

Theology Matters

Altering the Covenant: A Critique of the Proposed New Form of Government

A White Paper by the Presbyterian Coalition

This paper has been prepared as a critique of the proposed new Form of Government that will be presented to the 218th General Assembly for action. *Altering the Covenant* is a joint effort sponsored by the Presbyterian Coalition. The paper is offered as a gift to the whole church, but we hope especially that it will be a useful resource to commissioners as they do their own reading and study of the document proposed as a substitute for our existing Form of Government.

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Introduction: Omissions, Changes, and Consequences

A General Assembly task force is proposing a complete replacement of the Form of Government,¹ the section of our constitution that most shapes our life together and our decision-making processes as Presbyterians. In this paper we explain why we believe the action of the 218th General Assembly (2008) should be to disapprove the proposed new Form of Government (nFOG).

Should the General Assembly approve the nFOG, and a majority of presbyteries affirm its action, we will have a Form of Government that discards or significantly alters longstanding agreements that have made this part of our constitution useful to the church. For example, the nFOG would erase decisions made by Presbyterians not

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only in the distant past but also in recent history. Amendments adopted by our presbyteries as recently as 2007 would be discarded or rewritten. Authoritative interpretations by past assemblies and decisions by the General Assembly's Permanent Judicial Commission (GA PJC) would have no anchor in constitutional language, raising questions about their continued application. Many of the problems posed by the nFOG do not lend themselves to correction by amendment because they are conceptual in nature and shape the very meaning of the document.

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This nFOG would not simply reorder and simplify our current Form of Government. It would change our polity significantly in many places. Some of the changes are obvious. Some are subtle or obscure.

While not all of the implications and consequences of the document can be known ahead of its actual adoption and application, some become apparent as the following questions are addressed: Exactly what would the nFOG change?² What would it omit to become a smaller document? Will the changes proposed in the new Form of Government offer significant benefit to the Church? Will it address important expressed needs of our churches and presbyteries? And, what is the potential for harmful unintended consequences resulting from the extensive changes we have before us. The answers to these questions are critical.

The nFOG will not significantly reduce the size of the *Book of Order*. There are three parts of the *Book of Order*.³ Only the Form of Government section is included in the proposed document. If those who have received a bound version of the nFOG compare its size to the existing Form of Government, and not to the entire *Book of Order*, they will find the nFOG less than a third shorter than our existing Form of Government. Combined with the Directory for Worship and the Rules of Discipline, it will not become a "shirt-pocket" edition.

The existing Form of Government has eighteen chapters. The nFOG has nine. Three of the new chapters make up a new section, called "Foundations of Presbyterian Polity," identified by an "F" prefix. The remaining six chapters make up the "Revised Form of Government," identified by a "G" prefix.

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In the following pages, we will summarize some of the major problems that would accompany a complete replacement of the Form of Government. The problems fall into six broad sections:

- significant changes in theology;
- significant changes in polity;
- introduction of new requirements, and new freedoms that may result in unintended license;
- inadequate checks and balances;
- ambiguity and opportunity for a variety of interpretations; and
- shifting of our governance toward local option: the handbooks.

I. Foundations of Presbyterian Polity (Chapters F-1 through F-3): A Super-Constitutional Section?

The nFOG Task Force is recommending a significant change in the creation of a new section of the *Book of Order* titled "Foundations of Presbyterian Polity," which it says "clearly sets apart a foundation for our entire polity."

The new "Foundations" recommended by the task force combines the first four existing chapters of the *Book of Order* into three. The new section alters the meaning of the existing chapters significantly and introduces new, more ambiguous language.

Despite our differences, Presbyterians have found the existing first four chapters to be an essential basis for expressing and understanding our polity. Some material in the existing chapters is taken from time-tested historical documents. Though we agree with the task force that the concepts are true expressions of our identity and purpose as a church, we raise concern about the consequences of creating what might be regarded as a super-constitutional section of the *Book of Order*. Might this section become an "essentials" document by which the entire Constitution would be interpreted? What are the implications for sessions and

presbyteries, and for authoritative interpretations, if that should happen?

In this section we will address first several of the theological problems we find in the nFOG. Then we will return to the question of polity and the possible consequences of creating a section of the *Book of Order* that is “basic” to interpreting the whole.

A. Significant Changes in Theology

1. Diminished Authority of Scripture

The phrase “Word of God”—which in our day is used with a variety of meanings—is routinely substituted for the word “Scripture” in the nFOG’s “Foundations.” Sections on the “Apostolicity of the Church” (F-1.0302a) and on the “Unity of the Church” (F-1.0302d) make no mention of Scripture. Worse, F-1.0302b says that congregations “listen for God’s Word in Scripture” [emphasis added], giving constitutional status to the problematic wording that separates the Word from Scripture. This language is contrary to our confessions—the Confession of 1967, as well as the Westminster—that declare Scripture to be the Word of God written. This would take the issue beyond the realm of differing interpretations of Scripture and into our convictions about the authority of Scripture.

De-emphasis of Scripture and lack of a clear Christology

Other places in the “Foundations” also diminish Scriptural authority. References to Jesus and the Holy Spirit are disconnected from Scripture. Under the heading “Openness to the Guidance of the Holy Spirit,” F-3.0301 says that though we are “grounded in Scripture...nonetheless the Presbyterian form of government is always subject to the Lord of the Church.” Does the “nonetheless” suggest that what is found in Scripture can be distinguished from what is intended by the Lord of the Church?

Our existing *Book of Order* includes the responsibility of elders to “cultivate their ability to teach the Bible” (existing G-6.0304). This is removed from the nFOG.

Overall, this section would have the effect of diminishing Scripture’s authority for Presbyterians. The very mention of Scripture disappears from some sections; our clear, Reformed witness—that all of Scripture is God’s Word and that the Holy Spirit never contradicts Scripture—is altered.⁴

2. Inadequate Christology

Much of the problem of the nFOG can only be seen well in a comparison between the existing and the proposed to discover what has been omitted or altered. For example, The nFOG task force writes that the “Foundations” section begins with “a very simple but important statement on the activity of God in the world.”⁵ The desire to emphasize mission in the nFOG is commendable; nevertheless, the very purpose of that mission—Jesus Christ—is given short shrift in these critical opening statements. The power of the grand opening to our existing *Book of Order* is muted not only in the new placement, but also in the new language.

