

PRACTICE AND PROCEDURE

AT

GENERAL ASSEMBLY

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PRACTICE AND PROCEDURES

There are three sources for the material contained in this section. The source is identified at the beginning of the first paragraph in each section.

1. When a number, for example, 277, appears at the beginning of a paragraph it indicates the section number in the Book of Forms where this paragraph can be found.
2. When “A&P” followed by a year, e.g., (A&P 2011), appears at the beginning of the first paragraph in a section it indicates the year when the material quoted was submitted to the General Assembly.
3. When the wording used is that of the Clerks of Assembly, the reference “(Clerks)” will appear at the beginning of the first paragraph of the section.

THE ASSEMBLY

HIGHEST COURT 277. The General Assembly is the highest court of the church, and bears the title of “The General Assembly of The Presbyterian Church in Canada”.

277.1 The General Assembly differs from the lower courts of the church in that it has, as a body, no permanent existence. The Assembly meets to perform specific duties assigned to it by the constitution of the church, and devolving on its particular members by virtue of their commissions from their respective presbyteries. When those specific duties have been performed, its members have no further powers, and the General Assembly, after fixing the time and place for the calling of another Assembly, dissolves itself. All the powers and functions of the General Assembly belong to it solely as a representative and temporary body.

AUTHORITY OF ASSEMBLY 294. As the supreme court of the church, the General Assembly possesses the authority to determine and order such things as are necessary to be done in a pending case and for which there is no legal provision. It cannot overrule law, but only supply the want of it when necessary.

DUTIES OF ASSEMBLY 292. The General Assembly receives and disposes of petitions, overtures, references, complaints and appeals from lower courts, and all other matters regularly brought before it; reviews the records of synods; deals with matters respecting doctrine, worship, discipline and government of the church; prescribes and regulates the course of study of students having the ministry in view; admits ministers and certified candidates for ordination from other churches; forms new synods and presbyteries; corresponds with other churches; conducts the missionary operations of the church; receives and disposes of reports in respect to the colleges and from the committees charged with the care of the different departments of the work of the church; and in general adopts such measures as may tend to promote true godliness, to repress error and immorality, to preserve the unity of the church, and to advance the kingdom of Christ throughout the world.

OPENING OF ASSEMBLY 282. At the time appointed for meeting, a diet of public worship is held when a sermon is preached by the moderator of the last Assembly, or, in their absence, by a former moderator. Immediately thereafter the Assembly is constituted with prayer, and a provisional roll, consisting of the names of commissioners appointed at least twenty-one days before, is submitted in printed form by the clerk. The General Assembly elects its moderator on nominations made immediately after the Assembly has been constituted, who then takes the chair.

SEDERUNT (Clerks) Sederunt is a specific time period designated for business, for example “morning sederunt” refers to the hours of meeting between breakfast and lunch, “afternoon sederunt” to the meeting between lunch and dinner, and “evening sederunt” to the meeting between dinner and adjournment for the night.

DOCKET (Clerks) Docket is synonymous with agenda. It is a list of the business to come before the Assembly.

QUORUM 278.10 Forty-one commissioners, of whom one is the moderator (or acting moderator), another twenty are ministers ordained to Word and Sacraments or members of the Order of Diaconal Ministries and another twenty are ruling elders, shall constitute a quorum for the transaction of business. But twenty commissioners who were appointed twenty-one days before, being met at the place and time appointed, may constitute the court, and adjourn from time to time until a full quorum is present.

FUTURE ASSEMBLIES 281. The General Assembly ordinarily meets once a year; and each Assembly fixes the date and place of the next before it dissolves; notwithstanding, any Assembly may determine the location of future Assemblies for the ensuing five years.

SPECIAL ASSEMBLY 281.1 The General Assembly ceases to exist as soon as it is closed and, apart from the powers entrusted to the Commission re Matters Left Uncared for or Omitted, no provision has been made for summoning a special Assembly in the course of the year.

PARTICIPANTS

THE MODERATOR 282. The General Assembly elects its moderator on nominations made immediately after the Assembly has been constituted, who then takes the chair.

