

## Contentions and Counter-Contentions in the Debate Over Amending Chapter 25 of the Presbyterian Church in America's *Book of Church Order*

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### Abstract:

This paper covers historical and contemporary issues concerning congregational property rights and Chapter 25 of the Presbyterian Church in America's (PCA) *Book of Church Order* (BCO). Numerous articles have been written against the adoption of amendments to BCO Chapter 25, and the author collapsed the objections into 10 primary contentions. Counter-contentions are presented that dispute each claim. By examining source documents, committee reports, *in thesi* deliverances, general assembly audio recordings, general assembly actions, and the constitutional standards of the PCA, a range of data are presented that support the adoption of the amendment to BCO 25-11 currently being examined by the presbyteries under the "advice and consent" process.

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For Christians, a church is more than just a building. There is a strong bond between church members and their local church. Church members may have financially supported the purchase of the church property; and most importantly, the church building is where the congregation worships God regularly in the weekly rhythms and cycles of a Christian's life from baptism to burial.

Simply put, faithful Christians are unabashedly committed to their local congregations or particular<sup>1</sup> churches. The church is the Bride of Christ (Eph. 19:7-9)<sup>2</sup>, and as such, steadfast allegiance to the church is a natural response for believers who worship the God who gave His life for the church and who continues to care for her. With reverence and awe, Christians worship God in church buildings of all types and sizes, from neo-gothic grand edifices to one-room clapboard chapels.

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Thanks to the Presbyterian Church in American Historical Center whose Director (Wayne Sparkman), historical collection, and web site (<http://www.pcahistory.org/>) are invaluable resources for the research and study of Presbyterian Church history.

<sup>1</sup> "A particular church consists of a number of professing Christians, with their children, associated together for divine worship and godly living, agreeable to the Scriptures, and submitting to the lawful government of Christ's kingdom" (BCO 4-1). See also *Westminster Confession of Faith* (25-4).

<sup>2</sup> "Husbands, love your wives, as Christ loved the church and gave himself up for her, that he might sanctify her, having cleansed her by the washing of water with the word, so that he might present the church to himself in splendor, without spot or wrinkle or any such thing, that she might be holy and without blemish" (Eph. 19:7-9). Scripture quotations are from the ESV® Bible (The Holy Bible, English Standard Version®), copyright © 2001 by Crossway, a publishing ministry of Good News Publishers. Used by permission. All rights reserved.

## Historical Issues Related to the *Book of Church Order*<sup>3</sup> Chapter 25

In the middle of the 20<sup>th</sup> century when the Presbyterian Church in the United States (PCUS) appeared to be in danger of departing from the three marks of a true church (the true preaching of the Word, the true administration of the sacraments, and the true exercise of discipline), the issue of church property was one of the major concerns of those leaders who formed the Presbyterian Church in America (PCA).<sup>4</sup> Some church congregations had already left the PCUS and others would soon leave to become independent churches, yet the church members and leaders yearned for the formation of a new ecclesiastical union they could join in which historic Presbyterianism was practiced in all its splendor. As the formation of a new denomination was considered, the development of a *BCO* that protected the property rights of congregations was a significant concern.

### A New Ecclesiastical Union

The zeitgeist of the mid-20th century included a sexual revolution, anti-Vietnam War protests, a burgeoning civil rights movement, the assassination of a US president, the resignation of a US president, and more. This was a time of great societal unease, and the prevailing social changes were reflected in the church. Sean M. Lucas wrote, “As southern Presbyterian conservatives looked at their world and their church during the late 1950s and 1960s, they grew increasingly concerned.”<sup>5</sup>

The unrest in the southern Presbyterian Church during this time, and even earlier, was one in which both governance and theological issues were antecedent to the formation of the PCA.<sup>6</sup> Paul G. Settle, a founding father of the PCA and moderator of the 8<sup>th</sup> General Assembly (GA) wrote about the call for a Continuing Presbyterian Church:

The four conservative groups [the *Presbyterian Journal*, the Presbyterian Evangelistic Fellowship, Concerned Presbyterians, and Presbyterian Churchmen United] joined hands in 1971 to form a Steering Committee composed of three representatives from each organization. The stated purpose was ‘to be the instrument of God in calling together all individual believers and judicatories that God wishes to be a part of a continuing Presbyterian church’ which would be loyal to Scripture and to the Reformed faith.<sup>7</sup>

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<sup>3</sup> Presbyterian Church in America, *Book of Church Order*, 6<sup>th</sup> ed., (Lawrenceville, GA: The Office of the Stated Clerk of the General Assembly of the Presbyterian Church in America), 2018.

<sup>4</sup> Morton H. Smith, *How Is the Gold Become Dim: The Decline of the Presbyterian Church in the United States as Reflected in its Assembly Actions*, (Jackson, MS: Premier Printing Co.), 1973.

<sup>5</sup> Sean M. Lucas, *For a Continuing Church: The Roots of the Presbyterian Church in America*, (Phillipsburg, NJ: P&R Publishing), 189.

<sup>6</sup> L. Roy Taylor, *The Presbyterian Church in America Non-hierarchical Presbyterianism*. n.d., accessed February 5, 2019, [http://www.pcahistory.org/pca/clerk/taylor\\_non-hierarchal.pdf](http://www.pcahistory.org/pca/clerk/taylor_non-hierarchal.pdf).

<sup>7</sup> Paul G. Settle, *Our Formative Years: The History of the Presbyterian Church in America, 1973-1993*. n.d., accessed February 5, 2019, <http://www.pcahistory.org/pca/formativeyears.html>.

The Steering Committee organized a Convocation of Sessions that was held on May 18-19, 1973, in Atlanta, Georgia. At the Convocation, representatives from more than 250 church Sessions adopted the “Reaffirmations of 1973.”<sup>8</sup> Important to those who founded the PCA were not new ideas but a return to the biblical principles rooted in Reformed theology and a church that was “always reforming.” The principles they defended included holding to the plenary and verbal inspiration of Holy Scripture, having a faithful adherence to a church constitution containing the *Westminster Confession of Faith* and *Westminster Catechisms*, properly exercising discipline in the church, proclaiming Jesus Christ as the sole Head of the church, and reaffirming the primary mission of the church embodied in the Great Commission.<sup>9</sup> These church session leaders sought a rebirth of the church and the establishment of a new ecclesiastical entity—a denomination that would become the PCA.

At the Convocation of Sessions in 1973, significant progress was made on the plans for a new denomination with an Advisory Convention scheduled for August 7-9, 1973, in Asheville, North Carolina. Finally, the inaugural GA of the new ecclesiastical entity was held on December 4-7, 1973, in Birmingham, Alabama. The unofficial name of the denomination was “The Continuing Church” before the 1<sup>st</sup> GA (a name prominent in the Steering Committee’s published writings). “National Presbyterian Church” was the name selected at the 1<sup>st</sup> GA, but it was replaced at the 2<sup>nd</sup> GA by “Presbyterian Church in America.”<sup>10</sup> The denomination’s name and its founding principles have served its members well for over 45 years.

### **A Book of Church Order for a New Church**

This new ecclesiastical entity, the PCA, needed a *BCO* including a ‘Form of Government,’ ‘Rules of Discipline,’ and a ‘Directory for Worship.’ The Asheville Advisory Convention recommended to the 1<sup>st</sup> GA that the church’s constitutional documents include an amended *Westminster Confession of Faith*, the unamended *Larger Catechism*, the unamended *Shorter Catechism*, and the 1933 edition of PCUS *BCO* with changes. The 1933 PCUS *BCO* was selected as the starting point as it was considered to have retained the polity of a conservative Presbyterian denomination “before the liberals started tampering with it.”<sup>11</sup> A great deal of work had been done on the *BCO* revisions by the Steering Committee before the formal meetings of the new denomination began, and some of these revisions (notably those related to church property) were published in the April 1973 edition of *The Concerned Presbyterian*.<sup>12</sup>

The Advisory Convention’s Constitutional Documents Committee was given the job of revising the 1933 PCUS *BCO* to make a draft copy available to assembly commissioners before the December 1973 GA. Input was sought from interested members, but there was little time to

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<sup>8</sup> Steering Committee for a Continuing Presbyterian Church, “Reaffirmations of 1973” *Presbyterian Churchmen United*, Number 2, March, 1973, accessed February 5, 2019, <http://pcahistory.org/findingaids/pcu/pcu22.pdf>.

<sup>9</sup> *Ibid.*

<sup>10</sup> Presbyterian Church in America. Minutes of the 2<sup>nd</sup> General Assembly (1974), 148.

<sup>11</sup> Editor, “B.C.O. for a Continuing Church,” *The Concerned Presbyterians*, Bulletin No. 26, April 1973, <http://www.pcahistory.org/findingaids/concerned/bulletin26.pdf>, 8.