The words of our existing Preliminary Principles are both rewritten and relocated below the section on the church’s mission. The *Book of Order*’s strongest witness to the power and rule of the Church’s Savior would be displaced and weakened.

Existing G-1.0100a. Christ is Head of the Church

All power in heaven and earth is given to Jesus Christ by Almighty God, who raised Christ from the dead and set him above all rule and authority, all power and dominion, and every name that is named, not only in this age but also in that which is to come. God has put all things under the Lordship of Jesus Christ and has made Christ Head of the Church, which is his body.

nFOG F-1.0201 The Authority of Christ

God has given to Jesus Christ all authority in heaven and on earth, not only in this age but also in the age to come. God has put all things under the Lordship of Jesus Christ and has made Christ Head of the Church, which is his body. The Church’s life and mission are a joyful participation in Christ’s ongoing life and work. Wherever Christ is, there is the Church; wherever Christ leads, the Church follows.

Notice what is removed: The power of Jesus. The resurrection of Jesus. The clear supremacy of Jesus.

There is another significant shift in Christology in the nFOG. Rich Gospel language from the existing Form of Government disappears. The “Foundations” section, that the task force says is “basic” to the *Book of Order*, curiously makes no reference to the death and resurrection of Jesus.⁶ Our existing Form of Government expresses our mission clearly and well in language omitted from the nFOG:

Jesus came to seek and to save the lost; in his life and death for others God’s redeeming love for all

*people was made visible; and in the resurrection of Jesus Christ there is the assurance of God's victory over sin and death and the promise of God's continuing presence in the world.*⁷

The changes to these sections on Scripture and Christology are at the heart of both our identity and our mission. We must be especially attentive to the implications of what is lost or altered.

3. Expanded Meaning of Inclusiveness

The church's commitment to inclusiveness is altered in the nFOG in a way that has serious theological implications. The parallel passages of the new F-3.0303 and the existing G-4.0403 differ significantly in implied scope of the inclusiveness to which we are committed as a denomination.

A broadened inclusiveness becomes a major emphasis of the whole document.

The existing Form of Government expresses what we mean with a list of those we include.⁸ The nFOG would expand the meaning of inclusiveness, mandated by the word "shall," beyond the limits specified by our existing language.

Existing G-4.0403

Persons of all racial ethnic groups, different ages, both sexes, various disabilities, diverse geographical areas, different theological positions consistent with the Reformed tradition, as well as different marital conditions (married, single, widowed, or divorced) shall be guaranteed full participation and access to representation in the decision making of the church.

nFOG F-3.0303

The Church is called to give full expression in its membership to the diversity of the human family, and shall be responsive to that diversity in its worship, government, and emerging life. It shall not deny participation or representation to persons or groups within its membership for any reasons other than those stated in this Constitution.

The new language would allow some governing bodies to become more inclusive, and other governing bodies to become less inclusive than the existing language permits. For example, the language that mandates the ordination of women (existing G-6.0105) would disappear altogether in the nFOG.

In another part of the nFOG's "Foundations" document, a list of those to be included would be more specific than our existing Form of Government. The Church catholic embraces "all genders" in the nFOG's list, while our existing Form of Government refers to "one body"; "a fellowship of believers," that seeks to include "all people."

Existing G-4.0201

The Church is a fellowship of believers which seeks the enlargement of the circle of faith to include all people and is never content to enjoy the benefits of Christian community for itself alone. There is one Church. As the Bible speaks of the one body which is the Church living under the one Spirit of God known through Christ....

nFOG F-10302b:

As the body of Christ, the Church catholic is a sign of God's reconciling love, embracing all times and places, all races and nations, all genders and ages, all persons regardless of station in life. The Church catholic is marked by the fullness of faith, the wholeness of hope, and the completeness of love, lived in communion with all who confess Jesus Christ as Savior and Lord.

The existing Form of Government requires sessions to report on how the session makeup compares with the specific demographic makeup of its congregation (G-10.0301).⁹ This reporting requirement is gone in the nFOG, as is the requirement for Committees on Representation.¹⁰

By eliminating specificity, the nFOG would allow each ordaining body to determine for itself what constitutes a group of any sort to be included and potentially ordained. Paragraphs G-2.0203¹¹ and G-3.0104¹² in the nFOG are tied to this implied foundational principle of blanket inclusiveness. It is easy to see how this might be used by some to trump retaining the language of the existing G-6.0106b and its clearly exclusive requirement of "fidelity within the marriage of a man and a woman or chastity in singleness."

B. Significant Change in Polity

In the rationale for their recommendation the task force notes that "no material in the current Chapters I-IV is identified explicitly as 'foundational' or 'basic.'" The task force says, "A 'Foundations' section clearly sets

apart a foundation for our entire polity,” and “resolves this lack of clarity.”¹³

The three new chapters would replace the first four chapters of the existing Form of Government and would be unamendable for six years following its adoption.¹⁴ This implies a new status for what historically has been integral to the Form of Government.

Our highest church court, the General Assembly Permanent Judicial Commission (GA PJC), addressed this matter in 2001 when it said that all parts of the constitution must be read with equal weight. It said:

*It is not unusual for a document such as our Constitution, written at different periods of time and under different circumstances, to exhibit tensions and ambiguities in its provisions. Nevertheless, it is the task of governing bodies and judicial commissions to resolve them in such a way as to give effect to all provisions. It is not within the power of any governing body or judicial commission to declare a properly adopted provision of the Constitution to be invalid. The only appropriate avenue to change or remove a provision of the Constitution is through the process for amendment provided within the Constitution itself.*¹⁵

Is the nFOG proposing a change to our constitution that will alter how the constitution is read by the courts? Would the courts be inclined to regard the new “Foundations” section as an interpretive lens for the entire *Book of Order*? We believe very basic theological and polity questions are raised by the “Foundations” section of the nFOG that are not easily fixed by the amendment process.

II. Revised Form of Government (Chapters G-1 through 6)

We now turn our attention to the six chapters that are proposed to replace fourteen chapters of the existing Form of Government.

Material from the existing chapters has been eliminated in some cases and reordered in others, sometimes to good effect, but more often in ways that make it difficult to see and consider what has been lost, reworded, or reordered. What follows are illustrations of the problems. They are not intended to be exhaustive.