(Clerks) By action of the 99th General Assembly a procedure was adopted to determine the name of the person to be placed in nomination for Moderator. However, once this person has been nominated, an opportunity will be given for commissioners to make other nominations.

(Clerks) By action of the 119th General Assembly, elders and members of the Order of Diaconal Ministries may be placed in nomination for Moderator.

283. The moderator's duties are: to constitute the Assembly; to open and close each sederunt with prayer; to preserve order; to see that the business is properly conducted and the minutes are correctly taken; to take the vote; to announce decisions; to sign all documents having the authority of the Assembly; and to exercise any other functions assigned to them by the court.

284. The moderator may express their views on any subject under discussion; but if they wish to take part in debate or to submit a motion, they leave the chair and call another member of the court to take their place.

RETIRING MODERATOR (Clerks) The Moderator of the last General Assembly following the opening worship, constitutes the court. Under their moderatorship, the roll of Assembly is established and the call for nominations for election as Moderator extended. After the new moderator is elected and installed, the Moderator of the last General Assembly, who has been appointed by their presbytery as a commissioner to this Assembly, assumes their responsibility as a commissioner.

CLERKS OF ASSEMBLY (Clerks) There are two Clerks of Assembly, a Principal Clerk and one Deputy Clerk. During the sederunts of the Assembly, they are responsible for keeping the record of proceedings, advising the Moderator on legal and procedural matters, assisting the Moderator in noting those who want to address the court, and serving as scrutineers when required. At some Assemblies either Clerks may be appointed a commissioner by their presbytery and can, therefore, participate in debate.

COMMISSIONERS 278.1 The General Assembly shall consist of one-sixth of the total number of ministers and members of the Order of Diaconal Ministries whose names are on the constituent rolls of the presbyteries of the church, and an equal number of elders. (Declaratory Act: A&P 1992, p. 275, 31)

278.2 When the number of names on the roll of the presbytery is not divisible by six, the sixth shall be reckoned from the next higher multiple of six.

278.9 The roll to be called at the opening of the Assembly shall be made up from the rolls of the several presbyteries, as transmitted to the Clerks of Assembly, containing the names of the commissioners appointed at least twenty-one days before. At its first session the Assembly shall appoint a committee to which shall be referred the reports of presbyteries regarding commissions issued at a later date and all matters affecting the roll. On the report of this committee the Assembly shall order such changes to be made in the roll as may be required. The roll thus amended shall be the permanent roll of the General Assembly.

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

**YOUNG ADULT
REPRESENTATIVES**

(Clerks) Since the late 1960s there have been Young Adult Representatives (YARs) at Assembly. Each year, on a rotation basis, one half of the presbyteries are invited to send a YAR. The age as set by the Assembly in 1986 is 16 to 25 years.

YARs have a time of orientation prior to the Assembly. YARs should try to attend a presbytery meeting and have met with the commissioners from their presbytery before coming to Assembly.

YARs are expected to sit in the court. Depending on the plans arranged by the YAR advisors, YARs will either sit as a group or with one or more of the commissioners from their presbytery. The 1997 General Assembly adopted a guideline calling each Assembly to adopt a motion extending open permission for young adult and student representatives to speak at that particular Assembly and be granted an advisory vote. This recommendation is presented by the Business Committee at the first sederunt. In recent years, YARs and student representatives were granted an advisory vote from time to time. They may also move and second recommendations. Coloured voting cards are issued for this purpose and the procedures are explained during orientation.

**STUDENT
REPRESENTATIVES**

(Clerks) Soon after the introduction of the YAR program in the mid 1960s, it was agreed to add to the group of YARs a student from each of the church's colleges. In 1986 these student representatives were dropped from the YAR program as it was felt that their interests and concerns vis à vis the Assembly were quite different. Their present status was established on recommendation of the Board of Ministry in 1987.

The intent of the student representative program is to provide an opportunity for students to attend an Assembly and observe what is happening. The 1997 General Assembly adopted a guideline calling each Assembly to adopt a motion extending open permission for young adult and student representatives to speak at that particular Assembly and be granted an advisory vote. This recommendation is presented by the Business Committee at the first sederunt.

