadership of their officers, whom they elect. The session, which consists of the pastor or co-pastors, the associate pastors, and the elders in active service, is the governing body in a particular church. The law and government of the PC(USA) presuppose the fellowship of women and men with their children in voluntary covenanted relationship with one another and with God through Jesus Christ. The organization rests upon the fellowship and is not designed to work without trust and love.

The current G-4.0104 states,

Each particular church of the PC(USA) shall be governed by this Constitution. Its officers are ministers of the Word and Sacrament, elders, and deacons. Its government and guidance are the responsibility of the session. It shall fulfill its responsibilities as the local unit of mission for the service of all people, for the upbuilding of the whole church, and for the glory of God.

Compare that with the nFOG:

- nFOG G-1.0103f “. . . The members of a congregation **put themselves under the leadership of the session and the higher councils [governing bodies] (presbytery, synod, and General Assembly)**. The session is responsible to guide and govern the life of the congregation. The session leads the congregation in fulfilling its responsibilities for the service of all people, **for the upbuilding of the whole church [denomination]**, and for the glory of God. . .”
- nFOG G-1.0102 “The polity of the PC(USA) presupposes the fellowship of women and men with their children united in covenant relationship with one another and with God. The organization rests on the fellowship and is not designed to work without trust and love.”

Under our current Form of Government, we *voluntarily put ourselves under the leadership of our congregation’s officers (elders and ministers) whom we elect*. The change introduced in the nFOG shows the creation of a *more hierarchical structure* for the denomination. The nFOG removes “voluntarily” and states explicitly that besides being under the leadership of the session, church members are *also under the leadership of the “presbytery, synod and General Assembly.”*

Although the phrase “for the upbuilding of the whole church” is used in both the current Form of Government and in the nFOG, the explicit definition of “church” in the nFOG (defined as meaning the denomination) changes the meaning of the phrase so that instead of its current context of serving all people and building up the worldwide church, under nFOG, the session is to lead the congregation in “fulfilling its responsibilities” for the “upbuilding of the whole denomination.” This is a loss of both ecumenical and evangelistic emphasis.

8. *The effect on membership*

The current G-5.0302 states, “*An active member of a particular church is a person who has made a profession of faith in Christ, has been baptized, has been received into membership of the church, has voluntarily submitted to the government of this church, and participates in the church’s work and worship. . . .*”

Contrast that with the wording in the nFOG:

- nFOG G-1.0402 “An active member is a person who has made a profession of faith in Christ, has been baptized, has been **received into membership of the church [denomination]**, has voluntarily **submitted to the government of this church [denomination]**, and **participates in the church’s [denomination’s] work and worship. . . .**”
- nFOG G-1.0303 “Persons **may enter into active church [denomination] membership** in the following ways:”
- nFOG G-1.0301 “. . . **Baptism** is the visible sign of that call and claim on a human life and of **entrance into the membership of the church [denomination].**”
- nFOG G-1.0304 Membership in the Church of Jesus Christ . . . includes: “. . . **supporting the ministry of the church [denomination]** through the giving of money, time, and talents . . . demonstrating a **new quality of life within and through the church [denomination]** . . . participating in the **governing responsibilities of the church [denomination]** . . . considering **ways in which one’s participation in the worship and service of the church [denomination] may be increased** and made more meaningful.”

The current Form of Government specifies that people are *members of their local congregation* (“member of a particular church”), and we understand the term “church” to have the same meaning throughout that sentence—that members voluntarily submit to their congregation’s session and participate in their congregation’s work and worship.

In the nFOG, however, the focus is totally on the denomination. Persons are received into *membership in the denomination*, submit to the government of the denomination, participate in the denomination’s work and worship, support the ministry of the denomination through giving money, time and talents, demonstrate a new quality of life through the denomination, participate in governing responsibilities of the denomination, and consider ways in which to increase and make more meaningful their participation in the worship and service of the denomination.

9. *The effect on the congregation in context*

The current Form of Government in G-4.0101 and G-4.0102 says,

*The **Church universal** consists of all persons in every nation, together with their children, who profess faith in Jesus Christ as Lord and Savior and commit themselves to live in a fellowship under his rule.*

*Since this whole company cannot meet together in one place to worship and to serve, it is reasonable that it should be **divided into particular congregations. The particular church is, therefore, understood as a local expression of the universal Church.***

Compare these current provisions with the proposed nFOG:

- nFOG G.1.0101 “**The congregation is the church [denomination] engaged in the mission of God in its particular context.** The triune God gives to the congregation all the gifts of the gospel necessary to being the Church. **The congregation is the basic form of the church [denomination]**, but it is not of itself a sufficient form of the church [denomination]. Thus congregations are bound together in communion with one another, united in relationships of accountability and responsibility, contributing their strengths to the benefit of the whole, and are called, collectively, the church [denomination].”
- nFOG G-3.0201 “**The particular congregations of the PC(USA) wherever they are, taken collectively, constitute one church [denomination], called the church [denomination].**”

The current Form of Government places the congregation in the context of the *universal Church*, defining a congregation as “a local expression of the universal Church.” The nFOG is narrowly focused on the *denomination*, viewing the congregation as a local branch of the denomination. In defining the context of a congregation, the nFOG doesn’t express a vision for the congregation’s place in the universal Church of

Christ that exceeds the boundaries of the Presbyterian Church (U.S.A.). Whereas currently the congregation is “understood as a local expression of the universal Church,” under the nFOG “the congregation is the basic form of the church [denomination].” This is another manifestation of the centralized, hierarchical structure introduced in the nFOG.

10. The effect on a congregation’s representation in presbytery

The current G-11.0101 states,

. . . When a presbytery meets, each church shall be represented by an elder commissioned by the session with the following additional provisions: a. Churches with membership over 500 shall be represented as follows: 501-1000--2 elders; 1001-1500--3 elders; 1501-2000--4 elders; 2001-3000--5 elders. From 3,001 members there shall be an additional elder representative for each 1,000 additional active members or major fraction thereof.

The idea behind the current provision is that a presbytery is representative of the membership of the churches within its bounds. Particular churches are thus represented in proportion to the number of their members. Compare that with the nFOG:

- nFOG G-3.0301 “. . . The presbytery shall adopt and communicate to the sessions a plan for determining how many ruling elders [elders] each session should elect as commissioners to presbytery. This plan shall require each session to elect at least one commissioner and **shall take into consideration the size of congregations as well as a method to fulfill the principles of participation and representation** found in F-1.04030 and G-3.0103. . .”

The current guarantee that the number of elder commissioners a session may send to presbytery will be proportionate to the size of the congregation is lost in the nFOG. The nFOG also allows undefined “principles of participation and representation” to determine which elders can participate in presbytery. The presbytery “must take into consideration the size of the congregation,” but that could be accomplished by assigning one elder commissioner to smaller congregations and two elder commissioners to larger congregations. This provision would eliminate fair proportional representation of churches in presbytery.

Since the presbytery is composed of *congregations* and *ministers*, it is only fair that congregations be guaranteed representation in presbytery in proportion to their size. Since presbyteries vote on constitutional amendments and have the authority to establish and dissolve pastoral relationships, every session should be guaranteed the right to have its congregation fully and proportionately represented by elder commissioners to presbytery. The nFOG takes away this guarantee.

11. The effect of requiring pre-approval by presbytery prior to the election of a pastor

The current G-11.0502d [Re: Committee on Ministry] states,

*It [Committee on Ministry] shall counsel with churches regarding calls for permanent pastoral relations, visiting and counseling with every committee elected to nominate a pastor or associate pastor. It shall advise with the committee regarding the merits, availability, and suitability of any candidate or minister whose name is contemplated for nomination to the congregation, and shall have the privilege of suggesting names to the committee. No call to a permanent pastoral relationship shall be in order for consideration by the presbytery unless the church has **received and considered the committee’s counsel** before action is taken to issue a call. (G-14.0530, G-14.0532). A call to a permanent pastoral relationship shall not be issued until it has been approved by the presbytery.*

The current G-14.0532 states,

*The pastor nominating committee shall confer with the committee on ministry as provided in G-11.0502d. When the committee is ready to report to the congregation, it shall notify the session which shall call a congregational meeting in accord with G-7.0303b. **The action of the congregation, if favorable, shall be presented to the presbytery for its concurrence.***

This is very different from the process under the nFOG:

- nFOG G-2.0803 “According to the process of the presbytery and **prior to making its report to the congregation**, the pastor nominating committee **shall obtain approval on the merits, suitability, and availability of those considered for the call**. When the way is clear for the committee to report to the congregation, the committee shall notify the session, which shall call a congregational meeting.”