Here again, we find that the major changes fall into general categories, three for this section: the introduction of new requirements, and new freedoms that may result in unintended license; inadequate checks and balances; and the introduction of ambiguity that

allows for a variety of interpretations of the meaning of this new part of the constitution. We will address the effects of shifting our governance through new rules and handbooks in a section of its own.

A. Introduction of New Requirements, and New Freedoms that May Result in Unintended License

1. Changes to Per Capita and Mission Monies

The distinction between per capita and mission funds would be eliminated in the nFOG. They would be combined into what is called “requested funds.”¹⁶ Thus, the General Assembly and synods would have authority to assess a far greater amount from each presbytery. The presbytery would be given new power to raise mission funds in addition to what is currently identified as per capita. The nFOG’s G-3.0107 says that “the presbyteries *are* responsible...for raising and the timely transmission of requested funds to their respective synods and the General Assembly” [emphasis added].

Existing G-9.0404d

Each governing body above the session shall prepare a budget for its operating expenses, including administrative personnel, and may fund it with a per capita apportionment among the particular churches within its bounds. The presbyteries shall be responsible for raising their own per capita funds, and for raising and timely transmission of per capita funds to their respective synods and to the General Assembly. The presbyteries may direct per capita apportionments to the sessions of the churches within their bounds.

Sixth unnumbered paragraph of nFOG G-3.0107

*The funding of mission similarly demonstrates the unity and interdependence of the church. The failure of any part of the church to participate in the stewardship of the mission of the whole church diminishes that unity and interdependence. All mission funding should enable the church to give effective witness in the world to the new reality of God in Jesus Christ. Each council shall prepare an annual budget. Councils higher than the session may request funds for their mission and for support of the meetings and ongoing functions through which the interdependence of the church is lived out. **Presbyteries are responsible for raising their own funds and for raising and timely transmission of requested funds to their respective synods and the General Assembly. Presbyteries may apportion requested funds to sessions within their bounds.***

The nFOG says, “The session shall prepare and approve an annual budget and determine the distribution of the congregation’s benevolences” (nFOG G-3.025). However, the presbytery would have to collect from the congregations an amount sufficient to pay the funds required by the General Assembly and synods.

The presbytery is given new power to raise mission funds combined with per capita.

This could mean that the session has the authority to “determine the distribution of the congregation’s benevolences,” but only those funds that are left after the General Assembly, synod, and presbytery assessments have been paid. The nFOG does not protect the responsibility of stewardship that falls to the congregations, and grants taxing authority to presbyteries.

The voluntary nature of per capita under our existing Form of Government has been firmly and repeatedly established by the church courts. Reference to per capita is removed from the nFOG. We must assume that, without an anchor in specific language, GA PJC decisions that ensure the voluntary nature of per capita also would disappear.

2. The Advisory Committee on the Constitution (ACC) replaces the General Assembly and the General Assembly Permanent Judicial Commission (GA PJC) as Interpreter of the *Book of Order*.

In the nFOG, the only reference to authoritative interpretation is in a section titled, “Interpreting the Constitution: The Advisory Committee on the Constitution” (nFOG G-6.02). Questions of interpretation would be referred to the ACC, which would then report its responses to the next General Assembly. This is an enormous change, giving to an advisory committee authority previously entrusted only to the highest bodies, the GA and the GA PJC. There is

The ACC would become the final arbiter of the constitution.

no provision in the nFOG for the GA to evaluate and ratify decisions of the ACC. The ACC would become the final authoritative interpreter of the constitution, undoing one of the primary means of checks and balances that we have relied on throughout our history.¹⁷

Existing G-13.0103r says that the General Assembly has the “responsibility and power”:

“to provide authoritative interpretation of the Book of Order which shall be binding on the governing bodies of the church when rendered in accord with G-13.0112 or through a decision of the Permanent Judicial Commission in a remedial or disciplinary case. The most recent interpretation of a provision of the Book of Order shall be binding.”

nFOG G-6.02, second paragraph:

All questions requiring an interpretation by the General Assembly of the Book of Order arising from councils of the church shall be communicated in writing to the Stated Clerk of the General Assembly no later than 120 days prior to the convening of the next session of the General Assembly. The Stated Clerk shall refer all such questions of interpretation to the Advisory Committee on the Constitution, except those pertaining to matters pending before a judicial commission, which shall report all responses to the next succeeding General Assembly.

B. Inadequate Checks and Balances

One example of diminished checks and balances is the transfer to the ACC of the power to make authoritative interpretation of the constitution. There are others, though, again, this list is not all-inclusive.

Governing bodies would be enabled to give up their own authority and responsibilities, delegating decision-making to smaller appointed or elected bodies.

1. Loss of Protections for Ministers and Congregations

A stated nFOG goal is “flexibility,” intended to free congregations and presbyteries to be more missional. However, such flexibility would not increase a congregation’s ability to do mission so much as it would increase the regulatory power of a presbytery and its ability to define mission. In addition, important due process protections for ministers and congregations disappear. Concerning ministers, for instance, the

nFOG vastly broadens presbyteries' powers to remove pastors altogether from their churches without due process. Only a careful comparison between the proposed nFOG and the existing Form of Government reveals such problems.

The nFOG's G-2.0701 would allow a presbytery to dissolve a pastoral relationship without a congregational meeting, should the presbytery decide that the "church's mission under the word" demands such dissolution. Left unstated is the question: Who would decide? Apparently, each presbytery would need to develop a policy. What would be the congregation's recourse? The pastor's recourse? No due-process provision is included in the nFOG.

No due-process provision is included in the nFOG.

Under the existing G-6.0702, a presbytery may presume that a minister has renounced its jurisdiction if that minister "persists in a work disapproved" by the presbytery. Chapter 6 states the various works associated with ministers' vocations. The nFOG's G-2.0307 would allow a presbytery to presume that a minister has renounced its jurisdiction simply if the minister "persists in work disapproved by the presbytery." How might "work" in the new be distinguished from "a work" in the existing book, and what are the implications of the removal of the indefinite article?¹⁸

The nFOG would remove the existing requirements for the content areas of the Standard Ordination Examinations. There would be no constitutional constraint or consistency in the areas of examination set by the GA.¹⁹

Congregations also lose important protections and freedoms under the nFOG. For example, the existing requirement for specific notification of a congregational meeting would become "adequate public notice" (nFOG G-1.0501). Each congregation would set its own quorum and decide what is "adequate" notice for annual and special congregational meetings. The congregation would lose the constitutional right to approve and correct the minutes of their meetings. (cf existing G-7.0307)²⁰ and nFOG G-1.0505.²¹

In addition, because the nFOG would remove so many stipulations of the existing Form of Government and relegate others to manuals and rules of individual governing bodies, it would impair the ability of higher governing bodies to hold presbyteries accountable for compliance with the constitution.