**RESOURCE
PERSONS**

(Clerks) The convener of each General Assembly board, committee and agency normally attends Assembly. Some are able to remain until the Assembly concludes its business. The executive staff of General Assembly agencies as well as the principals/dean of the colleges also attend.

**ECUMENICAL/
INTERFAITH
VISITORS**

(Clerks) Each year the Ecumenical and Interfaith Relations Committee invites visitors to Assembly from other churches, either from within Canada or abroad, or from an ecumenical organization; or from another faith tradition. Each visitor is given an opportunity to address the Assembly sometime during the week, usually for approximately 15 minutes. Commissioners, YARs and student representatives are urged to seek out these visitors and help make them feel a part of the Assembly.

OTHERS

(Clerks) The spouses of commissioners, resource persons and others often attend Assembly. While they are not officially a part of the Assembly, they are welcome to attend all sederunts and other special events.

COMMITTEES

**STANDING
COMMITTEES**

288. The Assembly...appoints standing committees, which are entrusted with conducting the business of the church in its several departments during the year, and which report annually to the General Assembly.

(Clerks) Some standing committees are known as committees while others are called boards. Under current usage, there is no clearly defined distinction between a board and a committee.

COMMITTEES OF THIS ASSEMBLY	<p>288. The Assembly appoints a Committee on Bills and Overtures, a Committee on Business, and other committees to consider matters specially referred to them.</p> <p>(Clerks) These are committees of commissioners appointed at the opening sederunt on recommendation of the Business Committee; they have a specific task to perform in relation to that Assembly; and will be terminated with the close of Assembly.</p>
Bills & Overtures	(Clerks) This committee recommends to Assembly procedures for dealing with all unreferred overtures, petitions and appeals.
Business	<p>296.4 The Committee on Business shall fix an order of business and print the docket to be available for all commissioners before the opening sederunt.</p> <p>(Clerks) At the beginning of each sederunt the committee will recommend the docket for that sederunt. Conveners of special committees should arrange through the Committee on Business for a place on the docket.</p>
To Confer with the Moderator	(Clerks) This committee has, as one of its duties, to suggest to the Moderator the names of persons to serve on committees whose membership is nominated by the Moderator.
Courtesies & Loyal Addresses	<p>(Clerks) According to the 1987 decision, this committee is to prepare the Loyal Addresses just prior to the last sederunt of Assembly and incorporate into them a summary of decisions made by the Assembly which pertain to matters of state.</p> <p>The other aspect of this committee's responsibility is the preparation of the minute of appreciation to all those who contributed to the smooth functioning of the Assembly.</p>
Examine Records	(Clerks) A committee is appointed to examine the minutes of the last General Assembly, the several synods, and the Assembly Council to ensure that they are carefully and correctly kept.
Remits	(Clerks) During the first sederunt of Assembly, the Committee on Remits is appointed. This committee studies the replies from presbyteries re remits sent down under the Barrier Act by the previous Assembly and recommends the action to be taken by this Assembly on each remit.
Roll & Leave to Withdraw	(Clerks) The Committee on Roll and Leave to Withdraw, appointed during the first sederunt, has two responsibilities. Firstly, to determine the roll of Assembly as mentioned in 278.9 above. Secondly, to consider and recommend to Assembly action re requests from commissioners for permission to leave before Assembly concludes its business. (Please see A&P 1986, p. 286 for more detail)
SPECIAL COMMITTEES	<p>(Clerks) Special committees can be divided into two groups:</p> <ol style="list-style-type: none"> 1. Those named by the Moderator at the request of Assembly to deal with a specific matter such as an overture, appeal, resignation, etc., and present a final report to that Assembly. 2. Those named by the Moderator at the request of Assembly to undertake a specific task during the ensuing year and report to the next Assembly, for example, to advise with the Moderator, to study our church's approach to youth and young adults.
COMMISSIONS	4.4 ... it is competent for a court to remit, from time to time, particular business to "a delegated court", or commission, with power to issue.
Commission (Ordinary)	<p>289. The Assembly may appoint a commission, which powers are defined by the terms of the appointment.</p> <p>289.1 The commission chooses its own convener, who is commonly the moderator of the preceding Assembly if present. The Clerks of the Assembly act as its clerks.</p> <p>289.2 The commission is appointed for the transaction of judicial and administrative business. It has no legislative function.</p>