<sup>12</sup> *Ibid.*

compile the *BCO* between the Advisory Convention and the 1<sup>st</sup> GA. The *BCO* changes proposed by the Advisory Convention included (in the order listed in minutes):<sup>13</sup>

- a. A new property chapter.
- b. The deletion of the court known as the Synod.
- c. The strengthening church officers' qualifications.
- d. The guarding against young people being elected to office.
- e. The General Assembly makeup—by session and by presbytery.
- f. The establishing of General Assembly non-perpetuating committees, rather than agencies or boards.
- g. Requirements for changing constitutional documents.
- h. No limited term of office for elders and deacons.
- i. An emphasis on the spiritual mission of the Church.
- j. Plans to guarantee the parity of elders at Presbytery level.
- k. That ruling elders must meet biblical standards.

### **The Right of Local Churches to Own Their Property**

A new church property chapter was the first item listed on the proposed changes to the *BCO* by the Advisory Convention. The “Reaffirmations 1973” included a section on church property that stated: “We reaffirm the right of local churches, without interference of higher judicatories, to own and control their property as stewards of God who entrusted it to them.”<sup>14</sup> Property issues were extremely important to Presbyterians who were thinking about leaving the PCUS denomination because many risked losing their beloved church’s property. A prolific number of articles and references to church property issues are contained in the periodicals of the *Presbyterian Journal*, *Presbyterian Churchmen United*, and *Concerned Presbyterians* during the years before the founding of the PCA.

As early as April 1973, the Steering Committee<sup>15</sup> had recommended wholesale revisions to the *BCO* chapter on church congregations that contained polices for the particular church on matters ranging from congregation meetings to the ownership of church property. These proposals along with input from others were used by the Constitutional Documents Committee as they prepared a draft *BCO* for the 1<sup>st</sup> GA. The members of the Ad-Interim Committee on Constitutional Documents were all leaders of the pre-PCA coalition of Presbyterians for a Continuing Church, and, in fact, they were all members of the Organizing Committee of 40.<sup>16</sup>

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<sup>13</sup> Advisory Convention of the Continuing Presbytery Church, *Minutes of the Advisory Convention of the Continuing Presbyterian Church*, (Montgomery, AL: Administrative Office for a Continuing Presbyterian Church), 1973.

<sup>14</sup> Steering Committee for a Continuing Presbyterian Church, “Reaffirmations of 1973” *Presbyterian Churchmen United*, 1973, 5.

<sup>15</sup> See *The Concerned Presbyterian*, Bulletin No. 26, April 1973, accessed February 5, 2019, <http://www.pcahistory.org/findingaids/concerned/bulletin26.pdf>.

<sup>16</sup> The membership on the Ad-Interim Committee on Constitutional Documents included: Charles Dunahoo (also a member of the Organizing Committee of 40, Administrative Committee of the Continuing Church, Churchmen United Georgia Synod Contact), Frank M. Barker (also a member of the Organizing Committee of 40, Mission to the United States Committee of the Continuing Church), Donald B. Patterson (also a member of the Organizing Committee of 40), Morton H. Smith (also a member of the Organizing Committee of 40, wrote *How is the Gold*

The Organizing Committee of 40 (a committee of 20 teaching elders and 20 ruling elders from 12 southern states) was elected at the Convocation of Sessions, and they assumed the functions of the Steering Committee. They planned the Advisory Convention and prepared many recommendations for the 1<sup>st</sup> GA. The influence of the coalition for a Continuing Church is clearly seen in many places in the church congregation chapter of the *BCO* that grew from only 7 sections and 454 words in the 1933 PCUS *BCO* to a chapter over twice as long with 12 sections and 1,114 words proposed by the Constitutional Documents Committee at the 1<sup>st</sup> GA.

### ***Book of Church Order Chapter 25: The Church Congregation***

Stability in the church's constitutional documents is desirable; after all, the regulative principle<sup>17</sup> holds that church government is based on the Word of God, and it should not be changed due to shifting opinion and contemporary controversies. As James H. Thornwell has put it, starting with the words of the *BCO* from the 19<sup>th</sup> century that are still present today, "The power of the Church is purely ministerial and declarative. She is only to hold forth the doctrine, enforce the laws, and execute the government which Christ has given her. She is to add nothing of her own to, and to subtract nothing from, what her Lord has established. Discretionary power she does not possess."<sup>18</sup> While Holy Scripture gives us all things needed for faith and practice,<sup>19</sup> there are circumstances that are "ordered by the light of nature, and Christian prudence."<sup>20</sup>

Only two amendments to the church congregation chapter (Chapter 25) of the *BCO* have been approved by the presbyteries and the GA since its original adoption as part of the Presbyterian Church in America (PCA) constitution in 1973. After the 1973 Ad-Interim Editorial Committee's changes to the *BCO*<sup>21</sup> were approved, 15 years elapsed before the first change to Chapter 25 was adopted by the 16<sup>th</sup> GA in 1988.

The amendment to *BCO* 25-2 in 1988 was preceded by the work of the Ad-Interim Committee on Structure and Process between the 12<sup>th</sup> GA and 16<sup>th</sup> GA. The change reduced the number of members needed for larger congregations to successfully petition the session to call a congregational meeting even though the Committee on Judicial Business report advised the GA that: "[a]llowing the congregation to call a congregational meeting is a departure from the historic presbyterian [sic] practice."<sup>22</sup> The amendment also gives church members in such

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*Become Dim* at the request of the Steering Committee), John Barnes (also a member of the Organizing Committee of 40, Subcommittee on Judicial Business of the Continuing Church) and added at the 1st GA to the Standing Constitutional Documents Committee was C. Gregg Singer (also the President and Editor of *Concerned Presbyterians*).

<sup>17</sup> See *Westminster Confession of Faith* (1-6).

<sup>18</sup> James Henley Thornwell, *The Collected Writings of James Henley Thornwell*, ed. John B. Adger and John L. Girardeau (Richmond, VA: Presbyterian Committee on Publications, 1873), 4:163.

<sup>19</sup> *Westminster Confession of Faith* (1-2).

<sup>20</sup> "Church polity is based not only on explicit scriptural teachings, but also on biblical principles, biblical precedents, common sense, Christian prudence, and historical-circumstantial factors (*Westminster Confession of Faith* 1-6)." L. Roy Taylor, *The Presbyterian Church in America Non-hierarchical*, n.d., 1.

<sup>21</sup> The Ad-Interim Editorial Committee of the 1st GA was given broad powers to make editorial changes to the *BCO* subject to review and ratification by the 2<sup>nd</sup> GA.

<sup>22</sup> *M15GA* (1987), 228.

circumstance the ability to file a complaint against their session if a requested congregational meeting is not called within 30 days.

It was another 25 years before the second and most recent change to *BCO* 25 was adopted in 2013. The amendment to *BCO* 25-4, put forward by the Pacific Northwest Presbytery (PNP), was adopted by the 41<sup>st</sup> GA, allowing ruling elders to moderate congregational meetings of congregations other than their own.

### **Recent Overtures to Amend *BCO* 25-3 and *BCO* 25-11**

In 2017 and 2018, overtures were submitted to the GA to revise *BCO* 25-3 and *BCO* 25-11 in small but significant ways. Both proposals concerned the procedures used when a congregation is planning a vote on whether to withdraw from the denomination. The remainder of this paper addresses these recent proposals, especially the proposal on *BCO* 25-11 that is currently being voted on by presbyteries as part of the “advice and consent” process (*BCO* 26-2.2).

The PNP submitted an overture to the 45<sup>th</sup> GA to amend *BCO* 25-3 by adding one sentence concerning the quorum for congregational meetings involving a decision on whether to withdraw from the denomination. The proposed sentence reads, “However, at any meeting where there will be a vote to withdraw from the Presbyterian Church in America, the quorum shall be one-half (1/2) of the resident communing members.” The rationale presented by the PNP was simple and direct: “The current quorum requirement is too low for a decision as important as severing relations with the denomination.”<sup>23</sup> The PNP’s grounds for their overture pointed out that based on the current wording of *BCO* 25-3, as little as 9% of a church’s membership could potentially dissolve the church’s relationship with the denomination. The overture was clear—it was only the quorum for the meeting that was to be increased above the prior requirement, and no change was intended regarding the majority vote of those members present at the meeting being required for a denominational dissolution decision.

The proposed amendment to *BCO* 25-3 was approved by the 45<sup>th</sup> GA’s Overtures Committee by a vote of 91-5-4, and it was approved by the GA without objection and subsequently sent to the presbyteries for a vote. However, the two-thirds affirmative vote required from all presbyteries to amend the *BCO* (26-2.2) was not achieved. Of the 86 total presbyteries, 44 presbyteries voted in favor of the amendment and 30 in opposition. The remaining presbyteries abstained from voting or did not submit their votes. The final tally fell 14 presbyteries short of the number required to pass the amendment to *BCO* 25-3.

