

1 **OVERTURE 15** from Philadelphia Metro West Presbytery (to CCB, OC)

2 "Amend *BCO* 15-1 and 15-5.a and b"

3 Note: This overture is similar to but not identical with Overtures 3, 8, 11, and 13.

4
5 **Whereas**, the *Book of Church Order (BCO)* recognizes a distinction between commissions
6 (*BCO* 15-1), which "conclude the business assigned to it" and judicial commissions
7 (*BCO* 15-3), which must submit their decision, without debate, for approval or
8 disapproval of presbytery; and

9
10 **Whereas**, the *BCO* establishes the principle that judicial commissions act on behalf of a
11 presbytery, but do not have their decisions finalized until the entire court hears and
12 approves the judgment rendered (*BCO* 15-3); and

13
14 **Whereas**, the Standing Judicial Commission of the General Assembly (SJC) has been
15 established (*BCO* 15-4) and *Rules of Assembly Operations (RAO 17)* in a way that
16 isolates its decisions from review of the General Assembly, making its judgments
17 final, without approval of the General Assembly as a whole (*BCO* 15-5.a and b); and

18
19 **Whereas** this represents a contradiction in the way the various courts of the church
20 operate—with presbyteries and their judicial commissions operating in one fashion
21 and the General Assembly and the SJC operating in another; and

22
23 **Whereas**, this contradiction may violate the essential principle of *BCO* 11-3 that "all
24 Church courts are one in nature;" and

25
26 **Whereas**, insulation of SJC Decisions from the oversight of the entire General Assembly
27 may violate the principle of the General Assembly having the power to "bear
28 testimony against error in doctrine" (*BCO* 14-6.a); and

29
30 **Whereas**, the means for ensuring that the SJC remain the General Assembly's judicial
31 commission is already present in the model found in presbytery judicial commissions
32 in *BCO* 15-3; and

33
34 **Whereas**, the General Assembly may wish to decide a judicial case, notwithstanding the
35 limiting vows taken by SJC members (*RAO* 17-1), just as a presbytery does; and

36
37 **Whereas**, the General Assembly may wish to decide a judicial case by not ordinarily
38 deferring to the factual findings of the presbytery or its discretion and judgment
39 (*BCO* 39-3.2).

40
41 **Therefore, be it resolved**, that *BCO* 15-1 and 15-5.a and b be amended as follows
42 (underlining for additions; strike-through for deletions):

43
44 15-1. A commission differs from an ordinary committee in that while a
45 committee is appointed to examine, consider and report, a commission is
46 authorized to deliberate upon and conclude the business referred to it, except

1 in the case of judicial commissions of a Presbytery appointed under *BCO* 15-3
2 and the case of the Standing Judicial Commission of the General Assembly
3 appointed under *BCO* 15-4. A commission shall keep a full record of its
4 proceedings, which shall be submitted to the court appointing it. Upon such
5 submission this record shall be entered on the minutes of the court appointing,
6 except in the case of a presbytery commission serving as a session or a
7 judicial commission as set forth in *BCO* 15-3 and in the case of the Standing
8 Judicial Commission of the General Assembly appointed under *BCO* 15-4.
9 When a commission is appointed to serve as an interim Session, its actions are
10 the actions of a Session, not a Presbytery. Every commission of a Presbytery
11 or Session must submit complete minutes and a report of its activities at least
12 once annually to the court which commissioned it.
13

14 15-5. a. In the cases committed to it, the Standing Judicial Commission shall
15 have the judicial powers and be governed by the judicial procedures of the
16 General Assembly. ~~The decision of the Standing Judicial Commission shall be~~
17 ~~the final decision of the General Assembly except as set forth below, to which~~
18 ~~there may be no complaint or appeal.~~ Members of the Standing Judicial
19 Commission may file concurring or dissenting opinions, or a minority report
20 as set forth in (c) below. The General Assembly may direct the Standing
21 Judicial Commission to retry a case if upon the review of its minutes
22 exceptions are taken with respect to that case.
23