Currently the presbytery’s Committee on Ministry (COM) *advises* the pastor nominating committee on ministers considered for nomination. The pastor nominating committee must have *received and considered* the COM’s counsel before action is taken to issue a call. Currently, after the congregation has voted to elect the minister who was nominated, the action is “presented to the presbytery for its concurrence.” Under nFOG, presbyteries no longer would be required to have a COM, but instead each would devise its own procedures for how the process would work. However, the one requirement in the nFOG is that the pastor nominating committee shall obtain presbytery *approval* of those to be *considered* for the call *before* a congregational meeting can be called to receive the pastor nominating committee’s report and vote on the nomination. *Under the nFOG, the congregation may only consider ministers the presbytery has pre-approved.*

12. The effect on dissolution of pastoral relationships

The current G-14.0610 says,

*The pastoral relationship between a pastor, associate pastor, and a church may be dissolved only by presbytery. Whether the minister or the church or the presbytery initiates proceedings for a dissolution of the relationship, **there shall always be a meeting of the congregation to consider the matter** and to request, or consent, or decline to consent to dissolution, as provided in G-7.0304a(3).*

The nFOG provision is:

- nFOG G-2.0901 “An installed pastoral relationship may be dissolved only by the presbytery. Whether the teaching elder [minister of the Word and Sacrament], the congregation, or the presbytery initiates proceedings for dissolution of the relationship, there shall always be a meeting of the congregation to consider the matter and to consent, or decline to consent, to the dissolution, **unless the presbytery expressly finds that the church’s [denomination’s] mission under the Word imperatively demands dissolution of the relationship without such a meeting.**”

The nFOG would allow the presbytery to dissolve an installed pastoral relationship without even holding a congregational meeting if the presbytery determined that the “church’s [denomination’s] mission under the Word imperatively demands dissolution of the relationship without such a meeting.”

13. The effect on business allowed at congregational meetings

In the current G-7.0304a, business at congregational meetings is limited to five items. Item 5 is: “**matters related to the permissive powers of a congregation, such as the desire to lodge all administrative responsibility in the session, or the request to presbytery for exemption from one or more requirements because of limited size.**”

Compare that to the nFOG:

- nFOG G-1.0503 Business at congregational meetings is limited to five items, but item 5 is **narrowed to one type of business: “requesting the presbytery to grant an exemption as permitted in this Constitution (G-2.0404).” [which is limits on terms of service for elders and deacons]**

The first four types of business to be transacted at congregational meetings are the same in the current Form of Government and the nFOG (1—electing deacons, elders and trustees; 2—calling pastors; 3—matters related to pastoral calls such as changing terms of call, and requesting, consenting to, or declining to consent to dissolution; and 4—buying, mortgaging or selling real property). The fifth type of business listed in our current Form of Government allows some flexibility by using the phrase “*such as,*” which indicates that what follows are examples rather than a complete listing. The current Form of Government therefore permits congregations to have meetings to conduct some other types of business in addition to those specifically listed.

Under the nFOG, the fifth type of business would be specifically restricted to requesting an exemption from limits on terms of service for elders and deacons. This removal of a congregation’s “permissive powers” limits the scope of the business that can be transacted at a meeting of the congregation. Some have speculated that this loss of “permissive powers” may prevent a session from calling a congregational meeting to vote to sever ties with the denomination. (2)

14. The effect on inclusiveness and ordination standards

The current G-4.0403 states,

*The PC(USA) shall give full expression to the rich diversity within its membership and shall provide means which will assure a greater inclusiveness leading to wholeness in its emerging life. Persons of all racial ethnic groups, different ages, both sexes, various disabilities, diverse geographical areas, different **theological positions consistent with the Reformed tradition**, as well as different marital conditions (married, single, widowed, or divorced) shall be guaranteed full participation and access to representation in the decisionmaking of the church. (G-9.0104ff)*

Compare that with the inordinately expanded inclusiveness requirements in the nFOG:

- nFOG F-1.0403 “The unity of believers in Christ is reflected in the rich diversity of the Church’s membership. In Christ, by the power of the Spirit, God unites persons through baptism regardless of race, ethnicity, age, sex, disability, geography, or **theological conviction**. There is therefore **no place in the life of the Church for discrimination against any person**. The PC(USA) **shall guarantee full participation and representation in its worship, governance, and emerging life to all persons or groups within its membership**. No member shall be denied participation or representation for any reason other than those stated in this Constitution.”
- nFOG G-3.0103 “The **councils [governing bodies] of the church [denomination] shall give full expression to the rich diversity of the church’s [denomination’s] membership** and shall provide for full participation and access to representation in decision-making and employment practices (F-1.0403). In fulfilling this commitment, councils [governing bodies] shall give due consideration to both the gifts and requirements for ministry (G-2.0103) and the **right of people in congregations and councils [governing bodies] to elect their officers** (F-3.0106).”