Three presbyteries (Evangel, Eastern Canada, and Western Canada) submitted overtures to the 46<sup>th</sup> GA in 2018 to amend *BCO* 25-11. The amended language of *BCO* 25-11 was the same in each overture. The proposed revision was, as with the proposal to change *BCO* 25-3 the year before, an attempt to provide more assurance that a congregation would not dissolve the church’s relationship with the denomination without broad participation of the church’s membership. If approved, the amended *BCO* 25-11 would require at least 30 days’ notice

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<sup>23</sup> M45GA (2017), 669.

before a congregational meeting could be held to vote on a church's withdrawal or dissolution from the denomination, as compared to the seven days' minimum notice currently required.

### **The 2017–2018 Amendment to Revise *BCO* 25-3**

The revision to the third paragraph of *BCO* 25-3 that failed to receive the two-thirds vote from the presbyteries following the 45<sup>th</sup> GA reads as follows, with the crossed-out and underlined sections identifying the proposed changes:

The quorum of the congregational meeting shall consist of one-fourth (1/4) of the resident communing members, if the church has not more than one hundred (100) such members, and of one-sixth (1/6) of the resident communing members if a church has more than one hundred (100) such members. However, at any meeting where there will be a vote to withdraw from the Presbyterian Church in America, the quorum shall be one-half (1/2) of the resident communing members.

### **The 2018–2019 Amendment to Revise *BCO* 25-11**

The proposed revision to the third paragraph of *BCO* 25-11 approved by the 46<sup>th</sup> GA for review and consent by the presbyteries reads as follows, with the crossed-out and underlined sections identifying the proposed changes:

Particular churches need remain in association with any court of this body only so long as they themselves so desire. The relationship is voluntary, based upon mutual love and confidence, and is in no sense to be maintained by the exercise of any force or coercion whatsoever. A particular church may withdraw from any court of this body at any time for reasons which seem to it sufficient-, provided, however, the congregation is given at least thirty-days' notice of any meeting where the congregation is to vote on a proposed withdrawal from the Presbyterian Church in America.

## **10 Contentions and Counter-Contentions Concerning the Proposed *BCO* 25 Amendments**

Since August 2017, 13 editorials or articles have been published in the *Aquila Report*<sup>24</sup> on the proposed amendments to *BCO* 25-3 and *BCO* 25-11. These articles were written by teaching and ruling elders of the PCA. The writers who argued that the amendments should be defeated include teaching elders Dominic Aquila (seven articles) and Dewey Roberts (two articles). Ruling elder Howard Donahoe wrote three articles supporting the amendments. One article published in the *Aquila Report* was a previously published and undated article by PCA Stated Clerk L. Roy Taylor.

These commentaries and articles address numerous issues and themes, and I have collapsed the various views of those who wrote against the amendments into 10 primary objections. I have selected these due to the arguments' force or centrality to the debate about the core philosophical and theological issues related to *BCO* 25.

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<sup>24</sup> *The Aquila Report*, <https://www.theaquilareport.com/>.

The remainder of this article illustrates why the 10 main contentions of Aquila and others who agree with him are not strong arguments. The respective counter-contentions dispute those authors' claims and support the proposed amendment of *BCO* 25-11. Much more could be written on these topics as they relate to principles and ideas that have been discussed, debated, and written about over many years of Presbyterian Church history.

**1.a. Contention:** There is no evidence that *BCO* Chapter 25 needs to be amended.

Aquila wrote, "Where are the empirical data, the statistical analyses, the objective studies, and the evidence showing *BCO* 25 needs to be fixed? Nowhere do the overtures provide any data that informs any claim of actual problems with the present *BCO* provision that requires the proposed remedy. What is broken that cries out for the proposed fix?"<sup>25</sup> In another article, Aquila similarly stated, "*BCO* 25-3 has served the PCA well as originally intended since its founding. The stated purpose in *BCO* 25-11 is that 'Particular churches need remain in association with any court of this body only so long as they desire.' The intent of this language was and is to protect local congregations from any attempt of the denomination to take over and seize their property."<sup>26</sup>

**1.b. Counter-contention:** The presbyteries that proposed the amendment and those that support it believe that evidence exists that the change will "be of common advantage to the Church at large."

One power of the presbytery listed in *BCO* 13-9 is "to propose to the Assembly such measures as may be of common advantage to the Church at large." The amendment to *BCO* 25-11 came as overtures to the 46<sup>th</sup> GA from three presbyteries.<sup>27</sup> While not all presbyteries may agree on the amendment or believe there are sufficient reasons to enact it, the Overtures Committee and the GA approved the amendment for a vote by the presbyteries under the advice and consent process (*BCO* 16-3.2).

The GA and the presbyteries are deliberative assemblies. *Robert's Rules of Order, Newly Revised* has defined a deliberative assembly as possessing certain distinguishing characteristics: "It is a group of people, having or assuming freedom to act in concert, meeting to determine, in full and free discussion, courses of action to be taken in the name of the entire group," and "the opinion of each member present has equal weight as expressed by vote."<sup>28</sup> Whether others believe a proposed action is supported by the evidence, the presbyteries have the right to overture the GA, and it is only the vote of the presbyteries through the advice and consent

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<sup>25</sup> Dominic Aquila, "Reasons to Defeat Overtures 10, 12 and 17 at the 46th PCA General Assembly," *The Aquila Report*, May 29, 2018, accessed February 5, 2019, <https://www.theaquilareport.com/reasons-to-defeat-overtures-10-12-and-17-at-the-46th-pca-general-assembly/>.

<sup>26</sup> Dominic Aquila, "Reasons for PCA Presbyteries Not To Approve Proposed Amendment to *BCO* 25-3," *The Aquila Report*, August 8, 2017, accessed February 5, 2019, <https://www.theaquilareport.com/reasons-pca-presbyteries-not-approve-proposed-amendment-bco-25-3/>.

<sup>27</sup> See *Rules of Assembly Operation*, 11-4.

<sup>28</sup> Sarah Corbin Robert, Henry M. Robert III, William J. Evans, Daniel M. Honemann, and Thomas J. Balch, *Robert's Rules of Order, Newly Revised*, 11th ed. (Philadelphia: Perseus Books, 2011), 1-2.



process followed by the affirmation of the GA that determines changes to the PCA's constitutional standards.

Concerning specific evidence in support of the amendment to *BCO* 25-11, the report from the Overtures Committee cited 10 grounds for the amendment, as quoted below:<sup>29</sup>

1. Disaffiliation is a significant decision and members should get more than seven days' notice for such a meeting.
2. A congregation can still withdraw from the PCA by simple majority vote, for any reason it deems sufficient.
3. 30 days' notice has nothing to do with property. . .
4. 30-day notice is similar to that required in *BCO* 24-1. . .
5. Last year, Presbyteries voted 44-30 *in favor of* a proposed change to increase the quorum to 50% for any such disaffiliation meeting. . . Thus, there seems to be considerable support for ensuring a congregation is well informed of any disaffiliation meeting. . .
6. The proposed 30-day notice requirement does not abridge any congregational right—it protects one. It ensures, for example, a Session can't hurry a church out of the PCA without the clear consent of a well-prepared congregation.
7. Some presbyters could relay stories, for example, of how a minister, upon being investigated or facing indictment, has persuaded his Session to promptly call a meeting to "take the church" out of the PCA.
8. While the *BCO* only requires one week notice for a meeting to call a pastor, that situation is different. . .
9. When many generations of PCA-loving members have contributed hundreds of thousands of dollars of the Lord's money to a particular PCA church, one would think it is only fair, reasonable, and honorable to make sure the church is not quickly ushered out of the denomination by a meeting called on very short notice. . .
10. The [Committee on Constitutional Business] reported: "In the opinion of the CCB, Overture 10 is not in conflict with other parts of the Constitution."

(See also Howard Dunahoe's reasons to support amendments to *BCO* 25-3 and *BCO* 25-11, as published in the *Aquila Report*.<sup>30</sup>)

**2.a. Contention:** The amendment to *BCO* 25-3 failed, and other attempts to make it more difficult for congregations to disaffiliate with the PCA should cease.

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<sup>29</sup> *M46GA* (2018), 36-38.

<sup>30</sup> Howard Donahoe, "Reasons for PCA Presbyteries To Approve the Proposed Amendment to *BCO* 25-3," *The Aquila Report*, August 10, 2017, accessed February 5, 2019, <https://www.theaquilareport.com/reasons-pca-presbyteries-approve-proposed-amendment-bco-25-3/>; \_\_\_\_\_, "Reasons to Vote in Favor of Overture Requiring 30-days' Notice," *The Aquila Report*, June 4, 2018, accessed February 5, 2019, <https://www.theaquilareport.com/reasons-to-vote-in-favor-of-overture-requiring-30-days-notice/>; \_\_\_\_\_, "Reasons to Support the GA's Proposed Change to *BCO* 25-11," *The Aquila Report*, September 15, 2018, accessed February 5, 2019, <https://www.theaquilareport.com/reasons-to-support-the-gas-proposed-change-to-bco-25-11/>.

