

Chapter 3 The History of the Polity of the Gay and Lesbian Ordination and/or Installation Debate in the United Presbyterian Church in the U.S.A. and the Presbyterian Church in the U.S. 1970 – 1983

3.1 Introduction

The controversy surrounding gay and lesbian relationships, the ordination and/or installation of gays and lesbians as church officers, as well as the interpretation of relevant biblical texts pertaining to same-gender sex acts, has been a fiercely debated issue in North American churches during recent decades (cf. Johnson 2006a, Weston 2003). The PC(USA) has not been immune to this ongoing debate, which continues to threaten the union created in 1983 when the Northern UPCUSA and the Southern PCUS reunited to form the PC(USA).

Both the UPCUSA and PCUS have a long tradition of requiring ordination standards when ordaining officers, i.e. deacons, elders and ministers of the Word and Sacrament. However, the debate over the ordination and/or installation of gay and lesbian Christians as officers became an issue in the 1970s, and has continued to dominate the local as well as the larger church debate until the present day. Chapter 3 examines the development of the ordination standards for gay and lesbian Christians from 1970 until unification in 1983 through a historical analysis. The issue of same-gender blessings and marriages did not become an issue until the 1980s in the PC(USA); thus, it will be discussed in Chapter 5.

As background to this debate, the 1962 GAPJC ruling in the Anderson decision, which has been extensively used in the gay and lesbian ordination and/or installation debate, will be reviewed.

3.2 The GAPJC of the UPCUSA Ruling in *Anderson, et al. v. Synod of New Jersey. Administrative Case in 1962*

In 1961, the Presbytery of New Brunswick of the UPCUSA received and enrolled Dr. J H Hick from the Presbyterian Church in England (UPCUSA Minutes 1962:316). In

his statement, he did not deny or affirm his belief in the doctrine of the virgin birth of Jesus Christ. Rev. J C Henry and seventeen others filed complaints against the presbytery with the synod arguing that the presbytery was in error. The synod referred it to the Permanent Judicial Commission of the Synod of New Jersey (SPJC) (:317) who voted 8-3 to sustain the complaint and reverse the presbytery's action (:318). Twelve ministers (Anderson *et al*) filed a complaint with the GAPJC regarding the SPJC's ruling (:316).

The GAPJC found many irregularities in the process and SPJC minutes, enough for a reversal of the decision. Regarding the complaint, they emphasised that it was regarding an action of a lower judicatory, not a judicial discipline against Hick. There were no charges against him. The GAPJC viewed the dispute in regard to the power of the presbytery under the Form of Government, Chapter XII, Section 7 to “. . . receive, dismiss, ordain, install, remove, and judge ministers” and the power “. . . to resolve questions of doctrine or discipline . . .” (UPCUSA Minutes 1962:319). The question under review was the extent to which the power of the presbyteries may be subject to review by either the synod or the General Assembly (:319-320).

The GAPJC referenced cases from 1910, 1916, the *Special Commission of 1925*, and 1955 (UPCUSA Minutes 1962:320-324). In 1925, the licensing (not ordination) of two lay candidates, who did not affirm or deny the virginal birth, was reversed. Protests were filed and a *Commission of Fifteen* was formed, known as *The Special Commission of 1925* (:320-321, PCUSA Minutes 1925:318-319). Its Report in 1927, regarding the presbyteries' powers of licensure and ordination and the question of the “essential and necessary articles” of faith, was unanimously adopted (PCUSA Minutes 1927:319-331).

The GAPJC felt the SPJC had misread, if not ignored, the report; thus, the decision of the SPJC could start a controversy, since it denied a major premise of the preliminary report, namely toleration (UPCUSA Minutes 1962:321, cf. PCUSA Minutes 1926:78). The Preamble to the Confessional Statement in 1925 also mentioned the principle of forbearance. After the General Assembly reaffirmed its adherence to the Westminster Standards, i.e. the Confession and Catechisms, it stated:

Subscription to the foregoing Subordinate Standards is subject to the principle maintained by our fathers that the forbearance in love which is required by the law of God is to be exercised toward any brethren [original spelling] who may not be able fully to subscribe to the Standards of the Church . . . (UPCUSA Minutes 1962:321).

The GAPJC continued to draw out important distinctions made by the *Special Commission of 1925* and how they applied to this case:

. . . once a candidate receives ordination in a constitutional manner, he cannot, against his will, be deprived of his status or authority except by the prescribed constitutional procedure, which includes the preferring of specific charges, a formal trial, and a legal conviction, followed, if he so elects, by appeal to the higher ecclesiastical courts. *Minutes of 1927*, p. 4 [sic - 64] (UPCUSA Minutes 1962:321).

It is the presbytery who is to be satisfied with the candidate . . . *Minutes of 1927*, p. 65 (:322).

The . . . General Assembly in all its history has never nullified an ordination or revoked one by the process under consideration. *Minutes of 1927*, p. 70. (ibid).

The GAPJC found the presbytery was deliberate in its action and satisfied with Hick's qualifications (UPCUSA Minutes 1962:322). The synod, however, contended that the action of the presbytery was unconstitutional, since Hick had not affirmatively adopted one of the five "essential and necessary Articles of Faith" (:322-323). The GAPJC correctly found that the Constitution did not specify which articles of faith were "essential and necessary," although it had been clear since the beginning of the Presbyterian Church in America that some were and some were not "essential and necessary" (:323).

The GAPJC noted that the *Adopting Act of 1729* required all ministers to declare their agreement with those Standards ". . . as being in all the essential and necessary articles, good forms of sound words and systems of Christian doctrine" and it provided that if a candidate had any "scruple," i.e. a disagreement with any article, he may nevertheless be accepted if the presbytery ". . . shall judge his scruple or mistake to be only about articles not essential and necessary in doctrine, worship or government" (UPCUSA Minutes 1962:323). They continued in stating that the Report of the *Special Commission of 1925* said:

One fact often overlooked is that by the Act of 1729, the decision as to essential and necessary articles was to be in specific cases. It was no general authority that might be stated in exact language and applied rigidly to every case without distinction. It was an authority somewhat undefined, to be invoked in each particular instance. Furthermore, this authority was to be exercised by the Presbytery . . . (UPCUSA Minutes 1962:323, cf. PCUSA Minutes 1927:78).

And, the General Assembly, in 1910, stated:

Not even Synod's representatives in this case have been able to point to a place in any of our basic constitutional documents where there is any specification of or guidelines to determine which are or may be "essential and necessary articles" The review of presbyteries' exercise of that power must be limited, as we think it constitutionally is limited, to the most extraordinary grounds (UPCUSA Minutes 1962:324).

These two points from 1927 and 1910 are vital to the gay and lesbian ordination and/or installation debate. The PCUSA, UPCUSA, PCUS, and PC(USA) have never specified what the "essential and necessary articles" are. Yet, as the ordination debate has continued in the PC(USA) and G-6.0106b, requiring fidelity in marriage or chastity in singleness, was added into the *Book of Order* in 1997, conservatives have viewed it as an essential article. Even the 2008 GAPJC in the Bush ruling made the mistake of declaring G-6.0106b to be an essential that cannot be scrupled (see Chapter 5.55).

Clearly, the Presbyterian Church, through the *Adopting Act of 1729*, the General Assembly of 1910, the Report of the *Special Commission of 1925*, the Anderson ruling of 1962, and the *Book of Order*, has never specified what the "essential and necessary articles of faith" are. One would think that the GAPJC would have referenced the *Special Commission of 1925's* attempt to answer this question:

To what then, is an article declared to be essential and necessary? The answer would seem to be to a *system of doctrine* [original italics] (PCUSA Minutes 1927:79).

A doctrine may be entirely true and yet not be an "essential and necessary article" in the system. The question is not as to its truth, primarily, but, rather, is it essential *to the system?* [original italics] (:80).

In this writer's mind, to elevate G-6.0106b of 1997 to the status of an "essential and necessary article" does not carry the burden of proof. The 1962 GAPJC in the Anderson ruling utilised the full history since 1729, through 1910 - 1927, to conclude that the Presbyterian Church has never defined what the "essential and necessary articles of faith" are.

What, then, is the solution in the absence of clarity? The GAPJC ruled that the presbyteries have the responsibility of determining the qualifications of ministers, and review by higher judicatories should only be for the most extraordinary reasons (UPCUSA Minutes 1962:324), and:

We cannot substitute our judgment for that of a presbytery merely because we might have come to a different conclusion left to ourselves (:324-325).

The GAPJC verdict, as one would expect, sustained the complaint against the synod, reversed and set aside the decision of the SPJC, and affirmed the action of the presbytery in receiving Hick (UPCUSA Minutes 1962:325).

3.2.1 Summary

The 1962 GAPJC ruling in the Anderson decision provides valuable insight into how the GAPJC ruled that Hick's scruple, not affirming the virginal birth of Christ, was not impermissible; therefore, he could be enrolled as a minister in the presbytery. It put the issue of "what are the essential and necessary articles of faith" on the front burner again. The ruling reaffirmed that the Presbyterian Church until 1962, and, as will be shown in this study, until this day, has never spelled out exactly what the essential and necessary articles are. These are best left to the presbyteries (and sessions) per the *Adopting Act of 1729*, the General Assembly decision of 1910, and the *Special Commission of 1925*. The presbytery and session as the local judicatories determine candidates' qualifications for ordination and/or installation and what is essential, not the synod or the General Assembly.

The issue of the essential and necessary articles of faith would come to the fore again throughout the 1990s and 2000s in the PC(USA), as conservatives claimed that G-6.0106b, "fidelity in marriage or chastity in singleness," was an essential. This claim would be reinforced by the erroneous 2008 GAPJC ruling in the Bush decision that G-6.0106b was an essential article of Reformed faith. The Bush ruling was, however, superseded and replaced by a new Authoritative Interpretation by the 2008 General Assembly (see Chapter 5.59.1).

3.3 The 182nd General Assembly of the UPCUSA in 1970

In 1966, the Council on Church and Society of the UPCUSA launched a study on "sexuality and the human community." The Council named a Task Force which prepared a Report. The Council on Church and Society received and studied the Report in 1969. In 1970, the Council sent the Report to the General Assembly of the

UPCUSA, requesting it be received. The General Assembly approved receipt of the majority report, *Sexuality and the Human Community* (UPCUSA 1970:3). A minority of the Task Force members, who disagreed with the majority report, wrote a brief minority report with five questions which they felt the majority report did not answer. The General Assembly voted that the minority report be appended to the study paper (:39).

The majority report made some controversial statements for its time. This is probably the reason that the General Assembly did not adopt the report; it only received it for study and distribution. “[T]his action is not to be construed as an endorsement of the report” (UPCUSA 1970:46). Thus, *Sexuality and the Human Community* is only a study document and does not convey the official view or polity of the Presbyterian Church.

The report included a wide range of sexual issues; namely, masturbation, dating, homosexuality, contraception, abortion, courtship and marriage, sterilisation, artificial insemination, and single adults (UPCUSA 1970:4). The report relied heavily on social sciences and behavioural sciences (:6). The Task Force found “no systematical ethical guidance for our time from a method of Biblical interpretation which relies solely on the laws or stories of the Bible” (:9). This was clarified by footnote 3 specifying that the death penalties of Dt 22 for fornication, and exclusion of eunuchs and bastards from the assembly of the Lord in Dt 23, are intolerable. Interestingly, in the discussion on male and female homosexuality (:17-20), Lv 18:22 and 20:13 were not discussed. One wonders what the Task Force’s thoughts might have been regarding Lv 20:13 which demands the death penalty for male same-sex acts. Would both Lv 18:22 and 20:13 be seen as “intolerable” texts, given their earlier statement?

The homosexuality section started off by stating that many factors shape one’s sexual identity and that the process of creation is not finished at birth.

While it is not a universal phenomenon, the great majority of persons of both sexes encounter, at some point in this learning process, some form of homosexual feelings or experiences. That is, they experience some degree of sexual pleasure with and attraction toward a person of their own sex. In some person’s development process, these homosexual feelings become fixed as the definition of their sexual identity, either wholly or in part. The roots of

this condition may be in part chemical, in part psychological. In such persons, there may develop a need to find sexual relationship and gratification exclusively with another person of the same sex. Or such a person may develop occasional homosexual relationships which exist alongside an otherwise heterosexual behavior pattern (UPCUSA 1970:17).

The church and society have dealt with this type of sexual conduct by taboos, condemnatory attitudes, and repressive legislation (UPCUSA 1970:17).

Homosexuals have been treated as criminals, resulting in inhibiting the possibility of change and the hesitancy to approach anyone for help. The church should not make the homosexual feel that “their sexual preference is in irresolvable conflict with their membership in the Christian fellowship” (:18).

The report suggested ethical considerations which should be kept in mind. First, a difference exists between homosexuality as a condition of personal existence and homosexualism as explicit homosexual behaviour (UPCUSA 1970:18). This sentence is the position that the Presbyterian Church has consistently held; namely, the difference between homosexual orientation and identity, and homosexual practice and acts. However, the majority report did not label homosexual acts as sin - the General Assembly did:

We . . . reaffirm our adherence to the moral law of God as revealed in the Old and New Testaments, that adultery, prostitution, fornication and/or the practice of homosexuality is sin (:39; UPCUSA Minutes 1970:469, 889).

The statement that “the practice of homosexuality is sin” would be reaffirmed by the 1976 General Assembly of the UPCUSA (UPCUSA Minutes 1976:111-112, UPCUSA 1978a:58-61). Note should be taken that in this statement there was no theological or biblical rationale as to why the practice of homosexuality was sin. It also did not speak about the ordination of gays and lesbians as officers. It merely spoke about homosexual practice in general. The issue of ordination of a practicing homosexual would be raised at the 1976 General Assembly of the UPCUSA.

Second, the report stated that Paul’s condemnation of homosexualism in Rm 1:26-27 and 1 Cor 6:9 was found in the context of lists of antisocial and personal destructive conduct which characterise the unrighteous. “It is not singled out as more heinous than other sins, but is discussed with other forms of behavior which betoken man’s [sic] refusal to accept his [sic] creatureliness” (UPCUSA 1970:18). This idea that the

practice of same-gender sex acts was not more sinful than other sins would be repeated throughout the debate in the next decades. Yet, those practicing same-gender sex acts were unordainable as officers in the PC(USA).