289.3 If it appears that a commission has exceeded its powers, or has acted in any way contrary to the acts or constitution of the church, the next Assembly may set aside or reverse its procedure.

(Clerks) Each year the Assembly appoints a commission to deal with matters left, uncared for, omitted. This is made up of the Moderator and the Clerks of Assembly.

Special Commission

290. The General Assembly may remit any cause before it to a special commission, with such powers as the Assembly shall see fit, whose decision and sentence shall be final, and shall be reported to the next General Assembly.

290.1 The special commission may, if it see cause, refrain from deciding or pronouncing sentence, and may report the matter to the next Assembly, so that the latter may itself issue.

290.2 A special commission is not subject to the authority of the commission of Assembly (section 289), and reports only to the next General Assembly.

290.3 What is determined in a judicial cause at one diet of any commission, general or special, cannot be altered at another diet, but continues in force, unless disapproved of by the next General Assembly.

290.4 The sentence of a commission of the General Assembly is final, and must be obeyed. Complaint may be taken against such sentence, on the ground of its being beyond the legal authority of the court, and the matter may be brought up to the next Assembly. But no such process will justify disobedience in the meantime.

(Clerks) A special commission is normally appointed when the Assembly is unable to deal with a matter during the regular course of its business, as, for example, an appeal or other judicial process where individuals not present at the General Assembly must be cited to appear.

MOTIONS

GENERAL

39. No discussion is in order until a motion is before the court. Speakers should confine themselves to the matter referred to in the motion, and if they depart therefrom they may be called to order.

Must be in writing

40. Every motion or amendment shall be given in to the clerk in writing as soon as it has been made, and it cannot be discussed until it has been duly seconded.

(Clerks) Amendments and additional motions may be submitted to the Business Committee by the manner outlined on the General Assembly webpage. A chart outlining types of motions can be found on the reverse side of commissioner voting cards that are distributed upon registration at the Assembly..

Withdrawing a Motion

41. After a motion or amendment is in the clerk's hand and discussion has commenced, it cannot be withdrawn or altered without leave of the court.

Dividing a Motion

50. A motion under discussion that consists of two or more distinct parts, shall, on the call of any two members, at any time before the final vote is taken, be divided, and each part shall be voted on separately.

AMENDMENT

46. A motion is amended by adding certain words or clauses thereto; by striking out certain words or clauses; by substituting other words or clauses for those in the resolution; or by striking out all after the word "resolved" and substituting another motion disposing of the matter in hand.

Amendment to the Amendment

47. It is in order to propose an amendment to the first amendment, but no other can be entertained until the amendment to the amendment has been disposed of; when this has been adopted or rejected, other amendments to the amendment may be considered and disposed of one by one; when these all have been disposed of, the first amendment is voted on in answer to the question, "Shall the motion be thus amended – yea or nay?" If this is decided in the affirmative, the main motion is amended accordingly, and the discussion proceeds. Other amendments to the motion are then in order. When all amendments have been disposed of, the motion, as then before the court, is put in answer to the question, "Shall this motion be adopted – yea or nay?"