2. No Guaranteed Proportional Session Representation in Presbytery

The nFOG section G-3.0301 would remove the existing requirement in G-11.0101 that churches with greater numbers of members be represented in presbytery by a greater number of elder commissioners. The existing Form of Government assigns a specific number of elder commissioners based on church membership. The nFOG says, "The presbytery shall adopt and communicate to the sessions a plan for determining how many elders each session should commission to represent it at presbytery meetings," and only requires that the number of members be taken "into consideration."

This change would give presbyteries expanded power to assign the number of commissioners that a session could send to presbytery by using some criterion other than the size of membership of a congregation.²² This represents the kind of license allowed by the nFOG. Its use would further divorce the decisions of presbytery from its churches' members.²³

This sort of license would further divorce the decisions of presbytery from its churches' members.

G-3.0304 of the nFOG allows each presbytery to write its own rule for calling special meetings and for giving notice.²⁴

3. Decision-making Consigned to Small, Delegated Bodies

The process used to develop the nFOG itself is an illustration of the document's increasing relegation of decision and policy-making to small, appointed bodies. The recommendation for revising our Form of Government originated with the Office of the General Assembly. After its approval by the GA, the work was carried out by a small appointed task force, faced with fulfilling a huge charge in a short period of time. Their work was based on a rewrite provided by staff. This GA will be asked to respond to the wholesale changes presented in the nFOG in a period of time insufficient for adequate deliberation.

Governing bodies would be enabled to give up even more of their own authority and responsibility than is already permitted in our existing Form of Government. The nFOG provides increased opportunity to delegate decision-making from the larger, more representative bodies to smaller less representative bodies. In every governing body, then, this practice raises questions: Who decides? Who appoints or elects the group that decides? What are the limits of a committee's or commission's powers? What are the options for review and appeal? What time is allotted for serious study and deliberation by the governing body of any decision?

We see this pattern throughout the nFOG document. It is of particular concern in some of the areas already mentioned, such as the loss of protections for ministers and congregations, in which presbyteries may choose to commission small groups to make critical decisions. Whether these decisions are final or subject to review by the presbyteries is up to the individual presbyteries in their policy-making.²⁵

Thus, under the nFOG checks and balances are diminished at every level. The GA and the courts would lose their balancing ability through the assignment of too much power to the ACC. It would be much easier for a presbytery to abuse its power, deprive our congregations—both large and small—of proportional representation, decline to call meetings to address the concerns of minorities, or call hasty meetings that could prevent truly representative decision-making. And decision-making would increasingly be relegated to smaller, less representative bodies.

C. Ambiguity and Opportunity for a Variety of Interpretations

We have already presented a number of examples of vague language in our discussion of the nFOG. But ambiguity throughout the document is itself of concern and deserves to be highlighted. A prudent evaluation of the nFOG requires that we ask questions.

What are the implications of creating a separate “Foundations” document?

What are the implications of the new language that omits reference to per capita?

What effects should we expect from the change of language about *who* interprets the constitution or *how* the constitution is interpreted?

What will happen if we remove the specifics of what we mean by “inclusiveness”?

What are the ramifications of omitting reference to Nominating Committees, Committees on Ministry, Committees on Preparation for Ministry, and Committees on Representation, all of which assume prominence in the existing Form of Government?

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which assume prominence in the existing Form of Government?

What about the General Assembly Council? It may continue to exist but, in spite of the statement in the rationale on page 23 of the nFOG booklet, there will be nothing in the constitution that makes reference to it or requires the GA to approve its mission design or the work that it does.²⁶

How will elimination of all specifics for ordination examinations affect us as a whole body?

In nearly every area to which we’ve brought attention in this document, ambiguity is a primary concern. We would have to anticipate an immediate turn to the courts and the amendment process at GA to begin to restore the clarity we have with our existing Form of Government.²⁷

D. Unknown Impact on Ordination Standards

Consider, as an example of the consequence of ambiguity, recent decisions of presbyteries in San Francisco and Minneapolis. Their actions were based on what they thought was a new power granted them to decide that G-6.0106b (the “fidelity and chastity” requirement) in the existing Form of Government is not essential to ordination or to exercising the duties of ministry.²⁸

The nFOG is likely to invite more challenges, more regulatory actions, more efforts to re-litigate previously settled issues.

We may hope that the actions of these presbyteries will be corrected by the church courts if the courts are faithful to the wording of the existing *Book of Order*.²⁹ But, given the nFOG’s elevation of a non-specific inclusiveness, the court, whose make up changes with each GA, may find such inclusiveness—especially as set forth in a document that they have titled “Foundations”—a more essential principle.

Lack of constitutional clarity does not serve the church well. More ambiguity and less clarity, as exhibited in the nFOG, will not bring a resolution to conflicts. It is much more likely to invite more challenges, more regulatory actions, and more efforts to re-litigate previously settled issues.

III. Shifting of Our Governance Toward Local Option: The Handbooks

Presbyterian polity historically has been based on a belief in the sinful nature of humans and, thus, the need to limit individual powers and provide for decisions made by majority votes. We Presbyterians invented checks and balances in government. We have accumulated a useful body of experience-derived agreements about how we will live together, most of which were developed as cures for real problems needing concrete solutions. It is our existing *Book of Order*.

“...the presbytery’s failure...to follow its own stated policy does not rise to the level of a constitutional error....”

The General Assembly Permanent
Judicial Commission

The nFOG attempts a clean-up effort.³⁰ Yet it would remove the accumulated changes of our recent history that introduced processes to clarify and unify what we do. Many of those processes simply vanish. Others are alluded to by language in the nFOG that notifies the governing bodies (now called “councils”) that a “rule” must be written for this or that purpose. In many cases, the “rule”—currently stated in the existing Form of Government—will need to be reinvented by 11,000 sessions or 173 separate presbyteries.

Will our Form of Government be improved by reducing the number of rules and processes in our constitution? It might. Will it be improved by removing virtually all of the existing provisions that unify the way in which each individual body expresses the whole and moving existing provisions to handbooks that may be different for each governing body? We think not. We believe that is a formula for confusion.