Third, Paul's rejection of homosexual acts was based on their disregard of their neighbour, rather than on the acts themselves. Just as prostitution does not call into question responsible heterosexuality, perhaps pederasty, homosexual prostitution, and similar neighbour-disregarding should not overshadow the church's response to homosexuality (UPCUSA 1970:18). The report based this view on the book by William Cole, *Sex and Love in the Bible*, which stated that Paul was responding to the attitudes and customs of his day which had commercialised sex (:ibid footnote 10).

Fourth, Paul treated sexual sins as one symptom of the universal experience of apostasy. Neither the homosexual nor heterosexual person was exempt from the experience of being alienated from God. Both were eligible to be reconciled to God in Christ (UPCUSA 1970:18).

Regarding the ability to establish a family, the report stated that homosexual behaviour was incomplete (UPCUSA 1970:19). This statement would no longer be true today, since gay and lesbian couples can legally adopt children in the United States, lesbian women can conceive and bear a child, and a surrogate mother can carry and bear a child for a couple. Many monogamous and committed same-gender couples today raise children just like heterosexual couples and are complete in character.

Fifth, the report stated that:

... laws which make a felony of homosexual acts privately committed by consenting adults are morally unsupportable, contribute nothing to the public welfare, and inhibit rather than permit changes in behavior by homosexual persons (UPCUSA 1970:20).

The General Assembly concurred and approved "calls upon judicatories and churches to support and give leadership in movements toward the elimination of laws governing the private sexual behaviour of consenting adults" (:49). The UPCUSA was a forerunner in asking that homosexual acts between consenting adults be decriminalised in the United States. The strong stance of condemning homosexual

practice as sin was balanced by asking the United States government to stop criminalising it. This has been the consistent position in the Presbyterian Church since 1970.

The General Assembly also admonished itself. The sentences following the pronouncement that “the practice of homosexuality is a sin,” are vital. They clarify both heterosexual behaviour and homophobia:

We further affirm our belief in the extension Jesus gave to the law, that the attitude of lust in a man’s [sic] heart is likewise sin. Also we affirm that any self-righteous attitude of others who would condemn persons who have sinned is also sin. The widespread presence of the practice of these sins gives credence to the Biblical view that men [sic] have a fallen nature and are in need of the reconciling work of Jesus Christ which is adequate for all the sins of men [sic] (UPCUSA Minutes 1970:469,889; UPCUSA 1970:39).

Weston (1999:210) categorises this as a classic loyalist (centrist or in the middle) position. The church rejected homosexual behaviour but also rejected behaviour of rejecting homosexuals. This is loyal to the established ideas of the church regarding homosexual practice, but also to the already existing group in the church, namely homosexuals. It also called lust that heterosexual people have for each other “sin.”

3.3.1 Summary

The result of the Task Force’s work was that both the majority report, *Sexuality and the Human Community*, and the minority report were not adopted by the General Assembly. Although the statement that “the practice of homosexuality is a sin” was not subsequently included in the *Book of Order*, this decision by the General Assembly became church law. However, the issue of gay and lesbian ordination and/or installation had not been addressed. It would appear in 1976.

3.4 The GAPJC of the UPCUSA Ruling in *Maxwell v. Pittsburgh Presbytery*. Remedial Case 1 in 1974

In 1974, a candidate for ministry, Mr. W W Kenyon, was interviewed by the Committee on Candidates and Credentials of Pittsburgh Presbytery of the UPCUSA. He made it clear to the Committee that he did not believe the Bible permitted the

ordination of women, but recognised their legal right to be ordained (Rogers 1995:126). When asked if he would ordain women as elders, he responded that he would not. But, he would serve with ordained women and conceded that another minister could ordain them. The Committee moved not to sustain the examination and not to recommend Kenyon for ordination (UPCUSA Minutes 1975:255).

The presbytery later adopted a substitute motion and allowed Kenyon to proceed with his trials. Again, he was asked about his views on ordaining women. He was not willing to ordain women, based on his interpretation of 1 Cor 13 and 1 Tim 2:12 (UPCUSA Minutes 1975:255). Yet, he would work with them and allow another minister to ordain them (:256). Kenyon believed that since the error of ordaining women was a detail of Presbyterian government, it was a “nonessential” matter (Rogers 1995:126). He was approved by a 147-133 vote, with 55 members stating their dissent (McCarthy 1992:284).

Although the GAPJC ruling did not mention it, Kenyon declared a scruple, i.e. a disagreement with the Constitution, regarding the ordination of women. The presbytery determined that the scruple was not in violation of any essential and necessary articles of the Confessions, approved him for ordination by a vote of 147-133, and asked him the ordination questions (UPCUSA Minutes 1975:256).

A stay of execution was filed with the presbytery to postpone the ordination of Kenyon. Rev. J M Maxwell filed a complaint against the presbytery with the PJC of the Synod of Pennsylvania - West Virginia (SPJC). The SPJC found that the action of the presbytery was irregular and should be rescinded. It contradicted the *Book of Order* and granted an exception to the *Form of Government*. The SPJC rescinded the sustaining of the examination (UPCUSA Minutes 1975:254-255). Thus, Kenyon could not be ordained.

A General Assembly subcommittee advised that a minister could disagree on doctrine, but could not refuse to participate in the ordination of women (McCarthy 1992:285). The Pittsburgh Presbytery then appealed to the GAPJC (UPCUSA Minutes 1975:254-255). The GAPJC ruled that “. . . presbytery’s power is not absolute. It must be exercised in conformity with the Constitution” (:257). They were

mindful that one's conscience could be in conflict with polity. A candidate who chose not to subscribe to the polity of the UPCUSA might be better off joining another church whose polity was in harmony with the candidate's conscience (ibid).

The GAPJC invoked the essential beliefs of the Confessions:

The question of the importance of our belief in the equality of all people before God is thus essential to the disposition of this case It is evident from our Church's confessional standards that the Church believes the Spirit of God had led us into new understandings of this equality before God (UPCUSA Minutes 1975:257).

The GAPJC quoted the Confession of 1967 that those who "exclude, dominate, or patronize their fellowmen [sic], however subtly, resist the Spirit of God" (ibid).

The GAPJC found that the ordination of women and equality of all was an "essential" of Presbyterianism, and Kenyon was not able to affirm this "essential." The *Book of Order* was so clear on the subject that it made Kenyon's position a rejection of this polity. His statement would, in itself, constitute a negative answer to ordination Question 5, "Do you endorse our Church's government, and will you honor its discipline?" (UPCUSA Minutes 1975:257), and would compromise an affirmative answer to Questions 3, 4, and 6 as well (:258).

The GAPJC ruled that affirmative answers to the constitutional questions did not stand alone. They must be viewed in the context of the entire examination. Thus, Kenyon erroneously rejected the church law that all humans were equal. The GAPJC ruled that the presbytery did not have the power to ordain Kenyon, since he rejected part of the polity of the church and ". . . it is the responsibility of our church to deny ordination to one who refused to ordain women" (UPCUSA Minutes 1975:258). The GAPJC ruled that Kenyon's refusal to participate in the ordination of women would have far-reaching consequences and such a precedent would affect every session and presbytery.

The GAPJC also stated:

Neither a synod nor the General Assembly has any power to allow a presbytery to grant an exception to an explicit constitutional provision (UPCUSA Minutes 1975:259).

It found the presbytery was not in conformity with the requirements of the Form of Government; the appeal was not sustained (ibid).

The Stated Clerk, Mr. W P Thompson (quoted in McCarthy 1992:287), advised that the GAPJC decision was based on church government and not doctrine. Real concerns were raised that other “heresy trials” might occur, not just based on theology, but for departures on polity. What did it mean to endorse the church’s government? Thompson (quoted in McCarthy 1992:258) explains that “endorse” was “to express approval of, publically and definitely; to give support to; to sanction; to affirm.” That led to two overtures in 1977 requesting that “endorse” be replaced with “submit” (UPCUSA Minutes 1977:746, 752). The General Assembly rejected the overtures (:92) and did not broaden the ordination vows to require subscription to discipline. McCarthy (1992:289) believes the subscription that was once required of the Westminster Confession (of Faith) was now required of Presbyterian polity.

3.4.1 Summary

The Maxwell ruling became an important decision for both liberals and conservatives, for totally different reasons. The 1974 GAPJC found Kenyon had violated an essential and necessary article of the Constitution, which affirmed the equality of men and women, and the ordination of women. Even though he declared a scruple, was affirmed by the presbytery, and answered the constitutional questions, he could not be ordained. The presbytery could not grant an exception to the Constitution, especially to an “essential.” The GAPJC, for the first time, defined equality as an “essential” of Reformed practice.

One must note that, although Kenyon disagreed on a theological issue based on his beliefs, the GAPJC found it to be a polity issue: whether Kenyon was willing to set aside his personal beliefs to participate in the established polity to ordain women to office. Critics of the ruling feared total agreement with the UPCUSA’s policy was required (McCarthy 1992:294).

The victory in the Maxwell ruling regarding Kenyon spurred liberals, in 1978, to bring Overture 7, which became Amendment L, requiring the *Form of Government* to specify that every congregation should have women and men as elders and deacons (Weston 2003:111, UPCUSA Minutes 1978:64,399). Amendment L passed

and equality of women was mandated through the *Book of Order* (see Chapter 3.12.4). The emphasis would shift from the local option to the national standard for ordination. Rogers (1995:127) remarks that the liberals, with the support of the centrists, turned away from the right of the presbytery to ordain, which was set in 1927 to get away from the Princeton Old School “five essential” articles.

After the Maxwell ruling and Amendment L’s passing, the norm for ordination would be the church’s belief system in the Constitution, i.e. polity, not theology. Thus, to protect the rights of individuals, such as women, there had to be universal norms. The way the UPCUSA sought to ensure that these norms were applied was to put them in the *Book of Order*, ensuring them through polity. These norms, through the *Book of Order*, were to be applied in every presbytery without exception.

In turn, conservative Presbyterians have now learned how to use the Maxwell ruling to press for national standards regarding the non-ordination of partnered gay and lesbian Christians, to be incorporated into the *Book of Order*, rather than presbyteries (and sessions) setting their own local standards, which would allow partnered gay and lesbian Christians to be ordained and/or installed. Utilising the Maxwell ruling, the conservatives have lobbied that “no exception to an explicit constitutional provision” is allowed for sessions and presbyteries.

3.5 The 187th General Assembly of the UPCUSA in 1975

The General Assembly received seven overtures regarding the 1974 Maxwell ruling and the power of the GAPJC. The Presbyteries of Pittsburgh and Cincinnati, in Overtures 8 and 61 respectively, requested the GAPJC to clarify its decision in the Maxwell ruling in 1974 that “neither a synod nor the General Assembly has any power to allow a presbytery to grant an exception to *an* [emphasis added] explicit constitutional provision” (UPCUSA Minutes 1975:185, 221-222). The Presbytery of Pittsburgh believed the “an” referred to “any” and wanted clarification, since they believed the scope of the phrase was unlimited and meant “. . . no presbytery is permitted under any circumstances and in any event to make any exception to any explicit constitutional provision . . .” (:185).

The Presbytery of Seattle, in Overture 18, requested the General Assembly restore to the judicatories – sessions, presbyteries, synods, and General Assembly – the right and responsibility to review and act upon the findings of PJC's, thereby assuming their rightful places as courts of the church (UPCUSA Minutes 1975:189). The Presbyteries of Philadelphia and Birmingham, in Overtures 29 and 30 respectively, requested that the *Book of Church Discipline* be amended to restore the right of final judgment to the General Assembly in all cases brought before its GAPJC (:207-209).

Overtures 18, 29 and 30 referred to the period before 1972, when all judgments of the GAPJC were directly reviewable by the General Assembly to which they were reported. A judgment of the GAPJC could be adopted or rejected on the floor of the General Assembly. Unfortunately, too many cases came before the General Assembly, and Overture M, in 1972, eliminated direct review on the floor of the General Assembly (UPCUSA 1975:207, cf. PC(USA) 1986:197). Overture 29 suggested various changes to the *Book of Church Discipline* to restore the right of review to the various judicatories (:207-208), as well as adding a new Section 10 regarding the GAPJC, with the thrust on the decision of the GAPJC being preliminary judgment and becoming binding when the General Assembly confirms or rejects the preliminary judgment (:208-209).

The Presbytery of Shenango, in Overture 16, asked the General Assembly to reaffirm the principle of liberty of conscience and the constitutional right of presbyteries to examine cases of dissent, and to permit exemption from conformity to certain church laws for ministers who are persuaded by conscience that they could not comply. This was in reaction to the GAPJC ruling that “neither a synod nor the General Assembly has any power to allow a presbytery to grant an exception to an explicit constitutional provision” (UPCUSA Minutes 1975:188). Their argument was that the Form of Government in Chapter XXX, Section 4 had a provision where an administrative commission could review cases where exceptions to constitutional requirements were requested on the basis of conscience (ibid).

The Presbytery of Boston, in Overture 57, requested the GAPJC clarify their statement that “it is the responsibility of our Church to deny ordination to one who has refused to ordain women” (UPCUSA Minutes 1975:220). They felt this was too

rigid a legal application and would work counter to women's rights. Ministers and elders who would not ordain women, but would work with ordained women, could leave the church. The *Adopting Act of 1729* established a precedent of allowing presbyteries discretion in examining candidates for ordination not totally in agreement with the church's standards, and permitting exceptions in certain cases. They wanted the GAPJC to reaffirm the authority of the presbyteries in instances where rigid applications of the law would defeat its intent and destroy the peace of the church (ibid).

The seven overtures were referred to the Assembly Committee on Bills and Overtures (ACBO), and they responded that the GAPJC:

[A]ddresses only specific cases and does not render general opinions
Further, the committee was convinced that the former practice was more a *pro forma* approval of judgments of the Permanent Judicial Commission than a meaningful decision, since the rules permitted no questions or investigation of details of the cases by commissioners (UPCUSA Minutes 1975:53).

In this brief answer, the ACBO found that presbyteries still retained their powers when dealing with scruples and candidates who dissented. They did not, however, answer the question raised by the overtures of why, in this instance, the GAPJC ruled that not ordaining women excluded one from ordination, while other dissent from the Constitution might not exclude one from ordination in different circumstances.

The second issue in the reply was regarding the actions of the General Assembly prior to 1972 in approving the rulings of the GAPJC. In effect, the ACBO stated that the General Assembly never discussed the merits of a ruling, but could only vote to approve or not approve the ruling of the GAPJC. It also did not answer the practical question raised by Overture 30: in some instances under the Book of Church Discipline, the majority of the fifteen-person GAPJC could be four or five people after disqualifying those from presbyteries or synods affected by the case (UPCUSA 1975:209). If one combined this with the fact that the General Assembly no longer reviewed and sustained decisions by the GAPJC, it put "urgent, important and influential questions" (ibid) in the judgment of a small group.

