

Provisional Opinion 2021-01

In Re Virtual Participation in the 41st General Assembly

January 29, 2021

Office of the Stated Clerk

Dr. Jeffrey J. Jeremiah

Under Book of Government (hereinafter, **G.**) 21-3D.1 “Questions concerning interpretation of the Book of Order shall be referred by the Stated Clerk. The Stated Clerk may issue a provisional opinion that is binding until acted upon by the next General Assembly.” **G.** 21-3D.1b “[The PJC] shall review all provisional opinions and shall recommend to the Assembly that they be sustained, not sustained, or amended, along with reasons.”

Presbytery of the Central South Ruling Elder Rob Liddon has asked the Stated Clerk to issue a provisional opinion as to whether the Book of Order Rules for Assembly may permit members of the 41st General Assembly to join meetings by virtual means and be counted “present” for the purposes of quorum with both voice and vote at the Stated Meeting of the General Assembly at Second Presbyterian Church in Memphis, Tennessee June 23-25, 2021.

The Book of Government is silent on this issue, but Act of Assembly 10-02 (adopted by the 30th General Assembly in 2010) is instructive. This Act affirmed a 2010 provisional opinion relying on Robert’s Rules of Order holding that “Bylaws of representative bodies [may] establish a quorum and conduct business in a meeting with both real and virtual participants.”

“It is a fundamental principle of parliamentary laws that the right to vote is limited to the members of an organization who are actually present at the time the vote is taken in a legal meeting, although it should be noted that a member need not be present when the question is put. *Exceptions to this rule must be expressly stated in the bylaws.*” (Robert’s Rules of Order (10th edition), pp. 408-409) (emphasis added).

“The bylaws may authorize a board or committee (or even a relatively small assembly) to meet by videoconferencing or teleconference. If they do, then such a meeting must be conducted by a technology that allows all persons participating to hear each other at the same time (and, if a videoconference, to see each other as well). The opportunity for simultaneous communication is central to the deliberative character of the meeting and is what distinguishes it from attempts to do business by postal or electronic mail or by fax.” (Id. at p. 482)

The Evangelical Presbyterian Church has formally established *Rules for Assembly* to specifically govern the organization’s annual General Assembly meetings. These *Rules for Assembly* indicate that “Except as otherwise specifically provided in these Rules, “Robert’s Rules of Order” shall be the standard of parliamentary procedure.” (*Rule for Assembly* 14-1) Believing the virtual 40th General Assembly September 17-18, 2020 would be a one-time event, the General Assembly did not amend its *Rules for Assembly* to permit virtual meeting participants. However, in light of the unanticipated continuation of the worldwide health issue of the COVID-19 “Coronavirus,” the Stated Clerk is asked whether it is appropriate, under the current crisis, to temporarily permit virtual participation in the 41st meeting of the General Assembly in order to consider whether the *Rules for Assembly* should be amended.

Provisional Opinion

The Stated Clerk holds that the Constitutional responsibility of the General Assembly to “oversee the total work of the Church” supersedes Robert’s Rules of Order when following parliamentary procedure presents the General Assembly with the unenviable choice of either risking the health, welfare and safety of its Commissioners or excluding them altogether from participating in the governance of the denomination.

The Stated Clerk hereby rules that irrespective of Robert’s Rules of Order, the General Assembly may include virtual participants in its 41st General Assembly meeting provided that sufficient technology is utilized to ensure that every participant is able to hear, communicate and vote in the proceedings. This ruling remains in effect until the 41st General Assembly has determined whether this opinion be sustained, not sustained, or amended, along with reasons. Furthermore, the Stated Clerk requests the 41st General Assembly to determine whether the *Rules for Assembly* ought to be amended to include a provision for virtual participation.