These provisions drastically expand the range of groups that *shall* be guaranteed full participation and representation in the *governance* of the denomination. Since governance is conducted by elders and ministers of the Word and Sacrament, these provisions address who *shall* be ordained as church officers. Under our present Form of Government the categories of persons that “shall be guaranteed participation” is not considered controversial. G.A.s have rejected previous efforts to expand the categories. Currently the “theological diversity” category is limited to the very broadly-interpreted boundary of “different theological positions consistent with the Reformed tradition.” In the nFOG, however, even this restriction is removed and the requirement is expanded to *any* theological conviction!

The nFOG, in its “Foundational” section (nFOG F-1.0403), reads “*shall guarantee full participation and representation . . . in governance . . . to all persons or groups.*” Since those who engage in unrepentant homosexual practice can be considered a group, this provision implies that the ordination of such persons can be *required*.

This directly conflicts with the “fidelity/chastity” ordination requirement (currently G-6.0106b and retained in the nFOG as G-2.0104b).

Previous proposals for a revised Form of Government, which were rejected by General Assemblies in the 1990s, also contained a “Foundational” section. At that time the Foundational section had a special status and the requirements for amending that section were more demanding than requirements for amending the rest of the *Book of Order*. This nFOG proposal does not define the Foundational section as having any overarching authority; nevertheless, it should not go unnoticed that the requirement to include all groups in governing is found in the “F” (Foundational) section while the fidelity/chastity requirement is in the “G” (Form of Government) section. Based on a weaker and more ambiguous Form of Government, these two sections might well be found to be in conflict that would require resolution by judicial commissions.

15. The effect on church financial records

The current G-10.0401b [the session’s responsibilities for church finances] requires “*The keeping of adequate books and records to reflect all financial transactions, open to inspection by authorized church officers at reasonable times.*”

Under nFOG, this provision becomes:

- nFOG G-3.0205b: “Financial books and records adequate to reflect all financial transactions shall be open to inspection by **authorized church [denomination] officers [moderators, clerks, and other officers of governing bodies]** at reasonable times.”

This is an example in which the current wording is retained, but the meaning of the provision is changed by the redefinition of words in the nFOG. The current provision refers to *authorized deacons, elders and ministers from a congregation* being able to inspect the congregation’s financial books and records. The nFOG wording authorizes *denominational moderators and clerks* (and other officers a governing body might elect, nFOG G-3.0104) to inspect a *congregation’s* financial books and records. This provision inappropriately involves the hierarchical structure of the denomination in responsibilities that the Form of Government (both current and nFOG) assigns to the session.

16. The effect on relationships with higher governing bodies

The current G-10.0102 states, “*The session . . . has the responsibility and power . . . p. to maintain regular and continuing relationship to the higher governing bodies of the church, including . . . (4) observing and carrying out the instructions of the higher governing bodies consistent with the Constitution of the PC(USA).*”

Under nFOG, this is expanded to:

- nFOG G-3.0202c “Sessions have a particular responsibility to participate in the life of the whole church [denomination] through participation in other councils [governing bodies]. It is of particular importance that sessions: . . . c. **see that the guidance and communication of presbytery, synod, and General Assembly are considered, and that any binding actions are observed and carried out;**”

The current Form of Government stipulates that sessions are required to observe and carry out only the instructions of higher governing bodies consistent with the denomination's Constitution. Under nFOG besides being required to carry out "any binding actions" (a vague and undefined term), sessions are also *required to consider* "guidance and communication" of presbytery, synod and General Assembly. This is another example of expanding a centralized, hierarchical structure.

17. The effect on review of session records

The current G-9.0407d states that:

*Every governing body **above a session** shall review the **records of the proceedings of the next lower governing body**. (1) Presbyteries shall review the records of sessions annually. If a session shall fail to submit its records for this purpose, the presbytery shall order them to be produced at a specific time.*

Current G-9.0409a Manner of Review:

*In reviewing the **proceedings** of a lower governing body, the higher governing body shall determine, **either from the records of those proceedings or from any other information as may come to its attention**, whether: (1) The proceedings have been correctly recorded; (2) The proceedings have been **regular and** in accordance with the Constitution; (3) The proceedings have been prudent and equitable; (4) The proceedings have been faithful to the mission of the **whole church**; (5) The lawful injunctions of a higher governing body have been obeyed.*

In the nFOG, this becomes:

- nFOG G-3.0108a General Administrative Review. "Each council [governing body] shall review annually . . . the **proceedings and actions of all entities related to the body, all officers able to act on behalf of the body, and lower councils [governing bodies] within its jurisdiction**. In reviewing the **procedures** of the lower council [governing body], the higher body shall determine whether the proceedings have been correctly recorded, have been in accordance with this Constitution, have been prudent and equitable, and have been faithful to the mission of the **whole church [denomination]**. It shall also determine whether lawful injunctions of a higher body have been obeyed."