This writer asked the Stated Clerk of the Synod of Southern California and Hawaii, Mrs. M Wentz, who also served as chairperson of the ACC of the PC(USA) for six

years, to explain this strange setup. One has to compare the governing system of the PC(USA) and its predecessor churches with the United States governing system. The United States is governed by the Constitution which can only be changed by a majority of congress; elected officials. The nine Supreme Court justices, appointed by presidents, interpret the Constitution. The majority decision on any particular case before the Supreme Court becomes the law of the land, and is enacted. Any justice can dissent and write a minority report, but it has no legal status.

Similarly, the Presbyterian Church is governed by its Constitution, which can only be changed by a majority of presbyteries. The GAPJC is the highest court and they interpret the Constitution in cases before them. The decision of the majority is final and becomes the law for the church. Any member of the minority can dissent and write a minority report, but it has no legal status.

Therefore, the ACBO recommended the General Assembly take no action on Overtures 8, 61, and 16 and not concur with Overtures 18, 29, 30, and 57. The General Assembly concurred with the recommendation (UPCUSA Minutes 1975:53). Thus, the General Assembly did not overrule or disapprove of the GAPJC ruling in the Maxwell decision.

3.6 The 188th General Assembly of the UPCUSA in 1976

Up to 1976 in the UPCUSA, its constitutional law was defined and became binding in two ways: a clear statement in the *Book of Order* and judicial decisions made by the GAPJC, in accordance with the *Book of Order* (North Como 2005:146).

3.6.1 Overtures Requesting Definitive Guidance on the Ordination of an Avowed Homosexual

The question regarding gay and lesbian ordination was raised in 1976. The Presbytery of New York City sent Overture 9 to the General Assembly. They had a candidate under care who was an avowed homosexual and had completed all the trials for ordination. The presbytery could not find sufficient guidance in the *Book of*

Order or *The Book of Confessions*, and since a person is ordained for the whole church, they asked the General Assembly:

. . . to appoint a special committee to study and recommend to the 189th General Assembly in 1977, definitive guidance on the sections quoted above as they apply to a person who is an avowed homosexual and well qualified in every other part of the trials of ordination (UPCUSA Minutes 1976:169).

The Presbytery of the Palisades in Overture 62 asked a similar question, since they had received a request from an avowed homosexual to be enrolled as candidate (UPCUSA Minutes 1976:191). Both overtures were referred to the ACBO (:35).

3.6.2 Overture on Affirming the Right of Presbyteries to Determine Whom They Ordain

In response to Overtures 9 and 62 asking for “definitive guidance,” the Presbytery of San Francisco sent Overture 25 asking the General Assembly to reaffirm the right of the presbytery as the judicatory responsible to select and ordain candidates (UPCUSA Minutes 1976:176). The overture was referred to the ACBO (:35).

3.6.3 Overture on Declaring a Biblical Position Regarding Homosexuality

The Presbytery of Seattle sent Overture 52 to the General Assembly to affirm the 1970 position that homosexuality was a sin and to direct presbyteries and sessions not to ordain avowed, practicing homosexuals (UPCUSA Minutes 1976:186-187). The Presbytery of Cincinnati sent Overture 55 asking the General Assembly to declare homosexual practice was contrary to God’s orders (:188). The Presbytery of Wabash Valley asked in Overture 58 that the General Assembly condemn the practice of homosexuality and oppose the ordination of any minister who was an unrepentant, practicing homosexual (:189). The overtures were referred to the ACBO (:35).

3.6.4 Report of the Assembly Committee on Bills and Overtures

The ACBO answered Overtures 9, 25, 52, 55, 58, and 62 with majority and minority reports. The minority report was rejected by the General Assembly, and it adopted

the majority report (UPCUSA Minutes 1976:111). A few statements should be highlighted.

We recognize that many expressions of homosexuality are without question sinful in the eyes of God. We are cautious in our judgment, at this time in the history of our church, because a person who is an avowed homosexual but who is otherwise well qualified has asked to be ordained to the professional ministry of the gospel (:111-112).

The General Assembly reaffirmed the right of the presbytery to take action, consistent with the *Book of Order*. Yet, the General Assembly needed to give guidance to the presbytery in this decision. Therefore, the General Assembly reaffirmed its position taken in 1970:

. . . we “reaffirm our adherence to the moral law of God . . . that . . . the practice of homosexuality is sin Also we affirm that any self-righteous attitude of others who would condemn persons who have so sinned is also sin.” (*Minutes*, 1970, Part I, p. 469.) The 188th General Assembly (1976) declares again its commitment to this statement. Therefore, on broad Scriptural and confessional grounds, it appears that it would at the present time be injudicious, if not improper, for a presbytery to ordain to the professional ministry of the gospel a person who is an avowed practicing homosexual (UPCUSA Minutes 1976:112).

Thus, for a second time, the General Assembly of the UPCUSA affirmed that “the practice of homosexuality is sin.” Similar to the 1970 statement, there was no theological or biblical motivation for this statement, it merely stated “on broad Scriptural and confessional grounds” without explaining exactly what these grounds were. Both the person applying to be a candidate and the candidate asking to be ordained were turned down with this decision.

At the same time, the General Assembly, responding to Overtures 9 and 62 from the Presbyteries of New York City and Palisades asking for “definitive guidance,” appointed a special two-year Task Force to study the topic of homosexual ordination:

However, humbly remembering the way past General Assembly positions sometimes have changed as further light has been given, the 188th General Assembly (1976) directs that a task force be established The focus of this study will center in Christian approaches to homosexuality, with special reference to the ordination of avowed practicing homosexuals (UPCUSA Minutes 1976:112).

Weston (1999:210), himself a loyalist, points out how the loyalists again balanced out pronouncements on homosexuality. While the one side received a victory, through the reaffirmation of the 1970 statement, the conciliatory gesture was made to the other side, in studying the topic regarding ordination. This willingness of the

loyalists to accommodate both the conservatives and liberals, in this writer's opinion, is probably the reason the Presbyterian Church has been able to stay unified after clearly stating at General Assembly level that "the practice of homosexuality is sin," yet being tolerant and sometimes even welcoming of its partnered gay and lesbian members.

3.6.5 Summary

The UPCUSA, in 1976, reaffirmed its 1970 statement that "the practice of homosexuality is sin" and its position that "avowed practicing homosexuals" could not be ordained. Thus, it turned down two practicing (sexually active) homosexuals, one applying for candidacy and one for ordination. It also recognised that "further light" was needed on the topic, and created a special Task Force to study the topic.

3.7 The 116th General Assembly of the PCUS in 1976

The Presbytery of Fayetteville sent an overture to the General Assembly of the PCUS and voiced their frustration with a process that had been dragging on since 1972 (PC(USA) 2004a:31-32). The 1972 General Assembly received a resolution regarding homosexuality. It stated, in part:

Be it resolved that this General Assembly reaffirms its conviction that homosexual behavior is a grievous sin, that marriages (so called) between two of the same sex are contrary to the divine plan and under divine wrath (Roman [sic] 1:27) (PCUS Minutes 1972:182).

The resolution was referred to the Council on Church and Society, which, in 1973, asked the General Assembly to refer it to the Council on Theology and Culture, who, in 1974, reported to the General Assembly that they were designating a Task Force. In 1975, they asked the General Assembly for more time to complete their report (PC(USA) 2004a:31-32).

In the overture, the Presbytery of Fayetteville asked the General Assembly to "base its decisions concerning the practice of homosexuality on Scripture alone" (PC(USA) 2004a:32). Later decisions made by the UPCUSA in adopting, *The Church and*

Homosexuality: Policy Statement and Recommendations, and the actions of the PCUS in 1979 in adopting a slightly modified version of this document, however, shows that Presbyterians also use the insight from other sciences, and do not solely make decisions based on Scripture.

The danger is always that of subjectivity. This is clearly the case in the presbytery's exegesis of the biblical texts. First, the overture asserted that the seventh commandment, "Thou shalt not commit adultery," had been interpreted by the Larger Catechism (A.139) to include forbidding "sodomy and unnatural lusts" (PC(USA) 2004a:32). How was this based on Scripture? The Bible never uses the word sodomy, but it occurs in the Confessions, which are subordinate to Scripture. The presbytery then linked the word "sodomy" to the events in Gn 19. Second, the story of Lot and his angelic visitors in Gn 19 showed the men wanted to "know" them, i.e. to "know them sexually." That is why Lot offered his daughters to the men instead of the visitors (ibid). How does this reading of the text prove in any way that the men were homosexual? Why would Lot offer his daughters to homosexual men to have sex with?

Third, Jude 6-7 was quoted (PC(USA) 2004a:32-33), but no explanation of the text was given or how it related to the Gn 19 story. Fourth, the five major "homosexual texts" were quoted as evidence of the Scriptures being against the practice of homosexuality, but without any exegesis of the texts (:33). Fifth, the overture claimed there were "other passages in Scripture which condemn the practice of homosexuality by implication . . ." (ibid), yet they were not mentioned.

Thus, the overture asked that:

It must be understood that the practice of homosexuality is to be forsaken before Church membership or Church office is accepted (PC(USA) 2004a:34).

The overture asked the General Assembly to affirm "its conviction that homosexual behavior is a grievous sin according to the Scriptures" (ibid). The overture was referred to the Council of Theology and Culture (PCUS Minutes 1976:217).

3.8 The 189th General Assembly of the UPCUSA in 1977

The Presbytery of Huntsville sent Overture 20 asking the General Assembly to direct the Task Force on homosexual ordination to complete its report, it be dismissed, and the General Assembly make a decision in obedience to the clear pronouncements in Scripture (UPCUSA Minutes 1977:738-739). They believed:

Whereas, the Scriptures of the Old and New Testaments are clear and unequivocal in their statements that homosexual behavior is in opposition to the will of God and subject to his [sic] judgment as a form of sin . . . (:738).

Yet, the presbytery provided no scriptural or doctrinal evidence to back their overture. The overture was referred to the ACBO (:36).

The Presbytery of Pittsburgh sent Overture 45 stating that the study of the Task Force was a “useless waste of resources and effort and at worst an affront to the church” (UPCUSA Minutes 1977:748). They requested the General Assembly “[t]o rule that the ordination of avowed and unrepentant or practicing homosexuals as ministers . . . would be improper now or at any future time.” Also, the Task Force should cease its considerations “. . . since the biblical authority on the point is clear and unequivocal” (ibid). The overture was referred to the ACBO (:36).

The ACBO recommended that the Task Force be allowed the full time to complete its study, the General Assembly not concur with Overture 20, no action be taken on Overture [sic] 45, and a pastoral letter on the subject be sent by the Moderator to all ministers and clerks of session (UPCUSA 1977:72). The General Assembly concurred.

3.9 The GAPJC Ruling in *Huie, et al. v. Synod of the Southeast*. Complaint 21-1977 in 1977

In 1975, Rev. T T Ellis was called to a PCUS congregation in Atlanta, Georgia. Ellis believed that women should not be ordained, but he would serve with them (PCUS Minutes 1977:112). In June, he was examined by the Atlanta Presbytery, where he expressed his reservations. His case was referred to the next presbytery meeting, and he met with the Commission on the Minister. He explained that his

views had not changed since being ordained in 1966, prior to the change in the *Book of Order* to allow women to be ordained. If asked by the presbytery to ordain a woman (minister), he would ask to be excused (:113). If he was asked to ordain a woman elder or deacon, he would invite a fellow minister to stand in for him. The Commission reported at the July presbytery meeting that it no longer recommended Ellis for membership, but that he be heard. He was examined and approved by a 109-44 vote (:114).

Rev. Huie and seven others (Huie *et al*) filed a complaint with the Synod of the Southeast, which referred it to its PJC (SPJC). The SPJC reported in May 1976 that the presbytery had acted lawfully and within its authority. The complaint was then referred to the GAPJC (PCUS 1977:114). At the hearing, Ellis stated that he would install and ordain women if so instructed or arrange for another minister to do it. The GAPJC agreed with the SPJC:

The question . . . was not primarily what the candidate *thinks*, but what he *does*. The issue is one of *freedom of conscience* versus invidious *action*. Belief or *conviction* versus *conduct* [original italics] (:115).

Thus, the GAPJC distinguished between beliefs and actions and concluded “. . . that dissenting *views*, as opposed to destructive *action* [original italics], may be tolerated . . .” (:116).

The GAPJC reaffirmed the Advisory Opinion it had issued in 1976 that the acceptability of a candidate’s polity beliefs should:

. . . be determined initially by the Presbytery, and subject to review by higher courts, *under the basic principle that in this Church the equality of men and women under God and in church affairs must be protected and preserved*’ [original italics] (PCUS Minutes 1977:115).

The nuances of this decision established a balance between polity and theology (McCarthy 1992:295).

The GAPJC also noted:

It is the freedom of conscience and the *right to work for change* of any established principle which brought about in fact the right of women to be church officers – the very provision of the *Book of Church Order* now under debate [original italics] (PCUS Minutes 1977:116).

If subscription to polity was enforced “. . . the very right of women to be church officers could never have come into being!”(ibid). The GAPJC ruled that the

presbytery had acted correctly and reaffirmed the SPJC decision. It also affirmed the rights of women to be ordained (:116-117).

3.9.1 Summary

The Ellis case had similarities to the Kenyon case in the Maxwell ruling of 1974 (see Chapter 3.4). However, while the 1974 GAPJC of the UPCUSA found that Kenyon could not be installed, the 1977 GAPJC of the PCUS found Ellis could be installed. The difference was that Ellis reluctantly agreed to ordain women if requested. The issue with Kenyon and Ellis was not the ministers' theological beliefs, but polity: would the individual set aside personal belief to participate in the established polity of ordaining women? Kenyon could not; Ellis could. The Huie ruling made it clear that there was room for disagreement with church polity, thus ending the uncertainty which existed after the Maxwell ruling.

The Huie ruling distinguished between belief and action, granted more discretion to presbyteries in individual cases, and established a balance between polity and theology (cf. McCarthy 1992:295). Thus, the GAPJC ruled that the presbytery could admit a minister who said that he opposed women's ordination and would continue his practice of preaching against it, but would participate in the ordination of women if instructed to do so by his presbytery. Ellis' views regarding women's ordination would again come under scrutiny in the 1985 Simmons ruling (see Chapter 5.5).