In one of Aquila's editorials, he discussed the proposed revision to *BCO* 25-11 after the defeat of the amendment to *BCO* 25-3. Aquila wrote, "Since the amendment to *BCO* 25-11 has been introduced, even after the rejection of the *BCO* 25-3 amendment, we must ask: 'What part of 'NO' don't you get?' Why this passion to make it more difficult for congregations to determine their affiliation? Why this obsession to force local PCA congregations to comply with someone else's agenda? Is it a control fixation?"<sup>31</sup> In another article, Aquila stated the following:

So having received a definite NO in seeking to restrict congregations from choosing their affiliation, there are some in the PCA who won't accept the "NO" handed down last year by the Presbyteries. When it was obvious that the 2017 amendment was being rejected by the Presbyteries, the amendment to *BCO* 25-11 was proposed. However, the bottom line effect would still be the same: to seek to restrict and abridge local congregations of their right to determine their denominational affiliation.<sup>32</sup>

**2.b. Counter-contention:** Church courts do not stop pursuing important actions in the face of obstacles or setbacks.

The defeat of a *BCO* amendment does not mean all work on related constitutional issues must cease. While the principles of Reformed church government were re-established during the Reformation (being built on the Word of God), the church is always reforming. It is true that the amendment to *BCO* 25-3 failed to be approved by the required two-thirds majority of the presbyteries. In making overtures to change *BCO* 25-11, however, three presbyteries exercised their right to propose what they viewed as improvements to the *BCO*. The proposed changes to *BCO* 25-11 can be seen as, and certainly are from their perspectives, an improved means of protecting congregations from hasty or not thoroughly considered withdrawals from the denomination.

Unless an overture is frivolous or unconstitutional, the constitutional amendment process should be allowed to function. There are other more prominent examples of recurring issues that have been raised repeatedly even after defeat by the presbyteries during the advice and consent process. A delegated assembly is one such issue.

Before the 1<sup>st</sup> GA, a delegated assembly was discussed at the August 1973 Advisory Convention, and it was then included in the draft *BCO* prepared for the 1<sup>st</sup> GA. A motion was made at the 1<sup>st</sup> GA to amend *BCO* 15-2 (currently *BCO* 14-2), and during the discussion, two commissioners spoke of the "grassroots" spirit of the assembly and the church. The delegated assembly was voted down at the inaugural PCA GA. Yet, the proposal was raised numerous times during later GAs. At the 8<sup>th</sup> GA, the question of a delegated assembly was referred to the Committee on Administration for a report to the 1981 General Assembly. At the 9<sup>th</sup> GA, an overture arguing against a delegated assembly mentioned the grassroots character of the GA. At the 10<sup>th</sup> GA, two overtures were presented that supported a delegated assembly, and the Committee on Administration was authorized to continue studying delegated assemblies. At the 12<sup>th</sup> GA,

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<sup>31</sup> Dominic Aquila, "Reasons to Defeat," *The Aquila Report*, May 29, 2018.

<sup>32</sup> \_\_\_\_\_, "Reasons for PCA Presbyteries to Vote NO on Amending *BCO* 25-11," *The Aquila Report*, September 11, 2018, accessed February 5, 2019, <https://www.theaquilareport.com/reasons-for-pca-presbyteries-to-vote-no-on-amending-bco-25-11/>.

numerous actions surrounding a delegated assembly were addressed. The Committee on Structure and Procedure presented a motion to amend the *BCO* at the 15<sup>th</sup> GA, but this motion failed. Other action on delegated assemblies occurred at the 16<sup>th</sup> GA and 34<sup>th</sup> GA.

Proposed amendments to the *BCO* do not cease being offered due to a written or unwritten rule just because prior similar proposals failed to be adopted. The proposed amendment to *BCO* 25-11 need not be voted down merely because the amendment to *BCO* 25-3 was not approved.

**3.a. Contention:** If the amendment is approved, other restrictions on local congregations will follow.

Aquila wrote, “Here is a non-inspired prophecy: If this proposed amendment is approved, expect the dominoes to fall as other restrictions follow soon afterwards.”<sup>33</sup> Roberts opined, “Make no mistake, as I see it, these amendments are only so many preludes to give presbyteries authoritative control of the local congregations, which over time may include local church properties. One amendment after another will surely lead eventually to amending *BCO* 25-9. And this is no red herring!”<sup>34</sup> Roberts said in another article, “No matter how many changes are made to *BCO* 25, they will be in essence meaningless unless the wording in *BCO* 25-10 is changed.”<sup>35</sup>

**3.b. Counter-contention:** The adoption of the amendment to *BCO* 25-11 would not lead to the “slippery slope” its detractors allege.

Aquila chose to use the word “dominoes” because he knew “[s]ome do not like the concept of a slippery slope argument.”<sup>36</sup> However, the idea that amending *BCO* 25-11 will cause a series of negative outcomes for church congregations lacks supporting evidence. The statements by Aquila and Roberts fit the classic understanding of a “slippery slope” argument. Changes to *BCO* 25-11 will not inevitably lead to “presbyteries’ authoritative control of the local congregations.” They cannot. As is clear from *BCO* 11-2, “The jurisdiction of Church courts is only ministerial and declarative.” Furthermore, in *BCO* 11-4, we see, “The jurisdiction of these courts is limited by the express provisions of the Constitution.” The Session is “subject to the review and control of the [presbytery],” but the presbytery may not impose “authoritative control” over the Session. No evidence has shown that the amendment to *BCO* 25-11 would lead to any of the dire consequences noted by Aquila or Roberts.

**4.a. Contention:** The PCA embraces a non-hierarchical form of Presbyterian polity, and these amendments impose top-down control over churches.

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<sup>33</sup> Ibid.

<sup>34</sup> Dewey Roberts, “Just Vote NO on the Proposed Amendment to *BCO* 25-11,” *The Aquila Report*, September 28, 2018, accessed February 5, 2019, <https://www.theaquilareport.com/just-vote-no-on-the-proposed-amendment-to-bco-25-11/>.

<sup>35</sup> \_\_\_\_\_, “Whither the Presbyterian Church in America?” *The Aquila Report*, January 17, 2019, accessed February 5, 2019, <https://www.theaquilareport.com/whither-the-presbyterian-church-in-america/>.

<sup>36</sup> Aquila, “Reasons to Defeat,” *The Aquila Report*, May 29, 2018.

Aquila wrote, “These amendments give every appearance of imposing a top-down authoritative and restrictive control over particular churches.”<sup>37</sup> In another editorial he indicated, “The PCA conscientiously and purposely chose to establish itself with a non-hierarchical form of Presbyterian polity<sup>38</sup>. . . This form of Presbyterian connectionalism is based on mutual love and confidence that remove the use of any form of force or coercion to maintain the relationship as stated clearly in *BCO 25-11*.”<sup>39</sup> Roberts stated, “Some might think that the hallmark of Presbyterianism is the right of presbyteries to rule and have authority over the lower courts, i.e., congregations, within their geographical jurisdiction.”<sup>40</sup> Furthermore, the *Aquila Report’s* editorial comment preceding Taylor’s article reads as follows: “As presbyteries are considering the amendment to *BCO 25-11*, here is an important overview of the non-hierarchical nature of the PCA’s brand of Presbyterian polity.”<sup>41</sup> Taylor’s article, an article published years before the recent amendments, continues as follows: “Within Presbyterianism there have been, and still are, two perspectives; an hierarchical, top-down view and a non-hierarchical, bottom-up view.”<sup>42</sup>

**4.b. Counter-contention:** The adoption of the amendment to *BCO 25-11* would not impose top-down control over churches.

In arguing against the revision to *BCO 25-11*, Aquila and others appear to have set up the straw man of a hierarchical view of church government because it is easy to knock down or discredit. The question of the hierarchical status of any aspect of the PCA’s church government can only be determined by evaluating the constitution and amendments thereto. The proposed changes to *BCO 25-11* have no bearing on the issue of denominational church government hierarchy. The amendment simply extends the required notice for a congregation meeting from a minimum of seven days to a minimum of 30 days when a congregation is to vote on a proposed withdrawal from the PCA. This change would neither strike at the heart of the PCA’s governmental structure nor cause the church government to become a top-down model in which higher courts control local congregations.

Some have noted that *BCO 25-11* seems incompatible with Presbyterianism, although such an argument has not been proffered as a reason for amending Chapter 25. Nevertheless, Morton H. Smith, wrote in his *BCO Commentary* concerning *BCO 25-11*:

In this language the PCA guarantees the right of particular congregations to be a part of the PCA, so long as this is their desire. The voluntary character of such a relationship is

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<sup>37</sup> Ibid.