While provisions for review of session records are similar (material not in boldface type in the above excerpts is identical in the current Form of Government and the nFOG), the nFOG also provides for an additional, much more comprehensive review by the presbytery. This is described in the following section on "The effect of expanded presbytery review of sessions."

18. The effect of expanded presbytery review of sessions

The nFOG requires each governing body (including each session) to create a "Manual of Administrative Operations," which would be a manual of policies and procedures stating in detail how certain matters not specified in the nFOG would be handled. The following is an excerpt from the advisory handbook (which the General Assembly will be asked to approve) that is included with the nFOG. This excerpt shows the type of review a presbytery would be expected to conduct to give oversight to the sessions to meet the requirements of the nFOG:

Councils [Governing bodies] within our denomination are mutually interconnected. Each council [governing body] has an expansive range of unique responsibilities; however, the life and ministry of each council [governing body] is subject to review by the next higher council [governing body] (G-3.0108). In this review, certain constitutional requirements must be addressed. **What follows is a listing of those areas in which a presbytery is required to or justified in reviewing the work of the session of a congregation**. The purpose of this review is for mutual awareness of and encouragement in mission. The value of review is in shared knowledge rather than meticulous compliance.

- nFOG G-3.0106 “Consultative mission strategy”
“**Has the presbytery initiated discussions with the session as to *mutually beneficial mission activities?***”
- nFOG G-3.0106, G-3.0202 “Participation in the work of the presbytery”
“**Are representatives of the session in attendance as commissioners at meetings of the presbytery? Are reports of meetings given to the session? *Is responsible financial support of the mission of the larger church [denomination] a part of the session’s work? Are any directives from the presbytery properly recorded?***”
- nFOG G-3.0105, G-3.0106, G-3.0203 “Meetings conducted decently and in order”
“**Are docket prepared and material made available for discussion? Is some form of procedure agreed to and followed? Do meetings include opportunity for spiritual reflection and prayer? Has the session approved a quorum for session meeting?**”
- nFOG F-1.0403, G-3.0103 “**Each council [governing body] shall develop procedures and mechanisms for promoting and reviewing its implementation of the church’s [denomination’s] commitment to inclusiveness and representation.**”
“**Has the session developed such procedures and mechanisms?**”
- nFOG F-1.0403, G-3.0103, G-3.0104, G-2.0401 “**Elections in the congregation are to be fair, just, and inclusive.**”
“**Is a nominating process in place that represents the diversity of the congregation and is made up of a majority not currently in active service as ruling elders [elders] or deacons? *Is evidence given of the concerns for diversity being addressed?***”
- nFOG G-2.0402, G-2.0403 “Preparing and examining candidates for ordered ministry [office] and ordaining or installing them”
“**Has the session prepared and examined those elected by the congregation? *Are there criteria to assess their fitness for office?* Was a service of ordination/installation held prior to the beginning of their service?**”

These examples show ways in which the presbytery would be allowed or required to involve itself in what are the prerogatives of the session under the current Form of Government. There is no explanation or limitation on the “directives from the presbytery” that might be issued or imposed on sessions or congregations. Many sessions will find this type and extent of routine presbytery oversight to be intrusive and unwelcome at best.

19. The effect on congregations of changes in presbytery structure

Each presbytery must also create a “Manual of Administrative Operations.” The following are excerpts from the advisory handbook provisions accompanying the nFOG:

- nFOG G-3.0307 “To facilitate the presbytery’s oversight of inquirers and candidates, reception of members, **approval of calls for pastoral services** and invitations for temporary pastoral services, **oversight of congregations without pastors, dissolution of relationships**, dismissal of members, and its **close relationship with both member congregations and teaching elders [ministers of the Word and Sacrament]**, **it may delegate its authority to designated entities within the presbytery . . . composed of ruling elders [elders] and teaching elders [ministers of the Word and Sacrament] in approximately equal numbers, bearing in mind the principles of unity in diversity in F-1.0403. All actions carried out as a result of delegated authority must be reported to the presbytery at its next regular meeting.**” “Are there processes and mechanisms in place for this? Do any new procedures need to be developed? **See separate manuals for preparing for ordered ministry [office] and for relationships between congregations and pastors.**”

Committees which now exist in every presbytery, such as Committee on Preparation for Ministry and Committee on Ministry, would no longer be required in the nFOG. As the section above shows, it would be up to each presbytery to determine what structures that presbytery will have, what powers will be

given to components of those structures, and how those components will interact with congregations in approving pastoral calls, dissolution of pastoral relationships, and other matters related to “relationships between congregations and pastors.” It would be up to ministers, sessions, pastor nominating committees and other congregational bodies to figure out the new structure and how it works. No congregation, minister, or session would be able to assume that what had been the process or policy would continue to be the process or policy under the nFOG.