3.10 The 117th General Assembly of the PCUS in 1977

In 1977, the Council on Theology and Culture offered a Report, *The Church and Homosexuality: A Preliminary Study* (Report), to the General Assembly with three broad alternatives (PC(USA) 2004a:23-27). The Task Force summarised its Report in stating:

... it seems unwise at this time to propose any one position as *the* [original italics] position of our Church. We therefore offer some general guidelines which have emerged from our study (:28).

Thus, the Report was not adopted, but merely endorsed as a basis for study. The General Assembly rejected homosexuality:

Although we confess our need for more light . . . we now believe that homosexuality falls short of God's plan for sexual relationships . . . (PCUS Minutes 1977:174).

However, the General Assembly adopted a two-paragraph statement in which it supported the civil rights of homosexuals:

. . . the need for the Church to stand for just treatment of homosexual persons in our society in regard to their civil liberties, equal rights, and protection under the law from social and economic discrimination which is due all citizens (PCUS Minutes 1977:174).

The General Assemblies of the PCUS reaffirmed this decision in 1978 and in 1979 (PCUS Minutes 1978:190; 1979:208). The PCUS, and later the PC(USA), continued "to accept in practice what it rejects in theory." Gays and lesbians were rejected for ordination in the church, but their civil rights should be protected.

The Report, although it was not adopted and therefore does not serve as an official document with authoritative status, represented the opposing views within the PCUS at that point in time. The Report continuously stated that it was "important to distinguish between but not separate a homosexual 'orientation' or 'condition' and homosexual activity" (PC(USA) 2004a:7) and "realistically distinguish between feelings, thoughts and desires on the one hand and actions on the other" (:11).

However, the General Assembly, in its adopted statement, did not make this distinction between "orientation" and "activity", but declared "homosexuality falls short of God's plan for sexual relationships." One might read into this statement that the General Assembly meant "activity" by mentioning homosexuality within "God's plan for sexual activity" and not "orientation" as well. This would be clarified in 1979, when the General Assembly of the PCUS adopted the *Policy Statement and Recommendations* of the UPCUSA that clearly distinguished between homosexual orientation and practice and "homosexual practice does not accord with the requirements for ordination. . ." (UPCUSA Minutes 1978:265).

The value of the Report is in the brief discussions on what homosexuality is; some possible causes; whether change is possible; the view of some texts in the Bible and

the total biblical witness; and alternatives and guidelines for the church. The brief study of biblical texts deserves attention. The introduction to this portion of the study stated:

Scripture does not give us much help . . . In none of these texts is homosexuality the major topic; biblical writers . . . have little interest in homosexuality for its own sake . . . refer to homosexual acts only; none of them deal with . . . the complex relationship between homosexual acts and homosexual orientation (PC(USA) 2004a:12).

The exegesis of Gn 19 showed that this passage and other Old Testament passages do not identify the practice of homosexual acts as the sin for which Sodom was destroyed, contrary to the traditional interpretation. The Report correctly put Lv 18:22 and 20:13 within the Holiness Code, but then claimed that “[t]hese texts express the consistent position of ancient Israel” (PC(USA) 2004a:13).

This is a generic statement with no evidence whatsoever to back it up. If the authors of the Report had performed a proper exegetical study, it would be clear that these Leviticus texts in the Holiness Code originated late in the life of Israel, probably during the post-exilic period. We simply don’t know what the standard was for hundreds of years before this text, since no other texts in the Old Testament refer to homosexual acts directly.

Contemporary interpreters ask good questions regarding the relevance of these two Leviticus texts for today. First, if other parts of this ancient code are outdated, why not this one also? (PC(USA) 2004a:13). Second, is it inconsistent for those who condemn homosexual acts, but who do not insist on the death penalty which the texts prescribe? “Does not such inconsistency also indicate that the real motivation of those who emphasize these texts is not so much concern for the authority of Scripture as their use of Scripture to confirm their prejudice against homosexual persons?” (:14). Third, the original context of the prohibition was in connection with temple prostitution and idolatry, and also procreation (ibid).

More traditional interpreters claimed that some ceremonial and judicial laws of the Holiness Code were no longer authoritative for Christians. The texts were still valid since they are part of “God’s permanently binding ‘moral law’ - the prohibition of adultery (Lev. 18.20) and incest (Lev. 20.13) for instance” (PC(USA) 2004a:14).

Besides these passages, both the Old and New Testaments confirmed that “homosexuality is contrary to God’s intention for human sexual relationships” (:15). Would this mean that if a couple has sex while the woman was menstruating, they would be committing a sin based on Lv 18:19 and that it is contrary to God’s intention today? How do we objectively decide which sexual laws and consequent punishments of the Holiness Code and Old and New Testaments are applicable today, and which are culturally bound to Old or New Testament times, thus outdated?

The study of the Pauline texts stated that “homosexuality receives no special attention here and there is no suggestion that homosexual persons are more sinful than other ‘immoral persons’” (PC(USA) 2004a:15). Those critical of Paul believed that his “condemnation of homosexuality is not an essential and permanently authoritative part of his apostolic witness but an expression of a traditional Hebraic attitude. . .” (:16).

Four considerations should be taken into account. First, Paul’s vice lists in Romans, 1 Corinthians and 1 Timothy were similar to vices listed in Jewish and Greco-Roman literature of his time, such as the writings of Philo, Josephus, and the Stoics (PC(USA) 2004a:16). Second, in Rm 1:24f, Paul connected homosexuality with idolatry. Perhaps he did not witness non-idolatrous homosexual relationships or was ignorant of its causes and nature (:16-17). Third, Jesus did not condemn homosexuality but extended grace to all people without discrimination according to sexual orientation (:17).

Fourth, Paul said homosexuality was idolatrous and unnatural. However, in 1 Cor 11:14, he stated that it is unnatural for a man to have long hair based on what “nature teaches” (PC(USA) 2004a:17). Others argued that Rm 1 spoke of heterosexuals who had “given up” or “exchanged” heterosexual for homosexual relationships. That was unnatural. Thus, although Paul did not think along these lines, we could understand:

. . . unnatural sexual activity to be that which is contrary to one’s sexual orientation, whether it is heterosexual or homosexual . . . Paul leaves room for us to believe that natural sexual activity is that which expresses one’s true sexual orientation, whether homosexual or heterosexual (:17-18).

The interpretation above flies in the face of the traditional view and interpretation of Scripture. In defence of Paul's teaching, the traditionalists believed: First, the sin lists were similar to those in some Jewish and Greco-Roman literature of the same period, which affirmed their validity. Second, some homosexual relationships were not idolatrous; it did not mean they were legitimate or that Paul's argument was wrong. Third, Jesus' silence did not mean he approved or accepted homosexuality. He required repentance and turning away from sin (PC(USA) 2004a:18). Fourth, Paul believed homosexuality was unnatural since his position was based on "God's intention for human sexual relationships in all times and places" (:19) and "Jesus affirmed God's original intention for males and females to be united in monogamous, faithful marriage (Mk. 10.2ff.). He blessed marriage (John 2.1ff.)" (:20).

These statements presume that one set of continuous norms or sexual mores existed throughout the biblical times and are universally valid. The Bible itself contradicts this view through legitimising sexual activity outside of monogamous marriage between a man and his slave, his concubine or a prostitute (cf. Countryman 1990). Jesus, besides being quiet on homosexuality, also did not comment on a man's right to have sex with his slave or concubine, and did not call the levirate marriage practice, i.e. sex with your deceased brother's wife to father sons for her, into question in Lk 20:27-39.

To assert that Jesus blessed marriage in John 2, while attending a wedding, is stretching it too far. Also, the episode in Mark 10 is about divorce, not marriage. The predecessor churches of the PC(USA) reinterpreted these words of Jesus in the 1950s to allow members to divorce and remarry and, subsequently, changed the Westminster Confession of Faith to reflect this new understanding (Beuttler 1999:244). It seems sanctimonious to quote it as a text against homosexuality and for heterosexual marriage, while ignoring what Jesus says on divorce and remarriage for heterosexuals. It affirms this writer's view that the church has consistently been inconsistent in applying different rules to heterosexuals, and gays and lesbians. It is too convenient to merely state that there is one standard biblical view on sexual relationships, since such a view is inconsistent and in conflict with the Scriptures, especially sexual practices of the Old Testament. Those who claim that the weight of

the New Testament should come to bear on the issue would have to answer whether God's opinion changed from the Old Testament to the New Testament.

Fifth, the argument that Paul's view on slavery and the inferior status of women were parallel to his view on homosexuality was refuted on the grounds that both Paul and Jesus gave us grounds to rethink the issue of slavery and women, but not homosexuality (PC(USA) 2004a:19).

Although the Report, *The Church and Homosexuality*, was not adopted by the General Assembly of the PCUS in 1977, it confessed that "we need more light" and concurred with the view of the traditionalist, declaring "homosexuality falls short of God's plan for sexual relationships" (PC(USA) 2004a:4). The General Assembly asked presbyteries, sessions, churches and members to study the paper and respond with data and suggestions. Only eleven presbyteries sent overtures to the General Assembly and 225 churches sent responses (:75). The question which the Report did not answer was regarding the ordination of homosexuals as officers (:77). This question was made explicit in the overtures to the 1978 General Assembly meeting.

3.11 The 118th General Assembly of the PCUS in 1978

The question regarding the ordination of avowed, practicing homosexuals had not been raised in the PCUS. The General Assembly did not adopt the Report, *The Church and Homosexuality*, in 1977, but recommended it for study within the whole church. The General Assembly sent the overtures to the Council on Theology and Culture to bring a report to the 1979 General Assembly. The General Assembly also reaffirmed the statements adopted by the 1977 General Assembly. It also asked the council to study *The Church and Homosexuality* paper and the *Policy Statements and Recommendations* adopted by the General Assembly (PC(USA) 2004a:78).

3.12 The 190th General Assembly of the UPCUSA in 1978

The question regarding gay and lesbian ordination was raised in 1976 when the Presbyteries of New York and Palisades asked the 1976 General Assembly of the

UPCUSA to give “definitive guidance” regarding the ordination of a candidate, Mr. B Silver (Anderson J D 1994:3), to the ministry of Word and Sacrament. It was common for presbyteries to ask the General Assembly meetings for guidance, but never before had “definitive guidance” been asked for. These statements of guidance were not supposed to be binding on members and officers (North Como 2005:146). As will later be shown, this statement is of vital importance in how the “definitive guidance” was interpreted afterwards by both the Stated Clerk of the 1978 General Assembly, Thompson, and future GAPJC rulings of the PC(USA).

A Task Force of the Advisory Council on Church and Society was appointed by the 1976 General Assembly to study “Christian approaches to homosexuality, with special reference to the ordination of avowed practicing homosexuals” (UPCUSA 1978b:5). The Task Force met seven times and four regional hearings were held. It submitted a large background paper, written by Task Force member Rev. B Shafer, policy statements and recommendations, and a minority policy statement and recommendations to the Advisory Council on Church and Society (ibid).

3.12.1 The Report, *The Church and Homosexuality*

The Report, *The Church and Homosexuality* (Report), was written by Rev. B Shafer (1978:9-56, UPCUSA Minutes 1978:213-260). His Report was received, not adopted, and serves as “an aid to study and does not have official policy status” (UPCUSA Minutes 1978:265, UPCUSA 1978b:6).

The Report included results from psychotherapy and empirical sciences; exegesis of biblical passages; models of biblical interpretation; ordination in the UPCUSA, majority and minority opinions; and recommendations. The positive aspect of the Report was the way in which Shafer (1978:27-39) summarised and categorised the various models of biblical authority and interpretation in either Models A, B, C, or D.

These models were then applied to the various understandings regarding homosexuality. Models A and B held that homosexual behaviour *per se* was sin (Shafer 1978:41) and Models C and D held that homosexual behaviour *per se* was not sin (:42-43). Model A used Reformed Scholasticism of the Princeton Old School

of Hodge and Warfield which dominated from 1812-1927. Model B used neo-orthodoxy of Bath, Brunner, and Bonhoeffer which was prevalent from the 1930s to the 1960s. Model C used liberation theology and Model D combined liberation theology and process theology (Rogers 2007:1-2).

The minority of the Task Force believed “all homosexual behavior is sinful *per se* [original]” and advised the General Assembly not to ordain practicing homosexuals. The majority of the Task Force believed “homosexual behavior is not sinful *per se* [original] and that therefore self-affirming, practicing homosexual persons may be considered for ordination” (Shafer 1978:41).

Although the majority had strong views on homosexual ordination, they asked that the General Assembly not definitively state that homosexual behaviour *per se* was “sin” or “not sin” and self-affirming homosexual Christians were “not ordainable” or were “ordainable” since it would reject the view of either group in the church. The church should preach and teach the core doctrines, which did not include homosexual practice or ordination. The church should not be “enforcing universal subscription to any single interpretation of homosexual behavior” (Shafer 1978:51). Ambiguity in biblical interpretation and theology existed. Thus, the church should endorse ongoing discussion (:52).

The minority believed that nothing in our understanding of homosexuality or theories obliged the church to move from the previous understanding that sex should only be in heterosexual marriage (Shafer 1978:51). If the church adopted their recommendations, then the door on continuing dialogue should not be closed (:54).

3.12.2 Suggested Actions

The Report ended with the conclusions and suggested actions of both the majority and the minority of the Task Force. They suggested five alternative actions the General Assembly could take. First, the General Assembly could amend the Constitution to prohibit the ordination of a self-affirming, practicing homosexual person. The Task Force unanimously opposed such an action, since the Constitution

in no other case singled out a person or specific category of behaviour as an automatic bar to ordination (Shafer 1978:47).

Second, the General Assembly could amend the Constitution to require presbyteries to disregard homosexual behaviour *per se* when evaluating candidates for ordination. The Task Force unanimously opposed such an action. Third, the minority of the Task Force favoured the position that “the General Assembly offer an Authoritative Interpretation (AI) of what may correctly be deduced from the Constitution, stating that the Constitution’s underlying biblical and theological presuppositions and informing principles definitely preclude the ordination of a self-affirming, practicing homosexual person.” They believed that “traditional biblical interpretation and Reformation [sic - Reformed] theology clearly teach that homosexual behavior *per se* [original] is sin and that to affirm one’s homosexual behavior is to remain unrepentant of sin” (Shafer 1978:47). They wanted the General Assembly to proclaim clearly and authoritatively that the ordination of a self-affirming, practicing homosexual would violate the basic principles, if not the explicit word, of the Constitution.