<sup>38</sup> Dominic Aquila, “BCO 25-3 Amendment Defeated; Not Approved By Requisite Number of PCA Presbyteries,” *The Aquila Report*, February 20, 2018, accessed February 5, 2019, <https://www.theaquilareport.com/bco-25-3-amendment-defeated-fails-receive-approval-enough-pca-presbyteries/>.

<sup>39</sup> \_\_\_\_\_, “Reasons for PCA Presbyteries Not To Approve Proposed Amendment to *BCO 25-3*,” *The Aquila Report*, August 8, 2017, accessed February 5, 2019, <https://www.theaquilareport.com/reasons-pca-presbyteries-not-approve-proposed-amendment-bco-25-3/>.

<sup>40</sup> Roberts, “Just Vote NO,” *The Aquila Report*, September 28, 2018.

<sup>41</sup> L. Roy Taylor, “The Presbyterian Church in America: Non-hierarchical Presbyterianism,” *The Aquila Report*, January 7, 2019, accessed February 5, 2019, <https://www.theaquilareport.com/just-vote-no-on-the-proposed-amendment-to-bco-25-11/>.

<sup>42</sup> \_\_\_\_\_, *The Presbyterian Church in America Non-hierarchical*, n.d., 2.

recognized and affirmed. The right of the congregation to withdraw on its own terms is stated.<sup>43</sup>

This paragraph is unique with the PCA, and it represents what some have called a form of “congregationalism” that is not really compatible with true presbyterianism. There is certainly no Biblical example of this concept, but, on the other hand, there is no Biblical precedent for a denomination to lay claim to the property of a local congregation.<sup>44</sup>

It is worth noting that the Orthodox Presbyterian Church (OPC) and Associate Reformed Presbyterian Church (ARP), two Presbyterian denominations that are members of the North American Presbyterian and Reformed Council along with the PCA, have more rigorous constitutional parameters surrounding the withdrawal of a church from either denomination. In the OPC, the presbytery must be informed in advance of the congregational vote to withdraw, the first congregational vote must be followed by a second vote no sooner than three weeks nor longer than one year after the first vote, and “[t]he presbytery shall be given the opportunity, at any congregational meeting at which withdrawal is being considered, to dissuade the congregation from withdrawing” (*OPC BCO 16-7*).<sup>45</sup> In the ARP, a two-thirds congregational vote is required followed by a one-year waiting period and a second two-thirds congregational vote (*Form of Government 13-3*).<sup>46</sup>

Church hierarchy, whatever earthly form it may take, has a heavenly center. As Edmund P. Clowney wrote, Presbyterian polity, when compared to other forms, “presents a more theological, Christ-centered, spiritual view of the church as defined not by one earthly hierarchical center nor by many earthly congregational centers, but by a heavenly center that requires multiform earthly manifestations. Earthly assemblies do not define but manifest the nature and center of the church.”<sup>47</sup>

**5.a. Contention:** These amendments are intended to restrict the liberty of congregations to determine their denominational affiliation.

In two of Aquila’s articles, he wrote, “From its beginning the PCA established a relationship between its graded courts that was voluntary, based upon mutual love and confidence, and is

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<sup>43</sup> Morton H. Smith *Commentary on the Book of Church Order of the Presbyterian Church in America*, 5<sup>th</sup> ed. (Taylors, SC: Southern Presbyterian Press, 2004), 268.

<sup>44</sup> *Ibid*, 269.

<sup>45</sup> The Orthodox Presbyterian Church, *Book of Church Order*, (Willow Grove, PA: The Committee on Christian Education of the Orthodox Presbyterian Church), 2015, [http://opc.org/BCO/BCO\\_2015.pdf](http://opc.org/BCO/BCO_2015.pdf), accessed February 5, 2019, 27.

<sup>46</sup> Associate Reformed Presbyterian Church, *Form of Government*, (Greenville, SC: General Synod of the Associate Reformed Presbyterian Church), n.d., <http://arpchurch.org/wp-content/uploads/2018/05/FOG-2016.pdf>, accessed February 5, 2019.

<sup>47</sup> Edmund P. Clowney, *7 Distinctive Emphases in Presbyterian Church Polity*, in *Pressing Toward the Mark*, eds., Charles G. Dennison and Richard C. Gamble (Philadelphia: Orthodox Presbyterian Church), 1986, 108.

in no sense to be maintained by the exercise of any force or coercion whatsoever.”<sup>48</sup> In four separate articles, Aquila likewise stated, “The intent of this principle in *BCO 25* was not only to give liberty of property and affiliation to local congregations, but also intended to prohibit higher courts from imposing any unwarranted burdens on them.”<sup>49</sup> Similarly, he affirmed, “What both amendments have in common is the intent to restrict the liberty congregations now have to determine their affiliation. This is the principled rooted and enshrined in *BCO 25-11*.”<sup>50</sup>

**5.b. Counter-contention:** The right of every congregation to keep its own property is emphatically stated in the *BCO*. Adopting the amendment to *BCO 25-11* would not change this constitutional protection, nor would it restrict the liberty of congregations to determine their denominational affiliation.

Aquila’s over-enthusiastic contentions concerning amendments to *BCO 25* having “the intent to restrict the liberty congregations now have to determine their affiliation” are unsupported by the evidence. Furthermore, such restrictions on the liberty of church congregations would be impossible given the PCA’s constitutional protections. As Clowney wrote in a protest filed at the 15<sup>th</sup> GA and signed by over 150 GA commissioners (including Timothy Keller, Palmer Robertson, David Coffin, Joseph Pipa, and Robert S. Rayburn), “Our present *BCO* in its ‘Form of Church Government’ and ‘Rules for Discipline’ contains ample safeguards to protect the original jurisdiction of Presbyteries and Sessions. The right of every congregation to keep title to its own property is also emphatically stated.”<sup>51</sup> Given that some churches that left the PCUS did lose their property or were forced to take the denomination to court to retain their property, it is no surprise that a congregation’s right to its property is stated decisively in the *BCO*. The protection of a congregation’s property from theft by the denomination is a sacrosanct part of the PCA constitution.<sup>52</sup>

“Who gets to keep the church property?” is a question that burdened many members, lay leaders, and pastors in the years before and after the formation of the PCA in 1973. From the

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<sup>48</sup> Aquila, “Reasons to Defeat,” *The Aquila Report*, May 29, 2018; \_\_\_\_\_, “Reasons for PCA Presbyteries to Vote NO on Amending *BCO 25-11*,” *The Aquila Report*, September 11, 2018, accessed February 5, 2019, <https://www.theaquilareport.com/reasons-for-pca-presbyteries-to-vote-no-on-amending-bco-25-11/>.

<sup>49</sup> \_\_\_\_\_, “Reasons to Defeat,” *The Aquila Report*, May 29, 2018; Ibid; Dominic Aquila, “Reasons for PCA Presbyteries to Vote NO on Amending *BCO 25-11*,” *The Aquila Report*, September 11, 2018, accessed February 5, 2019, <https://www.theaquilareport.com/reasons-for-pca-presbyteries-to-vote-no-on-amending-bco-25-11/>; \_\_\_\_\_, “Reasons for PCA Presbyteries to Vote NO on Amending *BCO 25-11 (II)*,” *The Aquila Report*, January 8, 2019, accessed February 5, 2019, <https://www.theaquilareport.com/reasons-for-pca-presbyteries-to-vote-no-on-amending-bco-25-11-ii/>.

<sup>50</sup> \_\_\_\_\_, “Reasons to Defeat,” *The Aquila Report*, May 29, 2018; \_\_\_\_\_, “Reasons for PCA Presbyteries to Vote NO,” *The Aquila Report*, September 11, 2018.

<sup>51</sup> *M15GA* (1987), 121-123.