Amending Reports	<p>(Clerks and A&P 1988, p. 281–82)</p> <p>Reports to Assembly are an expression of opinion on the part of the reporting agency. The Assembly does not have the right to amend the body of a report. Assembly, if it is so inclined, can place in its minutes a statement about the report, such statement can be either in support of or in opposition to the report or a section of the report. Since “a court is entitled to say what shall have a place in its records” (Book of Forms section 29) the Assembly can agree to delete part or all of a report from its records.</p> <p>When a recommendation in a report specifically refers to information contained in the preamble to the recommendation (i.e., “That a bursary fund be established for the purpose of providing financial support for candidates in doctoral theological study as per the six principles stated above), and a commissioner wants to change the wording of one of the principles, this can be accomplished by moving an amendment to the recommendation which would add to the recommendation the actual revised wording of the six principles (i.e., “That a bursary fund ... theological study as per the following six principles:” and then list the revised wording for the six principles).</p>
MOTIONS THAT HAVE PRECEDENCE	<p>42. When a question is under discussion, the motion before the court must be disposed of, and no other motion can be entertained unless to adjourn the court, to adjourn the debate, to lay on the table, to refer, to amend, or to take an immediate vote; and these several motions have precedence in the order in which they are herein arranged.</p>
to adjourn	43. A motion to adjourn is always in order, and is voted on without debate.
to lay on the table	44. A motion to lay on the table is voted on without debate. If carried in the affirmative, the subject to which it refers together with the motion and pending amendments, remains on the docket and may be taken up at a subsequent sederunt, but only by a resolution adopted by a majority of the members of the court present.
	(Clerks) This motion is not used to defer debate until some other matter is dealt with.
to refer	45. Any subject with the motion and pending amendments may be referred to a committee for consideration and report. (Declaratory Act 2001, p. 272–73, 21)
	(Clerks) Debate is restricted to where it is referred, when a further report should be made, and whether or not it should be referred.
to take immediate vote	48. A motion to take an immediate vote is put without debate. If carried in the affirmative, the amendment or amendments pending are put to the court without further discussion; then, if no further amendments are offered, the main motion is voted on, and the subject is disposed of. If the motion is lost, the debate continues, just as if no such motion had been made.
	48.1 When the motion to take an immediate vote pertains to Declaratory Acts or to matters that must be dealt with under the Barrier Act, it requires a two-thirds majority vote to pass.
OTHER PROCEDURAL MOTIONS	(Clerks) When there are matters to be considered by the court later in the agenda that may have bearing on the motion currently under discussion, or when it seems wise to halt debate temporarily and resume it later, a motion to defer is in order. The motion can indicate deferral until after a specific event or it can simply be in terms of deferral to a later sederunt.
to defer	
to reconsider	49. A motion to reconsider a decision of the court cannot be entertained at the sederunt in which the decision was given; nor at any subsequent time, unless notice of such motion has been given at a previous sederunt. A motion to reconsider can only be made and seconded by members who voted in the majority.
PROCEDURES	
ADDRESSING THE COURT	51. When a member rises to speak, the moderator announces the member’s name. If two or more rise at the same time, the moderator decides who shall speak first.

52. Every speaker addresses the moderator, and may not address any other member directly.

56. No member shall speak more than once to any motion or amendment, unless by permission of the court, and in explanation or to correct mistakes. The right of reply, however, belongs to the mover before the final vote is taken on the main motion.

PERMISSION TO SPEAK

Convener

(Clerks) Only commissioners have the right to address the Assembly. However, when a report of a board or committee is before Assembly, the person presenting the report, usually the convener of the board/committee, is authorized to speak. Such persons, unless they are a commissioner, cannot speak to the report of another board/committee without first obtaining permission from Assembly.

Executive Staff

(Clerks) On occasion, a board or committee wants a non-commissioner who is a member of the board/committee or on its staff, to speak during the presentation of the report. In such cases, the permission of Assembly must be obtained. This is normally granted when the report is first introduced.

Clerks

(Clerks) At the request of the Moderator, a Clerk of Assembly may speak to help clarify an issue, give procedural guidance, or to interpret the law of the church.

Young Adult Representatives

(Clerks) In 2021 the General Assembly granted permission for young adult representatives (appointed by their presbytery) to make and second motions. They may also participate in the debates of Assembly and offer an advisory vote. (A&P 1997, p. 261, 24; A&P 2009, p. 261–63, 17; A&P 2010, p. 362–63, 283, 13; A&P 2021, p. 221, 54.)