The majority of the Task Force opposed this alternative action, believing that Models C and D, viewing homosexual behaviour as not sinful *per se*, represented valid methods of interpreting the Bible and of thinking theologically within the UPCUSA (Shafer 1978:47).

Fourth, the General Assembly could offer an Authoritative Interpretation barring the ordination of a self-affirming, practicing homosexual person on the basis of homosexual behaviour *per se*, although not on the basis of the moral quality of sexual relationship. The Task Force unanimously opposed such an action. Fifth, the majority of the Task Force favoured the position that the General Assembly state:

... no prohibition of the ordination of a self-affirming, practicing homosexual person currently exists in the explicit words of the Constitution; that a valid pluralism of methods of biblical interpretation and of theological thinking currently exists within the church; and that it is the traditional duty and prerogative of presbyteries to make individual judgment concerning the fitness of a candidate for ordination (Shafer 1978:48).

Also, that the General Assembly could choose not to offer an authoritative and limiting interpretation of what may correctly be deduced from the Constitution, but rather remit the question to the presbyteries and congregations for further discussion and decide each case on its own circumstances. The minority of the Task Force opposed this alternative action (Shafer 1978:48).

The majority report concluded that homosexual behaviour was not sinful *per se*, and sessions and presbyteries should be permitted to ordain self-affirming and practicing homosexual persons after examinations. They also believed the General Assembly should not offer an Authoritative Interpretation (Shafer 1978:49). They chose Alternative 5: the local ordaining body should set standards.

The minority report believed all homosexual behaviour was sinful *per se*. “Like the incestuous adultery of I Cor. 5, homosexual behavior cannot be a matter of individual Christian conscience, and tolerance of continuing homosexual behavior clearly falls outside the bounds of permissible Christian conscience” (Shafer 1978:49). They believed the General Assembly should authoritatively advise presbyteries not to ordain self-affirming and practicing homosexual persons (*ibid*). They chose Alternative 3: the General Assembly should set ordination standards.

These two opposing recommendations became the norm for the next 30 years. The progressive side has advocated for the local ordination option; namely, presbyteries and sessions should decide who is ordainable. Their overtures to the General Assembly focus on the local ordination option. The conservative side has advocated that the General Assembly, through the polity of the *Book of Order*, should set standards for the whole church to determine who is ordainable. Their overtures focus on the national standards for ordination.

The Advisory Council voted to send the majority report and its recommendations, as well as the minority statement and recommendations, to the General Assembly for the decision-making process. They recommended that the General Assembly adopt the statement and recommendations of the majority of the Task Force. Three members voted against the recommendation (UPCUSA 1978b:6).

The General Assembly, in turn, gave the Report to the Assembly Committee on the Church and Homosexuality (ACCH), with 17 overtures, 22 resolutions, and a mass of communications from congregations and members. Two motions to substitute the majority report with minority reports 1 and 2, and a motion to delete Recommendation 14 (the decision does not affect those ordained before 1978), all failed (UPCUSA Minutes 1978:48).

The ACCH recommended that the majority report be received, not adopted, and a new Policy Statement and Recommendations be adopted by the General Assembly (UPCUSA Minutes 1978:48). A drafting subcommittee worked on a draft statement which it sent to the General Assembly. The issue was debated for ten hours and the General Assembly approved the Report printed in *The Church and Homosexuality* (UPCUSA 1978b:6). The Report consisted of three parts, a Preface (UPCUSA 1978b); a study by Rev. B Shafer, *The Church and Homosexuality* (1978, UPCUSA Minutes 1978:213-260), and *The Church and Homosexuality: Policy Statements and Recommendations* (UPCUSA 1978a, UPCUSA Minutes 1978:261-267).

Thompson, the Stated Clerk, clarified three actions of the General Assembly. First, the background paper written by Shafer was “a resource for continuing study” and was “... an aid to study and does not have official policy status.” Second, the “majority” and “minority” positions referred to the opinions of the Task Force, not the UPCUSA, and were not printed in the final statement and recommendations. Third, the “Statements and Recommendations” were different from the “majority” and “minority” reports of the Task Force and included elements from both. This decision was the official position of the General Assembly of the UPCUSA concerning homosexuality (UPCUSA 1978b:6).

However, what Thompson did not state was that the dissenting “minority” view of Task Force members had, in fact, been the view which the majority of the ACCH agreed with, and that they drafted policy and recommendations which the General Assembly ultimately accepted and declared to be “definitive guidance” for the UPCUSA (cf. North Como 2005:147, Rogers 2007:2).

Interestingly, Thompson later changed his mind on the ordination of gays and lesbians:

I am now convinced that the Presbyterian Church (U.S.A.) will ultimately recognize that, like other members, its homosexual members are eligible to be ordained to church office, because I am persuaded that this is “the will of God ...” (Thorson-Smith 1997:22).

3.12.3 The Church and Homosexuality: Policy Statements and Recommendations of the General Assembly

In *The Church and Homosexuality: Policy Statements and Recommendations*, the General Assembly spelled out its policy, gave “definitive guidance” and offered 14 recommendations (UPCUSA Minutes 1978:261-267). The policy portion reflected some interesting notions, and will be discussed under the subsequent headings within the report.

3.12.3.1 Introduction

The General Assembly answered the questions posed by the two presbyteries in 1976 regarding the ordination of a gay man to the ministry of Word and Sacrament by stating “... we must examine the nature of homosexuality according to current scientific understandings, interpreted within the context of our theological understandings of God’s purpose for human life” (UPCUSA Minutes 1978:261).

3.12.3.2 Homosexuality within a Theological Context

Psychology, sociology, endocrinology, and other secular disciplines shed new light on homosexuality. The church has to evaluate this information “...while at the same time renewing our understanding of Scripture and tradition in the light of those data in the sciences” (UPCUSA Minutes 1978:261). The General Assembly acknowledged that sexual reorientation through psychiatric methods was not too successful. The causes of homosexuality were numerous and diverse. Homosexuals could choose to act on their “affectional preference” or seek change, engage in genital acts or remain celibate. The Report tried to make sense of homosexuality within a theological context:

However, although homosexual affectional preference is not always the result of conscious choice, it may be interpreted as part of the involuntary and often unconscious drive away from God's purposes that characterizes fallen human nature, falling short of God's intended patterns for human sexuality (ibid).

This statement was inconsistent with previous statements, e.g. "between 5 and 10 percent of the human population is exclusively or predominantly homosexual in orientation" and "[m]ost authorities now assume that both heterosexuality and homosexuality result primarily from psychological and social factors affecting human beings during their growth toward maturity, with some possible influence from biological factors" (UPCUSA Minutes 1978:261).

The statement that same-gender sex ". . . fall[s] short of God's intended patterns for human sexuality" has no theological or biblical foundation. It imitates the statement made by the General Assembly of the PCUS a year earlier that ". . . homosexuality falls short of God's plan for sexual relationships . . ." (PCUS Minutes 1977:174).

Presumably, the statement did not assume that God made a mistake in the creation of homosexuals, yet two paragraphs later, it mentioned that sometimes an embryo does not develop into a boy or a girl, but "a sexually ambiguous being" (UPCUSA Minutes 1978:261), i.e. a zygote. Again, the Report pointed the finger at homosexuals and outside influences, not at God, for falling short and having a sexual orientation different from heterosexuals:

It appears that one explanation of the process in which persons develop homosexual preferences and behavior is that men and women fall away from their intended being because of distorted or insufficient [sic] belief in who they are. They are not adequately upheld in being male and female, in being heterosexual, by self-belief and the belief of a supporting community. In many cases homosexuality is more a sign of the brokenness of God's world than of willful rebellion. In other cases homosexual behavior is freely chosen or learned in environments where normal development is thwarted (ibid).

Interestingly, the Report did not mention whether God created homosexuals to have a same-gender orientation, but merely stated ". . . it is neither a gift from God . . ." (UPCUSA Minutes 1978:262). It assumed that outside influences, brokenness of the world, biological factors, personal choice, etc. were the main causes, not God directly.

The strangest conclusion of the Report was when the General Assembly stated:

. . . what is really important is not what homosexuality is but what we believe about it. Our understanding of its nature and causes is inconclusive, medically and psychologically. Our beliefs about homosexuality thus become paramount in importance (UPCUSA Minutes 1978:262).

The General Assembly admitted that the concept and origin of homosexuality was inconclusive, thus the church's recourse was to fall back on its beliefs. The question is, "which beliefs?" Later in the document, the General Assembly admitted that not everyone agreed with their beliefs, since there were different beliefs within the church regarding homosexuality, and disagreement whether it was sin or not sin (cf. UPCUSA Minutes 1978:265 Recommendation 5b).

The General Assembly's next stated its belief:

We conclude that homosexuality is not God's wish for humanity (UPCUSA Minutes 1978:262).

. . . homosexuality is a contradiction of God's wise and beautiful pattern for human sexual relationships revealed in Scripture and affirmed in God's ongoing will for our life in the Spirit of Christ (ibid).

For the church to ordain a self-affirming, practicing homosexual person to ministry would be to act in contradiction to its charter and calling in Scripture, setting in motion both within the church and society serious contradictions to the will of Christ (:264).

Therefore our present understanding of God's will precludes the ordination of persons who do not repent of homosexual practice (ibid).

On the basis of our understanding that the practice of homosexuality is sin. . . (ibid).

These clear statements that "the practice of homosexuality is sin" led to the inevitable "definitive guidance" in the Conclusion of the document:

That unrepentant homosexual practice does not accord with the requirements for ordination set forth in Form of Government . . . (UPCUSA Minutes 1978:265).

The "definitive guidance" is discussed in Chapter 3.12.3.9.

3.12.3.3 Scripture and Homosexuality

Ironically, the General Assembly already asserted in the previous section "we conclude that homosexuality is not God's wish for humanity," based on its beliefs, without looking at the Scriptures. This writer has seen the same pattern throughout the four decades of the gay and lesbian debate. Beuttler (1999), a staunch opponent of gay and lesbian ordination, asserts that decisions have been made based on polity and not theology.

This writer encourages theological discussion, utilising the Scriptures and other sciences, to further the debate, rather than a battle over who controls the church polity. Once we earnestly struggle with the meaning of the so-called “homosexual” texts in their contexts, we can move forward in the debate. But as long as polity is decided and the Scriptures interpreted to support a specific polity view, which both the Presbyterian conservatives and liberals have been doing for decades, then we are stuck with polity decisions in which new interpretations and understanding of the Scriptures and insights from other sciences are ignored and sidelined. Only in a few instances over decades of overtures, requests, and recommendations sent to the General Assembly are Scripture or new insights referenced. When Scripture is used, usually by conservatives, it is mostly quoted verbatim from passages relating to same-gender sex acts, without any regard to the context in which the texts are found.

The General Assembly’s study of Scripture was disappointing. It claimed that “. . . homosexuality is a contradiction of God’s wise and beautiful pattern for human sexual relationships revealed in Scripture . . .” (UPCUSA Minutes 1978:262). The problem is that there is not one clear-cut view in Scripture. Soon after the creation story, which is quoted next, we find the patriarchs and generations of Israelites having sex with their female slaves, concubines, prostitutes, sex in Levirate marriage, and polygamous sex with their wives. All were legitimate forms of sex acts in Ancient Israel practiced by the patriarchs and generations of Hebrew males. The Report used the Genesis creation story of procreation and the formation of family as the norm. Yet, one can have a meaningful life outside of marriage. Jesus chose to stay celibate and not to have a biological family (ibid).

The Report stated that:

Nature confirms revelation in the functional compatibility of male and female genitalia . . . (UPCUSA Minutes 1978:262).
. . . confirmed in nature, clearly indicates that genital sexual expression is meant to occur within the covenant of heterosexual marriage (:263).

The “nature” and “compatibility of genitalia” arguments surfaced. Yet, even in 1978, it was known that homosexuality was found also in the animal and insect world. One wonders how this opinion of the General Assembly was based on Scripture. Which biblical texts refer to the “compatibility of male and female genitalia?” Gn 1-2

certainly does not make any such claims. Genitalia and genitalia compatibility are not mentioned in the creation story, nor in any other passage of Scripture.

When the Report finally dealt with the Scriptures, it pointed out the five texts regarding “homosexual” behaviour. It claimed Gn 19 and Jdg 19 showed that homosexual rape was a violation of God’s justice. One sentence was the total extent of the exegesis. One has to ask, where in Gn 19 or Jdg 19 did homosexual rape take place? In Gn 19, no-one was raped, and in Jdg 19, the female concubine was raped. Why would Lot offer his daughters to homosexuals to rape them? Why would the Levite offer his concubine to homosexual men to rape her? The Report did not struggle with seeking answers, but fell into the trap of merely rendering a commonly held opinion of the texts without any substance.

The Report continued by stating “II Peter 2:6-10 and Jude 7 suggest a wider context of homosexual practice in Sodom, implying that such rape was but one expression of prior homosexual practice in the population” (UPCUSA Minutes 1978:263). Neither these texts, nor any other Old Testament texts, which refer to the punishment and sins of Sodom, mention any homosexual acts at all. The Report was merely proof-texting and seeking verses, without explaining their meaning or context, to support an *a priori* that the Bible was against homosexuality.

After the brief exegesis of Rm 1:26-27, the Report stated that “[h]omosexual behavior is no greater a sin and no less a sin than these” (UPCUSA Minutes 1978:263), referring to the sin list. Why did the General Assembly give a “definitive guidance” on one sin, and not the other sins? Does this action not do the exact opposite by saying that one sin is greater than others and excludes one from ordination? What are we to make of the other sins in the list, namely “pride, greed, jealousy, disobedience to parents, and deceit?”

The exegesis of Mt 19:1-12 was disingenuous, at best. The Report claimed that:

... Jesus reaffirms God’s intention for sexual intercourse, enduring marriage between husband and wife, and affirms godly celibacy for those not entering the marriage covenant (UPCUSA Minutes 1978:263).

The text spoke about Jesus’ clear instruction against divorce, yet the Report failed to mention this vital fact, but tried to use Jesus’ words on marriage to strengthen their

case. Beuttler (1999:244, 254) shows how the Westminster Confession of Faith was changed by both the UPCUSA and PCUS in the 1950s to allow for the divorce and remarriage of persons, despite Jesus' clear teaching. Mt 19 was used as a proof-text for heterosexual sex within "enduring marriage," despite the issue being about divorce. Jesus did not make a statement on marriage and where sexual intercourse was appropriate, but answered a question regarding divorce.