<sup>52</sup> Charles Dunahoo, when asked at the 1<sup>st</sup> GA “what scriptural inferences do we draw upon to defend a congregational view of church property?” responded, “The sixth [eighth] commandment, ‘Thou shalt not steal’ the people that pay for the property” . . . [laughter] . . . “That was the neutral principle of law that was argued in the Savannah cases, that the people that bought the property own it.” Presbyterian Church in America. *1st General Assembly*. (Birmingham, AL: Barker Productions, 1973), mp3 file.

writings of leaders of the Continuing Presbyterian Church, to the floor presentation by Robert C. Cannada about *BCO* 26-11 (currently 25-11) at the 1<sup>st</sup> GA,<sup>53</sup> to the substantial work of the Ad-Interim Committee on Structure and Procedure between the 12<sup>th</sup> GA and 16<sup>th</sup> GA, church property issues continued to concern the PCA in the second decade of its existence. However, some questioned whether these concerns were legitimate. In the GA record, we see questions raised in the reports of the Ad-Interim Committee's minority in 1986<sup>54</sup> and 1987<sup>55</sup> and in the protest offered by Clowney and others in 1987.<sup>56</sup>

The minority of the Ad-Interim Committee posited that no problems existed for the church in the area of church property ownership and that “[v]ague generalities about possible problems are an inadequate basis for deviating from the tested system we already possess.”<sup>57</sup> In that context, the minority report included an overview of the court cases applicable to church property and disputes between churches and denominations:

In 1872 the United States Supreme Court decided a case called *Watson v. Jones* . . . The Supreme Court held that, in property disputes arising in denominations with a hierarchical form of church government, the civil courts would simply accept the resolution of the matter made by the highest court of the denomination. This “principle of deference” effectively meant that Presbyterians who desired to leave their denomination were totally at the mercy of that denomination with regard to the disposition of the church property.” . . . This situation persisted until 1979 when the Supreme Court decided *Jones v. Wolf*. . . While the *Jones v. Wolf* decision allowed the state courts to continue to utilize the principle of deference, it also held that the state courts could, consistent with the First Amendment, decide instead to resolve church property disputes by utilizing “neutral principles of law.”<sup>58</sup>

The “neutral principles of law” concept used by the Georgia Supreme Court became a constitutionally permissible approach that states could use to address church property disputes in a manner that did not simply result in deferring to the highest authority within that church hierarchy. The United States Supreme Court held as follows in *Jones v. Wolf* (1979):

As a means of adjudicating a church property dispute, a State is constitutionally entitled to adopt a “neutral principles of law” analysis involving consideration of the deeds, state statutes governing the holding of church property, the local church’s charter, and the general church’s constitution. The First Amendment does not require the States to

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<sup>53</sup> In 1973, information in the *BCO* about the church congregation was contained in Chapter 26. A renumbering of many chapters in the *BCO* occurred in 1980 at the 8th GA. At that time, Chapter 8, originally titled “The Teaching Elder,” and Chapter 9 “The Ruling Elder,” were combined into the newly titled Chapter 8, “The Elder.” (see <http://www.pcahistory.org/BCO/fog/08/01.html>). For the purpose of this paper and to avoid confusion, citations of or reference to Chapter 26 in the pre-1980 *BCO* include parenthetical references to Chapter 25 the church congregation chapter number since 1980.

<sup>54</sup> *M14GA* (1986), 439-448.

<sup>55</sup> *M15GA* (1987), 490-500.

<sup>56</sup> *Ibid.*, 121-123.

<sup>57</sup> *M14GA* (1986), 440-441.

<sup>58</sup> *Ibid.*, 441.

adopt a rule of compulsory deference to religious authority in resolving church property disputes, even where no issue of doctrinal controversy is involved.<sup>59</sup>

According to the neutral principles approach, the resolution of church property disputes was to be “completely secular,” freeing the “courts completely from entanglement in questions of religio[n].”<sup>60</sup> Courts applying the neutral principles approach would instead rely “exclusively on objective, well-established concepts of trust and property law familiar to lawyers and judges.”<sup>61</sup> In the view of the United States Supreme Court, the neutral principles approach offered the advantage of flexibility to religious organizations, allowing their diverse and varied intentions to be honored regardless of whether those intentions supported hierarchical, local congregational, or some other form of ultimate ownership of church property.

**6.a. Contention:** The Church does not have the civil power of the sword to force certain actions.

Aquila wrote, “The authority of the Church is purely moral, spiritual, declarative and ministerial. As such the Church does not have the power of the sword to force or coerce certain actions.”<sup>62</sup> As Roberts put it:

Consider that the proposed amendment is attached to *BCO* 25-11, which directs congregations to follow the ‘applicable civil laws’ (used a number of times in this provision) when voting on whether to withdraw. The effect of placing the proposed amendment at the end of the last paragraph of *BCO* 25-11 will cause conflict and confusion between the distinction of civil and ecclesiastical powers. Civil power has the power of force. Ecclesiastical power is ministerial and declarative and does not include the power of force.<sup>63</sup>

**6.b. Counter-contention:** The use of civil power of the sword is not envisioned in the proposed changes to *BCO* 25-11 nor would the PCA’s constitution allow for its use by the church.

The proposed amendment to *BCO* 25-11 does not entertain in any way the idea that the amendment will give to the church the power of the sword. Aquila is correct, of course, in stating, “The authority of the Church is purely moral, spiritual, declarative and ministerial. As such the Church does not have the power of the sword to force or coerce certain actions.” These concepts are included in the *BCO*’s “Preliminary Principles”:

7. All church power, whether exercised by the body in general, or by representation, is only ministerial and declarative since the Holy Scriptures are the only rule of faith and practice. . .

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<sup>59</sup> Jones v. Wolf, 443 U.S. 595, 595-96 (1979), <http://cdn.loc.gov/service/ll/usrep/usrep443/usrep443595/usrep443595.pdf>.

<sup>60</sup> Ibid.

<sup>61</sup> Ibid.

<sup>62</sup> Aquila, “Reasons for PCA Presbyteries.” *The Aquila Report*, August 8, 2017.

<sup>63</sup> \_\_\_\_\_, “Reasons for PCA Presbyteries to Vote NO,” *The Aquila Report*, September 11, 2018.



8. Since ecclesiastical discipline must be purely moral or spiritual in its object, and not attended with any civil effects, it can derive no force whatever, but from its own justice, the approbation of an impartial public, and the countenance and blessing of the great Head of the Church.

The principles are also included in *BCO* Chapter 3, “The Nature and Extent of Church Power” and Chapter 11 on, “Jurisdiction of Church Courts”:

3-3. The sole functions of the Church, as a kingdom and government distinct from the civil commonwealth, are to proclaim, to administer, and to enforce the law of Christ revealed in the Scriptures.

3-4. The power of the Church is exclusively spiritual; that of the State includes the exercise of force. The constitution of the Church derives from divine revelation; the constitution of the State must be determined by human reason and the course of providential events. The Church has no right to construct or modify a government for the State, and the State has no right to frame a creed or polity for the Church. They are as planets moving in concentric orbits: “Render unto Caesar the things that are Caesar’s and to God the things that are God’s” (Matthew 22:21).

11-1. These assemblies are altogether distinct from the civil magistracy, and have no jurisdiction in political or civil affairs. They have no power to inflict temporal pains and penalties, but their authority is in all respects moral or spiritual.

Smith wrote in his *Commentary* on the *BCO* concerning Preliminary Principle 8:

Here we find a declaration of the character of church discipline as distinguished from civil discipline. The latter may be enforced by the power of the sword, while the former must derive its force from three things: namely, (1) its being just, (2) from the approval of impartial observers, and (3) from being in accord with the Word God and thus having the approval and blessing of Christ the great Head of the Church.<sup>64</sup>

As Roberts stated, the word “civil” is used in a number of places in *BCO* Chapter 25. So prominent, in fact, is the church’s concern about its relationship with the civil realm that the word “civil” is found in the GA minutes over 2,000 times from the 1<sup>st</sup> GA to the 46<sup>th</sup> GA. There is no confusion, however, in the proposed amendment. The church does not have the power of the sword. It is important to ensure that the powers of the civil authorities and the powers of the church are always separate—as “planets moving in concentric orbits” (*BCO* 3-4). Furthermore, there is no conflict or confusion associated with attaching the proposed amendment to the end of *BCO* 25-11.

Franklin P. Ramsay wrote in his *Commentary* on the *BCO* of 1879 concerning the Jurisdiction of Church Courts (V.II.59):

In no case, not even in a case of murder left unpunished by the civil authority, or in the case of the most awful blasphemies whatsoever, can the ecclesiastical court inflict or adjudge to be deserved, any penalty whatsoever except the declaration of the mind of

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<sup>64</sup> Morton H. Smith, *Commentary on the Book of Church Order of the Presbyterian Church in America*, 5<sup>th</sup> ed. (Taylors, SC: Southern Presbyterian Press, 2004), 24.

Christ concerning the sin, and such treatment in the matter of fellowship in the Church as shall express this mind of Christ. The censure of Christ through the Church is the only instrument for enforcing the law of Christ. That is, these courts can act only as servants to declare what he, as their King, commands them.<sup>65</sup>

- 7.a. Contention:** The amendment is a first step towards violating the solemn covenant of the relationship between PCA congregations and the church's higher courts.