20. Conclusion

The Form of Government section of our *Book of Order* is so extensive that the items included in this paper are not an exhaustive comparison of items in the current Form of Government and their counterparts in the nFOG that relate to congregations. Although this paper attempts to highlight the most significant differences, there are other areas of differences, including requirements for notice for calling a meeting of the congregation, quorum for a congregational meeting, quorum for a session meeting, and composition of a congregation’s nominating committee.

The nFOG also applies its hierarchical approach to the session’s oversight of organizations in the congregation. Although the current Form of Government (G-10.0102m) gives the session the responsibility and power “to **delegate** and to **supervise** the work of the board of deacons and the board of trustees and all other organizations and task forces within the congregation, providing for **support, report, review, and control**,” the nFOG (nFOG G-3.0201c) omits this nuanced and collegial oversight and instead gives the session the responsibility and power for “**directing** the ministry of deacons, trustees, and all organizations of the congregation,” a more controlling, top-down relationship.

Although the current wording regarding congregational property ownership is retained in the nFOG, the effect of the nFOG is to create a more hierarchical system of governance in our denomination. That more hierarchical government could impact decisions secular courts make in litigation over ownership of congregational property. (3)

The unmistakable change the nFOG’s centralized, hierarchical system of governance would bring that would affect each congregation is that the nFOG significantly limits the responsibilities and powers of the session and greatly increases the authority and powers of the presbytery, synod, and General Assembly to direct congregational life. The nFOG would take away from the session the responsibility and power to determine how all of a congregation’s funds will be used. The nFOG would also take away from the session the responsibility and power to determine the mission of the congregation.

The Historic Principles of Church Order include the following:

That all Church power, whether exercised by the body in general or in the way of representation by delegated authority, is only ministerial and declarative; that is to say, that the Holy Scriptures are the only rule of faith and manners; that no Church governing body ought to pretend to make laws to bind the conscience in virtue of their own authority; . . . (G-1.0307)

This echoes the conviction expressed in The Scots Confession:

As we do not rashly condemn what good men, assembled together in general councils lawfully gathered, have set before us; so we do not receive uncritically whatever has been declared to men under the name of the general councils, for it is plain that, being human, some of them have manifestly erred, and that in matters of great weight and importance. So far then as the council confirms its decrees by the plain Word of God, so far do we reverence and embrace them. But if men, under the name of a council, pretend to forge for us new articles of faith, or to make decisions contrary to the Word of God, then we must utterly deny them as the doctrine of devils, drawing our souls from the voice of the one God to follow the doctrines and teachings of men.
(3.20)

Presbyterians believe that all church councils, including all governing bodies—General Assemblies, synods, presbyteries and sessions—can and do err. In our denomination, although higher governing bodies can make recommendations, the responsibility and power for the mission and government of a congregation have historically been assigned to the session, the governing body elected directly by and most directly responsible to the congregation. To force a session to fund organizations and programs which it believes are not consistent with the mission of the Church as set forth in Scripture and to allow higher governing bodies the power to impose on a session what the mission of its congregation will be are grievous violations of the historic Presbyterian understanding of how governing bodies are to relate and of how congregations are to be led.

The changes proposed in the nFOG would do an extreme injustice to the sessions and congregations in our denomination.

Note: Throughout this article use of **boldface** type and *italics* in quoted material was added for emphasis and does not appear in the original documents.

Endnotes

1. The 1992 case *Session of Central Presbyterian Church v. Presbytery of Long Island* (Remedial Case 204-5) is one in which it was alleged that the presbytery responded irregularly to a session's refusal to pay per capita funds because the session believed the General Assembly, synod, and presbytery "adopted policies and supported causes which we no longer in good conscience can be a part of supporting." The General Assembly Permanent Judicial Commission (GAPJC) issued findings in that case which included the following:

Yet Presbytery must acknowledge that the Session has responsibility and power to ". . . determine the distribution of the church's benevolences . . ." (G-10.0102h). Presbytery may not punish, directly or indirectly, a church whose session determines the distribution of the church's benevolences in a way contrary to the Presbytery's approved policy.

The GAPJC's holdings in that case concluded: "As Presbyterians we have a unique relationship which obligates us morally to share in the mission enterprise of the Church and the processes and structure necessary to fulfill that to which we are called in the name of Christ."

