

1 **OVERTURE 8** from Southwest Presbytery (to CCB, OC)

2 “Revise *BCO* Sections 15-5. a and 15-5. b”

3 [Note: Identical to Overture 3]

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 decisions, 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 the judicial commissions of presbyteries operating in one fashion and
21 the General Assembly/SJC operating in another; and

22
23 **Whereas** this contradiction may violate the essential principle of *BCO* 11-3 that “all Church
24 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 *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* 15-5. a and b be amended as follows (strike-through
42 for deletions; underlining for new wording):

1 *BCO 15-5. a.* In the cases committed to it, the Standing
2 Judicial Commission shall have the judicial powers and be
3 governed by the judicial procedures of the General Assembly.
4 ~~The decision of the Standing Judicial Commission shall be the~~
5 ~~final decision of the General Assembly except as set forth~~
6 ~~below, to which there may be no complaint or appeal.~~
7 Members of the Standing Judicial Commission may file
8 concurring or dissenting opinions, or a minority report as set
9 forth in (c) below. The General Assembly may direct the
10 Standing Judicial Commission to retry a case if upon the review
11 of its minutes exceptions are taken with respect to that case.
12

13 *BCO 15-5. b.* In each case the Standing Judicial Commission
14 shall issue a summary of the facts, a statement of the issues, its
15 judgment and its reasoning, together with any concurring or
16 dissenting opinions. ~~all of which shall be entered on the~~
17 ~~minutes of the General Assembly and shall be reported by the~~
18 ~~Stated Clerk to the next General Assembly. The judgment shall~~
19 ~~be effective from the time of its announcement to the parties.~~
20 The General Assembly without debate shall approve or
21 disapprove of the judgment, or may refer, (a debatable motion),
22 any strictly constitutional issue(s) to the Committee on
23 Constitutional Business. In the case of referral, the Standing
24 Judicial Commission may either dismiss some or all of the
25 specific charges raised in the case or decide the case only after
26 the report of the Committee on Constitutional Business has
27 been heard and discussed. If the General Assembly approves,
28 the judgment of the Standing Judicial Commission shall be
29 final and shall be entered on the minutes of the General
30 Assembly as the action. If the General Assembly disapproves
31 by a two thirds majority, it may assume original jurisdiction at
32 the point of the original complaint or indictment, and/or assign
33 the case back to the Standing Judicial Commission, with or
34 without the assumption of original jurisdiction, and/or appoint,
35 through the moderator, a special commission to hear the case
36 again, with or without the assumption of original jurisdiction.
37

38 If approved, these two sections would read as follows:
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40 15-5. a. In the cases committed to it, the Standing Judicial
41 Commission shall have the judicial powers and be governed by
42 the judicial procedures of the General Assembly. Members of
43 the Standing Judicial Commission may file concurring or
44 dissenting opinions, or a minority report as set forth in (c)
45 below. The General Assembly may direct the Standing Judicial

1 Commission to retry a case if upon the review of its minutes
2 exceptions are taken with respect to that case.
3

4 15-5. b. In each case the Standing Judicial Commission shall
5 issue a summary of the facts, a statement of the issues, its
6 judgment and its reasoning, together with any concurring or
7 dissenting opinions. The General Assembly without debate
8 shall approve or disapprove of the judgment, or may refer, (a
9 debatable motion), any strictly constitutional issue(s) to the
10 Committee on Constitutional Business. In the case of referral,
11 the Standing Judicial Commission *may* either dismiss some or
12 all of the specific charges raised in the case or decide the case
13 only after the report of the Committee on Constitutional
14 Business has been heard and discussed. If the Assembly
15 approves, the judgment of the Commission shall be final and
16 shall be entered on the minutes of the Assembly as the action.
17 If the General Assembly disapproves *by a two thirds majority*,
18 it may assume original jurisdiction at the point of the original
19 complaint or indictment, and/or assign the case back to the
20 Standing Judicial Commission, with or without the assumption
21 of original jurisdiction, and/or appoint, through the moderator,
22 a special commission to hear the case again, with or without
23 the assumption of original jurisdiction.
24

25 *Adopted by the Presbytery of the Southwest at its stated meeting, January 24, 2014*

26 *Attested by /s/ TE Charles R. Bell, stated clerk*