Student Representatives

Student representatives from each of the colleges of The Presbyterian Church in Canada are invited to attend the Assembly and are granted permission to participate in the debates of Assembly.

RECEIPT OF REPORTS

(Clerks) The first motion put to the Assembly when a report is initially introduced is that the report be received and considered. This motion is normally adopted without discussion. However, this need not be simply a perfunctory action. If a commissioner is of the opinion that an entire report, or part of a report, contains material that should not come before the Assembly, then they have the right to speak against the receipt of the report, or move an amendment that a specific section of the report not be received.

VOTING

57. The vote may be taken by any method determined by the court. It is ordinarily taken by a show of hands, but the moderator may ask members to vote by rising to their feet. Further, if so required by one-third of the members present, the vote shall be by ballot. At the final vote on the main motion, the roll may be called, if required by two members of the court. Ordinarily the state of the vote is not recorded, but this may be done in regard to any vote, if required by two members of the court.

58. Members should not, without good cause, decline to vote; and unless excused by the court from voting, all who do not vote are held as acquiescing in the decision of the majority.

59. When it is agreed that a vote be taken, the moderator may order the doors to be closed, and no further debate or remark is allowed, unless to correct a mistake. When it is discovered that a mistake has been made, the vote may be taken anew.

Advisory Vote

(Clerks) Since 2009, Young Adult Representatives and Student Representatives have been granted an advisory vote whereby these representatives are occasionally permitted to vote first on a matter before the Assembly. Having been so advised of the representatives' position the commissioners then vote. Only the commissioner vote is used to determine whether or not a recommendation has been approved.

Dissent

91. Any member of a court who has voted on a question and is not satisfied with the decision is entitled to have their dissent recorded. By so doing they are relieved from responsibility for the decision and is saved from censure on account of it. The dissent must be given in when the decision is announced. Reasons for dissent may be given in at that time or

within ten days. If in proper language, they are entered in the minutes. When deemed necessary the court prepares answers that are disposed of by being entered in the appropriate minutes.

92. Members who voted in the minority may signify their adherence to a dissent, and have their adherence recorded, either at the time, or at the following sederunt when the minutes are confirmed, but not afterwards.

**Consent
Recommendations**

A consent recommendation is intended to be used for recommendations that are expected not to require discussion by the court in order to allow more time for subject that do require further prayerful deliberation. Some committees will propose that two or more of the report's recommendations be adopted by consent. At that moment, any commissioner may ask for one (or more) of the recommendations be removed from the consent recommendations in order for it to be discussed and voted on in the usual manner. The request to remove such a recommendation is not to be debated.

**FINANCIAL
MATTERS**

296.6 Undertakings for which new or increased expenditure is required shall not receive final approval of the General Assembly until a report from the Assembly Council has been received.

**MODERATOR'S
DECISION
CHALLENGED**

54. Any member who is dissatisfied with the ruling of the moderator may appeal to the court. The question of sustaining the ruling of the chair is then put by the clerk, and decided without debate.

**DOCUMENTS FOR
DISTRIBUTION**

(Clerks) Before any document can be distributed to commissioners, regardless of whether or not it is related to matters that will be before the court, the permission of Assembly must be obtained.

**COMMITTEE OF
THE WHOLE**

60. In order to allow greater freedom in discussion, the court, when considering any particular matter, may, on motion duly seconded, resolve itself into a Committee of the Whole. On motion duly made, a convener is appointed and the moderator leaves the chair.

61. While the court is in committee, the motions considered are not recorded in the minutes, and members are at liberty to speak more than once on any motion. A separate minute of the proceedings is taken. When the committee rises, its convener presents a report to the court embodying the result of the committee's deliberations, or they report progress and asks leave to sit again.

**NOTICE OF
MOTION**

(A&P, 1974) The purpose of a notice of motion is to enable the commissioners to acquaint themselves with the subject of the notice of motion and thus be prepared for any debate. Thereby the Assembly is not taken by surprise and is able to avoid hurried, too-little considered judgements.