Last, the General Assembly warned:

To conclude that the Spirit contradicts in our experience what the Spirit clearly said in Scripture is to set Spirit against Spirit and to cut ourselves loose from any objective test to confirm that we are following God and not the spirits in our culture or our own fallible reason. The church that destroys the balance between Word and Spirit, so carefully constructed by the Reformers to insure that we follow none other than Jesus Christ who is the Word, will soon lose its Christian substance and become indistinguishable from the world. We have been charged to seek "new light from God's Word," not "new light" contrary to God's Word (UPCUSA Minutes 1978:263).

The General Assembly equated Scripture with Christ; both are referred to as "the Word." The fourth ordination vow (W-4.4003d *Book of Order*) of the PC(USA) requires of all ordained officers ". . . obedience to Jesus Christ, under the authority of Scripture . . ." A similar un-Reformed statement equating obeying Christ with obeying Scripture would make its way into the *Book of Order* in 1997 with Amendment G-6.0106b (see Chapter 5.23.2).

3.12.3.4 Church Membership

All who "manifest homosexual behavior should be treated with the profound respect and pastoral tenderness due all people of God" (UPCUSA Minutes 1978:263). In the next sentence regarding homophobia, the General Assembly stated:

There can be no place within the Christian faith for the response to homosexual persons of mingled contempt, hatred, and fear that is called homophobia (ibid).

In Recommendation 8, the General Assembly:

Calls on United Presbyterians to reject in their own lives, and challenge in others, the sin of homophobia, which drives homosexual persons away from Christ and his church (UPCUSA Minutes 1978:266).

The General Assembly affirmed that homosexuals who were able to give "an honest affirmation to vows required for membership" should not be excluded from church

membership (UPCUSA Minutes 1978:263). Practicing homosexuals could become church members, but could not be ordained as officers, as the next section will show.

3.12.3.5 Ordination

Is any ordination of a gay or lesbian person possible? The General Assembly answered in the affirmative, although it was not repeated and reiterated in the Conclusion section:

The repentant homosexual person who finds the power of Christ redirecting his or her sexual desires toward a married heterosexual commitment, or finds God's power to control his or her desires and to adopt a celibate lifestyle, can certainly be ordained, all other qualifications being met (UPCUSA Minutes 1978:264).

Repentant gas and lesbians were ordainable. Unfortunately, one of the ways in which the General Assembly viewed this repentance as manifesting itself was by a homosexual marrying someone of the opposite gender and redirecting their sexual desires. This insight from 1978 is no longer valid; the General Assembly of the PC(USA) has since rejected this idea.

The Ordination section ended with a negative assertion, which was repeated in the Conclusion:

Therefore our present understanding of God's will precludes the ordination of persons who do not repent of homosexual practice (UPCUSA Minutes 1978:264).
If there was no repentance, then there could be no ordination.

3.12.3.6 Pluralism and Unity in the Church

The General Assembly acknowledged that not everyone would agree with their conclusions:

Some are persuaded that there are forms of homosexual behavior that are not sinful and that persons who practice these forms can legitimately be ordained (UPCUSA Minutes 1978:264).

Encouragement of contact and dialogue among groups and persons who disagree on whether or not homosexuality is sinful per se (original) and whether or not homosexual persons may be ordained as church officers (:265 Recommendation 5b).

The encouraging aspect of the Report was that the General Assembly welcomed dialogue and that the debate regarding gay and lesbian ordination, and whether same-gender sex acts were sinful, continued. This has become the pattern for the

PC(USA). When difficult decisions are made by the General Assembly, a pastoral letter is usually sent by the Stated Clerk and/or Moderator to every congregation to encourage the continuing dialogue and to reach out to those who were impacted by the decisions of the General Assembly (cf. Kirkpatrick & Brown 1997; Kirkpatrick & Jenkins 1997; Kirkpatrick & Gardner 2000; Kirkpatrick & Gray 2006; Rogers 2001b; Reyes-Chow, and Parsons & Valentine 2008).

3.12.3.7 Ministry and Mission

Regarding the training of pastors, in Recommendation 11, the General Assembly:

Encourages seminaries to apply the same standards for homosexual and heterosexual persons applying for admission (UPCUSA Minutes 1978:266).

Note that Recommendation 11 did not ask seminaries to enquire about a student's sexual orientation, or what to do if a student declared their sexual orientation. In the Ministry and Mission section and Recommendation 6, the process for discernment was left to the calling bodies, namely the presbyteries and sessions:

. . . to conduct their examination of candidates for ordained office with discretion and sensitivity, recognizing that it would be a hindrance to God's grace to make a specific inquiry into the sexual orientation or practice of candidates for ordained office or ordained officers where the person involved has not taken the initiative in declaring his or her sexual orientation (UPCUSA Minutes 1978:264,266).

Thus, the General Assembly urged that calling bodies not ask either candidates for office or ordained officers directly about their sexual orientation, but it presumed that, where the person has willingly shared it, it was permissible to ask. In the rest of this study, examples will be shown of how both presbyteries and sessions have dealt with candidates for office and ordained officers who were gay and lesbian, who either declared or did not declare their sexual orientation, and how the situations were handled. This 1978 Report did not deal with the declaring of a "scruple" or disagreement with a part of the teaching of the church, yet it became a major issue in the ongoing history of the debate, especially in the 2005 *Peace, Unity and Purity* Report (see Chapter 5.49.1). For the history and meaning of scrupling, see the *Adopting Act of 1729* in Chapter 2.4.

Recommendation 14 dealt with previously ordained officers:

[The General Assembly] [d]eclares that these actions shall not be used to affect negatively the ordination rights of any United Presbyterian deacon, elder, or minister who has been ordained prior to this date (UPCUSA Minutes 1978:266).

Rev. J Connor, immediate past Moderator of the General Assembly, made a passionate plea that such a provision was urgently needed to ensure that no “witch-hunt” would occur in the church (Anderson J D April 1993:2). A motion to delete this recommendation was defeated (UPCUSA Minutes 1978:48). It is vital that the General Assembly declared its “definitive guidance” regarding the ordination of anyone engaged in “unrepentant homosexual practice” would only apply to persons being ordained after the 1978 General Assembly. This writer has spoken to ministers who were present at the 1978 meeting; all confirm that it was the intent of the decision.

Recommendation 14 presumed that persons ordained prior to 1978 could be called to and installed in new positions without prejudice. In 1992, this Recommendation was tested when Rev. J A Spahr, a lesbian, was denied a call as pastor to the Downtown Church of Rochester, New York, after being ordained prior to 1978 as a married heterosexual minister (see Chapter 5.15).

3.12.3.8 Decriminalisation and Civil Rights

Again, the General Assembly spoke from a loyalist position, stating that all private sex acts between consenting adults should be decriminalised:

However, homosexual and heterosexual acts in private between consenting adults involve none of these legitimate interests of society. Sexual conduct in private between consenting adults is a matter of private morality to be instructed by religious precept or ethical example and persuasion, rather than by legal coercion (UPCUSA Minutes 1978:264).

This statement was repeated in Recommendation 12, which reaffirmed the 1970 statement of the UPCUSA (UPCUSA Minutes 1970:20):

. . . to work for the decriminalization of private homosexual acts between consenting adults, and calls for an end to the discriminatory enforcement of other criminal laws against homosexual persons (UPCUSA Minutes 1978:266).

Although the General Assembly classified “the practice of homosexuality as sin,” at the same time, it asked that all such acts between consenting adults not be seen as

criminal, as was the case in most states in the United States in 1978. The General Assembly applied strict rules for officers to be ordained within the church, yet it believed that other institutions and the church's policies of hiring staff should not discriminate against anyone based on their sexual orientation:

Vigilance must be exercised to oppose federal, state, and local legislation that discriminates against persons on the basis of sexual orientation and to initiate and support federal, state, or local legislation that prohibits discrimination against persons on the basis of sexual orientation in employment, housing, and public accommodations. This provision would not affect the church's employment policies (UPCUSA Minutes 1978:264).

This statement was repeated in Recommendation 13, calling Presbyterians:

. . . to work for the passage of laws that prohibit discrimination in the areas of employment, housing, and public accommodations based on the sexual orientation of a person (UPCUSA Minutes 1978:266).

The UPCUSA had a proud track record of speaking up on behalf of gays and lesbians who were discriminated against by the government and institutions.

3.12.3.9 The “Definitive Guidance” by the General Assembly

The final Report of the 1978 General Assembly, *The Church and Homosexuality: Policy Statements and Recommendations*, stated that the phrase “homosexual persons” did not occur in the *Book of Order*; neither did it explicitly prohibit the ordination of self-affirming, practicing homosexual persons as officers:

In short, the Book of Order does not give any explicit direction to presbyteries, elders, and congregations as to whether or not self-affirming, practicing homosexual persons are eligible or ineligible for ordination to office (UPCUSA Minutes 1978:265).

Therefore, the 1978 General Assembly gave presbyteries the following “definitive guidance”:

That unrepentant homosexual practice does not accord with the requirements for ordination set forth in Form of Government . . . “It is indispensable that, besides possessing the necessary gifts and abilities, natural and acquired, everyone undertaking a particular ministry should have a sense of inner persuasion, be sound in the faith, live according to godliness, have the approval of God's people and the concurring judgment of a lawful judicatory of the Church.” In relation to candidates for the ordained ministry, the committees should be informed by the above guidance (UPCUSA Minutes 1978:265).

The “definitive guidance” was clear: any homosexual practice was sin and excluded one from ordination. The statement implied, as was previously stated in the document, that gays and lesbians, who either married a partner of a different gender

or stayed celibate, could be ordained (and/or installed) as officers, as long as they did not act on their homosexual orientation. Homosexual orientation was not wrong; acting on it was, and excluded one from ordination (and/or installation) as an officer.

Note that the “definitive guidance” was not just directed toward the original questions regarding the ordination of a gay candidate as a minister, but extended to all officers of the church - namely deacon, elder, and minister. Also, the “definitive guidance” was directed towards presbyteries only. One wonders why the General Assembly did not direct it towards sessions as well, since they ordain (and/or install) deacons and elders. Conversations this writer had with two polity professors confirmed that the “definitive guidance” was, however, interpreted to be for both presbyteries and sessions. The result of the 1978 Report, and its adoption by the General Assembly, was that all unrepentant, i.e. non-celibate (partnered) gays and lesbians could not be ordained in the UPCUSA.

The scope of the “definitive guidance” needs some clarification. Rev. T Gillespie, chairperson of the ACCH and later president of Princeton Seminary, presented the Report on Homosexuality and the Policy Statement to the General Assembly:

When your son or daughter comes to you and asks for guidance, you should not respond by laying down the law. We propose, therefore, that this General Assembly not exercise its right to render a constitutional interpretation. We propose, rather, that it offer the “definitive guidance” requested. . . . We believe this recommendation, if adopted, will provide this policy statement with more staying power throughout the church than one which unnecessarily calls into question the constitutional rights of the presbyteries in the ordination process (Anderson 1993:2).

It was clear that the “definite guidance” was guidance, and not a constitutional interpretation which would interfere with the power of the presbytery to ordain and install ministers (Anderson 1993:2). Despite this clear intent, Thompson, the Stated Clerk of the General Assembly, had to carry out the directive. The question was whether the “definitive guidance” was a statement presbyteries should take seriously when ordaining homosexuals, or if it was an Authoritative Interpretation of the *Book of Order*, binding upon the entire denomination (North Como 2005:149-150). Thompson, given the authority he had as Stated Clerk, interpreted the General Assembly’s decision to mean that “definitive guidance” was binding upon the entire UPCUSA (UPCUSA 1978b:6). Whether Thompson had acted correctly in his

interpretation and within his authority as Stated Clerk would become a debatable issue in the PC(USA) for decades.

Some conservatives wanted to send an amendment to the presbyteries to put this new position in the *Book of Order*. Thompson, however, was able to convince the loyalist majority to issue a “definitive guidance” and not single out one specific sin in the Constitution (Weston 1999:211). Interestingly, the *Book of Order* in 2009 still does not contain any negative or prohibitive statements regarding gays and lesbians or their ordination as officers; rather, they are found in the Authoritative Interpretations issued by General Assemblies and GAPICs.

3.12.4 Amendment L of the UPCUSA in 1978

After the success the liberals had with the Kenyon case in the Maxwell ruling of 1974, they proposed a controversial overture to the General Assembly of the UPCUSA in 1978. The overture from the Presbytery of Denver would require the *Form of Government* to clearly specify the right of women to be elected to the office of ruling elder, deacon, and nominating committees (UPCUSA Minutes 1978:399). Overture 7 was sent to the Assembly Committee on Social Justice and Human Rights. The Committee approved the overture and asked the General Assembly to approve it and send it to presbyteries for their approval. The first vote of the General Assembly was tied; on the second vote, the overture passed by a mere six votes (:64).

Overture 7 became Amendment L, and it passed with 79 to 70 presbyteries approving it (UPCUSA Minutes 1979:23-24). Thus, Amendment L became church law. It required all congregations to have women as elders and deacons. Weston (2003:111) spells out the result of the victory; namely, that an amendment to the Constitution, made by the General Assembly, was sent to the presbyteries, ratified, and became part of the Constitution as G-14.0201 (currently G-14.0221). Liberals undermined the principle of the local option of the *Adopting Act of 1729* in the Kenyon case (see Chapter 3.4) and Amendment L.

Since 1978, several amendments made by the General Assembly to change the Constitution have gone to presbyteries for approval, and the conservatives have

achieved a victory in every single one. Thus, liberals have repeatedly lost the local option in the ordination debate. The standard has moved to a national standard set by the General Assembly, which, in turn, needs to be ratified by the majority of presbyteries. Weston (2003:111) jokingly adds that liberals wish they were not so successful in the 1970s in changing the Constitution and still had the local option for ordination.

The same *Book of Order* of the PC(USA) which contains G-14.0221 from 1978, would, in 1997, have G-6.0106b incorporated into the Constitution, and all attempts via overtures and amendments to rid the Constitution of it have failed. The approval of Amendment L and subsequent change in the *Form of Government* to require all UPCUSA congregations to have both women and men as elders and deacons was a costly victory indeed.

3.12.5 Report from the Committee on Pluralism

The 1976 General Assembly approved the recommendation of the GAMC and created the Committee on Pluralism in the Church, a sub-unit of the ACDW, in response to the conservative Presbyterian Lay Committee (PLC), which had driven concerns over pluralism. The GAMC would annually review the state of the denomination with regard to conflict, divisive issues that most threatened the peace, unity, and purity of the church, and specific examples where diversity was dealt with creatively (UPCUSA Minutes 1976:410). The Committee reported back in 1978.