Aquila wrote, "The proposed amendment is the beginning of the erosion of this solemn covenant by applying force and coercion in its restrictive language."<sup>66</sup> In another article he also wrote: "These attempts would be a backdoor means 'to secure possession of the property of any congregation against its will, whether or not such congregation remains within or chooses to withdraw from this body.'"<sup>67</sup> Aquila stated, "The concept of a 'solemn covenant' was dismissed as meaningless when this amendment was considered by the General Assembly."<sup>68</sup> Regarding the solemn covenant applying to all of *BCO* Chapter 25, Aquila explained, "*BCO* 25-10 makes it clear that the entirety of *BCO* 25 is to be construed as a solemn covenant: 'The provisions of this *BCO* 25 are to be construed as a solemn covenant....' Not just some parts of *BCO* 25, but all of its provisions. This includes any type of action that would restrict local PCA churches from determining their affiliation."<sup>69</sup>

- 7.b. Counter-contention:** The amendment does not violate the solemn covenant of *BCO* 25-10 nor does it erode the solemn covenant in any way.

First, defining the "solemn covenant" of *BCO* 25-10 is crucial to understanding its application. According to *BCO* 25-10, this is "a solemn covenant whereby the Church as a whole promises never to attempt to secure possession of the property of any congregation against its will." Hence, while the solemn covenant applies to *BCO* 25, as stated in *BCO* 25-10, it cannot apply to those matters unrelated to the promise of the Church as a whole never to attempt to secure possession of the property of any congregation against its will.

At the 1<sup>st</sup> GA, Todd W. Allen, member of the Judicial Business Committee, said regarding the *BCO* section containing the solemn covenant that "we lifted this out of the Reformed Presbyterian Church Evangelical Synod Book [RPCES *BCO*]."<sup>70</sup> The RPCES *BCO* (II.8.c) states, "This portion of this Form of Government, namely Section 8, paragraphs a, b, and c, of Chapter II, shall be unamendable forever, and shall constitute a solemn covenant between this denomination and its courts, and the particular churches adhering thereto."<sup>71</sup> While the PCA *BCO* and the RPCES *BCO* are not identical in a word-for-word manner, the concepts addressed

<sup>65</sup> Franklin P. Ramsay, *An Exposition of the Form of Government and the Rules of Discipline of the Presbyterian Church in the United States* (Richmond, VA: Presbyterian Committee of Publication, 1898), 68.

<sup>66</sup> Aquila, "Reasons to Defeat," *The Aquila Report*, May 29, 2018.

<sup>67</sup> Ibid.

<sup>68</sup> Aquila, "Reasons for PCA Presbyteries (II)," *The Aquila Report*, January 8, 2019.

<sup>69</sup> Ibid.

<sup>70</sup> Presbyterian Church in America. *1st General Assembly*. mp3 file.

<sup>71</sup> Reformed Presbyterian Church Evangelical Synod. *Book of Church Order*, (Coventry, CT: Christian Training, Inc.), 1977.

in paragraphs a, b, and c of the RPCES *BCO* II.8 are contained in sections 25-8, 25-9, 25-10, and 25-11 of the PCA's *BCO*. Therefore, the solemn covenant concerns those constitutional guarantees related to PCA's promise not to attempt to secure a particular church's property. The solemn covenant does not preclude changes to *BCO* 25, and the length of notice for a congregational meeting to vote on withdrawing from the PCA may be changed without violating the solemn covenant.

Furthermore, in *BCO* 26-11 (currently 25-11) of the pre-assembly *BCO* draft prepared for consideration at the 1<sup>st</sup> GA, the following statement was included in the section on the solemn covenant: "The provisions of this section are unamendable and irrevocable."<sup>72</sup> The floor debate on the successful motion to delete the sentence included two major points made in support of the removal. First, it was argued that even the *Westminster Confession of Faith*, *Larger Catechism*, and *Shorter Catechism* could be amended and that no part of the constitution is unamendable. Commissioner Loren V. Watson of Calvary Presbytery said, "Our Confession of Faith is not unamendable, and for us to come and say that our doctrine of property is the only thing that is sacred to the point of unamendability seems to me to be placing a materialism in our constitution that I don't think we want." Second, those in favor of removing the sentence argued that the assembly could not bind future assemblies in this way. Allen said that "legally it's a superfluous statement."<sup>73</sup> Just as *BCO* 25-3 and *BCO* 25-4 were previously changed, it is constitutionally permissible to change *BCO* 25-11 as the current amendment contemplates.

**8.a. Contention:** Local churches are "competent to function" and are capable of determining their affiliation. The proposed *BCO* amendment is in conflict with the competency and civil sufficiency clauses of *BCO* 25-11.

Aquila wrote, "The PCA should honor the intent of the solemn covenant and trust that local churches are supremely more capable of determining their affiliation more than controlling amendments and bureaucrats within the proverbial ecclesiastical beltway."<sup>74</sup> Furthermore, a minority of two members of the Committee on Constitutional Business believe the amendment to be in conflict with the church constitution. Their minority report to the 46<sup>th</sup> GA states, "Dissenting Opinion of the Minority: the creation of a more stringent requirement that applies only to churches wishing to withdraw **is in conflict** with the congregational competency and civil sufficiency clauses of *BCO* 25-11" (emphasis in the original).<sup>75</sup>

**8.b. Counter-contention:** The amendment to *BCO* 25-11 currently under advice and consent is not in conflict with the competency and sufficient reasons clauses of *BCO* 25-11.

At the 1<sup>st</sup> GA, *BCO* 26-11 (currently 25-11) was presented on the floor by Cannada on behalf of the Judicial Business Committee. The concepts of a congregation being "*competent to function*"

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<sup>72</sup> Advisory Convention of the Continuing Presbytery Church, *Proposed Book of Church Order for the Continuing Presbyterian Church*, Constitutional Documents Committee, (Montgomery, AL: Administrative Office for a Continuing Presbyterian Church), 1973.

<sup>73</sup> Presbyterian Church in America. *1st General Assembly*. mp3 file.

<sup>74</sup> Aquila, "Reasons to Defeat," *The Aquila Report*, May 29, 2018.

<sup>75</sup> *M46GA* (2018), 318-319.

and of a congregation being able to “withdraw from any court of this body at any time “*for reasons which seem to it sufficient*” (emphasis added) are ideas contained in Cannada’s statement presented on the floor at the 1<sup>st</sup> GA:

One word of explanation I think will help in other action of this body. As has been told to you, we are now a Delaware Corporation—nonprofit Delaware Corporation—and the bylaws will be submitted to you later on in this session. An effort has been made in those bylaws and throughout to have this body with two distinctive functions, one function being ecclesiastical which will be handled by this body—or by the ecclesiastical courts, the Session, the Presbytery and the General Assembly. The other being civil or being the business of the local congregation over which none of the ecclesiastical courts have any business at all.

We are a fellowship of independent congregations, and we’re trying to make certain that the jurisdiction of the ecclesiastical courts are limited to ecclesiastical matters and that they have no jurisdiction at all in dealing with the affairs of the local congregation. So that you’ll see in this, we don’t talk about “you can get in or get out by a majority vote” or “you can do this by any kind of a vote” because once we start telling the local congregations what vote they must have, then we began to exercise jurisdiction over that particular congregation.

So this is the reason for doing this is at the very outset of the organization to make certain that we make a distinction between the ecclesiastical matters over which these courts control and the civil matters over which these courts have no jurisdiction whatsoever.<sup>76</sup>

Interestingly, even though Cannada gave a speech in which he said, “we don’t talk about ‘you can get in or get out by a majority vote,’” the *BCO* approved by the 1<sup>st</sup> GA had the same provisions as exists today concerning the dissolution of a church from the denomination which outline the specific procedures for a congregation voting to withdraw from the PCA.

Some have argued that requiring a longer notice for congregational meetings related to *BCO* 25-11 than, for example, for a congregational meeting to elect a pastor violates the competency clause and sufficient reasons clause. However, what is clear about the competency clause and sufficient reasons clause is that they do not apply to all matters in *BCO* 25. Rather, they apply specifically to a church’s decision to “withdraw from any court of this body at any time.” Setting the minimum notice period for a congregational meeting at 30 days instead of 7 days does not violate the competency or sufficient reasons clauses of *BCO* 25-11.

The history of the various lengths of notice required in the *BCO* for a congregational meeting shows that circumstances, in the regulative principle sense of the word,<sup>77</sup> may be changed. In a historical example, we see that the 1<sup>st</sup> GA *extended* the number of days’ notice before a

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<sup>76</sup> Presbyterian Church in America. *1st General Assembly*. mp3 file.

<sup>77</sup> *Westminster Confession of Faith* (1-6).

congregational meeting to be *longer* than the notice stipulated in the 1933 PCUS *BCO*<sup>78</sup>. However, at the very same time, the 1<sup>st</sup> GA included the competency and sufficient reasons clauses in the same chapter. Neither the 1933 *BCO* nor editions of the *BCO* before it specified the number of days of notice required for congregational meetings. However, the congregational meeting notice period adopted by the 1<sup>st</sup> GA for the 1973 *BCO* was “at least one week.” Furthermore, the pre-assembly *BCO* was identical to the 1933 *BCO*, and it did not include the seven days’ notice requirement.