The proper form of a notice of motion is, "I hereby give notice of motion that it is my intention to move or cause to be moved at a future sederunt that ..." It is always assumed that the mover has a seconder ready. The notice of motion is always for the future sederunt, not the one in which it is presented. The printed minutes will duly contain it, and it is the practice of the Business Committee not to place it on the docket until it is before the commissioners in the minutes.

It is to be strictly observed that a notice of motion deals with some subject that is definitely before the Assembly. It is customary not to present such a notice until the subject is before the Assembly. However, there are notices of motion in the bodies of Board and Committee reports, and the statement is made there that they will be presented. For these, as they are already in the texts, the notices are often given at an early sederunt.

Upon this statement, that the subject must be within the documents, there is misunderstanding. At each Assembly there are commissioners who believe that their commission entitles them to raise any subject they wish. This is not so: the commissioners concerned should have had their subjects presented out of their presbyteries as overtures. There are occasions when the subject is related to the report of a certain Board of Committee, and when that subject is presented they may take their desired action by way of amendment.

Particularly, it must be noted that no commissioner can raise a subject which has been before a lower court and is a closed matter. For example, a party to a case fails to take appeal at

the level of presbytery or synod and believes the matter can “be raised in Assembly” if a friendly commissioner can be found to raise it. This cannot be: a notice of motion is not a means to by-pass the ordinary procedure of appeal.

Assembly is master of its own docket. It is conceivable that, in emergency, a matter not within the documents of Assembly should be brought before Assembly. This can be, by the grace of Assembly, following a motion to permit, but the Clerks consider that a two-thirds majority of those present and voting should be required.

There are times when it is difficult to distinguish between that which is properly an amendment and that which should require a notice of motion. In this dilemma it is wiser to rule the matter requires a notice of motion.

TECHNICAL TERMS

OVERTURE

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

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

COMMISSIONERS OVERTURE

(A&P 1982) It is only rarely that a “Commissioner’s Overture” is justified. It is conceivable that a great or grave emergency may arise which could not be foreseen prior to the meeting of the Assembly. Under such circumstances a commissioner or commissioners could present an overture to the Assembly. However, if the matter has not suddenly become an emergency, then the usual procedure should have been followed of having the overture come up through synod or presbytery. The whole purpose of having deadlines for overtures, petitions, etc., so as to get the material into the hands of the commissioners prior to Assembly is frustrated if someone can raise and introduce a subject concerning which commissioners cannot prepare themselves sufficiently on short notice. The individual commissioner is not prohibited from presenting an overture, but such should be most rare and the burden is on the commissioner to show that the matter could not have been brought before the Assembly through a lower court.

PETITION

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

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

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

79. When considering how to act on a petition, a court may give any who might be affected by the petition the opportunity to be present. (See Appendix A–7b)

DECLARATORY ACT

293. The Assembly may pass a Declaratory Act affirming what it understands to be the law of the church regarding any particular matter; and such act may be passed without submission to presbyteries.

BARRIER ACT

293. ... any action contemplating a change in the law of the church must be dealt with according to the provisions of the Barrier Act (A&P 1877) which is as follows:

- 293.1 No prepared law or rule relative to matters of doctrine, discipline, government or worship, shall become a permanent enactment until the same has been submitted to presbyteries for consideration. Such consideration shall be given by each presbytery, at an ordinary meeting, or a special meeting held for the purpose; and an extract minute of the presbytery’s judgment shall be sent to the clerk of the General Assembly, before the next meeting of that court.
- 293.3 If a majority of the presbyteries of the church express their approval, the Assembly may pass such proposed law or rule into a standing law of the church. If a majority of the presbyteries express disapproval, the Assembly shall reject such proposed law or rule, or again remit it to the presbyteries.
- 293.4 If a majority of the presbyteries of the church replying to a remit sent down under the Barrier Act, as specified in section 293.1, express their approval and this majority of presbyteries constitute an actual majority of ministers, members of the Order of Diaconal Ministries, and elders on the constituent rolls of all presbyteries, the Assembly may pass such proposed law or rule into a standing law of the church. (The original Barrier Act is from the Church of Scotland, 1697.) (Declaratory Act: A&P 1946, p. 121, 67)

INTERIM ACT 293.2 The Assembly, if it sees cause, may by a majority of two-thirds of those present, pass such proposed law or rule into an Interim Act, which shall possess the force of law, until the presbyteries have, as herein required, reported their judgment upon it to the next General Assembly.