Regarding polity and reconciliation, the Committee concluded:

Properly used, the polity organizes the conflict, encourages the contending parties to listen to one another, and greatly facilitates reconciliation. At the same time, we observe from the evidence presented to us that there is widespread disregard, misunderstanding, and misuse of our polity by both lay and clergy (UPCUSA Minutes 1978:292).

Regarding biblical authority and interpretation, the Committee concluded:

Of all the factors that contribute to divisiveness in our denomination, the committee found that none is more pervasive or fundamental than the question of how the Scriptures are to be interpreted (UPCUSA Minutes 1978:293).

The Committee recommended that the General Assembly authorise the ACDW to engage in a study, and the Task Force on Biblical Authority and Interpretation (BAI) was formed (ibid). The Task Force reported back in 1982 (see Chapter 2.13).

3.12.6 Summary

One wonders why, despite the overwhelming positive recommendations by the majority of the Task Force, the outcome would be negative prohibition? Dr. W S Johnson (2006a:5), a member of the TTF who wrote the 2005 *Peace, Unity, and Purity* Report, surmises that “. . . the two presbyteries in 1976 were asking for churchwide recognition of gay *leadership* when a majority in the church had yet to recognize gay *identity* [original emphasis]. For many, the word ‘homosexuality’ was still an abstraction.” They asked the establishment to recognise a group of people that, according to the establishment, did not exist.

Additionally, the ordination issue pertained to more than theology; it was a clash of political commitments. “A new gay politics of recognition was clashing with old establishment politics of social control” (Johnson 2006a:5).

Thus, the 1978 General Assembly of the UPCUSA held a position that welcomed gay and lesbian people into the church as members, but did not affirm their sexual conduct. The “definitive guidance” was “that unrepentant homosexual practice does not accord with the requirements for ordination set forth in the Form of Government,” i.e. the church’s Constitution.

But, it made allowance in Recommendation 14 that the ordination of anyone ordained before the General Assembly’s decision would not be affected; inferring that any previously ordained gays or lesbians did not have to give up their ordination, and could be installed again. Rogers (2007:3) believes that ministers were “grandfathered in” if they stayed in their present call. This writer contends that the language was far too vague. The interpretation of Recommendation 14 became contentious when Spahr, in 1992, was denied a new call (see Chapter 5.15).

Recommendation 6 asked that the examination of candidates, who have not declared their sexual orientation, be done with discretion and sensitivity. Again, as will be shown, this has not always been the case.

Soon after the General Assembly, the More Light Church (MLP) movement began. Several congregations began adopting policies welcoming lesbian and gay members and guaranteeing their full participation, including ordination to offices of deacon and elder if elected by the congregation and found qualified by the session (Anderson 1994:9).

Many believed that the way in which Thompson interpreted the “definitive guidance” was unconstitutional. The General Assembly had pre-emptively made an issue legislative, which would be used in many judicial reviews of ordination cases, rather than judicial reviews of specific cases shaping the legislation of the church. Others argued that it was within Thompson’s right as Stated Clerk to interpret the General Assembly’s decision and make “definitive guidance” constitutionally binding upon the whole church.

Rogers (2007:3-4), who has attended every single General Assembly meeting in the past thirty years, including this one, accurately reflects:

Rather than resolving the controversy over homosexuality, the policy statement adopted by the General Assembly in 1978 became an open wound that almost every General Assembly for the past twenty-nine years has attempted unsuccessfully to patch.

3.13 The 119th General Assembly of the PCUS in 1979

The 1979 General Assembly of the PCUS adopted a Paper, *Homosexuality and the Church: A Position Paper*, two years after it received, but did not adopt, another Paper, *The Church and Homosexuality: A Preliminary Study*. Rather than write a new paper, the PCUS decided to use a slightly modified version of the UPCUSA’s 1978 policy statement, *The Church and Homosexuality* (PC(USA) 2004a:63). One clarification regarding sin was added:

. . . this paper is working with a doctrine of sin which understands it as a feature of human existence which is a much more pervasive and damaging reality than the moral

deficiency of a particular act. While the practice of homosexuality is called a sin, the paper does not speak of the homosexual condition as a sin (:65).

The definition of sin was expanded to incorporate more than sex acts; it was part of the human condition. One sentence suggested the church might be open to a new understanding in the future:

This understanding of the sinfulness of homosexuality does not preclude the possibility of relatively loving and faithful actions even within the framework of such a condition of sin (PC(USA) 2004a:65).

This is the point of the ongoing debate: many Presbyterians contend that gay and lesbian Christians who are in “loving and faithful” monogamous relationships should be able to be ordained and/or installed as officers.

3.14 The 1978 and 1979 “Definitive Guidance” and Authoritative Interpretation

Before 1978, the term “definitive guidance” had not been used in the UPCUSA or PCUS. The *Book of Order* of the UPCUSA did state:

To the General Assembly belongs the power of deciding all controversies respecting doctrine and the interpretation of the Constitution of the Church; of reproving, warning, or bearing testimony against error in doctrine or immorality in practice in any church, Presbytery, or synod (Chapter XIV Section 10 (44.10)).

The PCUS had a similar provision in the *Book of Church Order* Section 18-6.

The two policy Papers, *The Church and Homosexuality* of the UPCUSA in 1978 and *Homosexuality and the Church: A Position Paper* of the PCUS in 1979, were the General Assemblies exercising their constitutional right to give “definitive guidance.” These two documents and “definitive guidance” were held to be Authoritative Interpretations of the *Book of Order*. This ordination standard was carried over when these two churches united in 1983 to form the PC(USA). The “definitive guidance” became constitutionally-binding law which all officers of the PC(USA) vow to uphold (North Como 2005:122).

In 1985, the GAPJC of the PC(USA), in *Blasdel, et al. v. Presbytery of Western New York*, affirmed that the 1978 and 1979 “definitive guidance” against homosexual ordination was the law of the church and could not be ignored by presbyteries or

congregations. A minority of the GAPJC disagreed. In 1993, this “definitive guidance” was recognised as an Authoritative Interpretation of the Constitution of the PC(USA). The 1993 General Assembly reaffirmed:

. . . current constitutional law in the Presbyterian Church (U.S.A.) is that self-affirming, practicing homosexual persons may not be ordained as ministers of the Word and Sacrament, elders, or deacons (PC(USA) Minutes 1993:322).

Note that both the document by Shafer, *The Church and Homosexuality*, prepared for the UPCUSA in 1978, and the document by the Council on Theology and Culture, *The Church and Homosexuality: A Preliminary Study*, prepared for the PCUS in 1977, were not adopted, but only approved for study. Both reports had a majority view, which were more positive regarding gay and lesbian ordination, based on good theological and biblical grounds, but the UPCUSA accepted the minority view and the PCUS did not receive the report, but made statements which reflected the minority view.

After 1978 and 1979, the sole authority laid in the “definitive guidance” statements, which became Authoritative Interpretations. Thus, the PC(USA) since 1983 has two documents, based on minority views within the Task Forces, condemning “the practice of homosexuality” on weak theological and biblical foundations, but representing the majority view of the Presbyterian Church.

3.15 The 191st General Assembly of the UPCUSA in 1979

The Presbytery of Long Island sent Overture 37 asking the General Assembly to affirm the right of each congregation and presbytery to choose their own officers, “. . . being guided but not constitutionally bound by the ‘Policy Statement and Recommendations’ of . . . 1978 with regard to homosexual persons” (UPCUSA Minutes 1979:523). The overture was referred to the ACBO (:22).

A motion that the minority report be adopted was defeated, and the Committee’s recommendation on Overture 37 was adopted by the General Assembly (UPCUSA Minutes 1979:40). The Committee recommended that the General Assembly take no action, since Overture 37 requested an affirmation that did not need affirming. Each

congregation and presbytery had the right to elect their own officers. If the overture assumed that *Book of Order* allowed and the General Assembly endorsed congregations and presbyteries to elect and endorse officers regardless of constitutional boundaries, the overture was in error since the *Book of Order* and various judicial cases attested otherwise. As evidence, the Committee quoted judicial cases; namely, *Gantz, et al. v. Synod of New York* in 1925 and *Anderson, et al. v. Synod of New Jersey* in 1962 (:41).

This writer does not agree with the judicial cases the Committee quoted. The Gantz ruling dealt with the licensure, not the ordination, of two candidates who could not affirm, but had denied, the virginal birth of Jesus. Their licensure was reversed and they were subsequently not approved (PCUSA Minutes 1925:83). However, Hick in the Anderson case, which quoted the Gantz case (UPCUSA Minutes 1962:320), was allowed into the presbytery, despite not affirming or rejecting the virginal birth of Jesus Christ (UPCUSA Minutes 1962:325). The exact opposite of the Gantz ruling occurred in the Anderson ruling. How can juxtaposed rulings be used as evidence that judicial cases, regarding affirming the virginal birth of Jesus, provide the “constitutional boundaries” to determine whom a session or presbytery can elect and receive as officer?

Although the recommendation adopted by the General Assembly did not specify that the “definitive guidance” from 1978 was upheld, one could presume that it was, since the Committee assumed the 1978 Policy Statements and Recommendations needed no affirming. The General Assembly re-affirmed: sessions and presbyteries could not ignore the standards which were set for the whole church in 1978.

3.16 The 192nd General Assembly of the UPCUSA in 1980

The GAMC reminded the General Assembly that the 1978 “definitive guidance” committed the church to actions relating to homophobia and justice issues (Dooling [2004]:5).

3.17 The 120th General Assembly of the PCUS in 1980

The 1980 General Assembly of the PCUS adopted two Papers, *The Nature and Purpose of Human Sexuality* (PCUS Minutes 1980:202-218) and *Marriage: A Theological Statement* (:174-187).

3.17.1 The Paper, *The Nature and Purpose of Human Sexuality*

The Paper, *The Nature and Purpose of Human Sexuality*, did not deal with homosexuality at length. It stated that “[h]omosexuality presents a particular problem for the church. It seems to be contrary to the teaching of scripture [original]” (PCUS Minutes 1980:213). One’s sexual orientation was not something one merely changed, but “[t]he church though should be aware of the partial nature of our knowledge of homosexuality” (ibid). The General Assembly also added a positive statement that the church:

... should be open to more light on what goes into shaping one’s sexual preferences and reexamine its life and teaching in relation to people who are seeking affirmation and needing acceptance and who are apparently not free to change their orientations (ibid).

“More light” first appeared at the 1977 General Assembly of the PCUS, again in 1980, and has become a banner for More Light Presbyterian (MLP) congregations which accept gays and lesbians as both members and ordained officers.

Ten years after the 1970 General Assembly of the UPCUSA published its then controversial Report, *Sexuality and the Human Community*, the 1980 General Assembly of the PCUS adopted a statement on sexuality which reached many of the same conclusions as the earlier Report. Again, a sentence similar to the one found in the previous year’s *Homosexuality and the Church: A Position Paper* (PC(USA) 2004a:65) stated:

We can believe that God’s redemptive love works in questionable situations, and that large measures of love, respect and joy can characterize sexual unions outside of marriage. Even with these acknowledgments, the church must still insist that the heavy burden of proof is on those who would depart from the traditional norm and that people should beware of the tendency to regard themselves as exceptions to it (PCUS Minutes 1980:216).

In 1979, the General Assembly acknowledged that loving homosexual relationships existed, albeit sinful. In 1980, it inferred both heterosexual and homosexual loving relationships outside of marriage existed without defining them as sinful, but as departing from the “traditional norm.”

3.17.2 The Paper, *Marriage: A Theological Statement*

The Paper, *Marriage: A Theological Statement* did not deal with homosexuality at all. Unlike biblical times when it was expected that everyone should marry, or in the history of the church when celibacy was raised to a position above marriage, the Reformation dignified marriage again as equal to celibacy. The Paper argued that singleness belonged to the Kingdom order and sexual union in marriage to the creative order (PCUS Minutes 1980:181). The issue regarding gay and lesbian marriages was also not discussed in the Paper.

3.18 The GAPJC of the UPCUSA Ruling in *Rankin, et al. v. National Capital Union Presbytery. Remedial Case 193-10 in 1981*

Rev. M M Kaseman had been ordained in the UCC and was called to a union church of the UCC and UPCUSA in Rockvale, Maryland. In 1979, the National Capital Union Presbytery (Presbytery) of the UPCUSA examined Kaseman and installed him as pastor. However, at the examination, some felt he did not affirm the deity of Christ to satisfaction (McCarthy 1992:295). Two complaints were filed against the presbytery’s actions and heard by the synod. The PJC of the Synod of Piedmont (SPJC) upheld the ordination, but the GAPJC heard an appeal on this ruling. The GAPJC found procedural irregularities and asked the presbytery for a new examination of Kaseman’s doctrinal and theological beliefs (UPCUSA Minutes 1981:114). The issue was not the sufficiency of Kaseman’s theology, but the sufficiency of the presbytery’s examination (UPCUSA Minutes 1980:94).

McCarthy (1992:296) argues that the GAPJC decision did establish that theological boundaries still existed, outside of which an individual might not be ordained. The

presbytery had to determine whether Kaseman had crossed these boundaries. The presbytery examined Kaseman in 1980 for four hours and voted 165-58 (:297) to approve the examination and reconfirm him as a member of the presbytery (UPCUSA Minutes 1981:114).

Rev. S J Rankin and others filed a complaint and appeal against the presbytery challenging their authority to confirm Kaseman because of his alleged failure of theology. The case challenged the power of the presbytery to ordain and install ministers and resolve doctrine (UPCUSA Minutes 1981:114). The SPJC again heard the appeal and found the presbytery “reasonably and properly exercised its constitutional rights, power and obligations” and that “most extraordinary reasons do not exist for review of presbytery’s action . . .” (:113). The SPJC found in favour of the presbytery. Rankin *et al* filed an appeal with the GAPJC (ibid).

The GAPJC referenced the Report of the *Special Commission of 1925*, which was adopted by the 1927 General Assembly of the PCUSA. The Report concluded with two principles that are relevant to this case:

- (c) The powers of the General Assembly are specific, delegated, and limited, having been conferred upon it by the Presbyteries; whereas the powers of Presbyteries are general and inherent.
- (e) Licensure of probationers and ordination to the gospel ministry are the exclusive functions of the Presbytery. . . (PCUSA Minutes 1927:62).