The 2003 case *John Minihan and J. Randall Richards v. Presbytery of Scioto Valley* (Remedial Case 216-1) followed several amendments to the *Book of Order* which some thought might strengthen the role of presbyteries in a way that could allow presbyteries to require payment of per capita by sessions. However, in its decision, the GAPJC found that the 1992 amendment "presbyteries may direct per capita apportionments to the sessions" still did not grant a presbytery power to "compel a session to transmit the per capita apportionment assigned to it" and reaffirmed the decision in *Central* that a church may not be punished for the session's failure to pay per capita funds.

The 2004 case *A. Kirk Johnston, Laurie Johnston, and Session of First United Presbyterian Church, Paola, Kansas v. Heartland Presbytery* (Remedial Case 217-2), was the result of the presbytery adopting a policy to make congregations ineligible for financial assistance if the congregation did not meet several criteria, including payment of per capita as well as making and meeting a mission pledge. The GAPJC's response to Specification of Error #2 includes the following:

The Commission appreciates Presbytery's effort to give substance to the connectionalism that distinguishes our system of polity from episcopal and congregational forms of church government. . . . But, as the SPJC correctly held, a presbytery's exercise of discretion cannot be turned into an indirect mandate. In short, a congregation's failure to pay full per capita apportionments or to fulfill a mission pledge ordinarily cannot become determinative or dispositive of a presbytery's refusal to grant that congregation financial assistance. Therefore, a congregation's failure to pay per capita apportionments or to fulfill a mission

pledge cannot be made a condition of eligibility to request a presbytery's financial assistance. . . . Such a declaration of ineligibility improperly paints with a broad brush where a genuine exercise of discretion is needed to give life to the mutuality and reciprocity between sessions and presbyteries in furthering the great ends of the Church.

The decision in *Johnston* also states:

While the Book of Order refers to a higher governing body's "right of review and control over a lower one" (G-4.0301f), these concepts must not be understood in hierarchical terms, but in light of the shared responsibility and power at the heart of Presbyterian order (G-4.0302).

The GAPJC rulings referenced above make it clear that under the current Form of Government, a session is granted full power to determine how that congregation's funds will be used and that a presbytery cannot compel a session to pay a per capita apportionment or a mission pledge. These rulings further establish that a presbytery may not punish a session or congregation for failure of the session to support the denomination's per capita or mission budgets.

The nFOG would change this dramatically. The nFOG explicitly requires each session to prepare and adopt a mission budget supporting the denomination's mission within its area. Although there is no explicit language regarding per capita funding, nFOG G-3.0202f states, "Sessions have a particular responsibility to participate in the life of the whole church [denomination] through participation in other councils [governing bodies]. It is of particular importance that sessions . . . f. send to presbytery and General Assembly requested financial contributions, statistics, and other information according to the requirements of those bodies." The only logical interpretation of this provision is to require sessions to provide mandatory per capita budget funding as well.

Since "The jurisdiction of each governing body is limited by the express provisions of the Constitution with powers not mentioned being reserved to the presbyteries" (currently G-9.0103 and nFOG F-3.0209), it is critical to understand that while a presbytery is given all powers not mentioned in the Constitution, *a session only has those powers specifically granted to it by the Constitution*, and that the *powers of a session are much more limited under the nFOG* than they are under our current Form of Government.

2. The 2008 General Assembly (GA) acted on two items of business related to congregational meetings and congregations considering withdrawing from the PC(USA).

In action on **item 04-20**, the GA responded to an inquiry from a presbytery Stated Clerk who asked whether a presbytery has the authority to change the quorum for a congregational meeting. The background provided for the request was:

The pattern behind this question indicates that the presbytery has established a policy that requires that congregational meetings called to consider the matter of withdrawal from the PC(USA) will have "at least 75 percent of the active members of the congregation" present for the meeting.

The GA by consensus interpreted the *Book of Order* to state that establishing a quorum for meetings of the congregation is assigned to the congregation itself (G-7.0305) and is not a power of the session or any other governing body. However, in the same action, the GA also interpreted the *Book of Order* to specify that "withdrawal from the PC(USA) is not a matter that can be considered at a congregational meeting." It added that a hearing held by the presbytery to "afford to all persons to be affected by the decision fair notice and an opportunity to be heard on the matters at issue" (G-9.0503b2) "is not a congregational meeting."

The 2008 GA also approved **item 04-28**, a Resolution for a Gracious, Pastoral Response “indicating the will of the assembly” that presbyteries and synods develop a process “to divide, dismiss, or dissolve churches in consultation with their members” (G-11.0103) with “consistency, pastoral responsibility, accountability, gracious witness, openness, and transparency.”