The nFOG’s reliance on council-developed rules moves us toward a local option, or congregationalism, that would encourage more autonomy among our governing bodies, less accountability, and much less unity.

The nFOG Task Force has listed seventeen pages of rules and policies that the various governing bodies would be required to provide if the proposed nFOG is adopted. Its list is based on what is in the nFOG. The list does not include material that has been removed. We have identified more than three dozen additional rules or policies that would have to be written to

account for the material deleted from the existing Form of Government.³¹

One result would be rules buried in minutes of sessions and presbyteries, and handbooks for governing bodies and committees. It would become a challenge to find, much less apply, particular policies or procedures.

Further, the more serious question of how to amend such rules and requirements would be a constant source of trouble and confusion in our governing bodies. There is no avenue to correct rules in minutes and handbooks beyond changing the mind of the body that adopted them in the first place. If it is not in the *Book of Order*, it is not subject to review or correction by the courts.³²

If it is not in the Book of Order, it is not subject to review or correction by the courts.

So, every governing body with its own set of rules; separate committees of every governing body with their own sets of rules; less connection between governing bodies—this moves us toward a local option, or congregationalism, that would encourage more autonomy among our governing bodies, less accountability, and much less unity in common standards and expectations.

When an elder or minister enters our church or our presbytery, we presume that person has met the same basic standards and requirements that we ourselves have met, and lives among us with the same understandings that we have.

What do all these separate bodies of rules mean to individual elders and pastors? Would it make any difference to a congregation’s ministry whether something is constitutional or simply a rule of the congregation or presbytery? The answer lies in our connectionalism as a Reformed body of believers. Our existing form of government is based on a presumption that we need each other as an encouragement, as a corrective, as different but complementary parts of the body of Christ in the world. And so we live together under common standards—and processes, too—that apply to us wherever we are in our denomination. When an elder or minister enters our church or our presbytery, we presume that person has met the same basic standards and requirements that we ourselves have met, and lives among us with the same understandings that we have. Our constitution is second only to Scripture as the source of our unity. Our existing Form of Government expresses the relationship in this way:

All governing bodies of the church are united by the nature of the church and share with one another responsibilities, rights, and powers as provided in this Constitution. The governing bodies are separate and independent, but have such mutual relations that the act of one of them is the act of the whole church performed by it through the appropriate governing body.” (G-9.0103, emphasis added)

The nFOG includes a version of this wording, but its overall effect is to permit such individualized processes and policies that churches and presbyteries would not necessarily know or agree with actions taken by another church or presbytery. We must wonder how the act of one governing body would be the act of the whole church under the nFOG. We must wonder, too, what acts might take place that would wound our consciences and for which there would be no recourse.

Conclusion

Since the days of John Calvin, Presbyterians have had a *Book of Church Order* containing the rules and processes of our unique way of governing ourselves. Our Form of Government was rewritten in 1983 as the result of the merger of the northern and southern streams of our denomination, each of which had its own *Book of Order*. That rewrite was necessary. The necessity for a rewrite at this time has not been established. Further, this effort to substitute the nFOG for our existing Form of Government is unparalleled in its haste.

The 2006 GA approved an Office of the General Assembly recommendation that called for a task force to revise the Form of Government. We gratefully acknowledge the task force’s service and the contribution of their time and energy in response to this GA request. It was a daunting assignment.

The nFOG is built on a premise of trust and a belief that with fewer constitutional constraints, we will do what is faithful and right and fair and in the best interest of the whole body—and that we agree on what we mean by those words. There have been times in our history when that was more possible than it is today. We hope and pray for that time to come again. But the nFOG, with its locally developed policies, willingness to experiment, and ambiguous language, is not a document that will take us there.

The comprehensive nature of this rewrite, the significance of many of the changes, and the speed at which a decision is called for raises the stakes for trust. In addition to the problem of hastiness, there are substantive problems with the content, which we have only sampled in this paper. The problems are pervasive

and do not lend themselves easily to repair by amendment at the GA. If the GA adopts the document in 2008, presbyteries will vote either for or against it as a whole. Amendments will not be possible at that time.

At the beginning of this document we raised questions which we believe are essential to judging the nFOG. The proposed document does not simply reorder, shorten, or simplify our polity. It *changes* our polity, our way of living together as Presbyterians. Presbyterians need to be clear about what is gained and what is lost. Presbyterians need to know what effects to expect from the changes. Presbyterians need to know whether the nFOG responds to the needs of the church and will bring significant benefits without serious harms.

We believe the church will not be helped by the changes offered in the nFOG. Should the church desire to amend the constitution, we believe the whole church would be better served by using the normal overture and amendment process that allows for broader guidance and more careful assessment of the ramifications of changes.

Recommendation

The Presbyterian Coalition recommends disapproval of the proposed new Form of Government.

If the General Assembly deems this project worthy of consideration, we recommend that it be referred to the lower governing bodies for at least two years of study and response. We should look to our congregations, our sessions and our presbyteries, where we prepare for and do the mission of the church, to speak to any need we have to revise our Form of Government.

Endnotes

1. In this document we will refer to the constitutional Form of Government, under which we currently operate, as the existing Form of Government. We will distinguish the proposed new Form of Government, recommended by the FOG task force, by referring to it as the nFOG. When we compare passages from the two versions, we will give the citation accompanied by “nFOG” or “existing FOG.”
2. The Office of the General Assembly offers two resources for comparing the existing Form of Government to the nFOG. The comparison documents run to a total of 242 pages. Readers who attempt to compare the documents will not only find it a daunting effort but also will find that no comparison document will reveal all the changes. Further, the documents are not an aid to understanding the effects of the change.