24 b. In each case the Standing Judicial Commission shall issue a summary of the
25 facts, a statement of the issues, its judgment and its reasoning, together with
26 any concurring or dissenting opinions. ~~all of which shall be entered on the~~
27 ~~minutes of the General Assembly and shall be reported by the Stated Clerk to~~
28 ~~the next General Assembly. The judgment shall be effective from the time of~~
29 ~~its announcement to the parties. The General Assembly without debate shall~~
30 approve or disapprove of the judgment, or may refer, (a debatable motion),
31 any strictly constitutional issue(s) to the Committee on Constitutional
32 Business. In the case of referral, the Standing Judicial Commission shall either
33 dismiss some or all of the specific charges raised in the case or decide the case
34 only after the report of the Committee on Constitutional Business has been
35 heard and discussed. If the General Assembly approves, the judgment of the
36 Standing Judicial Commission shall be final and shall be entered on the
37 minutes of the General Assembly as the action. If the General Assembly
38 disapproves, it may assume original jurisdiction at the point of the original
39 complaint or indictment, and/or assign the case back to the Standing Judicial
40 Commission, with or without the assumption of original jurisdiction, and/or
41 appoint, through the moderator, a special commission to hear the case again,
42 with or without the assumption of original jurisdiction.
43

1 As approved, these three sections would now read:

2
3 15-1. A commission differs from an ordinary committee in that while a
4 committee is appointed to examine, consider and report, a commission is
5 authorized to deliberate upon and conclude the business referred to it, except
6 in the case of judicial commissions of a Presbytery appointed under *BCO* 15-3
7 and the case of the Standing Judicial Commission of the General Assembly
8 appointed under *BCO* 15-4. A commission shall keep a full record of its
9 proceedings, which shall be submitted to the court appointing it. Upon such
10 submission this record shall be entered on the minutes of the court appointing,
11 except in the case of a presbytery commission serving as a session or a
12 judicial commission as set forth in *BCO* 15-3 and in the case of the Standing
13 Judicial Commission of the General Assembly appointed under *BCO* 15-4.
14 When a commission is appointed to serve as an interim Session, its actions are
15 the actions of a Session, not a Presbytery. Every commission of a Presbytery
16 or Session must submit complete minutes and a report of its activities at least
17 once annually to the court which commissioned it.

18
19 15-5. a. In the cases committed to it, the Standing Judicial Commission shall
20 have the judicial powers and be governed by the judicial procedures of the
21 General Assembly. Members of the Standing Judicial Commission may file
22 concurring or dissenting opinions, or a minority report as set forth in (c)
23 below. The General Assembly may direct the Standing Judicial Commission
24 to retry a case if upon the review of its minutes exceptions are taken with
25 respect to that case.

26
27 b. In each case the Standing Judicial Commission shall issue a summary of the
28 facts, a statement of the issues, its judgment and its reasoning, together with
29 any concurring or dissenting opinions. The General Assembly without debate
30 shall approve or disapprove of the judgment, or may refer, (a debatable
31 motion), any strictly constitutional issue(s) to the Committee on Constitutional
32 Business. In the case of referral, the Standing Judicial Commission shall either
33 dismiss some or all of the specific charges raised in the case or decide the case
34 only after the report of the Committee on Constitutional Business has been
35 heard and discussed. If the Assembly approves, the judgment of the
36 Commission shall be final and shall be entered on the minutes of the
37 Assembly as the action. If the General Assembly disapproves, it may assume
38 original jurisdiction at the point of the original complaint or indictment, and/or
39 assign the case back to the Standing Judicial Commission, with or without the
40 assumption of original jurisdiction, and/or appoint, through the moderator, a
41 special commission to hear the case again, with or without the assumption of
42 original jurisdiction.

43
44 *Adopted by Philadelphia Metro West Presbytery at its stated meeting, January 18, 2014*
45 *Attested by /s/ RE Eric D. Vannoy, stated clerk*