REMIT (Clerks) When Assembly sends a matter to presbyteries under the Barrier Act, the matter sent down to presbytery is called a remit.

REFERRAL (Clerks) Often Assembly agrees to refer to synods or presbyteries or sessions a matter for study with the request that a report be submitted by a specific date, usually in January or February of the next year. This is called a referral.

EX OFFICIO (Clerks) The term “ex officio” means “by virtue of office” and is most commonly used at Assembly in connection with the membership of boards and committees. For example, ex officio (by virtue of office) Chief Financial Officer/Treasurer of the church is a member of the Assembly Council. Such membership may be with or without vote, as specified in each case.

SITTING WITH CLOSED DOORS (Clerks) In private, secretly. When by decision of Assembly all but commissioners are ordered to leave so that the Assembly may sit alone, this is referred at Book of Forms sections 10–10.1.

LEGAL TERMS

BOOK OF FORMS APPENDIX H The following definitions of legal terms were approved by the 108th General Assembly and ordered placed in the Appendix to the Book of Forms.

Law Law may mean statute or long settled principles. It has been defined as the body of rules, whether formally enacted or customary, which a state or community recognizes as binding on its members.

Law has also been defined as that which must be obeyed and followed by citizens, subject to sanctions or legal consequences.

Enabling Legislation Legislation is defined as the making of laws by express decree, and enabling legislation is often referred to as primary or governing legislation. A body enacting subordinate legislation must do so in accordance with the authority granted to it under the enabling or governing legislation passed by the sovereign legislative body and may not exceed its jurisdiction. This term is also applied to any statute enabling persons or corporations to do what they could not do before. It is applied to statutes which confer new powers.

For example, pursuant to enabling provincial legislation, municipalities are created and municipal councils are granted authority to enact by-laws in accordance with the limitations set out in the enabling provincial legislation. Similarly, the Trustee Board was created by

enabling legislation called “An Act to Incorporate The Trustee Board of The Presbyterian Church in Canada”, and by that Act, the General Assembly was authorized to make resolutions, rules and regulations for the government and control of the Trustee Board.

Regulation	Regulation has been defined as a rule prescribed for the management of some matter, or the regulating of conduct; a governing precept of direction. Under enabling legislation, the power to make statutory instruments such as regulations and by-laws is delegated to an inferior body.
Precedent	Precedent means that a principle of law actually presented to a court of authority for consideration and determination has, after due consideration, been declared to serve as a rule for future guidance in the same or analogous cases. It may also involve a previous judicial decision, method of proceeding or draft of a document which serves as an authoritative rule or pattern in similar or analogous cases.
Practice of the Church	<p>Practice has been defined as a repeated or customary action; habitual performance; succession of acts of a similar kind; habit; custom; usage. The term may also be used in the sense of the form, manner or order of instituting and conducting a suit or other judicial proceedings through its successive stages to the end, in accordance with the rules and principles set down by law or the regulations and precedents of the court.</p> <p>There is case law which indicates that practice of the Church does not mean the practice of the local church or congregation, but of the church of which the congregation is a branch.</p>
Usage of the Church	A usage is akin to the practice. It has been defined as a habitual use, established practice or customary mode of action on behalf of a number of persons. It has also been defined as a reasonable and lawful public custom in a locality concerning particular transactions which is either known to the parties or so well established, general and uniform that they must be presumed to have acted with reference thereto. A usage is different from a custom in that it need not have existed from time immemorial. The grounds upon which a practice or usage will be considered to have crystallized into a custom or convention are as follows: continuous operation; open exercise; exercise conducted peaceably and as of right; reasonable, certain and obligatory in nature; consistency with other customs and compatibility with statutes.