3. The three parts of the *Book of Order* are the Form of Government, The Directory for Worship, and the Rules of Discipline.
4. Cf *The Book of Confessions* in The Scots Confession, Chapter 18, pp. 19-20, The Second Helvetic Confession, Chapter 1, pp. 53-54 and The Westminster Confession of Faith, Chapter 1, pp. 121-124.
5. Report of the Form of Government Task Force to the 218th General Assembly (2008), from paragraph 4 of the Rationale to the first recommendation, page 3.
6. The mention of Jesus' death and resurrection appears only once in the document, in the polity section on membership: nFOG G-1.0301. This "basic" of our Christian faith is not in the "Foundations."
7. From "The Church and Its Mission," existing G-3.0102. That language appears only once in the nFOG: G-1.03, the polity chapter on the Congregation.
8. The list reflects the historical development of our commitment to be inclusive. Previous attempts to change this list to a more generalized statement—and thus a broadened inclusiveness—such as the nFOG proposes, have been rejected, most recently in 1998.
9. Currently, minutes must "state the composition of the session with regard to racial ethnic members, women, men, age groups, and persons with disabilities, and how this corresponds to the composition of the congregation" (existing G-10.0301).
10. Committees on Representation have been seen as so essential to the church's goal of diversity that the General Assembly has declared that Committees on Representation could not be combined with other committees (Minutes of the 196th General Assembly (1986), p. 605, 55.108).
11. "*Ruling elders and deacons are men and women elected by the congregation from among its members. The nomination and election of elders and deacons shall express the rich diversity of the congregation's membership and shall guarantee participation and inclusiveness (F-2.0303[the nFOG's reference here is an error; it should be F-3.0303]).*"
12. "*The councils of the church shall give full expression to the rich diversity of the church's membership and shall guarantee full participation and access to representation in decision-making and employment practices (nFOG F-3.0303).*"
13. See the task force rationales for both the "Foundations" (Report, p. 3) and for the Form of Government (Report, p. 21) sections.
14. If the nFOG is adopted by the GA in 2008 and subsequently ratified by the presbyteries, the first opportunity for amendment would be the year 2016.
15. *Londonderry v. Presbytery of Northern New England*. The church court case was filed in response to the Presbytery of Northern New England's concurrence with Christ Church (Burlington, VT) that it was valid to ignore the provisions of G-6.0106b when ordaining officers because G-6.0106b conflicts irreconcilably with the church's obligation to be inclusive (existing G-4.0403).
16. In a joint statement in February of 2008, The Committee on the Office of the General Assembly and the General Assembly Council warned of "disastrous financial consequences to our presbyteries, synods, and General Assembly" if the current per capita system were replaced. "From time to time," the two agencies observe, "calls are made to abandon our system of per capita and mission budgets and simply move to a coordinated budget that would fund both ecclesiastical and mission functions." Although they do not name the nFOG, their description fits its provision for a single consolidated apportionment.
17. In the existing Form of Government, two entities can issue an authoritative interpretation of the constitution: The GA PJC and the General Assembly. The existing Form of Government assigns limited and specific responsibility to The Advisory Committee on the Constitution (ACC). The existing G-13.0112d says that the Stated Clerk shall refer questions of interpretation to it, and "*The Advisory Committee shall report its findings to the General Assembly along with its recommendations. Such recommendations may include proposals for constitutional change. The General Assembly shall vote on the recommendations, and may amend or decline to approve them.*" This language is removed from the nFOG.
18. Would "work" be a vocation that has not been validated by the presbytery, or could it be some activity in which the minister is engaged? Could it allow a presbytery—or a commission of the presbytery with such authorized power (see nFOG G-3.30110(5))—to remove a minister from its roll for continuing to engage in some action that a small delegated body of the presbytery deems undesirable?
19. That means that each GA would have opportunity to determine the areas of examination, opening the possibility for frequent changes and GA controversies over content areas. Candidates for the ministry of Word and Sacrament could find themselves forced to sit for completely new areas of examination with little time for preparation. Additionally, if the "Foundations'" broad "inclusiveness" becomes a basic principle, it would be an obvious area for a new emphasis in examinations.
20. Existing Form of Government: "If the congregation does not approve the minutes of a congregational meeting before adjournment, the session shall read, correct, and approve the minutes of that congregational meeting at its next scheduled meeting and shall enter them into the permanent record. At the next meeting of the congregation, the clerk shall have the minutes available and shall report the session's action. The congregation

may ask to have them read and may make additions or corrections by vote.”

permit departure from the ‘fidelity and chastity’ requirement found in G-6.0106b.”

21. nFOG: “The secretary shall record the actions of the congregation in minutes of the meeting.”
22. For example, elders serving as chairs of committees automatically might become voting members of presbyteries. In this case, the effect would be to increase the presbytery’s power to choose elder commissioners and diminish the number of elders actually representing the membership of a congregation.
23. Representation of members in the higher governing bodies already is affected negatively by the large number of members of presbytery who are not accountable to our congregations.
24. Presbyteries would be permitted to set the requirements so high that virtually no special meetings could be called. The existing G-11.0201 allows for two ministers and two elders from different churches to call a presbytery meeting. It requires that the notice of such a special meeting be sent out ten days in advance.
25. The pattern of this style of decision-making carries through all levels of governing bodies (“councils” in the nFOG). The GA would delegate much of its authority to committees and commissions. Doesn’t the Advisory *Committee* on the Constitution’s new powers under the nFOG, for instance, seem more like a commission than a committee?
26. The rationale section on page 23 of the booklet version of the nFOG says, “...*there already exist bodies called ‘councils’ that perform specified functions on behalf of the larger entity. The Form of Government [nFOG] does not require that such bodies cease to exist. It does, however, omit explicit reference to them, so that presbyteries, synods, and the General Assembly are free to assign those functions to such entities as they see fit to design and name.*” Why is an existing body spoken of as if it does not exist and may be newly designed and named?
27. Even with so little time for presbyteries to respond, the amendment process already has been initiated in an overture from the Presbytery of the Foothills to make extensive changes to the nFOG—a 13-page document.
28. This ambiguity was introduced by the 2006 GA’s adoption of the Peace, Unity & Purity Task Force’s Recommendation 5 as a new Authoritative Interpretation.
29. This hope is bolstered by recent GA PJC rulings, particularly in *Bush v. The Presbytery of Pittsburgh*, remedial case #218-10, which said: “Candidates and examining bodies must follow G-6.0108 in reaching determinations as to whether the candidates for ordination and/or installation have departed from essentials of Reformed faith and polity. Such determinations do not rest on distinguishing ‘belief’ and ‘behavior,’ and do not
30. While some of the task force’s suggested changes do, indeed, simplify language, the church would be better served by the normal overture/amendment process that allows for more careful and less confusing assessment by churches and presbyteries of the potential consequences of changes.
31. The list includes rules or policies for every governing level. It is available from The Presbyterian Coalition.
32. The GA PJC issued a decision (*Hope et al. v Presbytery of San Francisco*, 217-1) that said: “[T]his Commission [GA PJC] rules on violations of the requirements of the *Book of Order* rather than those of internal Presbytery policy.” The court went on to state that “the presbytery’s failure in this case to follow its own stated policy does not rise to the level of a constitutional error....” In this case, the presbytery claimed that “The Synod Permanent Judicial Commission erred in failing to take into account the failure of the Presbytery and its Committee on Preparation to follow its own policies and procedures....” The court refused to intervene to enforce the presbytery’s policies.