After that GA, in October of 2008, the GAPJC issued a ruling in *Robert Sundquist et. al. v. Heartland Presbytery (Remedial Case 219-03)* that addressed these issues. Referring to item 04-20 (referenced above) the GAPJC’s decision stated:

This does not mean that a congregation is prohibited from requesting dismissal. However, it is the presbytery (or its duly appointed administrative commission or its Committee on Ministry) that has the responsibility to consult with the members of a church about dismissal (G-11.0103i). . . . These consultations (which may be in the form of listening sessions, hearings or other consultations) are for the benefit of informing the presbytery as it considers a request for dismissal, but are not meetings at which any business of the congregation may be conducted.

The GAPJC’s decision also referred to item 04-28 (referenced above):

Any privilege to seek dismissal is conditioned on the cooperation of the congregation, the session and the pastor(s) with the presbytery in a process that operates in the manner set forth in Item 04-28. There shall not be any secret or secretive acts by sessions, pastors or congregations; bylaw changes or transfers of assets effectively negating the Book of Order or diminishing a church’s connection to the PC(USA); or curtailment of communications with the presbytery as a prelude to dismissal. Congregational meetings called or conducted by sessions for the purpose of voting on dismissal without the involvement of the presbytery are improper and have no binding effect.

The GAPJC also ruled:

Free expression of conscience is limited for officers and pastors under G-6.0108b, and does not encompass the calling of congregational meetings, moving churches to seek dismissal from the denomination or obstructing constitutional governance of the church.

While the GA’s action in item 04-28 is only an expression by that GA and is not binding on the denomination, the rulings made by the GAPJC, which incorporated parts of both GA statements, are “authoritative interpretations” of the *Book of Order* and are binding on the denomination. The GAPJC’s authoritative interpretation seems clear that the “permissive” powers of a congregation under our current Form of Government do not include the power of “voting on dismissal without the involvement of the presbytery.” Whatever the exact limits on a congregation’s “permissive” powers are now, it is clear that under the nFOG there would no longer be *any* “permissive powers” of a congregation.

3. The article “S. C. Supreme Court: Congregation owns its property” posted online by *The Layman* on September 22, 2009 reports that the South Carolina Supreme Court issued a unanimous decision on September 18, 2009 rejecting claims by the Episcopal Church (USA) to property owned by a congregation that voted to withdraw from that denomination. The following is excerpted from that article:

“We hereby explicitly reaffirm that, when resolving church dispute cases, South Carolina courts are to apply the neutral principles of law approach as approved by the Supreme Court of the United States . . .” the South Carolina court said.

Quoting the U.S. Supreme Court’s 1979 ruling (Jones v. Wolf), the South Carolina court said, “This method ‘relies exclusively on objective, well-established concepts of trust and property law familiar to lawyers and judges. It thereby promises to free civil courts

completely from entanglement in questions of religious doctrine, polity, and practice.’ Id. At 603.”

“Church disputes that are resolved under the neutral principles of law approach do not turn on the single question of whether a church is congregational or hierarchical,” said the South Carolina justices. “Rather the neutral principles of law approach permits the application of property, corporate, and other forms of law to church disputes.”

In the application of the Presbyterian Lay Committee for permission to file an Amicus Curiae brief in the Supreme Court of the State of California in a case over ownership of property of an Episcopal Church (USA) congregation, the Presbyterian Lay Committee (PLC) stated:

. . . In particular, the PLC seeks to counter any material misrepresentations regarding the purported similarity between the Episcopal Church (USA)’s polity and the PC(USA)’s Presbyterian form of polity. Broad characterization and oversimplification risk creating improper legal treatment of religious organizations. The PLC is aware that a PC(USA) official filed an amicus brief before the Court of Appeal in this case improperly asserting that the Episcopal Church (USA) and the PC(USA) had similarly structured polities. Were that factual misstatement to go uncorrected, this Court might mistakenly equate those two polities, and as a result might underestimate the range in polities among Protestant denominations that defy easy categorization as either hierarchical or congregational. . . .

While the current Form of Government in G-9.0103 states, “The governing bodies are separate and independent,” the nFOG removes the “separate and independent” language and only states in the equivalent paragraph of nFOG G-3.0101 “The councils [governing bodies] are distinct . . .” The changes proposed throughout the nFOG indisputably would bring our denomination into a much more hierarchical governance than now exists under our current Form of Government. If the “neutral principles of law approach” is not used in litigating church property disputes, having a more hierarchical form of government, such as would be created by the nFOG, would make it more likely that the denomination, rather than the local congregation, would be found by the secular courts to be the owner of congregational property.

The research for this resource was done by Elder Carol Shanholtzer of Minneapolis, MN

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