If the competency and sufficient reasons clauses mean that the length of notice for a congregational meeting related to *BCO* 25-11 cannot be increased, then why did the 1<sup>st</sup> GA require any specified notice whatsoever since the 1933 *BCO* and the pre-assembly draft *BCO* did not require a specified time period in the congregational meeting notice requirement? Did the 1<sup>st</sup> GA include two discrepant ideas in the *BCO* approved in 1973, the first being the competency clause and the second being a new requirement of seven days’ notice for congregational meetings? I suggest not. Because the 1933 PCUS *BCO* does not include a required minimum days’ notice period before a congregational meeting, the fact that the public notice period was required to be “of at least one week” in the *BCO* adopted at the 1<sup>st</sup> GA demonstrates that the PCA *BCO* adopted in 1973 was *more restrictive*, in this regard, than was the 1933 PCUS *BCO* and its predecessors. The line of argumentation offered by those who suggest the competency and sufficient reasons clauses are contrary to the proposed changes to *BCO* 25-11 would, in a parallel way, seem to suggest that PCA elders who served as commissioners at the 1<sup>st</sup> GA believed congregations to be less competent than those who adopted the 1933 *BCO*. This is inconceivable, of course, given the prominence of church property disputes between the PCUS and conservative Presbyterian congregations leading up to the 1<sup>st</sup> GA and Cannada’s remarks at the 1<sup>st</sup> GA.

Furthermore, while the quorum for congregational meetings was the same in both the 1933 PCUS *BCO* and the pre-assembly 1973 PCA *BCO*, the vote required was different. The vote count proposed in the pre-assembly draft of *BCO* 26-11 (currently 25-11) for “actions related to this chapter” reads as follows (emphasis added):

Definition of a local congregation in such action as relates to this chapter: A congregation shall be comprised of all on the roll and eligible to vote. *With a proper quorum present a two-thirds majority vote would then become the act of the congregation as a whole.*

The sentence “*With a proper quorum present a two-thirds majority vote would then become the act of the congregation as a whole*” in 26-11 (currently 25-11) was neither adopted by the 1<sup>st</sup> GA nor discussed or debated on the floor of the assembly. However, this statement illustrates the thinking of some PCA founding fathers concerning the competency to function and sufficient reasons clauses.

**9.a. Contention:** *The Historic Polity of the PCA*, by Robert C. Cannada and W. Jack Williamson, demonstrates why *BCO* 25 should stand as presently drafted.

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<sup>78</sup> Presbyterian Church in the United States. *The Book of Church Order, Revised Edition*, (Richmond, VA: Presbyterian Committee of Publications), 1933.

Aquila wrote, “The Presbyteries of the Presbyterian Church in America are voting on a proposed amendment to *BCO* 25-11. This amendment should not be approved in light of the history and unique circumstances of *BCO* 25. In their book, ‘The Historic Polity of the PCA,’ Cannada and Williamson review and explain the importance of the PCA’s historic polity and why *BCO* 25 should stand as it is presently drafted. The excerpts show that *BCO* 25 is a carefully crafted provision, and that it should not be amended as proposed.”<sup>79</sup>

**9.b. Counter-contention:** Ruling elders Cannada and Williamson were great men of faith who devoted their lives to the formation and continuation of the PCA. They are founding fathers of the denomination. However, the philosophical and theological reasoning in their book, *The Historic Polity of the PCA*, does not provide viable arguments against adopting the proposed amendment to *BCO* 25-11.

At the 14<sup>th</sup> GA, the Ad-Interim Committee on Structure and Procedures paper was adopted. As Taylor explained, “Study Committee reports are ‘deliverances’ of an Assembly; the opinion of the majority of the commissioners on a specific subject (*in thesi*) at a particular point in time. Study Committee Reports are *not* amendments to the constitution”<sup>80</sup> (emphasis in the original). Eleven years later, committee members Williamson (chair) and Cannada wrote *The Historic Polity of the PCA* based on the report of the Ad-Interim Committee. The introduction to the book reads as follows:

[W]e have concluded that it would be desirable to publish that report so as to make it readily available to the teaching and ruling elders in the Presbyterian Church in America. . . We have also concluded that it may be of some value to those who are not familiar with the formation of the denomination to put our thinking and our understanding with reference to the polity of the denomination into a paper or papers that can also be published, along with the report of Ad Interim Committee on Structure.<sup>81</sup>

The reason the *in thesi* statements in the Ad-Interim Committees report and the arguments in Cannada and Williamson’s book are not helpful for those opposed to the adoption of the *BCO* 25-11 amendment is because less than one-third of the Ad-Interim Committee’s *BCO* recommendations were adopted by the presbyteries. While the 15<sup>th</sup> GA approved the delivery to the presbyteries of 15 out of 16 *BCO* amendments that the Ad-Interim Committee proposed, only five of these amendments were adopted by the presbyteries during the advice and consent process (*BCO* 26-2.2). Furthermore, those amendments that represented the core philosophical aspects of the committee’s *BCO* proposals were not approved. Therefore, the material in the book related to the failed *BCO* amendments of the 16<sup>th</sup> GA in 1988 cannot logically be considered authoritative representations of the PCA polity.

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<sup>79</sup> Dominic Aquila, “Why ‘The Historic Polity of the PCA’ Contends Against Approving the *BCO* 25-11 Amendment,” *The Aquila Report*, October 23, 2018, accessed February 5, 2019, <https://www.theaquilareport.com/why-the-historic-polity-of-the-pca-contends-against-approving-the-bco-25-11-amendment/>.

<sup>80</sup> L. Roy Taylor, Status of *in thesi* Statements. n.d., accessed February 5, 2019, <http://www.pcahistory.org/bco/articles/thesi/Taylor-inthesi.pdf>. 2.

<sup>81</sup> Robert C. Cannada and W. Jack Williamson, *The Historic Polity of the PCA* (Greenville, SC: A Press, 1997), v.

Among the *BCO* changes directly related to the philosophical underpinnings of the Ad-Interim Committee's paper (and included in *The Historic Polity of the PCA*) that failed to obtain the two-thirds affirmation by the presbyteries were proposed changes to *BCO* Chapter 3. The committee proposed adding a new *BCO* 3-7 stating, in part, "A higher court may not 'act for' a lower court." This amendment to *BCO* Chapter 3 failed the vote by the presbyteries (33% in favor and 65% opposed, 2% not voting). After failing to be adopted by two-thirds of the presbyteries, the strength of Cannada's and Williamson's arguments are substantially lessened. Nevertheless, the failed amendment to *BCO* Chapter 3 is virtually identical to the language in the Cannada and Williamson book, and it is included in the very same section that was quoted at length in Aquila's recent article.<sup>82</sup>

**10.a. Contention:** There is no reason to amend *BCO* 25-11 now.

Aquila wrote in numerous places, "There are no urgent, necessary, historical, structural, compelling or rational reasons to amend *BCO* 25-11. Why change now?"<sup>83</sup>

**10.b. Counter-contention:** There are sound reasons to change *BCO* 25-11 now.

Adopting the amendment to *BCO* 25-11 is recommended for the "common advantage to the Church at large" (*BCO* 13-9.h). The adoption of the amendment to *BCO* 25-11 would not lead to the slippery slope as some allege but would instead improve the constitution's protection of church congregations. The adoption of the amendment would not impose hierarchical, top-down control over churches. In fact, the right of every congregation to keep its own property is emphatically guaranteed in the *BCO*, and the amendment does not change this constitutional protection or restrict the liberty of congregations to determine their affiliation. The use of the civil power of the sword is not envisioned in the proposed changes to *BCO* 25-11, and the amendment likewise does not violate the solemn covenant of *BCO* 25-10 in any way. The amendment is not in conflict with the competency and sufficient reasons clauses of *BCO* 25-11. Finally, Cannada and Williamson were dedicated churchmen and founding fathers of the PCA. However, the philosophical and theological reasoning in their book, *The Historic Polity of the PCA*, does not support the argument against adopting the proposed amendment to *BCO* 25-11. There are sound reasons for the presbyteries and the 47<sup>th</sup> GA to adopt the amendment to *BCO* 25-11.

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February 6, 2019

<sup>82</sup> Aquila. "Why 'The Historic Polity of the PCA.'" *The Aquila Report*, October 23, 2018.

<sup>83</sup> \_\_\_\_\_, "Reasons for PCA Presbyteries (II)," *The Aquila Report*, January 8, 2019; \_\_\_\_\_, "Reasons for PCA Presbyteries," *The Aquila Report*, August 8, 2017; \_\_\_\_\_, "Reasons for PCA Presbyteries to Vote NO," *The Aquila Report*, September 11, 2018.