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The Proposed New Form of Government: Some Questions and Observations

by the Presbyterian Coalition

One of the major pieces of business coming to this General Assembly is a rewrite of our Form of Government. The Form of Government is one of three sections of our *Book of Order* and is integral to the way we govern ourselves and carry out ministry together.

Why are we seeing this proposal?

The last General Assembly, at the recommendation of the Office of the General Assembly, asked a task force to bring a rewrite to this assembly.

What is the purpose of this rewrite?

The task force hopes to create a document that has more flexibility in the way we govern ourselves, in the belief that this will help us be more missional. Some think that shortening the *Book of Order* is itself a worthy goal. (This rewrite would shorten the current *Book of Order* slightly.)

What are the major changes?

Some of the changes are obvious. Others are harder to see. The report prepared for commissioners is 55 pages, but the comparison documents (current to proposed version and proposed to current version of the Form of Government [FOG]), which are posted on the web, are a total of 242 pages. These comparisons do not show clearly all that is stricken from our existing Form of Government as an ordinary amendment would. The language of the new FOG is less specific and, in important places, introduces new terminology and new practices.

Recognizing the changes and understanding their implications requires careful study and some experience in the processes of the General Assembly, the General Assembly Permanent Judicial Commission, Committees on Ministry, and other entities. The Presbyterian Coalition has prepared a “White Paper,” titled *Altering the Covenant*, which will guide you in your analysis of the proposed Form of Government (which we call the “nFOG”). [The article appears in this issue on p. 1] What follows is a summary of the points raised in the white paper where both citations from the nFOG and illustrations are provided.

A New “Foundations” Section

There is a proposed new section of the *Book of Order* called the “Foundations of Presbyterian Polity,” which

the Task Force says “clearly sets apart a foundation for our entire polity.” It is roughly equivalent to the first four chapters of our existing Form of Government, but there are changes.

- What will a new “foundational” section mean? Will it be a kind of “super-constitution”? What is its relationship to the other parts of the *Book of Order*?
- What are the implications of the changes in this section that affect Christology and the role of Scripture?
- How do the changes affect our constitutional concepts of diversity and inclusivity?

New Requirements and New Freedoms

The nFOG introduces both new requirements and new freedoms, some of which may permit actions not allowed by the existing *Book of Order*.

- Per capita and mission funds are combined in the nFOG. And the power of governing bodies to “tax” sessions is increased. Without the specific language of per capita, it is uncertain that previous court decisions upholding the voluntary nature of these payments will survive.
- Currently the GA and the General Assembly Permanent Judicial Commission (GA PJC) are the two bodies empowered to interpret the constitution “authoritatively”; that is to make a determination of the meaning and application of sections of the constitution. The nFOG would change that to give authority solely to the Advisory Committee on the Constitution (ACC). And there’s no provision for a review by the GA.

Inadequate Checks and Balances

In many ways, our church government, like the U.S. Government which was modeled on ours, is based on a system of checks and balances to ensure that protections for all are provided. The change outlined above, regarding the ACC, would undo a major check in our system. There are others.

- What is the significance of the new powers of a presbytery over its ministers and congregations? What recourse would ministers and congregations have if they disagreed with a decision of presbytery, such as removal of a pastor? Who would decide these things for the presbytery?

- How will minister/elder parity be achieved in presbytery?
- What kind of authority and powers will presbyteries, synods, and the General Assembly be giving up to small, delegated bodies?

Vague Language

Much of the language in the nFOG is vague, making it difficult to determine exactly what is meant or what could result from the changes proposed. In some cases, specifics are omitted—for instance, the subjects for the ordination examinations.

- To what extent will the vagueness and omissions require that we turn to the courts or the GA to decide again what has already been decided?
- Would the “foundational” principle of inclusiveness (defined, among other ways, with the odd term “all genders”) trump the exclusive principle of “fidelity and chastity” as found in G-6.0106b?

Increased Local Rules and Policies

One of the ways the nFOG achieves its slightly shorter length is by relegating many of the policies and processes currently outlined in the *Book of Order* to local handbooks and policies. The task force report contains a 17-page list of new rules and policies that local governing bodies would need to devise. And we find that their list is not all-inclusive.

- In the nFOG, there are no Committees on Ministry, Committees on Preparation for Ministry, Nominating Committees, Committees on Representation, or even a General Assembly Council.
- What will it mean for presbyteries and sessions to develop all these rules and policies?
- What is the recourse if a presbytery doesn’t follow its own policy?
- How will our connectionalism be affected if we’re all doing very basic things in different ways?

As you read the proposed new Form of Government and consider the concerns raised in our critique called *Altering the Covenant*, we urge you to ask yourself: Will these changes be helpful to the church? Only if you can answer “yes” with certainty should you support the nFOG. Any other answer suggests that it is better to use the slower and more careful process of overture and amendment where changes to our existing Form of Government are needed.

The Presbyterian Coalition believes the proposed new Form of Government should be disapproved at this assembly, and if not disapproved, then postponed for study and action by sessions and presbyteries, through the overture and amendment process.

Women’s Ordination: Are We In Trouble?

by Sylvia Dooling

I picked up the March 3, 2008 edition of the *Presbyterian Outlook* and was moved by Freda Gardner’s article on the history of women’s ordination in the Presbyterian Church. For me, it was one of those “Oh My!” moments. What many of us take for granted about women’s ordination took many years to accomplish.

Women’s ordination is of particular interest to me in that I was recently elected by my presbytery as an elder commissioner to the 218th General Assembly—a privilege that my mother, most likely, would have been denied. I have been preparing diligently for my responsibilities, and moved by Dr. Gardner’s essay, decided to look at the proposed new Form of

Government to see what it says about women’s ordination.

I turned first to our current Constitution where in G-6.0105 we find the following stated without ambiguity— **“Both men and women shall be eligible to hold church offices.** When women and men, by God’s providence and gracious gifts, are called by the church to undertake particular forms of ministry, the church **shall** help them to interpret their call and to be sensitive to the judgments and needs of others...” (emphasis mine).