The inherent authority of the presbytery had been challenged. The 1962 GAPJC, in *Anderson, et al. v. Synod of New Jersey*:

- . . . reaffirmed the authority of the Special Commission of 1925 and held that the exercise of Presbytery’s primary responsibility in determining the qualifications of ministers within the framework of our Constitution was subject to review by a higher judicatory only for the most extraordinary reasons (UPCUSA Minutes 1962:324; 1981:114).

Therefore, the Anderson case was “instructive” for the context of this case, since the findings of the *Special Commission of 1925* applied to receiving and enrolling of ministers under a variety of circumstances (UPCUSA Minutes 1981:114).

Since the Anderson case, three developments have impacted the Constitution. First, the Presbyteries’ Cooperative Examinations did not lessen the power of the presbytery, but guarded the inherent power of the presbytery (UPCUSA Minutes 1981:114). Second, *The Book of Confessions* was adopted in 1967 as part of the

Constitution. Formerly, the standards were the Westminster Confession of Faith and its Catechisms. Since 1967, there were nine confessional statements (:114-115).

Third, new ordination and installation questions were adopted as part of the Constitution. Before 1967, the vows stated:

(3) Do you sincerely receive and adopt the Confession of Faith and the Catechisms of this Church as containing the system of doctrine taught in Holy Scripture? (UPCUSA Minutes 1981:115).

After the adoption of *The Book of Confessions* in 1967, the ordination vows for ministers (and elders and deacons) stated:

(3) Will you be instructed by the Confessions of our church, and led by them as you lead the people of God?

(4) Will you be a minister of the word in obedience to Jesus Christ, under the authority of Scripture, and continually guided by our Confessions? (ibid).

The GAPJC pointed out some observations of why the content of the new vows was relevant to this case. The Westminster confessional standards have been replaced by *The Book of Confessions*. Candidates had to “receive and adopt” the Westminster Confession of Faith and Catechisms, now one promised to “be instructed . . . led . . . and continually guided” by *The Book of Confessions*. The Confessions’ function to form a systematic doctrine taught by Scripture was replaced by its function to instruct and guide the candidate as they lead God’s people (UPCUSA Minutes 1981:115).

Thus, in the GAPJC’s view, the new ordination and installation questions expressed and expanded the understanding of how the church viewed the function and purpose of the Confessions. This conclusion led the GAPJC to the belief that “. . . a different focus for candidates’ examination may be appropriate” (UPCUSA Minutes 1981: 115). Earlier, subscription to a system of doctrine was required; now the focus was on the ability to use the Confessions, to learn and be guided by them. Earlier, empirical standards were set and the candidate’s theology was judged.

Now the Constitution places the primary focus of the candidate’s examination not on his or her conformity with theological prescriptions but rather on the candidate’s willingness and commitment to be instructed by the Confessions of our Church and continually guided by them in leading the people of God (ibid).

The decision legitimised the theological pluralism in the church; there was more latitude within the confessional stance of the UPCUSA. Also, it confirmed that

theoretical boundaries still existed, although the decision did not clarify what they were (McCarthy 1992:298).

The result was that the presbytery had greater responsibility in determining the candidate's commitment to be instructed by the Confessions and to use them to lead God's people. Therefore, the presbytery must have sufficient authority and "... higher judicatories should substitute their judgment only for the most extraordinary reasons" (UPCUSA Minutes 1981:115). The GAPJC noted that the Report of the *Special Commission of 1925* confirmed the presbytery was "... the body qualified and constitutionally appointed to judge" candidates (ibid, see PCUSA Minutes 1927:65).

The GAPJC did not sustain the ten specifications of error against the Synod of Piedmont. They denied the appeal and affirmed the decision of the synod (UPCUSA Minutes 1981:117) and the presbytery's decision to install Kaseman. The second specification of error stated the synod erred in not finding extraordinary circumstances to substitute its judgment for the presbytery's (:115). The GAPJC found that as long as the presbytery exercised its rights and responsibilities within the Constitution:

... the higher judicatories ... ought not to interfere with Presbytery's exercise of its discretion unless the most extraordinary circumstances compelling such a review exists (:116).

This decision was the key issue in the Rankin ruling. Presbyteries have the power and authority, within the constitutional framework, to determine whom they ordain. This reaffirmed the Report of the *Special Commission of 1925* and *Anderson, et al. v. Synod of New Jersey* of 1962.

The fifth through ninth specifications of errors that the synod erred in its application of the confessional standards and not substituting their judgment for the presbytery's, was answered with:

... we reaffirm the principle that we are not to substitute our own judgment for that of the lower judicatory, which is best able to judge (UPCUSA Minutes 1981:116).

This passage was the famous statement from the Anderson ruling (see UPCUSA Minutes 1962:324-325). The GAPJC found, although all of Kaseman's replies were

not adequate to some, the presbytery “. . . acted reasonably, responsibly, and deliberately . . .” (UPCUSA Minutes 1981:116). The right of the presbytery (and session), not the synod or the GAPJC, to judge candidates for ordination and/or installation was reaffirmed.

3.18.1 Summary

The GAPJC of the UPCUSA in the Rankin ruling upheld the decision of the SPJC and the presbytery to install Kaseman. Again, a theological issue, his belief in Christ’s deity, was decided on the basis of polity. In 1980, the GAPJC found that the presbytery had not properly exercised its duty when examining Kaseman; in 1981, the GAPJC found that the presbytery had properly examined Kaseman. The issue of his beliefs was not addressed, but the process of examination through polity. The GAPJC reaffirmed the power of the presbyteries to ordain and/or install candidates and strengthened the role polity played in those decisions. Thus, the Rankin ruling reaffirmed the polity that was set by the *Special Commission of 1925* and affirmed the 1962 Anderson ruling: the presbyteries (and sessions) are entrusted to examine and approve candidates.

3.19 The 193rd General Assembly of the UPCUSA in 1981

Four presbyteries sent overtures to the General Assembly, with nearly similar wording, to amend the *Book of Order* and substitute ordination and installation question number 3: “Will you be instructed by the confessions of our Church, and led by them as you lead the people of God” with:

Do you sincerely receive, affirm, and adopt the essential tenets of the Reformed faith, as expressed in the confessions of our church, as authentic and reliable expositions of what Scripture leads us to believe and do, and will you be instructed by those confessions as you lead the people of God? (UPCUSA Minutes 1981:519,526,528,534-535).

The reason for adding “Scripture” in addition to the “Confessions” in the question was based on a decision of the 1981 GAPJC on the doctrine of the church regarding the full deity and humanity of Jesus (UPCUSA Minutes 1981:519). The presbyteries

wanted all those ordained to abide by the “essential tenets” as expressed in the Confessions, which were expositions of Scripture, and not just the Confessions.

The Assembly Committee on Liturgy and Worship believed Overtures 65, 79, 82, and 112 had merit. The first ordination and installation question dealt with the individual’s relationship to Jesus Christ, the second to one’s relationship to the Scriptures. The third question lacked clarity and seemed passive, since it might seem that one acknowledged that the Confessions represented action without any binding power. Thus, the Committee recommended to the General Assembly that it send Overture M to the presbyteries for their vote. The General Assembly approved Overture M:

Do you sincerely affirm the Confessions of our Church to be authentic and reliable expositions of what Scripture, by the Holy Spirit, leads you to believe and do, and will you continue to be instructed and led by them as you lead the people of God? (UPCUSA Minutes 1981:79).

Overture M did not contain the original wording regarding the “essentials tenets” within the Confessions, but specified both affirmation of the Confessions and Scripture (UPCUSA Minutes 1981:79). Overture M was defeated and was not approved by the presbyteries (UPCUSA Minutes 1982:53). The struggle regarding wording of the installation and ordination questions would, however, continue in the PC(USA).

3.20 The 194th General Assembly of the UPCUSA in 1982

The 1982 General Assembly of the UPCUSA again addressed the issue of “definitive guidance.”

3.20.1 “Definitive Guidance”

The Assembly Committee on Social Justice and the Rights of Person sent a resolution to the General Assembly regarding the ordination of homosexuals. The resolution reaffirmed that the Stated Clerk had issued the guidance of 1978 to be

binding on all judicatories, and the 1979 General Assembly affirmed the correctness of his interpretation. The General Assembly approved the resolution:

Therefore, the 194th General Assembly (1982) reaffirms that the guidance of the 190th General Assembly (1978) shall be carefully and prayerfully considered by all judicatories and that within the explicit requirements of the Book of Order the responsibility for deciding on the ordination of any particular member of the church rests with the responsible judicatory on the basis of the definitive guidance given to the church as a whole by the 190th General Assembly (1978) and other Assemblies (UPCUSA Minutes 1982:111).

Thus, the 1982 General Assembly of the UPCUSA reaffirmed for a second time the “definitive guidance” of the 1978 General Assembly as binding upon the whole church. The responsibility for deciding on the ordination of anyone still rested with the responsible ordaining body based on the “definitive guidance” given to the church as a whole. The statement reaffirmed the power of local judicatories, but they were bound by the Constitution and could not ignore the “definitive guidance” when dealing with the ordination (and/or installation) of gays and lesbians.

3.20.2 The Report of the Task Force on Biblical Authority and Interpretation

See Chapter 2.13 for a full discussion.

3.21 The GAPJC of the PCUS Ruling in *Hambrick v. PJC of the Synod of North Carolina. Complaint 1 in 1982*

In 1981 and 1982, the Fayetteville Presbytery in the PCUS examined Rev. J D Mark from Ireland for admission into the presbytery. Both examinations were sustained and he was installed. Rev. D C Hambrick and forty-two others filed a complaint against the presbytery for discrepancies between Mark’s views and the practices of the PCUS. He believed women should not be ordained and unconfirmed children should not receive Communion (PCUS Minutes 1983:43).

The PJC of the Synod of North Carolina (SPJC) voted not to sustain the complaint on the grounds that:

. . . the primary responsibility for determining the satisfactory examination of a candidate’s views for admission to Presbytery rests with the examining Presbytery, and that in the absence of clear and exceptional circumstances the Permanent Judicial Commission should not substitute its judgment as to the acceptability of a candidate for that Presbytery (PCUS Minutes 1983:44).

The SPJC used language from the *Special Commission of 1925* and the 1962 GAPJC ruling in *Anderson, et al. v. Synod of New Jersey* to confirm that the presbytery had acted within its authority to rest the examination. The SPJC, as a higher judicatory, could not substitute its judgment upon the presbytery, since acceptability of candidates lay with the presbytery (cf. PCUSA Minutes 1927:62, 65).

Hambrick filed a complaint against the SPJC ruling with the GAPJC, alleging that the synod and presbytery had “set aside their constitutional responsibilities” in failing to ensure that vows consistent with the position of the PCUS were kept (PCUS Minutes 1983:44). The GAPJC ruled in favour of Hambrick, and declared that if a minister failed to perform the functions of the office, specifically the serving of Communion and the ordination of women according to the Constitution, they should not be received (ibid).

Therefore, the GAPJC instructed the presbytery to re-examine Mark regarding his views on his participation in the ordination of women. If he affirmed his participation, the presbytery should receive him “even though he retains scruples in his views on these matters” (PCUS Minutes 1983:44). Thus, one could be ordained or installed when one declared scruples regarding certain matters. The declaring of scruples at ordination and/or installation would become a vital issue in the PC(USA).

The GAPJC recognised that one could “hold *views* contrary to the Constitution of the PCUS but, for sake of order, *actions* contrary to the Constitution are not sanctioned” [original italics] (PCUS Minutes 1983:44). The way to voice one’s disagreement would be to declare a scruple in one’s views, but the scruple would not be allowed in one’s actions. Thus, conservatives would argue that even when someone declared a scruple at ordination and/or installation, for example, disagreeing that “self-avowed practicing homosexuals should not be ordained,” they were not allowed to openly defy the Constitution.

3.21.1 Summary

The 1983 GAPJC, in the Hambrick ruling, overruled the presbytery and PJC of the Synod of North Carolina and required that Mark be re-examined. Mark could declare

a scruple in his views regarding the ordination of women, but he would not be allowed to practice that scruple, i.e. refuse to ordain women. The Hambrick ruling reaffirmed the declaring of scruples by a candidate, but stipulated that those scruples could not lead to action contrary to the Constitution. Thus, some scruples might not result in any action, e.g. not believing in the virginal birth, while other scruples had some action connected to them, e.g. not ordaining women or not serving Communion to children. A governing body needed to discern whether a scruple would prohibit a minister from performing their pastoral duty, and if it did not, the scruple should be allowed and the person ordained and/or installed. The question would remain whether declaring a scruple regarding one's sexual practice would prohibit one from performing one's pastoral duty.

3.22 Summary of the Ordination Standards in 1983

Both predecessor churches of the PC(USA), namely the UPCUSA and PCUS, had the same ordination and/or installation standards in effect before unification in 1983. The “definitive guidance” stated “that unrepentant homosexual practice does not accord with the requirements for ordination set forth in the Form of Government. . .” All partnered gay and lesbian Christians through the 1978 and 1979 “definitive guidance” statements of the UPCUSA and PCUS were barred from ordination and/or installation. However, if one had a “homosexual orientation” and remained celibate or married someone of the opposite sex, one could be ordained and/or installed.

Gays and lesbians ordained prior to the 1978 and 1979 decisions were not affected by the “definitive guidance” and would remain ordained. Yet, both Spahr and Stroud, who were ordained before 1978 as ministers, came under the spotlight for being partnered lesbian and gay ministers, respectively, when they received new calls (see Chapters 5.15 and 5.54).

Several General Assemblies reaffirmed the 1978 and 1979 decisions when overtures challenged the exact meaning and extent of the “definitive guidance.” Also, despite the claim that Thompson declared the “definitive guidance” to be church law in an “unconstitutional manner,” this writer could not find evidence that, early on,

Thompson's action was challenged at any General Assembly meeting. The scope and meaning of "definitive guidance" was questioned, but not Thompson's actions. Given the power of interpretation that the Stated Clerk had, and that Robert's Rules of Order was used only since 1983 in the PC(USA), Thompson probably interpreted the decision of the General Assembly within the scope of his authority as Stated Clerk. Later, in the PC(USA), this decision would be challenged. The 1993 GAPJC declared that "whether or not - in 1978, 1979, and subsequent years - it was constitutionally sound to declare the statements binding has become moot" (PC(USA) Minutes 1993:76).

Thus, even though Thompson might have overreached in declaring the "definitive guidance" to be constitutional law, and not merely guidance, it would become a moot point due to other affirmations and statements made by General Assemblies and GAPJC rulings of the PC(USA).