Then I turned to chapter 3 of the proposed *Foundations of Presbyterian Polity* (F-3.0303), where I found the following.

As the unity of the One God is expressed in the diverse activity of the Trinity, so also the unity of the Church is expressed in the rich diversity of its membership. The Church is called to give full expression in its membership to the diversity of the human family, and shall be responsive to that diversity in its worship, government, and emerging life. It shall not deny participation or representation to persons or groups within its membership for any reasons other than those stated in this Constitution.

This is a relatively generic statement that fails specifically to reference the ordination of women.

Next, I turned to chapter 2 of the proposed Form of Government entitled, *Ordered Ministry, Commissioning, and Certification*. This section also seems to assume that women and men will be involved in various ministries, but it lacks any specific requirement to that effect.

It appears that the Task Force has made the assumption that the entire church is now of one mind concerning the ordination of women, and that “shall” language is no longer required. However, my experience tells me that this is a seriously flawed assumption, and that the

Task Force’s failure to include a specific mandate could, in some locations, be used to justify unintended consequences.

Furthermore, I am concerned that the failure of the Task Force to delineate the exact nature of the relationship between the *Foundations* section and the new *Form of Government* is also a potential pitfall for women’s ordination (for a complete discussion of this issue see “*Beware of Greeks Bearing Gifts*” [beginning on this page]).

Absent clarity on this matter, it is entirely reasonable to assume that someone will eventually cite F-3.0101 (i.e. “*God alone is Lord of the conscience...*” as warrant for excluding women from ordained office.

It is certainly possible that I have missed something here. If I have, please help me. But, right now it seems to me that it would be imprudent to approve the new *Form of Government* until language is added that specifically preserves the hard won victories for women described by Dr. Gardner in her *Outlook* editorial.

Sylvia Dooling, is the executive director of Voices of Orthodox Women. Reprinted with permission from www.vow.org.

Beware of Greeks Bearing Gifts

by Robert Dooling

The Trojan War was ten years old. Both sides had lost their greatest generals, Achilles and Hector. Both sides were fairly evenly matched. But, one thing that the Greeks had that the Trojans lacked was the cunning of an Odysseus. It was Odysseus who concocted the idea of a Trojan horse. When the giant wooden charger was found outside the gates of Troy, the Trojans assumed that the Greeks had left it as a parting gift after giving up and heading home. The Trojan, Laocoon, however, did not agree. He cautioned "Do not trust the Horse, Trojans; whatever it is; I fear the Greeks even bearing gifts." But, in spite of his warning, the Trojans welcomed the gift and brought it inside their walls—blithely unaware that in the belly of the beast were enough armed Greek soldiers to destroy their entire city.

My purpose in writing is not to comment on ancient literature. Rather, I am hopeful of sounding a Laocoonian-like warning about the Foundations of Presbyterian Polity that has been proposed by the Form of Government Task Force. I believe that it is a Trojan horse.

Let me be very clear. I am not suggesting that the Foundations of Presbyterian Polity is a Trojan horse in the sense that it is the devious and infernal creation of a contemporary Odysseus whose intention is to mislead us into foolishly adopting something that will eventually do us harm. But, I am convinced that it is a Trojan horse in the sense that it carries deep down in its innards a threat that will be harmful to the long-term health of the Presbyterian Church.

More specifically, what concerns me is the fact that the relationship between the Foundations section and the balance of the proposed *Book of Order* is alarmingly imprecise. The question is, if adopted will all four parts of the new *Book of Order* (i.e. the Foundations of Presbyterian Polity, the (new) Form of Government, the Directory for Worship, and the Rules for Discipline) be equal in interpretive weight and authority, or will the Foundations section inevitably be construed to be the controlling authority for everything that follows?

Currently, precedent holds that all parts of the Constitution are equal. That is to say, one cannot successfully argue that section "x" of the Constitution is unconstitutional because it ostensibly conflicts with section "y." That was the explicit finding of the GAPJC's *Londonderry* decision of 2001. However, if we adopt the current recommendation of the Form of Government Task Force to add a fourth section to the Book of Order, that equilibrium could be lost—with all kinds of unwelcome consequences.

Consider the following scenario. Assume that the Task Force's recommendation to add a Foundations section to the beginning of the *Book of Order* is adopted without amendment. Would it not be reasonable for a future interpreter to conclude (both from its name and its location) that the Foundations section is intended to control the interpretation and application of everything that follows? And, if such an understanding were allowed to stand, is it not likely that sooner-or-later the will of the whole church (as expressed in any given constitutional amendment) could be declared to be unconstitutional on the basis of its deviation from some "weightier" principle in the Foundations of Presbyterian Polity?

If that were ever to happen, it would create a constitutional crisis in our church of unimaginable proportions—a crisis that would be disastrous to the fragile unity that we presently enjoy. But there is a simple fix.

The Rev. Dr. Kari McClellan is President of Presbyterians for Faith, Family and Ministry (PFFM). Rev. Susan Cyre is Executive Director and Editor of *Theology Matters*. The Board of Directors of PFFM includes 12 people, clergy and lay, women and men. PFFM is working to restore the strength and integrity of the PC(USA)'s witness to Jesus Christ as the only Lord and Savior, by helping Presbyterians develop a consistent Reformed Christian world view. *Theology Matters* is sent free to anyone who requests it.

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All that is necessary to resolve this particular problem is for the next General Assembly to amend the Foundations document by inserting language similar to that found in the *Londonderry* decision.

It is not unusual for a document such as our Constitution, written at different periods of time and under different circumstances, to exhibit tensions and ambiguities in its provisions. Nevertheless, it is the task of governing bodies and judicial commissions to resolve them in such a way as to give effect to all provisions. It is not within the power of any governing body or judicial commission to declare a properly adopted provision of the Constitution to be invalid. The only appropriate avenue to change or remove a provision of the Constitution is through the process for amendment provided within the Constitution itself.

Remember, if the next General Assembly does not make such a change before sending the Task Force's recommendations to the presbyteries for their approval the Foundations document will be un-amendable for six years—which fact would make it both foolish and reckless ever "to trust the horse."

Rev. Dr. Robert Dooling is pastor of Mountainview Presbyterian Church, Loveland, CO. Reprinted with permission from www.presbyweb.com.

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